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**TRUST AND CREDIBILITY:
A STUDY OF NORWEGIAN ASYLUM PRACTICE IN SEXUAL
ORIENTATION CLAIMS**

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ABSTRACT

This thesis looks at the Norwegian asylum process in cases where the claimant's sexual orientation is their grounds for seeking asylum. Semi-structured interviews with gay asylum seekers, asylum caseworkers, lawyers and other advisors were used to acquire the necessary empirical data. Symbolic interactionist theory and theories on trust are used as a framework for the study, which suggests that establishing trust in the interview is essential to enable the asylum seeker to share their story. I argue that ensuring that all the relevant information is shared in the initial interview is essential for an accurate assessment of the claimant's credibility. I then identify three factors that influence an asylum seeker's trust in the asylum interview; the reception camps, the interpreter used in the interview and the support and information that is available to the asylum seeker during the asylum process. Finally I conclude that while there are several good practices in place in the Norwegian asylum process, there is still room for improvement. There are factors present that influence an asylum seeker's trust and behaviour in the interview room, that should have no such influence. There is a risk that these influences could have a significant impact on the result of the asylum case. I argue that steps should be taken to minimise such risks.

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INTRODUCTION

'If I said I saw myself as being part of this society, I'd be telling the biggest lie of my life. That's because of my homosexuality and the Iranian people's mentality about homosexuality. I usually refer to Iran as "your country" instead of "my country" or "our country". These are the words of a gay man from Iran, when asked about his experiences with being gay in his home country (Reid-Smith, 2012). In some countries, being lesbian, gay, bisexual or transgender (LGBT) is synonymous with harassment, discrimination and persecution. In Uganda gay men are routinely the victims of arbitrary arrests, torture and sometimes even murder, according to Amnesty International (2011). The government is unwilling to address this issue; being gay is illegal, and in December 2012 a bill was introduced that intended to increase the sentence for such crime, potentially even introducing the death sentence (Amnesty, 2012). These are just two of several countries where similar practices are common; 72 countries have criminalised homosexuality or gay sex, and 10 carry the death sentence (Jansen and Spijkerboer, 2011). The gay rights movement is gaining legitimacy as a human rights issue, as exemplified by Hillary Clinton stating that "gay rights are human rights" in a speech held in December 2011 (Rauhala, 2011), and United Nations Secretary General Ban Ki-Moon's address on the International Day of Homophobia, 17th of May, just this year (Pinfold, 2013). Nevertheless, the situation in some countries is so bad that some gay people see no other option than to flee. More and more people seek asylum on the grounds of their sexual orientation (Jansen and Spijkerboer, 2011, Berg and Millbank, 2009). This is still relatively new, however, and practice in these cases is still developing.

This thesis takes a closer look at the asylum process in Norway for claimant's seeking asylum on the basis of their sexual orientation. To do so I use the research questions 'what challenges do sexual orientation claims pose on the asylum process and the asylum interview?' and 'how are these challenges addressed?'.

The study

First I will outline the grounds for asylum and the Norwegian asylum process. Then I will present my theoretical framework for the study and a review of some of the literature I have drawn upon. I have chosen to use symbolic interactionist theory and writings on trust as a framework. I argue that because of the experience of what symbolic interactionists refer to as 'disrespect' throughout their

lives, the asylum seekers are not likely to be willing to trust their interviewer or share their story. Furthermore, I name some factors that can influence a person's likelihood of trust at initial meeting, suggesting that some of these can help an interviewer gain an applicant's trust.

The next section focuses on my chosen method and why I chose it, the data I gathered, and some ethical concerns associated with this study. I have conducted semi-structured interviews both with asylum seekers, asylum caseworkers and other officials, as well as advisors. A quantitative method would provide me with data from which I could make generalisations about the population as a whole. However, I decided the population of LGBT asylum seekers was too small to start with for any generalisations to be beneficial. In contrast, a qualitative study would be more informative on such a small population. Next I map out the ethical considerations I made, considering I was investigating such a vulnerable group. I divided these into consent, confidentiality and anonymity and trust, and outlined my actions to minimise the ramifications of these issues.

In the following section I go over my findings. I first give an outline of what I found caseworkers were looking for in their interviews, and what kind of factors were found to influence the result of an LGBT asylum case. The caseworkers primarily looked for the asylum seeker to have good reflection on their circumstances. In addition, any verifiable information and relevant life experience played a part. When in the process an asylum seeker chose to disclose that their reason for seeking asylum was their sexual orientation it was one of the things found to influence the case result. The later the asylum seeker shared this information, the more likely they were to be found incredible, which often led to a negative decision. Demeanour was also found to be a factor here. More stereotypically gay applicants were more likely to be granted asylum. Based on these factors, I argue that it is essential that an applicant shares their reason for seeking asylum as early as possible. However, I found three factors, some outside of the interview room, that influenced the applicants' willingness to share such intimate information; the situation in the reception camps, fear of the interpreters, and their access to information and support. Each of these is discussed in turn, before I make my conclusions.

THEORY AND LITERATURE REVIEW

FOUNDATIONS FOR ASYLUM

Sexual orientation and gender identity is not specifically mentioned as a ground for seeking asylum in the 1951 Convention Relating to the Status of Refugees. The convention defines that the term refugee shall apply to

«Any person who ... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country» (Art. 1A(2) of the 1951 Convention).

There has been some disagreement on which of these five grounds sexual orientation claims shall be considered under (See Wessels, 2011, for an in-depth analysis of this discussion). Most often, LGBT persons seeking asylum have been considered a “particular social group” (Hojem, 2009). In their guidelines on what constitutes membership of a particular social group, UNHCR consider LGBT persons to be an example of such a group (UNHCR, 2002).

THE ASYLUM INTERVIEW

It is the task of the asylum caseworker to determine whether the applicant meets the criteria of a “well-founded fear of persecution”. The caseworkers have different tools available to them to accurately make their assessments. These include documentation provided, independent country of origin information, witness statements, verifiable information that comes up in the asylum interview, as well as assessments of the credibility of the asylum seeker's own story (Macklin, 1998 and Lidén, 2012). The asylum interview is the core of the asylum application, and forms the basis for the rest of the asylum process. Much is at stake for the applicants, the interview is their main opportunity to present their evidence and substantiate their story and asylum claim. Likewise, the interview allows the caseworkers to question the applicants to ensure all the evidence needed is present, and to clear up what is viewed as inconsistencies (Crawley, 1999 and Lidén, 2012). In addition to actual evidence presented, the chronology, consistency and plausibility of the presentation, as well as the assessment of the applicant's credibility, is important for the outcome of the case (Macklin, 1998, Wessels, 2011 and Lidén, 2012).

What sets a sexual orientation claim aside from asylum claims on other grounds, is the significant role the credibility assessment often gets (Millbank, 2009b). In sexual orientation cases, it is not just the risk of persecution that has to be assessed, but also the applicant's membership of the particular social group. A person's sexuality is not something that can be proven through objective evidence. This means that the weight of this assessment falls on determining the credibility of the person's testimony, since this is often the only evidence available (Berg and Millbank, 2009, Millbank, 2009b). With the credibility assessment and asylum seeker's testimony often being the basis for the claim, it is important that this is done as accurately as possible. It is always important that all the information a caseworker needs to make their determination is available. For sexual orientation claims, this includes that the interview fulfils its purpose; that the asylum seeker is able and willing to share their story freely, and that the caseworker is able and willing to ask follow-up questions and clear up potential inconsistencies.

THE NORWEGIAN ASYLUM PROCESS

The asylum process in Norway starts at the Police Foreign Unit, which is responsible for accepting asylum claims. After making their claim for asylum, and answering some initial questions on country of origin and method of travel to Norway, the asylum seeker is moved to a reception centre. Here the asylum seeker will meet with a representative from the Norwegian Association for Asylum Seekers (NOAS) who will explain the asylum process to them and answer any questions they may have. The next step is the asylum interview. This is held at the Norwegian Directorate of Immigration (UDI). The interview usually lasts about 3-5 hours, and is held with an interpreter present. An interpreter is used where the interviewer and applicant are unable to communicate sufficiently in a common language (UDI, 2011). The asylum seeker has the right to refuse an interpreter, if they have good reason to do so (UDI 2011). A new interpreter will then be appointed. After the interview, the asylum seeker will live at a reception centre until a decision has been made in their case. The asylum seeker can also choose to live in private housing, for example with friends or family. They do however lose the right to economic support if they choose this. NOAS (2013) provides more information about this initial part of the asylum process. If the applicant is granted asylum, they are transferred to a Norwegian municipality and given housing and support for a time. If their application is denied, the asylum seeker has the choice between leaving the country or lodging a complaint. An attorney is appointed upon rejection, who will help the applicant lodge a complaint if that is what they chose (UDI, 2009). If the UDI decides to uphold their decision, the case is then passed on to the Immigration Appeals Board (UNE). UNE have different methods of processing their cases:

“Decisions can be reached at appeals board hearings with the appellant present, at appeals board hearings without the appellant, by a board leader following preparation by the legal secretariat or by the legal secretariat. A board leader decides the processing method for each case. According to the Immigration Act, cases without material questions of doubt may be decided without an appeals board hearing, either by a board leader or by the legal secretariat. These may, for example, be cases governed by a regulation in which it is easily determined whether specific requirements of laws and regulations have been met. In case where there are material questions of doubt, will be primarily determined through a board hearing.” UNE, 2012

If the case is to be determined through a board hearing, this can be done either with or without the appellant present. According to UNE, most of the board hearings are done with the appellant present. The board consists of a board leader and two lay board members, and the cases are decided by a majority vote. If the appellant receives another rejection, the asylum seeker is normally expected to leave the country. A final decision by UNE can be appealed to the courts. If the asylum seeker chooses to take this route, they would have to pay their own legal costs (UDI, 2009).

INTERACTION AND TRUST

As a theoretical framework for this thesis I will draw upon symbolic interactionist theory and theories on trust. According to symbolic interactionists, we construct our own identity and self-image through interaction with others. Through interaction with our social world, we form a picture of how we look at others. Our image of ourselves is then developed based on this picture: the way we see ourselves is constantly influenced by the way we perceive others to see us (Valenta, 2012 and Hewitt, 1997). This in turn shapes our motivation to develop a good perception of self by those around us: “One of the major ways in which we secure self-esteem is through our attachment to and identification with the social world. Human beings seek positively valued identities” (Hewitt, 1997: 103). To symbolic interactionists, our actions are therefore shaped by our motivation to be perceived well by those around us, and subsequently increase our self-esteem. A conflict then occurs when individuals fail to be recognised by those around them, referred to as disrespect here:

“because the normative self-image of each and every individual human being – his or her 'me', as Mead put it – is dependent on the possibility of being continually backed up by others, the experience of being disrespected carries with it the danger of an injury that

can bring the identity of the person as a whole to the point of collapse.” (Honneth,1995: 131)

Honneth identifies three types of disrespect; physical abuse, the denial of rights and denigration. The first of these are actions that impact a person's physical integrity, such as torture or rape. This is defined not just by the physical pain caused, but by the complete removal of control of a person's own body, and the humiliation associated with the “feeling of being defencelessly at the mercy of another subject” (Honneth, 1995: 132). The result of this form of disrespect is social shame, as well as a loss of trust in oneself and the world. This in turn impacts all interaction with other people, both mental and physical. The second type of disrespect affects a person's moral self-respect. These are forms of disrespect that subject individuals to exclusion from possessing certain rights in a society. Exemplified by social ostracism or a denial of rights, this type of disrespect causes the individual to lose self-respect, as well as “the ability to relate to oneself as a legally equal interaction partner with all fellow humans” (Honneth, 1995: 134). The last type of disrespect identified by Honneth is on a social level. These are forms of disrespect that could be considered as 'insulting' to individuals, and involves labelling certain behaviours or attributes as inferior. This then takes away an individual's feelings of social value: “the result ... is that they cannot relate to their mode of life as something of positive significance within their community” (Honneth, 1995: 134).

Asylum seekers are a group that are at risk of experiencing all of these forms of disrespect at some point in their lives, or even at the same time. In their country of origin, it is likely that the persecution the asylum seekers experienced involved both physical abuse and the systematic denial of rights. Additionally, it is not unlikely that denigration occurred as well. While the likelihood of physical abuse occurring in the country of asylum is smaller, it is still possible for both denial of rights and denigration to be a part of an asylum seeker's life while they are waiting for their case to be processed. An LGBT asylum applicant is even more at risk of experiencing disrespect, also in the country of asylum. Where asylum seekers in reception camps group together with others from their own culture, gay asylum seekers are often isolated, and the victims of harassment by the members of their own culture (Hojem, 2009, Jansen and Spijkerboer, 2011). Following the line of symbolic interactionist thinking, sexual orientation asylum seekers are at risk of having a low self-esteem and a deep sense of shame:

“in order to acquire a successful relation-to-self, one is dependent on the intersubjective recognition of one's abilities and accomplishments. Were one never to experience this type of social approval at some stage of one's development, this would open up a

psychological gap within one's personality, into which negative emotional reactions such as shame or rage could step" (Honneth, 1995: 136)

Upon arrival in the country of asylum, asylum seekers aim to gain recognition from the people they encounter. This includes the staff representing the asylum authorities, as well as staff and residents in the reception camps. In order to obtain this recognition from the interviewer, the asylum seeker want to control the image of themselves they present. For lesbian or gay claimants, this could mean not disclosing their sexual orientation if they get the impression that this is something the people around them will react negatively to.

In the asylum interview, it is important that all the necessary information is present for the caseworker to correctly assess the claim. It is therefore important that the interviewer is able to get across to the claimant that they are free to share openly in the interview setting, and have the claimant believe them.

Trust

To be able to ensure that the claimant is willing to share their story, the interviewer has to gain the claimant's trust. Trust is defined as "the mutual confidence that no party to an exchange will exploit another's vulnerability" (Sabel, 1993, quoted in Misztal, 2001). The presence of trust in an exchange is linked to a sense of normality, which ensures that all parties are more relaxed: "trust, as an outcome of situational normality, reduces the complexity of a situation and increases the probability of cooperation" (Misztal, 2001: 314). In the setting of an asylum interview, the presence of trust would increase the chances of the asylum seekers believing that the interview situation is a safe one. In turn, they are more likely to share all their information, even the things they are ashamed of, and worried will deny them the recognition of the interviewer. An asylum seeker's life is one with little control over their own situation, and trust therefore becomes essential:

"A refugee must be free to choose to provide information and must feel assured that the information provided will not be given a meaning that could be used against him or her. In refugee camps, rehabilitation centres, and countries of settlement, refugees feel that they have no control over how caseworkers, government organizations, or strangers use the information they have provided. Much of the success of caseworkers as well as government policies regarding refugees pivots on this fulcrum of trust." (Daniel and Knudsen, 1995: 4)

The trust necessary for this kind of cooperation is not going to be present at the outset. In their article outlining a model to explain the prevalence of high initial trust in research, McKnight, Cumming and Chervany (1998) identifies factors that influences a person's likelihood to trust another upon meeting them. Among these are their faith in humanity, their natural trusting stance, their trust in institutions, and their perception of risk. Neither of these are factors that indicate that an asylum seeker would have a high initial trust towards the asylum interviewer and the interview situation. Faith in humanity is the extent to which a person considers non-specific others to be trustworthy. After experiencing harassment and persecution in their country of origin, this factor is one that is likely to be low in an asylum seeker. The same goes for their trusting stance, which is defined as ones willingness to depend on another. Institution-based trust implies "that one believes the necessary impersonal structures are in place to enable one to act in anticipation of a successful future endeavor" (McKnight et al, 1998: 478). If an asylum seeker bases their trust in institutions on their experiences with institutions in their country of origin, then this factor is not likely to invite a high level of initial trust. Lastly, if an asylum seeker perceives the risks of trusting an interviewer with their intimate information as outweighing the potential benefits, then they are not likely to share.

While the first two factors mentioned here are not something that can be changed by outside influence, the latter two are. It could be possible to influence an asylum seekers trust in the institutions of the country of asylum enough to invite trust in the interviewer. Likewise, if the risks the asylum seekers perceive are lower than the benefit of being granted asylum, this will invite further trust in the interviewer. It is important that the asylum process is set up in a way that maximises the likelihood of asylum seeker trust. This would then work to counteract their natural unwillingness to share. Only then will the interviewer be able to glean all the information necessary from the interview, optimising the chances of a accurate case result.

LITERATURE REVIEW

In this section, I will first give an overview of some of the research I have focused on for this thesis, followed by a comment on the methods used in these studies, and finish by discussing in greater detail some of the asylum practice issues that these studies, as well as supporting literature have found. There is a shortage of research on the topic of sexual orientation as grounds for asylum. A significant portion of the available literature is based on Millbank and Dauvergne's research project examining LGBT refugee claims in Canada, Australia, the UK and New Zealand from 1994 to 2007. Their data set comprises over 1000 cases, and these two and other authors, including LaViolette and Berg, have since drawn on this data. This has resulted in those countries being somewhat over-represented in the literature. In my literature review, I have attempted to avoid referencing too much of the research drawing on the same data set, to be able to demonstrate the diversity of what little research is available. While there haven't been many studies that have included Norway, I have included what there is.

One study I have drawn upon, that does use Dauvergne and Millbank's data set, is a paper by Berg and Millbank (2009). The paper "draws upon psychological and sociological literature to explore the particular issues that arise in eliciting and presenting a refugee narrative when the claim is based upon sexual orientation." (Berg et al 2009: 196), and illustrate this with case examples from Canada, Australia, the United Kingdom and New Zealand. In this study, the authors find that there is a tendency among caseworkers towards disbelieving LGBT applicants' claims of being lesbian, gay, bisexual or transgender. A sexual orientation asylum claim often hinges on the decision maker's assessment of the applicant's claim of group membership. In practice, this means the consequence of such disbelief is a rejected asylum application. Berg and Millbank argue that the caseworkers' disbelief is a result of rigid ideas of homosexual identities which shape, consciously or subconsciously, decision-makers' interpretation of sexuality in asylum claims.

A similar conclusion was drawn by Millbank alone in 2009. In this paper, she focuses on the UK and Australia after the High Court of Australia's decision in *Appellants S395/2002 and S396/2002 v. Minister for Immigration and Multicultural Affairs*. Here the High Court rejected the notion that caseworkers could expect LGBT refugee applicants to behave discreetly upon return to their home country. The paper explored "the impact of [this decision] on the refugee jurisprudence of Australia and the UK five years on through an examination of available tribunal- level determinations and judicial review cases concerning sexual orientation in both countries both before and after the decision." (Millbank, 2009b: 392). She found that this shift away from requiring asylum seekers to be discreet upon return to the country of origin did not result in more positive decisions. Instead, she

suggests, the shift has been towards disbelief, as a significant amount of negative decisions are now based on the applicants' self-identification as lesbian, gay, bisexual or transgender being rejected: "tribunal members cross-examined applicants using highly stereotyped and Westernised notions of 'gayness' as a template that, when applicants did not fit, led to their claim of sexual identity being rejected" (Millbank 2009b: 392).

Wessels (2011) used a somewhat wider scope. Using relevant academic literature, including the research mentioned above, as well as the Michigan-Melbourne Caselaw site, and as well as other, relevant, asylum cases, she conducted a document analysis for her dissertation. The Michigan-Melbourne Caselaw site is a collection of asylum case decisions from 33 countries, primarily Australia, Canada, New Zealand, the United Kingdom and the United States. Her aim was to examine the core issues that arise in LGBT claims, through the following research questions: "How have the decision-makers dealt with gay and lesbian refugee claimants? Are decision-makers adequately prepared for the complexities of sexuality-based refugee claims? How have the different elements of the Convention definition been interpreted so as to include or exclude gay refugees? What particular obstacles and difficulties do gay and lesbian refugees face in their claims?" (Wessels 2011: 5). In her conclusion, she makes note of the huge challenges these types of cases present for the decision-makers. She argues that the nature of these cases require the decision-makers to make their assessments with very little evidence, and the tools used to assess a claimant's credibility is of very little use.

The next study is included as it is a case study of one country, which is what I intend to undertake. Miles (2009) is a case study of the UK conducted by Stonewall, which is an NGO for lesbian, gay and bisexual people in the United Kingdom. For this study in-depth interviews were conducted with lesbian, gay and bisexual asylum-seekers, legal professionals, asylum support workers and UK Border Agency (UKBA) staff. Their aim was to find out how lesbian, gay and bisexual people seek asylum and how UKBA staff responded to their applications. The interviews covered all parts of the asylum process, including how lesbian, gay and bisexual asylum seekers move through the asylum process, the initial screening, the interview, the reception camps, as well as how the decision is made. They found a number of practises they considered questionable. Among these were the fact that an applicant disclosing their sexual orientation late in the process often resulted in a negative credibility assessment. They also found that the questions in the asylum interview often focused too much on sexual activity, and that asylum seekers who did not want to answer such personal questions were not found credible. Another practice they found problematic was an expectation by the caseworker for the asylum seekers to act discreetly upon return to their country of origin being used as a reason to reject claims. They also found that the caseworkers relied too heavily on country of origin information from sources that did not focus specifically enough on the issues LGBT persons face.

One of the few studies that feature Norway is Jansen and Spijkerboer (2011). They conducted a comparative study of the practice in EU member states. They chose to include Norway as they are participating in the EU asylum law. Their choice of method was to send detailed questionnaires to national experts in all the participating countries. The questionnaires included questions about the frequency of sexual orientation claims, expertise and support available to the asylum seekers, as well as policy, legislation, and case law. This section was followed by questions based on the articles of EU's Qualification Directive, where each article was considered with sexual orientation claims in mind. The authors were, based on this, able to identify good and bad practices that exist, and provide recommendations on these. Their findings mirror those mentioned above, with regards to the discretion requirement, the lack of relevant experience and expertise among the caseworkers, the insufficient country of origin information available on the topic, and the negative influence of late disclosure on an asylum seeker's credibility assessment.

Another study that includes Norway is Petter Hojem's (2009) review for UNHCR. This focused on Sweden, Norway and Denmark. Here he analysed the legal basis for asylum cases on the grounds of sexual orientation and address the asylum procedure in each of these countries. He did this through document analysis of the available legal framework, appeals decisions are available online, as well as newspaper articles and meetings and correspondence with relevant experts. In his findings, Hojem also criticises the use of the discretion requirement. He also found that there is insufficient information available upon arrival for LGBT asylum seekers. In addition, he found the situation in the reception centres unsatisfactory, noted that many asylum seekers were scared to express themselves in front of interpreters, and criticised the lack of relevant country of origin information available.

Methods

The majority of these studies have relied on verdicts and decisions from asylum cases for their data. This provides a great insight into the amount of decisions that are made, and the reasoning used behind both positive and negative decisions. It gives the researcher insight into what the decision makers emphasise in their decisions, and enables them to comment on whether they find that the different aspects of the case are given the appropriate weight. It also provides opportunity to evaluate common asylum practice. This kind of method is not without potential limitations, however. One concern is that the databases they draw on are not always complete. As I will be looking into the situation in Norway, a fitting example is the Norwegian data Hojem (2009) used for his study. This has been drawn from an electronic database of the Immigration Appeals Board (UNE). He acknowledges that this database is incomplete, as not all decisions made are available. But another aspect is that a

case is only brought to the appeals board if it is rejected upon first review. This means that the number of people who were been granted asylum for their sexual orientation by the Directorate of Immigration (UDI), are not represented at all. This makes for a very uneven data set.

Document analysis is great for considering the legal considerations of an asylum case, but does not provide the whole picture. The research done by Jansen and Spijkerboer (2011) and Miles (2009) offers a view of the asylum process from a different angle. Interviewing or surveying people with direct experience from the system, either through their personal cases, or from representing or processing others provides insight in to several different aspects of the situation. This enables the authors to make comments on things such as the situation in the reception centres and the influence of the interpreters on the asylum seekers. These are things that fall outside of the direct decision-making process, but that are nevertheless important to the asylum process and thus, as I will show, have direct impact also on the decision-making process.

NOTABLE CHALLENGES

The asylum interview is the central part of the asylum process. It is here that the majority of the evidence is gathered, through the asylum seekers own story. This is in turn corroborated by any available external evidence, and country of origin information. One thing that differentiates sexual orientation asylum claims from other grounds, is the importance that the asylum seekers presentation of their story takes, as this is often the only available evidence: "Refugee claims based upon political opinion, nationality, race or religion will more commonly have some form of independent verification of group membership, whereas a claim to belong to a particular social group on the basis of sexual orientation depends upon the presentation of a very internal form of self identity." Berg et al (2009: 196). Here I have identified some of the central issues identified by the literature, including the credibility assessment, the discretion requirement, the available country of origin information and caseworker bias.

Credibility Assessment

Decision-makers consider the asylum seeker's demeanour, consistency in presenting their claim, and how plausible the asylum seeker's story when they evaluate a claim (Macklin, 1998, Millbank, 2009b). This process is referred to as the credibility assessment. The literature suggests that the application of these tools in sexual orientation claims can fail to consider the applicant's background:

“while claimants on all grounds often face the difficulty of speaking about experiences of torture and trauma, including sexual assault, in recounting past persecution, sexual orientation claims are unique in the sense that extremely private experiences infuse all aspects of the claim. Feelings of shame and self-repression in revealing the kind of information necessary to make a claim of group membership manifest distinctively in sexual orientation claims, even though similar difficulties may arise in detailing persecution on other grounds” (LaViolette 2004: 5)

For example, a claimant's ability to answer questions about their orientation is likely to be very influenced by internalised homophobia, embarrassment or shame. This would influence their demeanour, and in turn the caseworker's credibility assessment. Millbank (2009b) cites two other examples. In one case the claimant was disbelieved because he was vague and hesitant in answering questions about how an invitation to tea lead to a situation of sexual intimacy. This could simply have been a reluctance to share details of an intimate and personal experience in the interview setting. In another case, the claimant was thought to be less than truthful because he was too relaxed and jovial when talking about his experiences, (Millbank, 2009b:9). In these examples the asylum seekers are disbelieved for two very contrasting reasons; being too vague and withdrawn on the one hand, and too direct and concrete on the other. It illustrates the potential for the influence of bias when it comes to interpreting demeanour.

While decision-makers are often aware of the influence trauma and shame can have on an LGBT claimant, Millbank found that “these issues, even if noted in argument or reasons, were not always adequately taken into account by decision-makers when assessing narratives that were 'halting', 'vague' or evasive” (Millbank, 2009b:8). Accurately interpreting what a person's demeanour means can be a hard task, even when it is someone you know. The claimants in these cases are often deeply ashamed of their orientation, and many genuinely believe what they have learned in their countries of origin; that there is something wrong with them. This is likely to present itself in their demeanour at an interview, and can also be interpreted as dishonesty. As Millbank pointed out; “the degree of confidence expressed by the decision-maker in being able to clearly distinguish between such emotional states, in a complete stranger, is very troubling in this instance” (Millbank, 2009b:10).

The importance assigned to inconsistencies is another aspect pointed out by the literature. During the asylum process, a claimant is likely to tell their story a number of times. While all decision makers acknowledge that there are bound to be some contradictions between these stories in any case, the presence of strong contradictions will usually negatively impact a claimant's credibility determination. Yet Clinical research on the memory of refugees in Britain (Herlihy et al, 2002)

suggests there is little correlation between consistent accounts and truth-telling; “deceptive consecutive statements are consistent to at least the same extent as truthful ones” (Berg and Millbank, 2009:13). Additionally, depression and post-traumatic stress disorder (PTSD) has been shown to influence the retrieving of memories from specific events (Herlihy and Turner, 2007, referenced in Berg and Millbank, 2009). Herlihy et al (2002) found this to be exacerbated with the length of time between interviews, and more prevalent with memories the claimant considered peripheral, as opposed to central to a story. Considering the length of time that usually passes from the traumatic events occur in the claimants' home countries until they are recounted to a decision-maker, it is not surprising that inconsistencies occur regularly.

One challenge that manifests itself when dealing with informants who have been expected to tell their story repeatedly, is discussed by Knudsen (1995) with relation to social research. I include the argument here, as it is also relevant in an asylum interview situation. Knudsen argues that the constant repeating of their narrative also forces them to redefine this narrative, which influences how this narrative is presented to the researcher: “Already before the first researcher ask their questions, refugees have passed through several interviews and conversations with various categories of 'helpers'. When the researchers finally arrive, the situation is redefined once more, and the conversation changes.” (Knudsen, 1995: 29). In their situation, their narrative is one of the few things they are able to control, and withholding it is one of the ways this can be done. Knudsen brings up the potential for the researcher and subject to be “cast as opponents: the ones asked, in their presentations, the others doing the asking, in their frantic search for valid data. The result may be a folie à deux, a double illusion” (Knudsen, 1995: 29).

Shame is also a factor that is likely to influence the consistency of a claimant's narrative (Miles, 2009). This is especially prevalent in LGBT claims. Many of these claimants have never talked about their experiences. They will also have grown up in a homophobic environment, and are likely to feel a great amount of shame and confusion about being LGBT. Many have a fear of authorities based on experience, and might be unwilling to reveal their sexual orientation to the interviewers. In many sexual orientation claims, the aspect of the claimant's sexual orientation is not revealed until late in the process. This can be because many claimants feel “ too traumatized, afraid or ashamed to speak at all or to tell all details in these early stages, and noted that there were things that they had not revealed because in their culture it was considered wrong to discuss them” (Bögner et al 2007, referenced in Berg and Millbank 2009:201). In spite of this, Jansen et al (2011) and others found that many claimants that reveal their sexual orientation late in the asylum process are likely to not be believed. Their difficulties sharing their story are interpreted as a lack of credibility, and can result in a negative decision.

The Discretion Problem

As mentioned above, many studies report a practice of rejecting asylum claims on the grounds that the applicant would be safe from persecution in their country of origin if they behaved discreetly. In practise, the applicants are asked to “co-operate in their own protection” (Appellants S395/2002 cited in Wessels, 2011:19) As pointed out by Jansen and Spijkerboer (2011: 33), the 'discretion requirement', as it is commonly referred to, goes against international guidelines, because it requires the applicants to renounce their identity as «they are expected not to act on it, or at least to hide this crucial element of their personality, so as to escape being persecuted».

Inherent in the use of the discretion requirement as a reason for refusals, is a lack of understanding LGBT identities. A person's sexual orientation is an integral part of their identity, and is present in every part of their lives (discussed in Wessels, 2011 and Miles, 2009). Asking them to be discreet «wrongly reduces the expression of gay identities to sexual activities between persons of the same sex» (Wessels, 2011:22). More to the point, it is often the fact that a person is different that results in their persecution (Miles, 2009), which a person would be unable to hide. The discretion requirement also does not take into account that a person could be outed by others, such as family members, which could happen regardless of how discreet they were being (Wessels, 2011).

In Norway, the Department of Labour and Social inclusion's guidelines on gender-based persecution state that «it must be expected that persons to a certain degree will have to adjust their behaviour, clothing et cetera to the governing social and cultural codes» (cited in Hojem 2008:13), indicating that the practice of expecting discretion was common in Norway as well. He noted that such a practice runs counter to UNHCR's recommendations, and expressed concern for the potential effects of this policy: “may give caseworkers too much discretion in rejecting cases on grounds that the asylum-seeker could conceal his or her sexuality by altering his or her behaviour and mannerisms in the public sphere. The policy might also result in a more arbitrary, non-consistent practice”. This practice is changing however, in 2011 the Norwegian Directorate of Immigration (UDI) suggested a change away from the previous discretion requirement practice that has been used (Utlendingsdirektoratet, 2011). In addition to this, a ruling from the Norwegian Supreme Court on the 29. march 2012 supported an Iraqi asylum seeker against Utlendingsnemnda (UNE), and instructed UNE to change its practice on this point (Morgenbladet , April 19th, 2012). Following this ruling, The Norwegian Department of Justice introduced a new instruction of practice for UDI caseworkers, stating that they could no longer expect or demand that LGBT-persons would adjust their behaviour upon return to their home country (Justis- og beredskapsdepartementet, 2012). This change in

Norwegian practice mirrors a similar ruling by a British Supreme Court ruling from 2010, in favour of two asylum seekers from Iran and Cameroon. This ruling rejected previous findings that required these claimants to behave discreetly, and thereby changed the practice in the United Kingdom.

Country of Origin Information

Information about the applicant's country of origin is used to help corroborate applicants' stories when evaluating a claim. If a person claims to have been prosecuted by state actors in their origin country, available information about that country provides an objective insight into this person's credibility. Country of origin information can tell the caseworkers whether same-sex sexual acts are criminalised, and whether there is a homophobic or hostile environment for LGBT persons.

The literature reports many shortcomings in this area. Firstly, it is noted that caseworkers often focus on sources that are not ideal for reporting an accurate view of the situation for LGBT persons in the countries. The focus is mostly on incomplete national files, or from larger human rights groups such as Amnesty International or Human Rights Watch. These groups did not start documenting human rights abuses against LGBT groups until the 1990's, and have only recently begun to do so regularly (Wessels, 2011). There is little evidence suggesting that caseworkers access reports from local LGBT groups in the countries themselves, for example Sexual Minorities Uganda (SMUG). These would be the most relevant sources available, as they have firsthand knowledge of the situation for LGBT person in their area, and are more able to access local information, and more easily gain the trust of LGBT individuals with important stories to tell.

More often than not, the available country of origin information is insufficient. There is simply no available data to suggest whether or not the situation for LGBT persons in the country is safe or not. This is often taken as an indication that this means the situation is acceptable. The caseworkers «use inadequate information and infer facts, weighing evidence according to their personal expectations and biases» (Wessels, 2011:40).

Caseworkers

Several of the studies found that caseworkers have a very stereotypical view of homosexual identity (see Berg and Millbank, 2009, Wessels, 2011). Sexual identity development is often complex and fluid,

but in the refugee context decision-makers expect it to be a “fixed or finite quality, settled upon early and immovable thereafter” (Millbank 2009b:15). A narrative that contrasts this can then be seen as inconsistent. Many lesbian or gay asylum seekers can report having maintained heterosexual relationships in their country of origin, some have even been married and have children. This is not unexpected considering the homophobic environment of these countries, but can nevertheless result in negative credibility assessments (See Jansen and Spijkerboer, 2011). In her study, Wessels (2011), concludes that there is a lack of a proper framework with which to assess sexual orientation asylum claims, and not enough expertise among the caseworkers. This in turn leads to ignorance, heterosexual bias and in some cases homophobia influencing cases more than they should: “As such, the identity of the decision-maker, rather than that of the applicant, becomes a decisive factor for the outcome of the claim” (Wessels, 2011:40). One way that this lack of framework and expertise manifests itself is in the interview. Several sources, i.e. Miles (2009) and Jansen et. al. (2011) suggest that sexual orientation claimants are often asked intimate questions, often about their sex lives, to help the decision-makers in their assessment. Such questions can be hard for anyone to answer in front of complete strangers. But after years of internalised homophobia and fear of authority figures, it is understandable that the asylum seekers are hesitant to speak of these issues freely. In addition, they might have conflicting feelings about their experiences; “initial confusion may be compounded by a process of habitual internal denial with many conscious and unconscious attempts to forget the experience” (Berg and Millbank, 2009:203). This is likely to influence their narrative, and may come off as inconsistent or implausible, thereby negatively influencing their claim.

Some of the research suggests that decision makers look for stereotypical behaviour in confirming whether or not a person is gay or lesbian. In her exploration into the credibility assessment practices in lower-level tribunals in four different countries, Millbank (2009b) found that even though a person's demeanour was not considered acceptable as evidence in the countries' guidelines, it was still referenced in decisions. Often this was used for affirming the claimant's sexual orientation, by pointing out their 'effeminate voice and manner' or how they 'looked gay' (Millbank (2009b:7). The fact that references to demeanour are used to affirm a positive claim indicates that it can also play a role in the decision-making process of negative claims, without this necessarily being clearly referenced in the final decision. The decision makers may subconsciously disbelieve a person whose demeanour does not fit with their idea of what a gay person is.

Decision-makers are often cited as being on the search for the truth in the claimant's narrative. This search for truth “presumes not only that there is an objective reality out there, but that decision makers can uncover and apprehend it using tools such as demeanour, consistency and plausibility” (Macklin, 1998:139). Macklin (1998: 410) suggests instead that the credibility assessment is not so

much about discovering the truth as it is about making choices; “what to accept, what to reject, how much to believe, where to draw the line – in the face of empirical uncertainty” She argues that the decision makers need to look inwards at themselves as well as outward at the claimant. This is because the decision makers' personalities and personal experiences will undoubtedly influence their interpretation of the claimants' demeanour, consistency and plausibility. While this factor is impossible to remove, its influence on the decision can be lessened by remaining aware of its presence.

The Situation in Norway

Many of the issues noted in the wider research, was mentioned in the research that focused on Norway as well. The questionnaire answered by a Norwegian expert for Jansen et al (2011)'s study suggested that late disclosure of sexual orientation negatively affected a claimant's credibility assessment, as well as the discretion requirement. In addition, a lack of information available to asylum seekers upon arrival was noted. This was something Hojem (2009) found as well. Both also mentioned a lack of confidence in the interpreters by the asylum seekers, which led to them not sharing their stories in full in the interview. The prevalence of harassment in the reception centres was considered an issue by both sources as well. Another thing they both mention, is that there is not a consistent practice present in UNE's decisions. Hojem illustrated this with an example about Iran:

“The Board shows a more inconsistent attitude towards Iran. In a case from September 2008, the Board states that recent reports, including one from the British Foreign Office, have reported an increase in the number of criminal cases against homosexuals in Iran. The Iranian asylum-seeker is therefore granted subsidiary protection. However, in a case from March 2009, the Board refers to the Norwegian Directorate of Immigration which has stated that there is little chance of being persecuted for homosexual activity in Iran, and that the asylum-seeker must accept local custom in practising his sexuality” Højem, 2009: 14

RESEARCH QUESTIONS

I have chosen this field of study because it is currently seeing many new developments. There is much awareness on the topic at the moment, and practices are changing. It is also a complex area, as part of the case decision requires the caseworkers to make an assessment of someone else's sexual

orientation, a fundamental part of who they are. As there was little research on the topic, I wished to look more closely at how this process was developing in Norway. I have chosen to make the asylum process and interview in sexual orientation claims the focus of my study.

My research questions are:

What challenges do sexual orientation claims pose on the asylum process and the asylum interview?

How are these challenges addressed?

Clarification of terms

Before turning to the arguments, it is necessary to map out the terminology used in this thesis. The labels used for describing sexual identities and orientations are constantly evolving and continuously debated. In this paper, I will follow the Yogyakarta principles. These are a set of international principles relating to sexual orientation and gender identity, developed by human rights experts. For the purposes of this thesis, 'sexual orientation' is used to refer to a "person's capacity for profound emotional and sexual attraction to, and intimate sexual relations with, individuals of a different gender or the same gender or more than one gender" (Yogyakarta Principles, 2006). I will use the adjective 'gay' to refer to people attracted to members of the same sex. This study will primarily focus on gay asylum seekers, not lesbian, bisexual or transgender. Nevertheless, I will also use the umbrella term LGBT in reference to this group.

METHOD AND DATA

To answer my research questions, I have chosen to acquire my empirical through qualitative interviews. While the topic of LGBT asylum seekers is one that many countries are currently addressing, and more and more research is conducted on the asylum process for this particular group, there is still very little data empirical available for analysis and theory development. The research that has been done is largely focused on countries such as the United States, Canada, The United Kingdom and Australia. Only a minority of the research has looked at Norway, and none have done so in any great detail. There is simply not enough data available to form any conclusions on the practice in this field in Norway. As my aim was to look into Norway specifically, it was necessary to collect empirical data to be able to provide analysis and discussion.

The decision to use qualitative interviews my method of acquiring data was also one of necessity. There are merits to both quantitative and qualitative research methods. Quantitative research methods involve providing larger data sets from which one can make generalisations about the phenomenon as a whole, not just the sample. A survey of a sample of LGBT asylum seekers in Norway, for example, would provide quantifiable information on their perception of the asylum interview. This in turn could be used to make generalisations about the whole population of LGBT asylum seekers in Norway, and in some cases perhaps also those seeking asylum for other reasons. Such a method would, however, not provide much in-depth information or details. A more qualitative method, such as interviews, would be able to provide more detailed information, at the expense of being able to make generalisations about the population beyond the samples. In an interview, a subject is able to explain in their own words how they experienced an asylum process, and paint a broader picture. This research is also essential to be able to develop good questions for a potential quantitative study later.

There were several reasons why I decided that in-depth interviews would be a better fit for my research. The primary reason was that not many people seek asylum on the basis of their sexual orientation or gender identity in Norway (Hojem, 2009). The population is small, which would make any quantitative sample from this population even smaller. The benefit of quantitative methods are not as relevant when the population one wishes to investigate is as small as this. Secondly, as mentioned, there is little research available on the situation for LGBT asylum seekers in Norway. This meant that presuppositions I had formed concerning issues that could arise during my research were largely based on research from other countries, with different asylum practice and history. In practice,

this could mean that few of these issues were at all applicable in Norway. As such, I wished to give my subjects a forum to freely bring up the issues they felt were the most significant.

Sampling

To ensure I get as clear a picture as possible, I have found interview subjects from different sides of the asylum process. I have interviewed LGBT asylum seekers to get a first-hand impression of how they experience the process. Getting data on how the process was perceived by asylum seekers when they arrived, gives us an indication of how future asylum seekers will perceive the same process. I have also interviewed caseworkers from both UDI and UNE, to get data on how they view sexual orientation claims, what challenges they think these claims pose, and what measures they have taken to ensure good practice in these cases. In addition, I have spoken with asylum lawyers and representatives from organisations representing the asylum seekers' interest. This has provided me with a picture of the case process from an outside perspective, from people who have been involved in several cases and who have been able to comment on trends. As this group of interview subjects consist of people from different backgrounds, the group will be referred to as advisors.

To get in touch with LGBT asylum seekers, I got in contact with LGBT organisations that work with asylum seekers and asked if they were able to help me get in touch with them. All of the interview subjects in this group were acquired by using this kind of purposive sampling. While there is a chance that the sample is not representative of the group from which it is taken, there were also important reasons why I have chosen this method. Primarily, I was aware that LGBT asylum seekers often live hidden lives, and might be hard to get in touch with without a 'middle man'. Additionally, having a person they already trusted vouch for my study might have made them more inclined to trust me, and speak more openly. I consider these benefits to outweigh the potential risks of an unrepresentative sample. This is supported by Neuman (2006: 222), who describes purposive sampling as beneficial when looking for subjects with special characteristics. Another aspect to take into consideration is that the total number of lesbian, gay, bisexual or transgender asylum seekers in Norway is very low. This decreases the risk of the sample not being representative.

To find caseworkers to interview I went directly to the source. I contacted both UDI and UNE directly, and was invited for interviews both places. This did mean that the subjects available for interviews were chosen by my contacts in UDI. This could mean they were screened beforehand; and that I was represented with caseworkers with opinions that fit the image the organisation wanted to portray. I do not consider this to be the case. My contacts in UDI were open about the reasons for

selecting the interview subjects I would contact. The reasons had all to do with finding people who had relevant experience with LGBT asylum cases, or expertise from developing guidelines or similar for the caseworkers.

Lastly, for my group of advisors, I got in touch with organisations that have assisting asylum seekers as their primary focus, such as NOAS and SEIF, and asked to speak with representatives with experience from my field. Through them, I was put in contact with other people who, through their work experience, would be relevant for me to interview. Neuman (2006) describes this method as snowball sampling. This method of sampling can be used when the researcher is focusing on an “interconnected network of people or organisations”, which applies here.

Data

I interviewed 8 asylum seekers, all male, from different parts of the world. I interviewed four people for the group advisors. All work with representing or supporting asylum seekers in some respect. All have significant experience with LGBT asylum cases. From UDI I interviewed two caseworkers, as well as a member of their academic staff (fagstab). Lastly, from UNE I interviewed two members of their academic stab, who work with LGBT asylum seeker issues in their current position. Both have previously worked as caseworkers for UNE, and handled cases based on sexual orientation and gender identity.

ETHICAL CONCERNS

Considering the ethical implications of one's research is something all social scientists must do. This does, however, become even more relevant when the groups being researched are vulnerable. Asylum seekers are considered such a vulnerable group, and the asylum seekers interviewed for my research doubly so, because of their sexual orientation. As Knudsen (1995) discusses, the researcher has to be aware of the influence they can have on the interview subjects' self presentation. He refers to the researcher's role as that of "gatekeepers to landscapes of emotion" (Knudsen, 1995: 29), as their presence or questions can complicate the way the informants process their trauma. Being aware of these ethical issues allows the researcher to find the right "balance between two values: the pursuit of scientific knowledge and the rights of those being studied or of others in society" (Neuman, 2006: 129). In this section I will map out some of the ethical issues present, and my actions to ensure this balance was in place, and finish with a mention of potential challenges. I will primarily be focusing on those of my interview subjects who were asylum seekers, as this is the group where the most concerns arise.

The first issue I will address is that of consent. More specifically informed consent, which means that the "research subjects have the right to know that they are being researched, the right to be informed about the nature of the research, and the right to withdraw at any time" (Ryen, 2007: 219). This is an issue that arises more in participating observation, but still one that is important to consider. In contacting potential interview subjects, or contacts that could get me in touch with interview subjects, I included an overview of what I intended to research (see Appendix 1). I elaborated upon this if there were any questions. This way I ensured that all those I interviewed had an understanding of what my research was about before we met for an interview.

The next issue is that of confidentiality and anonymity. I used a recording device during the interviews, to ease my note-taking. I asked the subjects for their consent to use it before turning it on, and ensured them that the audio file would only be for my use. Out of concern for confidentiality, I did not give others access to these files, nor their transcripts. This way I could make sure that the information my subjects gave me would remain confidential. To ensure the anonymity of my subjects, I never made note of any names. I assigned codes to each of my interview subjects, and changed the names for the asylum seekers in this thesis. I also decided not to disclose the country of origin of these interview subjects. In addition, I made the decision not to interview any female asylum seekers. There are only a very small number of female asylum seekers in Norway, and as such not possible for me to ensure their anonymity when referring to them.

Lastly I will address the issue of trust. This was a particularly complex issue with regards to the asylum seekers. A representative from an LGBT NGO facilitated contact with asylum seekers that fit

my criteria. This was a person the asylum seekers trusted greatly, and through them vouching for me, I most likely enjoyed a higher level of trust than what I would have been able to achieve alone over this time-frame. This was a great benefit to my research, but could potentially be of a detriment to the asylum-seekers' interest. Had I been in touch with them directly, they would most likely have been more sceptical and taken more steps to ensure they could trust me. Because the asylum seekers trusted my contact, they might have chosen to skip some of the steps they normally would take. This trust might have stopped the asylum seekers from looking after their own interest, and sharing more than they would otherwise be comfortable to share. To counteract this, I made sure the 'middle-man' had a full overview of my methods and research. This way they could consider whether this was research they wished to vouch for, as well as pass it on to the informants.

DISCUSSION AND RESULTS

What kind of information the caseworkers look for

The main thing that the caseworkers stated they look for in an interview was some reflection on their lives: "I look for some reflection. Not some, but I look for reflection, that they have some thoughts about being gay or lesbian" *UDI caseworker*. They encourage the asylum seekers to talk about their pasts and reflect on their experiences and feelings about being gay in their country of origin. "You almost have to go back to their childhood, or their teens, when.. How do I put it, when the person noticed that he or she was different from other people, or what feelings entered then and, depending on their age, how it has developed since." *UDI caseworker*

Another aspect that is important to caseworkers is the presence of information that can potentially be verified, if there is a need for it. Specific information that can be corroborated in the country of origin, such as concrete events or an arrest history: "I'm looking for information that could potentially be verified. If the applicant says they've been kicked out of a school, then I think it can be interesting to ask which school, when was it, who was the principal, where was the school, when did this happen. It helps to strengthen the credibility that they have to tell it in a way that makes us believe it, and that we can verify it if that's necessary." *UDI caseworker*

The last thing that the caseworkers look for is 'lived life', that is, experiences from their past they can recount and reflect on to add to their story. This could be romantic relationships, experiences as an activist, reactions from their family members, or similar:

"Lived life is also, to the extent there is lived life, that is. (...)Yes, both open and hidden, I guess you can say. That they can tell us about it. Tell us about family, reactions from family, village. Maybe they know something about the situation for other gay people, if they've been in contact with other gay people." *UDI caseworker*

The caseworkers at UDI did stress that they were very aware that both verifiable information and life experiences are aspects that are not always present in these types of LGBT cases. They pointed out that while these aspects could make the case easier, their absence would not mean that an application would be rejected. From the interview with the caseworkers at UDI, it was clear that the most important of the aspects mentioned in determining a case was the asylum seeker's ability to reflect on

their circumstances. The staff at UNE also mentioned lived life as a factor in determining the outcome of an applicant's case:

“And then you have to fill in individual information connected to the applicant; what kind of experiences do they have? Have they lived out their sexual orientation as gay or lesbian in their home country? What experiences do they have with the country of origin? And also look at what is the situation after they arrived in Norway, to what extent have they lived out their sexual orientation. And this is a complex assessment, and based on this you determine what is the most likely scenario: How will the appellant choose to live upon return to the country of origin.”

Having been a part of a gay community in their country of origin, and being able to point to concrete events and experiences is something that helps the case. The caseworkers made clear that this does not mean it is essential for a positive assessment. The lawyers interviewed, however, suggested that lived life and experience carried more weight to the caseworkers than what my sources at UDI indicated:

“Really it depends on how much detail they can give. It seems as though, if they manage to, that is, if they have a detailed history from the country of origin, where they've lived out their sexual orientation in hiding their as well, and that can be connected to the grounds for asylum, and they have a history from Norway where they've lived out their sexual orientation actively, then it is possible that it will be credible. Really it's details and preferably witnesses and names. But if you haven't lived out your sexual orientation that much, neither in the country of origin or maybe in Norway, then it becomes a lot harder.”

In this lawyer's experience, applicants who hadn't had the opportunity to live out their sexual orientation in their country of origin, and had not formed relationships since coming to Norway, found it more difficult to be believed; “The way it's been, to be a bit blunt, it's almost been so that you have a bigger chance at being believed if you're managed to be sexually active after you arrived in Norway, and have witnesses. And then the problem is that you're sat in a camp in the middle of nowhere and aren't the most social person in the world, then you're not believed” *Asylum lawyer*. This suggests, contrary to what UDI and UNE indicate, that having experiences of relationships or a gay community to draw on impacts the result of the case. This provides an unfair advantage to the asylum seekers that have had such experiences. An asylum seeker might have been unable to make similar connections in their country of origin, due to fear of being caught or living in a small place with no gay community. This does not mean they do not have a legitimate claim.

Factors that influences the case result

In addition to the factors that the caseworkers are specifically looking for during the interview, my data also identified other aspects that can play a part in the outcome of an asylum case; at what point in the process the claimant's sexual orientation was disclosed, and the applicant's demeanour.

Early disclosure

The research and data gathered for this thesis suggests that the moment when the relevant information was disclosed is one factor that significantly influences the outcome of a case. Many LGBT asylum seekers are scare to share the truth of why they have come to Norway, and some initially apply for asylum on other grounds. Sometimes it can take years before they feel ready to share their real reason for leaving their country of origin. Some do not mention their sexual orientation until after their initial case has been rejected. This fear of sharing their LGBT status can be a result of many factors, including internalised homophobia and fear of authority figures:

“Many LGBTI asylum seekers do not dare to talk about their sexual orientation or gender identity due to feelings of difference, stigma, shame or fear. These feelings can be based on internalised homophobia or transphobia and they might be reinforced by the necessity to disclose their sexual orientation or gender identity to an officer of the asylum authority, or by the fear of what would happen if their sexual orientation or gender identity became known in other settings, such as accommodation centres.” Jansen, Spijkerboer, (2011: 65)

Often the decision to not disclose their LGBT identity will impact the asylum seeker's credibility. The addition of this piece of information at a later stage in the asylum process can be interpreted as a lie in an attempt to gain asylum after the initial story failed, or can lead the caseworker to question every other aspect of the original claim, resulting in a negative credibility assessment. This was found by the lawyers interviewed as well. One of them put it like this:

“UDI, but especially UNE the way I see it (...) have a very formalistic credibility assessment. Where they look for points of reference, where they don't go in and look at

the whole story, what it is to be expected for people to say to whom. It's very: It's not credible if you didn't say it the first time. And it's especially not credible if it comes after a rejection, and even less credible if it comes after a final rejection". *Asylum lawyer*

This suggests there is little understanding among the caseworkers of UDI and UNE of why an asylum seeker might choose to hide their sexual orientation from the asylum authorities. This same lawyer had an impression as to why this is:

"And I get the impression sometimes that UNE almost sees this as a kind of public prevention; making sure it is known in the community that if you don't tell it all right away, then you'll get a rejection. And they have, I feel, a kind of belief that people talk about this. And that's very strange, because people don't talk to each other in the Muslim community about being gay, and they don't talk to each other in any communities about being raped, and they talk very little about being tortured at all."

The implication here is that one person's asylum claim is rejected so as to avoid other asylum seekers changing their claim to one of sexual orientation after initial rejection. This again suggests a lack of understanding of gay asylum seekers, as well as the view of gay people in the asylum seeker communities. For fear of experiencing more disrespect, gay asylum seekers do not speak to other asylum seekers about their sexual orientation, nor do they mention that it the basis for their claim.

The staff at UNE interviewed stated that while additional information added late in the process would always be viewed more critically, there is often more understanding when the information is of this nature:

"But in these cases there are quite a few special circumstances to consider, especially that it can be a long time before the applicant is able to accept their sexual orientation, that it takes a long time before it feels natural to talk to a representative of the authorities about their sexual orientation, etc. In these cases, when the information comes out this late in the case process, it won't have as much significance as when it comes to other information"

It is clear here that the caseworkers consider LGBT asylum cases to be separate from other asylum claims, and treat them with more understanding. In the same interview, however, it was also stated that the majority of these cases will be rejected, either because it is not deemed credible that the applicant is LGBT, or on the grounds of generally reduced credibility. Generally reduced credibility implies that the applicant's credibility rating is so low it can be assumed they are not telling the truth about their reasons for seeking asylum.

The guidelines from UNHCR also acknowledge and address the dilemma of an applicant's late disclosure:

“The applicant will not always know that sexual orientation can constitute a basis for refugee status or can be reluctant to talk about such intimate matters, particularly where his or her sexual orientation would be the cause of shame or taboo in the country of origin. Even where the initial submission for asylum contains false statements, or where the application is not submitted until some time has passed after the arrival to the country of asylum, the applicant can still be able to establish a credible claim” UNHCR Guidelines (2008: 17)

These guidelines stress the importance that an asylum seeker's case is not damaged by disclosing their sexual orientation late in the asylum process. The asylum seekers are not likely to trust the interviewer or the asylum authorities. It is important for the asylum authorities to have an understanding that developing this trust can be a long process. This process is not necessarily related to the truthfulness or credibility of the claimant.

Demeanour

Another factor that can play into the decision-making process is the appearance and demeanour of the applicant. Some applicants have a more effeminate manner of speaking and behaving than others. Several of the advisors interviewed reported the impression that applicants that appeared stereotypically LGBT were more likely to be believed;

“Even if you go to an appeals board hearing there's a difference of the extent to which someone radiates their sexual orientation. If you go to an appeals board hearing with a gay man who does not look very typically gay, then it's also much harder to be believed. So it's almost like.. Almost that it's easier if they live out all the stereotypes about what that sexual orientation is. But if you're a bit more private person who's a bit more anonymous, then you've got a worse chance, is my impression.” *Legal counsellor*

This suggests that a claimant who did not follow the caseworker's idea of what their sexual orientation should be would risk getting a negative credibility assessment because of their appearance and demeanour. This is something that other researchers have found as well, that the caseworker's interpretation of how gay people 'should' behave influences their decisions: “rigid notions of gay

identity may consciously or even subconsciously shape decision-makers' approaches to sexuality in asylum claims" Wessels (2011: 32).

The influence of an applicant's behaviour can be pretty complex. A more feminine person will be more likely to stand out in their country of origin, and therefore be more likely to attract negative attention. It can be considered that these people simply have more anecdotal evidence to back up their claims. As one of the staff from UNE pointed out, part of the consideration they have to make, is what the applicant is likely to encounter if they were to return to their country of origin:

" And then the question is; what is the profile of the applicant? Is it likely that this person will stick to the norms, or does this person maybe take a more active role, or activist role, as gay or lesbian. If they do, especially if this is something they've shown after arriving in Norway, then we have to consider that in relation to what is the most likely scenario after return to the country of origin. Then it's more likely that the person will step over some norms in the country of origin and be more at risk of assault than others."

From this perspective, a more stereotypically gay person could be considered more likely to take on an activist role after return. Similarly, it can be considered more likely that a more effeminate male will risk persecution upon return. Such a person could be unable to live discreetly upon return to their country of origin, regardless of whether they wanted to.

One issue that presents itself here, however, is how this affects the applicants that do not necessarily behave in a stereotypical way. They might have been able to live a more discreet life in their country of origin, or experienced less harassment or persecution than other applicants. This does not mean that they do not have a legitimate claim. The impression the advisors give is that the applicants that are able to blend in more, are less likely to be believed, or be granted asylum. One legal counsellor stated that he feels the focus of the caseworkers becomes skewed:

"It's almost as if, if you can't help yourself from looking feminine in the country of origin and having sex with men, that's the assessment. It's not assessed whether you really wish to have a boyfriend and live in peace, which is where you maybe.. Or not have a boyfriend or just be who you are in peace which is really what should be the assessment" *Legal counsellor*.

The implication here is that asylum seekers with legitimate claims might be denied asylum, because their case was not considered on the basis on their sexual orientation. Instead their appearance and behaviour becomes a disproportionately large part of the assessment.

Factors that did not influence the case result

Some of the factors that were found to influence the case results in the literature were not present in my findings. These were the discretion requirement and the country of origin information available to the caseworkers.

The discretion requirement

The expectation for asylum seekers be able to behave discreetly upon return to their country of origin was not found among the UDI caseworkers. This was to be expected, following the new instruction of June last year. There is agreement among the advisors that it would appear that UDI have changed their practice on this subject: "It can seem as though UDI especially have had a clear change of their practice. And UDI say they did not follow [British Supreme Court Ruling] before the [Norwegian] ruling, so UDI say they have changed their practice, and I think that can be right." *Asylum lawyer*. As only a year has passed since the change in practice, not many rejections made by UDI since this change have been through the appeals board. It is therefore difficult to say anything about the practice in UNE at this point in time. It is however clear from my interviews with the staff at both UDI and UNE that achieving good practice in sexual orientation asylum cases is a priority. UDI have recently developed a new internal interview guide for caseworkers to use in sexual orientation cases, and UNE are also currently reviewing their practice.

Country of origin information

The country of origin information used by Norwegian caseworkers is provided by the Norwegian Country of Origin Information Centre, LandInfo. When asked, the caseworkers from both UDI and UNE agreed that they felt the information provided was good enough. The information is constantly being updated, and the caseworkers felt that it was always possible to get a clear answer from the staff at LandInfo if asked. This view was also shared by advisors:

“The LandInfo office, the country of origin advisors, are as a rule, although with some exceptions, infinitely skilled. They very rarely state things they have no basis to state. They are very knowledgeable. They have good methods. Greatly, although with exceptions, very good treatment of sources” *Asylum Lawyer*

The data here suggests that the available country of origin information is satisfactory, and is able to provide the information the caseworkers need to make their assessment. There was, however, a concern voiced by some of the advisors that not enough sources were used when acquiring this information: “Because they often base it on very few sources. And the fact that you can find one person who managed to live okay in that country, does not necessarily mean it is like that for everyone” *Legal counsellor*. This would indicate that in some respects the available country of origin information is a bit thin. This could be an issue if caseworkers base too much of their decision on this information. This did not seem to be the case. In the cases where caseworkers reported feeling like the country of origin information was lacking, they reported that they gave the claimant the benefit of the doubt: “You do not always get good enough country of origin information on it, on lesbians for example, because it's a non-topic in the countries. But then we think that if the situation is that bad for gay men, then it is the same for lesbians. Even though we lack concrete information about it.” *UDI case worker*. This was also stressed by the UNE caseworkers. Because of this practice, my general impression was that the country of origin information available did not influence the case result.

To sum up, the research and data gathered for this thesis suggests that an applicant is more likely to have a successful claim if they are able to reflect on their sexual orientation, have had relevant experiences in both the country of origin and in Norway, can provide some verifiable information, share all the relevant information and speak openly about their sexual orientation as early as possible, and have some stereotypically gay mannerisms. Some of these aspects, namely the experiences in the country of origin, verifiable information and stereotypical behaviour, cannot be influenced or changed once the asylum seeker has reached Norway. The likelihood of the other aspects to take place, however, are significantly influenced by how comfortable the asylum seeker feels at their accommodation and in the interview room, and the extent to which they trust their interviewer. In their research into asylum interviews conducted at ports in the UK, Crawley (1999) found that the presence of trust was crucial for the interview to be conducted as intended:

“Mutual trust and rapport between the immigration officer and the asylum applicant is absolutely critical in order that the semi-structured interview can be an appropriate and useful research technique. Where a relationship of mutual trust is not established, the

prospects for a full and conclusive information gathering process are particularly dismal”
Crawley (1999: 54)

The appeals caseworkers interviewed for this thesis also noted that the system is based on developing trust: “It’s a pretty complex assessment, and it is based on you developing trust of the appellant. That he explains his case as openly as possible” *Asylum lawyer*.

In my research, I identified three factors that influence whether an asylum seeker trusts the interviewer, and how they narrate their story during the asylum interview. As a result of this, these factors could potentially influence the outcome of their asylum application. These three factors are the situation at reception camps, the interpreters used during the interview and the level of support and information the applicant has had available to them. The next section will discuss each of these in turn.

THE RECEPTION CAMPS

The living situation puts a lot of pressure on LGBT asylum seekers. In reception camps, asylum seekers are usually grouped by ethnicity or language, to make it more likely they’ll find people they’ll get along with. In practice this means that the LGBT asylum seekers are placed in reception camps with people from the very society they fled. All the asylum seekers interviewed that lived in the reception camps reported feeling scared and under pressure in this environment. One asylum seeker interviewed put it like this: “[the situation in the camp] is even worse than when I was in [Country of Origin]. In [Capital], it was, maybe easier for me than now here. It’s really, really harder. And I really don’t feel safe at the camps”, *Hal, asylum seeker*. He also elaborated on why he thinks it’s so much harder:

“[It’s not the same as in Norwegian society] When you’re in the camp, you’re in a place that brings people from different part of the world, they’re coming from the most homophobic environments, so basically, you are like in hell. It’s not about the process itself, or UDI or whatever, because they do their work professionally and they have to. For me like the camp and, you know, the environment’s really horrible. For me, that’s the bad thing about it.” *Hal, asylum seeker*

For the asylum seekers, staying in the camps involved living in fear and feeling unsafe. All the informants mentioned different types of harassment and discrimination going on in the reception camps, including the advisors. These ranged from social exclusion and verbal harassment to violence and rape. In general, the asylum seekers felt socially excluded from the other residents. Some isolated themselves in an attempt to keep their LGBT identity hidden, others were ostracised by the other

residents. Several of the asylum seekers interviewed reported death threats and violent behaviour towards them. Steve (asylum seeker) told me his experiences from one camp “People harassed me and I almost, like, being killed, people came only to my room and this was, it was very dangerous situation for me there”. The majority of the asylum seekers referenced 'problems' at the reception camps that they did not elaborate on, but that were severe enough to result in them being moved to a different reception camp. The advisors indicated that rape and violence as common occurrences, as well as extortion;

“There was a couple from a Central-Asian country. They were very scared of not being believed, and also scared of being found out. They were found out at the reception camp, and were actually pressured, by threat of being revealed and made public at the reception camp, to shoplift on assignment by one person”, *Asylum lawyer*.

This suggests that the LGBT identity of the asylum seekers places them at increased risk of injury and disrespect. Their fear that their sexual orientation will be disclosed to the reception camp places them at risk of criminal behaviour by their fellow residents.

An asylum lawyer could also tell us that people from vulnerable groups are likely targets of rape in Norwegian reception camps; “Unfortunately it is a common thing that people previously raped get raped again, there's something about the bad guys smelling the vulnerability. And there are also a few stories of feminine men, who are suspected of being gay, that are tested. And also a lot of rape or forced sex, when someone discovers this is someone they can put pressure on”. This emphasises the finding that LGBT asylum seekers in the reception camps are at risk of injury and violence because of their sexual orientation. Abusers often use this information to extort and harm.

My data showed that in many cases the response to these kinds of incidents being reported is that the victim is transferred to a different reception camp. Very rarely are the police involved, and the informants indicate that their impression is that police involvement is seen as a nuisance to the reception management. One asylum seeker told us that after the incidents mentioned previously, he felt the reception camp management took offence to him urging them to move him;

“That's why I tried to push them to move me somewhere me else, but they have taken it more personal that I teach them, like I teach them the way they should work, so they, even though, they make it even more harder, the management. Because they don't want to deal with the reality or someone tell them what they should do. They have taken it more personal than they should be.” *Steve, asylum seeker*.

This implies that this reception camp management did not place the safety of their residents first.

All the informants reported feeling the need to hide their LGBT identity in the reception camps to ensure their safety. Hiding their identity in such close quarters is difficult and stressful, and often means isolating oneself from the other residents, as well as the rest of the society. As mentioned earlier, an asylum case is more likely to succeed if the asylum seeker is upfront about their claims and tells their story openly as early as possible. The asylum seekers are also told this when they arrive, and in the interview. They are expected to share intimate details about their lives, things that they most likely have never shared with a stranger before. This can be stressful for anyone. The reception camp situations add to this stress. Several of the advisors commented on the paradox between the hidden, closeted lives the asylum seekers are forced to live in the reception camps, and the expectation of full disclosure in the interviews. Not having a space where one can feel safe makes feeling safe in the interviews much less likely. This was something Jansen and Spijkerboer (2011) also found: “Sometimes LGBTI asylum seekers are so afraid of other asylum seekers that they do not dare to mention their sexual orientation or gender identity to the asylum authorities (...) In some cases trans or gay people were moved to a single room. This may provide a quiet and safe environment” (Jansen and Spijkerboer, 2011: 78) One of the advisors referenced the instances of rape of vulnerable residents in the reception camps and spoke of the need for more sensitivity to this “(...) so that people to a larger extent feel safe where they live, which to many is a requirement to be able to tell of shameful, intimate and traumatic experiences which can lead to persecution”. Having a space where they feel safe can help the asylum seekers develop the trust they need in the interview. Often the asylum seekers do not have access to a private space, which makes the likelihood of developing trust more difficult. Another advisor also mentions this issue;

“It has to be okay to be something other than heterosexual in the reception camps. And there are very mixed signals if you have to live with your sexual orientation in hiding in the reception camps, but at the same time demanding that they are to be one hundred per cent open at the asylum interview, if not you're not credible” *Legal counsellor*.

This suggests that the different parts of the asylum authorities are not able to work together. Making sure that the reception camp authorities are able to ensure the safety of their residents could be a start here. The asylum seekers feeling safer would facilitate trust and thereby a sharing of their narrative in the interview. A third advisor is concerned about what this kind of practice is suggesting to the asylum seekers: “I worry about how [the asylum seekers] live and the signals we're sending to them when they live in as homophobic environments as they do, while at the same time the processes they're going through demand for them to have an openness that is unrealistic when we don't show them that it is possible to be open where they live” *NGO employee*. The different signals sent by the different parts of the asylum authorities damage the asylum seekers' trust in these institutions.

These reception camps are often the residents' only impression of Norwegian society. Although they are told that it is safe to be who you are in Norway, it is hard to trust that when these laws are not enforced in the reception camps. When they see the same kinds of harassment go on in Norway as at home, without any real consequences for the offenders, it reinforces their instinct to not trust the people around them. One of the advisors interviewed, an employee with an LGBT NGO expressed concern at how the staff at the reception camps failed to adequately protect their residents:

“I speak to people who work in the camps and they say to me, why does he have to be open? Why does he have to be transgender, can he not just change his clothes? Does he have to wear women's clothes, can you not ask him to be more discreet, cause he's making problems? And I say this back to them: Do you say this to the muslim women? Do you say to them: 'Hey, if you want to go to Rema 1000, then you'll have to wear jeans and a Norwegian outfit?' You don't say that to them. But that's the kind of, how early stages we are, in terms of the people working there. That's the battles that we talk to them about every day. Because they don't have enough LGBT knowledge. Not at all.” *NGO Employee*

This implies a double standard in place that works at a disadvantage for the LGBT asylum seekers, and a lack of sufficient knowledge on LGBT identities. This results in the LGBT camp residents being expected to participate in their own protection by hiding their identity from the other residents. This employee also stressed that these issues arise because the guidelines the reception camps operate under are too vague when it comes to defining vulnerable residents: “None of the rules, of all the rules UDI have for the camps, there's not one sentence about people with sexual orientation or transgender people. How are they supposed to look after transgender people in the camps?” *NGO Employee*. The resident camp staff represent the Norwegian asylum authorities in the resident camps. Their apparent unwillingness to improve the living situation for the LGBT asylum seekers, sends the signal that the disrespect the asylum seekers experience is accepted by the Norwegian authorities, even condoned. This further damages the asylum seekers' institutional trust, specifically, their trust in the Norwegian asylum institutions. As explained by Mcknight et al (1998), this will in turn damage the asylum seeker's initial trust at the interview.

THE INTERPRETERS

The most direct factor that influences the interview process, and perhaps the most influential of the ones I've identified and will be discussing in this thesis, is the interpreter present; "either way there'll be an interpreter present, and nearly all interpreters come from the region of origin, and the [applicants] who have experienced something connected to punishment or shame or is very intimate, typically rape, torture and LGBT, they will be very hesitant to talk about it" *Asylum lawyer*. The perceived region of origin of an interpreter was mentioned by the majority of the informants as something that influenced their behaviour and what they told in the interview. The asylum seekers have the right to have an interpreter that speaks their mother tongue, and in the majority of the cases this means that the interpreter is from the same region or even country as the applicant. Many of the informants reported being scared in the interview, because they were worried about sharing intimate information in front of someone who represented the society they fled; "I was stressed and scared because they had a [Region] interpreter, I got everything mixed up, all the things that had happened. I was scared. I was stopped in the tongue, when I tried to talk. I was scared, I wasn't free [to speak]. And I forgot what I said sometimes." Bruce, asylum seeker. Here the presence of an interpreter from his region made him so scared he felt unable to share his story. Another asylum seeker, Sam, even reported that the interpreter knew his family in his country of origin. His family is known in his home country, as they are local politicians and involved in local government. When Sam told the interviewer who he was, his interpreter immediately mentioned that he knew who Sam's father was. As a result, he did not feel safe to share his story in front of the interpreter he had. Both these asylum seekers were scared of the potential risks that would come from sharing their sexual orientation in front of their interpreter. This indicates that the perceived risk of having an interpreter share their information with others from their culture outweighs the benefits of sharing this information in the interview.

Some of the informants spoke up either before in the interview, and specifically asked for an English speaking interpreter;

"But when I went to the second interview they brought me a Kurdish translator, where I supposed to say big story, big, big words, and, which was too hard for me, just cause.. For me I was Kurd, and afraid from Arabian, and.. Kind of also, so filled of shame, that to look at them and say that I'm homosexual.. So it was, at first it was so stressful for me, I couldn't do it, I told the interviewer that 'I'm sorry, but I can't do it' and I asked for new translator," *Steve, asylum seeker*.

While the interviewer did stress that the translator was professional and asked him to continue the interview, he was granted an interview at a later date with an English speaking interpreter. Being able

to have some control over the interview situation and an interpreter he trusted meant they felt more secure in the interview, and was more able to openly tell his story. This indicates that being able to exert some control over the interview situation, and expressing ones concern over the interpreter present, helps the asylum seeker feel more confident in the situation.

The claimants are informed, both in UDI's official information, by NOAS in advance, as well as by the interviewer in the interview itself that they are safe to speak openly in the interview. The interviewers make clear that none of the information they would tell would be shared with other parties. The confidentiality and professional behaviour of the interpreters is also stressed. The issue here seems to be that the applicants have a hard time believing this. Coming from countries where the rule of law and authority figures are not trusted, it is difficult for them to trust the Norwegian system; "So if they just keep saying to us, that this guy has a privacy law, that he cannot say anything, but it still, we don't believe it, we are still afraid that someone from our own country will translate this, when he knows my name and details in front of that translator." *Steve, asylum seeker*. He indicates here asylum seekers' institutional trust is already low. They are unable to trust that the Norwegian institutions are able to protect their interest. Some have even heard rumours of the interpreters ahead of the interview, making the situation more stressful;

"When I came here I knew the guy from North Iraq, he have a barber shop. He told me that there's some translator, there working for UDI, they are not professional. They telling people sometimes. They don't give the name, but they say that they were like gay or something. But I was afraid. I thought that if people going to know that I'm gay, I'm going to have the same life that I had in Iraq. I changed the story." *Peter, asylum seeker*.

This exemplifies how fragile trust in the institutions is. Even though these rumours might be unfounded, the impression damaged Peter's trust in the interview situation enough that he did not dare talk about his sexual orientation.

My data clearly shows that the asylum seeker's perception of the interpreter influences the result of their application. None of the informants who reported being scared of their interpreters disclosed their LGBT identity in the interview, and their cases were all rejected. When they disclosed their real reasons for seeking asylum later on, in an appeal, their credibility rating was negatively impacted by the late disclosure. Every one of these informants had multiple rejections based on general reduced credibility. For one it took twelve years to get a positive result. The other two cases are still undecided. In contrast, the informants who had English interpreters felt confident and comfortable enough in the interview setting to share their full story right away, and subsequently did not encounter the same credibility issues. All but one of them received positive results on their first

application. That one case was rejected because the caseworker considered it to be safe to be LGBT in the country of origin. The applicants that asked for a different interpreter felt they benefited greatly from doing so. Not all applicants feel secure enough in their rights to ask for a different interpreter in the interview, however. Although it is standard practice to ask at the beginning of the interview whether there are any objections to the interpreter, an applicant might still feel too afraid or insecure to voice their concerns.

The caseworkers interviewed also brought this up. They acknowledged that things can get lost in translation when dealing with interpreters. They also acknowledged that although they have complete confidence in the interpreters, the asylum seeker might not be as confident:

“Before we start the interview, we ask if there are any objections to the interpreter, and then the applicant can say 'no', or 'do you wish to use this interpreter today, yes or no'. And in one case we've been told afterwards that 'this was an interpreter from my home country, I didn't dare share it all'. Okay, new interview with English speaking interpreter. So there's a very low threshold for correcting misunderstandings or things that the applicant have experienced as uncomfortable. But that also demands a bit from the applicant, to say 'no, I do not wish to use this interpreter', that can be very.. Be perceived as very insulting” *UDI caseworker*

This indicates that there is a clear practice when the issue of an applicant feeling uncomfortable around an interpreter presents itself to the caseworkers. They are aware that the interpreter used may influence an asylum seeker negatively. In response to this, they offer the opportunity to change interpreters, as well as having new interviews if this issue is made clear after the interview was held. The interviewers seem to do what they can to alleviate this issue. Yet there are still asylum seekers too scared to talk, and who can't bring themselves to say why. One of the lawyers interviewed also mentioned this, and proposed that the solution must come at a different point in the application:

“Therefore I think that it's the formalistic credibility assessment that has to be changed. One has to have a better understanding for the fact that people don't share information about intimate, traumatic and shameful things unless they're a very pressured situation, typically when they've received a negative decision, or when they've been able to settle in, which can take a few months. So I think it's the assessment of the evidence and the credibility assessment that are the places where it's necessary to make changes” *Asylum lawyer*

He indicates here that asylum practice needs to ensure that a claimant's lack of trust in the interpreter does not damage their case result. The caseworkers need to have a greater understanding of the lack of trust that the asylum seekers experience when they arrive at the interview. This lack of trust is worsened by the perceived risk the interpreter represents. This combined with a low trust in Norwegian institutions, results in an image of the interview as untrustworthy. This image can take some time to adjust.

ACCESS TO INFORMATION AND SUPPORT

The last of the factors that I found influenced the interview was the level of access to information and support during the asylum process. All the informants I spoke with expressed that they wished there was more information available earlier;

“this is like, something I would love to have. In that centre where people come to apply and register themselves as asylum seekers. They should have some information there in Arabic or in English, the main languages, talking about homosexuals and put organisations' names there. So people just can go to there instead of waiting in the [reception camps] and get afraid that anyone knows about them.” *Steve, asylum seeker.*

This exemplifies the lack of information available to LGBT persons wishing to seek asylum. The standard information given to asylum seekers in the reception camps does not mention sexual orientation. The kind of information the asylum seekers would like to see was information about LGBT interest organisations that could provide support, as well as more information about the rights that asylum seekers have when going through the asylum process. The advisors also found that this kind of information was not visible enough;

“It's very hard this, getting people to share shameful, intimate and traumatic experiences. Because if there's like, a sign in tiny letters 'Do you wish to be registered by someone not from your home country, let us know'. Someone who's afraid of being revealed to be gay, or scared that it'll get out that she has been raped will of course not raise their hand and say 'I do! I do', because then everyone else will think: 'Oh, why is that?'" *Asylum lawyer.*

This suggests that the information about the asylum seekers' rights are shared in a manner which makes it difficult for them to enforce these rights. If enforcing their right to being registered by someone from a different country involves sharing this with others around them, asylum seekers might be too scared to do so. The informants were also vary of this kind of information being too public, as claimants would be worried others could see, but all thought it was a good idea to have something on paper that could be handed out to new arrivals;

“They can do it in other ways, like they can write in a paper or something, information. Give it to the people who coming from.. come to Norway. To have some information, like if you are gay you can talk about it, nothing gonna happen to you, your case is with us, nobody is going to know that. Stuff like that I think is more easier and private. You read it and you make up your mind.” *Peter, asylum seeker.*

Peter's statement makes it clear that he and other LGBT asylum would benefit from seeing more information earlier in the process. In addition, he exemplifies this fear that this information be too publicly available.

A couple of my informants were able to make contact with an LGBT interest organisation themselves as soon as they arrived in Norway. One had experience as an LGBT activist in his country of origin, and therefore searched the internet for similar organisations in Norway. Another got in touch based on the advice of an acquaintance in Sweden. The data gathered suggest that the support and resources of this organisation and its surrounding network made the asylum process more easily manoeuvrable for the asylum seekers. This organisation talked the asylum seeker through the interview process, so they knew what to expect, what rights they had, and gave them the confidence to demand an interview situation that made them feel secure enough to talk freely. An employee at such a support organisation, talking to Steve, said:

“when you went in to the interview we'd already met you, you know? So you knew that you were not, that you didn't have to have an Arabic interpreter [sic]. You knew, because we told you that you needed to just refuse to talk to Arabic people, and the whole way insist on having an English interpreter. But some people they don't know their right for that, and then when they get there, you know, if they have hired interpreter with some other background, then, you know, that's what they use.” *NGO Employee*

This indicates how important the support from an LGBT organisation was to the asylum seeker. Their information provided Steve with the confidence he needed to take control over the interview situation. As shown in the previous section, this control increased his ability to trust the situation. Lidén (2012) also found, in her research about under age asylum seekers, that this kind of information ahead of the interview helped the applicant present their story in a coherent manner, and to focus on the parts of their history that are relevant to the asylum grounds. This suggests that having support early in the process helps increase the asylum seekers' level of trust; both their institutional trust, and also their general trust. As mentioned previously, sharing their entire story as early as possible significantly increases an applicant's likelihood of being believed. These two asylum seekers themselves acknowledged how fortunate they had been to have these resources in their corner;

“I was kind of lucky to meet [organisation], actually. To get the advice in how the situation is gonna be and try to make it easier for me, like, 'if you get rejected don't worry, we'll try to push more'. And they also have, like, you know, and official advices, not only advices from their mind or heart, but the advices based on law, how the law is working in Norway. So, you know. So I was kind of lucky to meet [organisation], I was kind of lucky for my

process to be very fast. But many people they didn't know where to go. For me I didn't know where to go, if I didn't google it." *Steve, asylum seeker*

This further shows that the information about where support can be found for LGBT asylum seekers is not readily available. Furthermore, it indicates that it is very coincidental who is able to make use of the support that is available.

Højem (2009) also found that there was insufficient information available to asylum seekers about sexual orientation as grounds for asylum, in all three Scandinavian countries. He noted that support from LGBT and asylum NGOs provided a benefit to the asylum seekers they were in touch with, but was concerned this was not enough:

"However, very often asylum seekers only contact these NGOs once they have been interviewed, perhaps even rejected, for the first time. This limits the possibility for NGOs to help persons fleeing persecution on grounds of sexual orientation. In cases where asylum seekers were unaware of their right to seek protection for such persecution, and because of social stigma or fear did not reveal his or her sexual orientation from the outset of the [refugee status determination - RSD] process, information [sic] RSD staff of this later on might weaken the asylum-seekers credibility and therefore chances for being recognised as a refugee. Therefore, although aid from NGOs and advisors is important, it cannot be a substitute for the information supplied by the immigration authorities themselves" Højem, 2009:18

The lack of information about who to contact for support risks leaving too much up to the asylum seekers themselves. Their resources and knowledge of LGBT organisations and communities is what determines whether they are able to find this support. Some might never have been a part of an LGBT community, or do not know that LGBT organisations exist, and are such at a disadvantage to those that do. One of the advisors confirms this: "Some [asylum seekers] we meet very early, they understand that they want to seek out some form of community, and know that there are communities to seek out and google it." advisor, representing an LGBT organisation.

CONCLUSION

There are several examples of good practice in sexual orientation claims in the Norwegian asylum process. It is clear that this area is one that is prioritised by Norwegian authorities. This is exemplified by how much practice has developed in just the last year. The Supreme Court ruling and following instruction of practice from the Department of Justice has changed the much-criticised Discretion Requirement. Likewise there is little evidence to suggest that caseworkers allow any bias they may have to influence the decisions they make.

Through my data collection and analysis I do, however, find that there are also significant challenges facing the asylum process in Norway that hinders the ability for the interview to fulfil its purpose. The purpose of the asylum interview is to ensure that all the information needed to accurately consider a claim is presented. For the interview to fulfil its purpose, the asylum seeker needs to be able to trust the interviewer. Because of their experience with disrespect in both their country of origin and country of asylum, it is not likely that this trust will be present at the onset. It is therefore imperative that the interviewer and the interview setting bring forth that trust. This study finds that the interviewer's ability to do so was impaired by several external factors, but in particular three: The situation in the reception camps, the interpreter in the interview, and the availability of support and information.

The asylum seekers' living situation is one factor that was found to negatively influence their ability to trust the interviewer. Gay asylum seekers were found to be isolated in the reception camps, and often experience harassment and violence. All asylum seekers that I interviewed hid their sexual orientation from their fellow residents. This ongoing disrespect and isolation only serves to exaggerate their feelings of shame. Many perceived this as a lack of Norwegian authorities' assistance to their situation, which bring about the idea that disrespect towards LGBT people is condoned by the authorities. This will damage their trust in the Norwegian asylum institutions, including the interview situation.

The most direct influence on the interview setting found is the interpreter present. This study found that the asylum seekers' fear of the interpreter directly influenced their willingness to share their story. Gay asylum seekers often reported omitting information in their asylum interviews, because they were scared of the interpreter. Because the interpreter was from their own culture, they feared that the information they shared would get back to this community. In the asylum seekers'

assessment, the risks that would be associated with the interpreter sharing their sexual orientation with other members of their community far outweighed the potential benefits of trusting the interviewer.

Lastly, the study found that the availability of support and information significantly influenced the asylum seekers' level of trust. If the asylum seeker had an available support system in the form of an LGBT NGO from the beginning of the asylum process, they were more aware and confident concerning their rights. Having the asylum process and their rights explained to them, increased the asylum seekers' trust in the Norwegian asylum institutions. This increased trust made them more willing to share in the interview. Sharing their story early in the process would provide an accurate credibility assessment. An asylum seeker that does not know of or is too scared to seek out LGBT organisation would not have the same level of trust during the asylum interview. This could in turn negatively impact their credibility assessment. To ensure that the asylum seekers have access to all the necessary information, information about sexual orientation claims and organisations should be included in the information provided upon seeking asylum.

The fact that these external factors largely influence the asylum interview damages the integrity of the interview. This is especially problematic in cases where the information shared during the interview is the only evidence available for the caseworker. If not all relevant information is present for the caseworker's credibility assessment, it is not possible for the caseworker to make an accurate assessment. This could mean that these external factors end up having an influence on the case decision itself. These three factors should all have to be addressed to ensure that the interview is able to fulfil its purpose as intended.

IMPLICATIONS

These factors are not just relevant for asylum seekers with an alternative sexual orientation. The importance of establishing trust in the asylum interview is important regardless of the grounds of asylum that are being considered. The factors that are shown to damage the formation of this trust are not exclusive to gay asylum claimants. This study could therefore have relevance beyond its rather narrow field of focus. To establish whether this is the case, a wider study would have to be conducted.

BIBLIOGRAPHY

Amnesty International (2012) Uganda: Anti-Homosexuality bill could pass imminently
<http://www.amnesty.org/en/library/asset/AFR59/008/2012/en/279d0c72-6ea5-42d7-ac28-7eddd7411696/afr590082012en.html> [26th Nov 2012]

Amnesty International Norge (2011) Homoaktivist brutalt myrdet i Uganda
<http://www.amnesty.no/aktuelt/flere-nyheter/uganda> [27th Jan 2011]

Berg, L. and Millbank, J. (2009) Constructing the Personal Narratives of Lesbian, Gay and Bisexual Asylum Claimants, *Journal of Refugee Studies*, 22(2)

The British Supreme Court (2010) HJ and HT v. Home Secretary
http://www.supremecourt.gov.uk/docs/UKSC_2009_0054_Judgment.pdf [7th Jul 2010]

Crawley (1999) *Breaking Down the Barriers*. London: ILPA

Daniel, E. V. and Knudsen, J. C (1995) "Introduction" in Daniel, E. V. and Knudsen, J. C. (1995) *Mistrusting Refugees*, Berkeley: University of California Press

Heller, P (2009) Challenges Facing LGBT Asylum-Seekers: The Role of Social Work in Correcting Oppressive Immigration Processes, *Journal of Gay and Lesbian Social Services* 21(2-3)

Hewitt, J. P. (1997) *Self and Society: A Symbolic Interactionist Social Psychology*, Boston: Allyn and Bacon

Hojem (2009) *Fleeing for love: Asylum seekers and sexual orientation in Scandinavia*. Geneva: UNHCR. UNHCR Report, no. 181

Honneth, A. (1995) *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, Cambridge: Polity Press

Jansen and Spijkerboer (2011) *Fleeing Homophobia: Asylum Claims related to Sexual Orientation and Gender Identity in Europe*. Amsterdam: COC Netherlands and VU University Amsterdam

Justis- og beredskapsdepartementet (2012) GI-07/2012 Instruks om tolkning av Utlendingsloven § 28 første ledd bokstav a – forfølgelse på grunn av seksuell orientering og kjønnsidentitet, <http://www.regjeringen.no/nb/dep/jd/dok/rundskriv/2012/g042012-ikrafttredelse-av-endringer-i--2.html?id=686817> [22nd June 2012]

Karen E. Lovaas PhD, John P. Elia PhD & Gust A. Yep PhD (2006): *Shifting Ground(s)*, *Journal of Homosexuality*, 52:1-2,

Kendall, C. N. (2003) *Lesbian and Gay Refugees in Australia: Now that 'Acting Discreetly' is no Longer an Option, will Equality be Forthcoming?* *International Journal of Refugee Law* 15(4)

Knudsen, J. C. (1995) "When Trust is on Trial: Negotiating Refugee Narratives" in Daniel, E. V. and Knudsen, J. C. (1995) *Mistrusting Refugees*, Berkeley: University of California Press

Laviolette, N (2009) *The UNHCR'S Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, *The American Society of International Law* 13(10)

Lidén, H. (2012) "Det Vanskelige Asylintervjuet" in Eide, K. (2012) *Barn på Flukt: Psykososialt Arbeid med Enslige Mindreårige Flyktninger*, Oslo: Gyldendal Norsk Forlag

Macklin, A. (1998) 'Truth and Consequences: Credibility determination in the Refugee Context', paper presented at *The Role of the Judiciary – 1998 conference for International Association of Refugee Law Judges* Ottawa, October 1998, viewed 23.05.2013
<http://refugeestudies.org/UNHCR/97%20-%20Truth%20and%20Consequences.%20Credibility%20Determination%20in%20Refugee%20Context.%20by%20Audrey%20Macklin.pdf>

McKnight, D. H., Cummings, L. L. and Chervany, N. L. (1998) *Initial Trust Formation in New Organizational Relationships*, *The Academy of Management Review*, 23(3)

Miles (2009) *No going back: Lesbian and Gay People and the Asylum System*. London: Stonewall

Millbank, J (2009a): From discretion to disbelief: recent trends in refugee determinations on the basis of sexual orientation in Australia and the United Kingdom, *The International Journal of Human Rights*, 13:2-3, 391-414

Millbank, J (2009b): 'The Ring of Truth' : A Case Study of Credibility Assessment in Particular Social Group Refugee Determinations, *International Journal of Refugee Law* 21(1)

Misztal, B. A. (2002) Normality and Trust in Goffman's Theory of Interaction Order, *Sociological Theory*, 19(3)

Morgan, D. (2006) Not Gay Enough for the Government: Racial and Sexual Stereotypes in Sexual Orientation Asylum Cases, *Law and Sexuality*

Morgenbladet (2012): Høyesterett støtter homofile asylsøkere.
http://morgenbladet.no/samfunn/2012/hoyesterett_stotter_homofile_asylsokere [April 19th, 2012]

Neuman, W. L. (2006) *Social Research Methods: Qualitative and Quantitative Approaches*, Boston: Pearson

NOAS, *The Asylum Process in Norway*, [Online] <http://www.noas.no/en/tema-asylprosessen-i-norge/> [Viewed 24th May 2013]

O'Dwyer, P (2007/2008) A Well-Founded Fear of Having My Sexual Orientation Asylum Claim Heard in the Wrong Court, *New York Law School Law Review* 52(2)

Pinfold, C. (2013) <http://www.pinknews.co.uk/2013/05/17/ban-ki-moon-lgbt-equality-is-critical-to-the-uns-mission/> [17th May 2013]

Rauhala, E. (2011) <http://world.time.com/2011/12/07/hillary-clinton-vows-to-support-global-fight-for-gay-rights/> [7th Dec 2011]

Reid-Smith, T. (2012) Iran gay report highlights isolation, abuse and fear
<http://www.gaystarnews.com/article/iran-gay-report-highlights-isolation-abuse-and-fear110512>
[11th May 2012]

Ryen, A. (2007) "Ethical issues" in Seale, C., Gobo, G., Gubrium, J and Silverman, D. (2007) Qualitative Research Practice London: Sage

The Telegraph (2010): Czechs criticized for homosexual 'sexual arousal' tests.
<http://www.telegraph.co.uk/news/worldnews/europe/czechrepublic/8191849/Czechs-criticised-for-homosexual-sexual-arousal-tests.html> [December 9th, 2010]

UDI, Bestilling og Honorering av tolk ved søknad om beskyttelse
<http://www.udiregelverk.no/no/rettskilder/udi-interne-meldinger/im-2011-026/> [Viewed 24th May 2013]

UDI (2009) Applying for Asylum <http://www.udi.no/Norwegian-Directorate-of-Immigration/Central-topics/Protection/New-in-Norway/Applying-for-asylum/> [7th July 2009]

UNE, (2012) The Norwegian Immigration Appeals Board <http://www.une.no/om-oss/Information-in-foreign-languages/The-Norwegian-Immigration-Appeals-Board-UNE/> [13th Nov 2012]

UNHCR (2002) Guidelines On International Protection: "Membership of a particular social group" within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, Geneva, 7th May 2002

Valenta, M. (2012) "Hvordan kan vi analysere asylfeltet med hjelp av sosiologisk teori?" i Valenta, M. and Berg, B. (2012) Asylsøker: I Velferdsstatens venterom, Oslo: Universitetsforlaget

Wessels (2011) Sexual orientation in Refugee Status Determination. Oxford: Refugee Studies Centre. RSC Working paper series no. 74

Yogyakarta Principles (2007) http://yogyakartaprinciples.org/principles_en.htm [March 2007]

APPENDIX 1

Overview of my research sent to potential interview subjects and contacts:

Jeg er masterstudent ved Universitetet i Bergen, hvor jeg tar siste året i min Master i Demokratibyging. Dette året skal jeg skrive min masteroppgave, hvor jeg fokuserer på lesbiske, homofile, bifile og transpersoner som søker asyl i Norge. Mer spesifikt ønsker jeg å se på saksbehandlingsprosessen, og kartlegge de momenter som kan vanskeliggjøre en korrekt og rettferdig behandling av søknaden. Dette vil jeg gjøre ved å intervju asylsøkere, saksbehandlere og andre som kjenner prosessen om deres erfaringer.

Jeg ønsker å kartlegge de momenter som kan vanskeliggjøre en korrekt og rettferdig behandling av LHBT-personers asylsøknader. Det er lite litteratur på dette området som ser på situasjonen i Norge. Jeg ønsker derfor å undersøke i hvilken grad de momentene som eksisterer i andre land er tilstede her. Disse er blant annet diskresjonskriteriet, saksbehandlere med fordommer eller mangel på kunnskap om LHBT-personers narrativ, utilstrekkelig landinformasjon, og hvor disse søkerene blir plassert i mottak. Jeg argumenterer for at disse er eksterne momenter som trekker vekk fra den egentlige vurderingen som skal foretas; hvorvidt disse har en velbegrunnet frykt for forfølgelse i sitt hjemland. Jeg ønsker å intervju asylsøkere, saksbehandlere og andre ressurspersoner med erfaring fra flere slike saker (som personer som jobber i SEIF/NOAS eller advokater) for å kartlegge dette. Jeg ønsker å få forståelse for asylsøkeres erfaringer med systemet og saksbehandlingsprosessen, og hvordan de opplevde å bli mottatt her. Med å intervju saksbehandlere og andre ressurspersoner håper jeg å få en bredere forståelse av prosessen, da jeg håper disse kan gi inntrykk av hvilke problemer som dukker opp oftere, og hva som er positivt.

Med Vennlig Hilsen,

Trine Steindal

APPENDIX 2

Interview guide for the semi-structured interviews conducted:

Saksbehandlere

Fortell om jobben din

Hvilke føler du er de største utfordringene i jobben din?

Hva med i LHBT-asylsaker spesifikt, hvilke er de største utfordringene her?

Fortell om troverdighets-prosessen, hva er viktig her?

Hva ses det etter for å skille mellom løgn og sannhet? Eksempler?

Har du opplevd at ting har blitt 'lost in translation' i intervjuer? Er tolkningsforskjeller noe dere må være obs på?

Hvordan vurderes søkers seksuelle identitet, når det er en faktor?

Hva ses det etter for å kunne vurdere om en person virkelig er homofil? Kan du gi eksempler her?

Hva sier deres retningslinjer om disse sakene? Er de til hjelp på dette området?

Har du opplevd å foreta beslutninger du var usikker på? Hvorfor? Eksempler?

Hvilke målkrav har dere ovenfra? Er disse realistiske? Hvordan påvirker disse arbeidet ditt?

Asylsøkere

Tell me about your asylum application process

How did you feel when you arrived in Norway and apply for asylum? Did you feel safe? How did this change during the process?

Tell me about the interview process.

How was the atmosphere in the room? Did you feel like you were free to speak? Why/Why not? How did the interviewer influence this?

Had you talked about these things to other people before the interview?

Your sexual orientation?

Did you feel like you were believed?

How did the topic of your sexual orientation come up? What questions were you asked about it? How did the questions make you feel?

Were you asked questions you could not or did not want to answer? Examples?

How did the interviewer react to this?

Do you have any ideas as to how this process could be made easier for other asylum-seekers in the future?

Ressurspersoner

Fortell meg litt om din rolle i en asylprosess?

Har du forholdt deg til mange saker med LHBT-søkere?

Hvordan skiller disse seg ut?

Hvilke utfordringer vil du si er de største i disse sakene?

Eksempler?

Kan du fortelle litt om troverdighets-prosessen?

Hva er din vurdering av dette?

Hvordan blir spørsmålet om LHBT-søkernes seksuelle identitet behandlet i asyl-prosessen?

Eksempler? Hva er din vurdering av dette? (rett type spørsmål, fokus på rett ting etc?)

Har du noen forslag til grep UDI kan ta for å forbedre denne prosessen?