

Acknowledgements

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Abstract

While the political field of immigration is getting increasingly stringent throughout Europe, rights for queer individuals are progressively strengthened in Western parts of the world. These two parallel trends have made queer asylum a particularly interesting field of study – as one out of few defended and even liberalized areas within a more and more restrictive immigration regime. However, based on a common understanding that the asylum system by nature is open for exploitation, an existing consensus that there need to be some kind of differentiation between the ‘deserving’ and the ‘undeserving’ asylum seeker, is prevalent. In line with diffusion of norms and policies that protect sexual minorities throughout Europe, queer refugees cannot be ignored or discriminated against (to the same extent as before) – as homophobic attitudes are increasingly represented as alien in European courtrooms and frowned upon in societies. Nevertheless, queer refugee claimants still face great challenges in seeking asylum, often linked to the (in)credibility of their claim – which scholars argue have become the crux of the matter when immigration officers judge in LGBT asylum cases. How do Norwegian perceptions of the refugee claimant that seeks refuge because of fear of sexual and gender-based persecution look like? This paper explores, through a mixed method approach with qualitative, quantitative and experimental methods, the topic from two viewpoints – that of Norwegian citizens and Norwegian immigration authorities. How do actors perceive queer refugee claimants and the credibility of their asylum applications? Do their perceptions of LGBT asylum seekers reflect the rise in “LGBT friendly” norms and/or increasingly restrictive immigration policies?

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List of abbreviations

| | | |
|--------------|--|------------------------|
| UDI | The Norwegian Directorate of Immigration | Utlendingsdirektoratet |
| UNE | The Norwegian Immigration Appeals Board | Utlendingsnemda |
| NCP | Norwegian Citizen Panel | Norsk Medborgerpanel |
| FRP | The Norwegian Progress Party | Fremskrittspartiet |
| LGBT | Lesbian, gay, bisexual and transgender | (see footnote 2 for |
| elaboration) | | |

1. Introduction

1.1 General background and introduction to the topic

People with non-normative sexualities and gender identities have always and all over the world been victims of exclusion, ill-treatment and abuse. Not complying with standard identity categories, and instead adhering to a non-normative sexuality or a non-binary¹ gender identity still, to this day, put a person's human dignity, rights – and even life – at risk in several parts of the world. However, divergent sexual or gender identities are nothing new. Neither is the matter of displaced people on the move; fleeing for their lives or searching for a better version of it, today known as the global phenomena of (im)migration. Both phenomena make great headlines in the media daily; reports of thousands of migrants drowning at sea, op-eds on how the European Union's should manage its so-called refugee burden-sharing or interviews with asylum seekers in Europe, awaiting their decisions. Parallel to this, stories of homophobic hate crime, chronicles advocating for same-sex marriage and news clips and videos from the local Pride festival.

This reflects two relatively recent and Europe-wide developments that frame the specific field of queer² asylum seekers³: one restrictionist, (anti-)immigration trend advocating for a tougher stand on asylum policies, safeguarding the European borders, and one that embraces and promotes LGBT rights and further inclusion of sexual minorities, safeguarding queers. In the cross-fire of this, we find queer asylum, where sexual minorities⁴ flee (fear of) risk of persecution. As such, these two phenomena together form a quite recent concept in terms of institutionalization and recognition in the global refugee system, national migration policies and in asylum law scholarship. It is only since the 1980s that one has been talking about refugee claimants seeking asylum due to risk of persecution because of sexual orientation or gender identity (hereafter 'queer/LGBT asylum seekers'. See footnote 2 for clarification). This thesis argues that the topic of queer asylum is shaped within an anti-immigration and pro-LGBT context

¹ Non-binary gender identity: Any gender identity that does not fit within the binary of male and female.

² I line with Vogler (2016), I will, for analytical ease, use the term "queer", as a capacious term covering all people who fall outside of expected binary sex and gender norms. Moreover, I will use "queer" and "LGBT" (the abbreviation for lesbian gay, bisexual, transsexual and transgender) interchangeably. There is a huge scholarly debate on which term is the preferred one – queer, LGBT, LGBTIQ– and all of them are employed in the academic literature. The legislative vocabulary employed by Norwegian immigration institutions which are under scrutiny in this study, it is either the expression "sexual orientation/identity and gender identity" or LGBT or LGBTI. In this thesis, the "I" – intersex is not included in the discussion of the data, because there have not been any intersexual asylum applications processed in Norway up until this date. However, increasingly more legal/policy guidelines do now include "I" in the abbreviation, and the term LGBTI will be used in the discussion of these. The term "sexual minorities" will also be used interchangeably with "LGBT and "queer".

³ An *asylum seeker* is defined by The United Nations Refugee Agency (UNHCR) as "someone whose request for sanctuary has yet to be processed", that can be granted refugee status or not. UNHCR, "Asylum seekers", (s.v.), available from <http://www.unhcr.org/asylum-seekers.html>

⁴ Sexual minority is defined by Kapron and Violette (2014) as "people whose minority status is a result of either their sexual orientation, sexual identity, practices with partners of the same sex or their refusal to conform to gendered social roles tied to their biological sex at birth". Mary Kapron and Nicole LaViolette, "Refugee Claims Based on Sexual Orientation and Gender Identity: An Annotated Bibliography," No. 2014-15 (Faculty of Law University of Ottawa: Social Science Research Network, June 1, 2014), 106, <https://papers.ssrn.com/abstract=2457503>.

– and that this situation has made the issue of the (in)credibility of queer asylum seeker into the central matter in these cases.

Today same-sex sexual conduct between consenting adults is criminalized in 73 states,⁵ and punishable by death in 13 of them (although not applied in all cases).⁶ Within milieus hostile or unfamiliar to queer identities, cases of violence often go unreported or homophobic state authorities fail to protect sexual minorities from persecution. Propelled by fear or vicious experiences, queers have fled to seek refuge elsewhere, most notably in European countries, in Canada, The United States, Australia or New Zealand, yet, reliable, comprehensive figures are almost non-existent. Yet, it is estimated that queer refugees originate from 104 different countries⁷ and that 175 million individuals belonging to a sexual minority live in persecutory environments.⁸

Since the Dutch Council of State in 1981 recognized sexual orientation as an eligible ground for refugee status under the 1951 United Nations Convention relating to the status of Refugees (hereafter the Refugee Convention), several so-called receiving states have followed.⁹ Today, sexual- and gender-based asylum claims are within the scope of both national laws and EU law, constituting a ‘particular social group’. This should be seen in a context where courts are increasingly recognizing queers as full rights-bearing individuals¹⁰ and homophobic attitudes are frowned upon in large parts of Europe.¹¹

According to Article 1-A(2) in the Convention Relating to the Status of Refugees, a refugee has a well-founded fear of being persecuted for reasons of *race, religion, nationality, political opinion or membership of a particular social group*.¹² At the time the Refugee Convention was drafted, however, in 1951, sexual minorities was not at the top of the list of concerns in the United Nations – homosexuality was in fact criminalized in large parts on the European continent, including Norway. Even though sexual minorities have indeed experienced both official and private persecution since the beginning of time, they were not encompassed by/included within the scope of the refugee definition. Despite several attempts to add or change the categories, these

⁵ Aengus Carroll, “State Sponsored Homophobia. A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition,” 11th Edition (The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), October 2016), 7, http://ilga.org/downloads/02_ILGA_State_Sponsored_Homophobia_2016_ENG_WEB_150516.pdf.

⁶ 13 UN States (or parts thereof) might apply the death penalty for same-sex sexual acts: four applied Statewide (Sudan, Iran, Saudi Arabia, Yemen), two in specific provinces (parts of Nigeria and Somalia), five not applied (Mauritania, Afghanistan, Pakistan, Qatar, United Arab Emirates), and two applied by non-State actors (ISIS-held territories in Iraq and Syria), *Ibid.*, 11; *ibid.*, 37.

⁷ Thomas Spijkerboer and Sabine Jansen, “Fleeing Homophobia, Asylum Claims Related to Sexual Orientation and Gender Identity in Europe” (Vrije Universiteit Amstjoint report with COC Netherlands., September 2011), 16, <http://www.refworld.org/docid/4ebba7852.html>.

⁸ Organization for Refuge, Asylum & Migration (ORAM), “Rainbow Bridges. A Community Guide to Rebuilding the Lives of LGBTI Refugees and Asylees,” 2012, 5, <http://oramrefugee.org/wp-content/uploads/2016/02/oram-rainbow-bridges-2012-web.pdf>.

⁹ Thomas Spijkerboer, “Sexual Identity, Normativity and Asylum,” in *Fleeing Homophobia: Sexual Orientation, Gender Identity and Asylum (Hardback)* - Routledge (London & New York: Routledge, 2013), 219, <https://www.routledge.com/Fleeing-Homophobia-Sexual-Orientation-Gender-Identity-and-Asylum/Spijkerboer/p/book/9780415628174>.

¹⁰ Kapron and LaViolette, “Refugee Claims Based on Sexual Orientation and Gender Identity,” 11.

¹¹ Lukas Johannes Gartner, “(In)credibly Queer: Sexuality-Based Asylum in the European Union,” in *Transatlantic Perspectives on Diplomacy and Diversity*, ed. Anthony Chase (New York: Humanity in Action Press, 2015), 39–66.

¹² James C. Hathaway and Jason Pobjoy, “Queer Cases Make Bad Law,” *New York University Journal of International Law and Politics* 44 (2012 2011): 315–89.

six persecution-grounds have remained unchanged.¹³ Many feared the perils of opening for amendments – and so the solution was to recognize refugee claimants fleeing persecution on the basis of their sexual orientation, and later also gender identity, due to membership ‘particular social group’.¹⁴ By the mid-1990s, the inclusion of this persecutory risk this was well accepted in most refugee receiving states.¹⁵ Moreover, the definition of *persecution* was later operationalized to include both official persecution by state authorities as well as private persecution by non-state actors, like murder, rape, assault and various forms of discrimination¹⁶ conducted by organized groups or relatives.¹⁷ Today, LGBT asylum litigation in several receiving states has demonstrated that queer refugee claimants do not need to have *personal* experience of past persecution – but they need to establish why a fear of such persecutory acts is ‘well-founded’.

LGBT asylum applications have more than anything been highlighted as particular within the body of refugee claims. Queer refugees are to a large degree presumed to be atypical,¹⁸ and in some respects, the exceptionality to these cases is accurate, by looking at the numbers. This is true for Norway, where LGBT asylum seekers constitute a very small portion of the total number of refugee claims, accounting for averagely 0,35% of all processed applications by the Norwegian Directorate of Immigration (UDI) between 2008-2016. Compared to Canada and Belgium, which are two major destinations for queer migration,¹⁹ applications make up in average 3,58 % (Belgium, 2008-2010)²⁰ and 6,5 percent (Canada, 2009-2011)²¹ of the total number of refugee claims.

¹³ Efrat Arbel, Catherine Dauvergne, and Jenni Millbank, *Gender in Refugee Law: From the Margins to the Centre*, Routledge Research in Asylum, Migration and Refugee Law (London: Routledge, 2014), 3.

¹⁴ The United Nations High Commissioner for Refugees (UNHCR) writes this in their definition of ‘particular social group’ in relation to sexual orientation and gender identities: “*Sexual orientation is a fundamental part of human identity, as are those five characteristics of human identity that form the basis of the refugee definition: race, religion, nationality, membership of a particular social group and political opinion.*” 10 Claims relating to sexual orientation and gender identity are primarily recognized under the 1951 Convention ground of membership of a particular social group, but may also be linked to other grounds, notably political opinion and religion, depending on the circumstances.” United Nations High Commissioner for Refugees, “UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity” (2008), 6, <http://www.refworld.org/docid/48abd5660.html>.

¹⁵ Catherine Dauvergne and Jenni Millbank, “Burdened by Proof: How the Australian Refugee Review Tribunal Has Failed Lesbian and Gay Asylum Seekers,” *Federal Law Review* 31 (2003): 299–342.

¹⁶ The UNHCR Handbook recognizes that discrimination combined with other adverse factors may on “cumulative grounds” amount to persecution, p. 13 para. 53. United Nations High Commissioner for Refugees (UNHCR), “Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees,” reissued 2011 1979, <http://www.unhcr.org/publications/legal/3d58e13b4/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html>.

¹⁷ Erik D. Ramanathan, “Queer Cases: A Comparative Analysis of Global Sexual Orientation-Based Asylum Jurisprudence,” *Georgetown Immigration Law Journal* 11 (1997 1996): 10–11.

¹⁸ Jenni Millbank, “‘The Ring of Truth’: A Case Study of Credibility Assessment in Particular Social Group Refugee Determinations,” *International Journal of Refugee Law* 21, no. 1 (March 1, 2009): 5.

¹⁹ David A. B. Murray, “Real Queer: ‘Authentic’ LGBT Refugee Claimants and Homonationalism in the Canadian Refugee System,” *Anthropologica* 56, no. 1 (2014): 23; Spijkerboer and Jansen, “Fleeing Homophobia, Asylum Claims Related to Sexual Orientation and Gender Identity in Europe.”

²⁰ Spijkerboer and Jansen, “Fleeing Homophobia, Asylum Claims Related to Sexual Orientation and Gender Identity in Europe,” 15.

²¹ Murray, “Real Queer,” 23.

Even though being described as ‘particular’ and ‘exceptional’, queer asylum seekers face many of the same challenges as other groups of asylum seekers. However, one issue has increased in importance in these cases recently: the issue of (in)credibility. For immigration authorities to be able to differentiate the genuine and authentic from the bogus and dishonest and thus ‘undeserving’ refugee claimant has become an increasingly important issue. This is particularly the case in sexual and gender-based asylum claims, as some find queer asylum cases “easy to make and impossible to disprove”.²² The argument goes that “anyone” can claim to be gay, lesbian or bisexual, with the ultimate objective that this will help them be granted asylum. Accordingly, the examination LGBT asylum applications can, despite making up a relatively few number of the total of asylum cases, be used to “explore general issues in the determination of credibility”.²³ This thesis aims to investigate some of the many faces of the Norwegian state in facing the phenomena of queer asylum, by examining both migration authorities’ and Norwegian citizens’ perceptions of the (in)credibility of queer asylum seekers.

To examine some of the attitudes²⁴ and perceptions²⁵ Norwegian citizens and migration authorities have toward queer asylum seekers, I draw upon existing literature on asylum claims based on sexual orientation and gender identity, worldwide, in Europe and in Norway. Central to this, is the matter of *credibility* of these asylum seekers.²⁶ I anticipate to find a cross-pressure between restrictionist immigration policies (safeguarding borders) and ‘gay friendly’²⁷ or “LGBT friendly”²⁸ norms (safeguarding queers) when examining both immigration officers’ and citizens’ perceptions of LGBT refugee claimants. The overarching research question is as follows:

How do immigration authorities and Norwegian citizens perceive queer asylum seekers’ (in)credibility?

This phenomenon of interest is further broken down into two concrete research questions:

- i. Do citizens’ perceptions of LGBT asylum seekers reflect “LGBT friendly” norms and/or restrictionist immigration policies?
- ii. Do immigration institutions’ verdicts in LGBT asylum cases reflect “LGBT friendly” norms and/or restrictionist immigration policies?

²² Millbank, “‘The Ring of Truth,’” 4.

²³ Ibid.

²⁴ I use Strabac et al.’s definition of « *attitudes* towards a particular social group as evaluative tendencies towards members of that group that are based on their group membership rather than on their individual characteristics ». See Zan Strabac, Toril Aalberg, and Marko Valenta, “Attitudes towards Muslim Immigrants: Evidence from Survey Experiments across Four Countries,” *Journal of Ethnic and Migration Studies* 40, no. 1 (January 2, 2014): 102, doi:10.1080/1369183X.2013.831542.

²⁵ “A mental image” or “a capacity for comprehension”, *Merriam Webster*, s.v. “Perception”, last accessed on 22.03.17, <https://www.merriam-webster.com/dictionary/perception>

²⁶ The concept of credibility will be elaborated in detail in subchapter 3.3.1

²⁷ The term “gay friendly” is used by the scholar Jasbir Puar, who introduced the theory of *homonationalism* (to be explained in the theory chapter), referring to a state’s “acceptance” and “tolerance” for gay and lesbian subjects and how this has become a barometer for progress. Jasbir Puar, “Rethinking Homonationalism,” *International Journal of Middle East Studies* 45, no. 2 (May 2013): 336–39, doi:<http://dx.doi.org/pva.uib.no/10.1017/S002074381300007X>.

²⁸ Due to the specificity of Puar’s (2008, 2013) term “gay friendly” and its possible negative connotations, which will be explained in the theory chapter (section 3.2.1), I use the term “LGBT friendly” when describing norms and rights for sexual minorities which have proliferated in the Norwegian society.

Further, it can be helpful to review i. and ii. in relation to each other, for the forthcoming analysis: Do immigration institutions and citizens reflect the same perceptions of LGBT asylum seekers' or are there differences between the two?

1.2 Relevance and rationale of study

Even though sexual and gender-based refugee claims remain relatively few in the bigger picture, studying queer asylum do provide important insights. Gartner concedes that "queer refugee stories of persecution take place at the very margins" of the asylum system, but further argues that "the margins, after all, tend to define and confine their core".²⁹ Scholars argue that these exceptional claims can reveal how refugee status determination processes work in different states; how laws effect policies and vice versa; and how issues connected to credibility; country of origin information; criminalization; and treatment of especially vulnerable refugees are dealt with in the present-day global refugee paradigm.³⁰ In fact, sexual and gender-based asylum cases have been at the forefront of jurisprudential developments in the understanding of concepts such as particular social group, persecution, state protection and how these interact.³¹

Because of this, LGBT asylum has indeed become a hot topic recently, contributing to a burgeoning field of scholarship within migration and refugee studies internationally. In Norway, we've seen several developments within migration policy in this narrow, but specific field; LGBT refugees are explicitly identified as a group to prioritize in the "asylum agreement contract" signed by the government and its two supporting parties, Norway has become vocal on sexual minority rights internationally, specific guidelines on LGBT asylum have been developed by the Ministry of Justice, and the topic has recently got a decent amount of media coverage.³² In 2012 we saw a landmark ruling on LGBT asylum in the Supreme Court (Rt-2012-494, 'hereafter 2012 Supreme Court ruling'³³), when the so-called "discretion reasoning" was abolished. The Court found that Norwegian authorities could not return a gay asylum seeker back to his home country as they initially had done, by arguing that the applicant could avoid risk of persecution by acting "discreet" and hide his sexual orientation. This will be elaborated in the subsequent chapter (section 2.4), mapping out the social and political context relevant to queer asylum in Norway.

The 2012 Supreme Court ruling is one of the reasons why a case study on Norway in the field of queer asylum is especially interesting. Norway followed in the footsteps of a similar judgement

²⁹ Gartner, "(In)credibly Queer: Sexuality-Based Asylum in the European Union."

³⁰ Millbank, "'The Ring of Truth'"; Jenni Millbank, "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, no. 2–3 (June 1, 2009): 391–414; Murray, "Real Queer"; Megan Gaucher and Alexa DeGagne, "Guilty Until Proven Prosecuted: The Canadian State's Assessment of Sexual Minority Refugee Claimants and the Invisibility of the Non-Western Sexual Non-Citizen," *Social Politics: International Studies in Gender, State & Society* 23, no. 3 (September 1, 2016): 459–81, doi:10.1093/sp/jxu029; Rachel A Lewis, Rachel A Lewis, and Nancy A Naples, "'Gay? Prove It': The Politics of Queer Anti-Deportation Activism," *Sexualities* 17, no. 8 (December 1, 2014): 958–75, doi:10.1177/1363460714552253; Stefan Vogler, "Legally Queer: The Construction of Sexuality in LGBQ Asylum Claims," *Law & Society Review* 50, no. 4 (December 1, 2016): 856–89, doi:10.1111/lasr.12239.

³¹ Arbel, Dauvergne, and Millbank, *Gender in Refugee Law*, 4.

³² Linn Kongsli Hillestad, "Politiet Kom for Å Kaste Ut Henry - Før Asyløknaden Var Avslått," *Dagbladet.no*, December 3, 2015, <http://www.dagbladet.no/a/60579705>.

³³ The Supreme Court of Norway, "Utlendingsrett - Asyl. Homofili," Pub. L. No. Rt-2012-494 (2012), <https://udiregelverk.no/no/rettskilder/hoyesterettsavgjorelser/hr-2012-00667-a/>.

in the UK in 2010, but was in the forefront of legislation on LGBT asylum claims, for example before the The Court of Justice of the European Union (CJEU) arrived the same conclusion and repealed the “discretion requirement” in 2013.³⁴ Moreover, even though queer migration scholarship has flourished lately, the lack of comprehensive research backed by reliable numbers is evident. Leading scholars in the field have repeatedly emphasized the need for more research. Two of them are the scholars Spijkerboer and Jansen who, in 2011, published the European Refugee Fund-financed report entitled “Fleeing Homophobia: Asylum Claims Related to Sexual Orientation and Gender Identity in the EU”. By this date, this is the only existing comprehensive report mapping the situation for queer refugee claimants in Europe. Norway is, together with Belgium, the only country where immigration authorities keep statistics of the number of annual queer asylum claims and disclose these for scholarly research.³⁵ I argue that this potential for research should be followed up.

In a continuation of the above-mentioned report, conducted in 2014 by Jansen on behalf of the already mentioned NGO International lesbian, gay, bisexual, trans and intersex association (ILGA Europe), the status on European countries approach to the issue of credibility assessments in asylum procedures is examined. The report concludes that “the number of lesbian, gay and bisexual asylum seekers who are rejected because of their stated sexual orientation is not believed seems to be growing significantly”.³⁶ This is demonstrated in the cases of Australia and the United Kingdom³⁷, and argued to play an increasingly major role also in Canada.³⁸

In the case of Norway, numbers show an increase of these asylum applications³⁹, several new, specific policy measures directed at the management of LGBT asylum in Norway, parallel to an upturn in media coverage on the topic. However, research in Norway on this specific field has been relatively sparse. A PhD scholar and a handful master’s students have made valuable contributions in law and sociology research, but the topic of how Norway handle its LGBT asylum applicants is still indisputably unfinished research business. The mentioned have all been important, qualitative research within departments of law, gender studies and cross-culture studies, and not without merit, however focusing on either jurisprudence or migratory case-workers alone.

Accordingly, I argue that a thesis combining quantitative survey data and survey experiments with qualitative analysis of asylum verdicts is something completely new to this field of study in Norway, where it has up until now only has been studied from the viewpoints of either decision-makers, queer asylum seekers or at court level. This thesis can thus be an important contribution to new, empirical knowledge. In their book on gender in refugee law, Arbel et al. (2013) stresses the lack of research on asylum decisions made at the first instance level - as these cases often remain undisclosed from the public - and not only appellate cases and court verdicts. Moreover, survey experiments on attitudes towards queer asylum seekers permits the benefit of examining

³⁴ The European Court of Justice (November 2013), “X, Y, Z v Minister voor Immigratie en Asiel”, cases C-199/12, C-200/12 and C-201/12

³⁵ Spijkerboer and Jansen, “Fleeing Homophobia, Asylum Claims Related to Sexual Orientation and Gender Identity in Europe,” 16.

³⁶ Sabine Jansen, “Good Practices Related to LGBTI Asylum Applicants in Europe” (European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA Europe), May 2014), 20, <http://www.ilga-europe.org/resources/ilga-europe-reports-and-other-materials/good-practices-related-lgbti-asylum-applicants>.

³⁷ Millbank, “From Discretion to Disbelief.”

³⁸ Millbank, “The Ring of Truth,” 4.

³⁹ However, it should be underscored that the numbers remain low, compared to the total. See subchapter 2.4, table 1 for an overview of the numbers for Norway.

citizens' attitudes towards the specific group of LGBT asylum seekers and compare them to other categories of refugee claimants, which allow us to gain new insights. Lastly, Arbel et al. call for "broader statistical data that would provide the ability to put the small number of available decisions into some sort of context and to identify national, transnational, or historical trends". The ambitious aim with this study is to begin to fill that gap.

1.3 Structure of the thesis

The thesis is structured in six chapters:

1. Introduction
2. Context
3. Theory
4. Methods and Data
5. Findings and Analysis
6. Conclusion

The first chapter maps out the Norwegian political context; how political decisions have regulated immigration and protected queers, and which implications this have had on queer asylum in Norway. The third chapter provides a theoretical framework with key concepts necessary to address the two research questions and the overarching research phenomenon, such as; how norms diffuse and shape individual attitudes and whole societies, how sexuality is constructed and deconstructed by the state, and which constraints that the state face in the field of queer migration. The fourth chapter accounts for the study's methodological approach and research design, the body of qualitative and quantitative data, as well as the design of analytical categories in the qualitative content analysis of asylum verdicts and the design of survey questions and experiments for the opinion survey. The fifth chapter presents and interprets the quantitative and qualitative findings considering the theories and context laid out in the previous chapters and address the research questions. A summarizing, overarching conclusion constitutes the sixth and last chapter. In the very end, a comprehensive bibliography is provided, followed by an appendix with data output.

2. Context: LGBT asylum in Norway - the decisive year of 2012

Queer asylum is framed within the complex and constantly evolving picture of sexual and gender politics and border struggles. To be able to examine the phenomenon of queer asylum, it is necessary to look at the two previously mentioned trends of increasingly restrictionist immigration politics (conservative action) and liberalizing LGBT politics (liberal action) independently – and how they interact. This chapter therefore presents a historical context for queer asylum in Norway, considering the global and regional contexts. It outlines how the Norwegian government and their political supporters and opponents in Parliament handle asylum policies today and how the debate on immigration framed. It also discusses how Norwegian authorities treat their citizens with non-normative sexualities or non-binary gender identities, within and beyond Norwegian borders - and how do the two arenas of migration and LGBT-politics affect each other when they meet in the field of queer asylum. The text is divided in four:

Part 2.1 provides an evolutionary perspective of the politics of safeguarding borders: explaining how Norway have come to get an increasingly restrictionist immigration regime, sometimes even framed by anti-immigrant discourses. Part 2.2 presents the development of Europe and Norway's increasingly progressive or liberal laws and policies regulating sexualities and gender identities, aimed at including and safeguarding queers. Part 2.3 explores how queer asylum in several aspects became exceptional in the asylum system, representing a liberalization that stand in contrast to the increasingly restrictionist immigration regime. Part 2.4 elaborates on an essential issue for queer asylum cases in general and this thesis in particular; how the issue of (in)credibility became the crux of the matter in LGBT asylum claims. This comprises an overview of the decisive year of 2012 with the repeal of the so-called "discretion requirement" in the Norwegian Supreme Court how this has amplified the focus on the queer asylum seeker's credibility – whether the applicant really *is* queer or not.

2.1 Protecting borders: An increasingly restrictionist immigration regime

«I'm going to do everything I can to ensure that we get as few asylum seekers as possible next year.»⁴⁰

In recent years, the world has seen an overall constriction of refugee and immigration policies.⁴¹ Political concern about 'unwanted' (im)migration increased in the 1960s in Britain, ten years later in the rest of Western Europe and Australia, and subsequently in North America.⁴² Since the politicization of the immigration issue in the 1960s and 1970s, public opposition to the 'newcomers' rose sharply in most immigrant-receiving nations.⁴³ This was absorbed by politicians and political parties and from the 1980s and onwards, governments throughout Europe

⁴⁰ Quote by Sylvi Listhaug, Norway's Minister of Immigration and Integration, quoted in Oda Skjetne, "Listhaug: - Kommer Til Å Gjøre Alt Jeg Kan for at vi Får Så Få Asylsøkere Som Mulig Neste År," VG, October 19, 2016, <http://www.vg.no/a/23822870>.

⁴¹ Angela M. Nickerson and Winnifred R. Louis, "Nationality Versus Humanity? Personality, Identity, and Norms in Relation to Attitudes Toward Asylum Seekers1," *Journal of Applied Social Psychology* 38, no. 3 (March 1, 2008): 796, doi:10.1111/j.1559-1816.2007.00327.x.

⁴² Stephen Castles, "The Factors That Make and Unmake Migration Policies1," *International Migration Review* 38, no. 3 (September 1, 2004): 857.

⁴³ Toril Aalberg, Shanto Iyengar, and Solomon Messing, "Who Is a 'Deserving' Immigrant? An Experimental Study of Norwegian Attitudes," *Scandinavian Political Studies* 35, no. 2 (June 1, 2012): 97, doi:10.1111/j.1467-9477.2011.00280.x.

have “tended to enact legislation and policies with the aim of restricting the number of asylum claims made on their territories”.⁴⁴

Alongside this development, far right or radical right parties gained electoral success in Europe from the beginning of the 1980s, and managed to lift the immigration issue to the mainstream political scene, where it has remained ever since. The focus on the ‘securitization’ of migration was intensified after the terrorist attacks on September 11, 2001,⁴⁵ and have, after several attacks on the European continent, continued to gain political and public attention. In Europe, a range of right-wing parties – extreme and populist, Eurosceptic and nationalistic – have recently gained popularity, votes, seats in parliament; and in several cases, also governmental power. Simultaneously, as the so-called refugee crisis unfolded in 2015, it is also argued that their rhetoric on ‘unwanted immigration’ has gained popularity.

In this context, though, it is important to note that even though these right-wing parties share both rises in polls, and several of them anti-immigration viewpoints, they vary in their values, policy platforms and rhetoric. In the case of Norway, the populist right-wing party *Fremskrittspartiet* (hereafter ‘Frp’) is acknowledged much less extreme and nationalistic than some of its European counterparts, like National Front in France, Golden Dawn in Greece or UKIP in the UK. Jung argues that the presence of UKIP and their “immigration anxieties has led the current and previous governments to harden immigration policies”.⁴⁶ Some argue that this is also the case for Norway and Frp⁴⁷ – including the party itself, claiming the party implements “the strictest immigration policies ever”.⁴⁸ However, it is difficult to demonstrate that Frp’s political presence alone has led to a marked shift to the right in the political landscape or growing anti-immigration attitudes in the public. Nevertheless, it is safe to say that since the beginning of the century, the immigration question has moved from the margins to the forefront of the political debate in Norway, and that concrete measures have tightened immigration policies.⁴⁹

Today, Frp is currently in government together with the conservative right-wing party Høyre, elected in 2013. Frp holds the post of several ministers, amid the minister of immigration and integration and the minister of justice – who both frequently express concern for immigration control and who have provoked several debates over security issues and national identity. Norwegian media have conveyed numerous examples of the party’s anti-immigration discourse by central politicians in various political debates. When the proposal for the Norwegian state budget for 2017 was presented, the immigration minister Sylvi Listhaug (Frp) announced that a 105 million Norwegian kroner (close to 13 million USD) were earmarked for extra funding for return of asylum seekers who had their applications rejected.⁵⁰ The ambition is to forcibly return 9000 ‘illegal immigrants’ during 2017: “Asylum returns is a high priority task for us (...) The aim is to send a strong signal that Norway is not a country to apply to, unless you have a real reason for asylum. Return is also about maintaining the legitimacy of the asylum system”, the

⁴⁴ Helen Baillot, Sharon Cowan, and Vanessa E. Munro, “Reason to Disbelieve: Evaluating the Rape Claims of Women Seeking Asylum in the UK,” *International Journal of Law in Context* 10, no. 1 (2014): 107.

⁴⁵ Castles, “The Factors That Make and Unmake Migration Policies1,” 857.

⁴⁶ Mariska Jung, “Logics of Citizenship and Violence of Rights: The Queer Migrant Body and the Asylum System,” *Birkbeck Law Review* 3 (2015): 318.

⁴⁷ Aalberg, Iyengar, and Messing, “Who Is a ‘Deserving’ Immigrant?”

⁴⁸ Fremskrittspartiet (Frp), “FrP I Regjering - En Enklere Hverdag for Folk Flest,” Political Party Homepage, *Frp.no*, (March 28, 2017), <https://www.frp.no/frp-i-regjering/frp-i-regjering>.

⁴⁹ Aalberg, Iyengar, and Messing, “Who Is a ‘Deserving’ Immigrant?”

⁵⁰ Alf Bjarne Johnsen, “Listhaug vil bruke 100 mill. ekstra på asyl-retur,” *VG*, September 21, 2016, <http://www.vg.no/a/23799176>.

minister said in September 2016.⁵¹ Recent statistics show that 2016 became a peak year in terms of forced returns, with an all-time high number of 8078 expelled persons.⁵² In comparison, Norway received only 3460 asylum applications in 2016, the lowest number since 1997.⁵³ This stands in stark contrast to the previous year of 2015 when the so-called refugee crisis 'hit' Europe, when 31.145 persons filed asylum applications to Norway.⁵⁴

When it comes to legal change, the legislative amendments in the Immigration Act that were adopted in Parliament in June 2016, is the major and most recent example of Norway's tightening of asylum policies. The government did not receive support for all their initial proposals, but several of them were adopted and some have already been implemented.⁵⁵ Additionally, the government has entered policy agreements with its two support parties in Parliament, Venstre (Liberal party) and Krf (Christian democrats). The first agreement signed 30 September 2013, included an explicit contract concerning immigration. The main measures were restrictions (fast-track procedures, limitations for family reunification etc.), while some were focused on high-priority, integration or inclusion. The 25th and last point in the agreement is an example of this, concerning LGBT asylum seekers: "The practice of protection based on religion or membership of a [particular] social group (sexual orientation) is examined and compared to the UNHCR guidelines and the EU Qualification directive"⁵⁶. This point will be examined in subchapter 2.3.

The asylum agreement of 2013 was followed up in 2015, after several collaboration hurdles⁵⁷. However, the asylum agreement policies are far from the only restrictionist measures taken by the government after the refugee crisis. In the winter of 2015, temporary border controls on ferries were introduced due to the influx of asylum seekers⁵⁸ and the following year, the Government decided to build a 200 meter long fence on the Norway-Russia border after an 5000

⁵¹ Ibid.

⁵² Sunniva Rebekka Skjeggstad, "Ny Rekord I Antall Tvangsreturer," *NRK*, January 22, 2017, <https://www.nrk.no/norge/ny-rekord-i-antall-tvangsreturer-1.13319094>.

⁵³ The Norwegian Immigration Directorate (UDI), "Asylsøknader Etter Statsborgerskap Og Måned (2016)," *UDI*, January 1, 2017, <https://www.udi.no/statistikk-og-analyse/statistikk/asylsoknader-etter-statsborgerskap-og-maned-2016/>.

⁵⁴ Ministry of Justice and Public Security, "Statistikk om innvandring," Redaksjonellartikkel, *Regjeringen.no*, (January 11, 2017), <https://www.regjeringen.no/no/tema/innvandring/innsikt/statistikk-om-innvandring/id2339904/>.

⁵⁵ Ministry of Justice and Public Security, 26.08.2016. The following provisions entered into force on 1 September 2016: *Authorization to implement special measures for refusing entry to asylum seekers at the borders with other Nordic countries in the event of the arrival of extraordinarily large numbers of asylum seekers; stricter rules for the expulsion of asylum seekers whose applications are clearly not eligible for consideration in Norway; reduction of the deadline for lodging an appeal from three weeks to one week for asylum seekers whose applications are manifestly unfounded*. Tightened measures relating to internal displacement in asylum cases entered into force on 1 October 2016.

⁵⁶ Regjeringen (2015) «Avtale mellom Venstre, kristelig Folkeparti, Fremskrittspartiet og Høyre om utlendingsfeltet», Art. 25, p. 4. <https://www.krf.no/globalassets/vedlegg/avtaler/samarbeidsavtalen.pdf>

⁵⁷ Molteberg Glomnes, Lars; Ruud, Solveig; Tjernshaugen, Karen. «Asylbarn-opprør mot Anundsen i Krf og Venstre», *Aftenposten*. 26.01.15. <http://www.aftenposten.no/norge/politikk/Asylbarn-oppror-mot-Anundsen-i-KrF-og-Venstre-66105b.html> Leraan Skjetne, Oda; Bergsaker, Tore; Ringheim, Gunnar. «Frp er overrasket over konfliktnivået», *Dagbladet*. 08.04.15. <http://www.dagbladet.no/nyheter/frp-er-overrasket-over-konfliktnivaet/60759586>

⁵⁸ Berg Bentzrød, Sveinung; Claussen, Mona W. «Regjeringen innfører grensekontroll på alle ferger til Norge», *Aftenposten*. 24.11.16. <http://www.aftenposten.no/norge/Regjeringen-innforer-grensekontroll-pa-alle-ferger-til-Norge-19867b.html>

asylum seeker influx tried to cross the border.⁵⁹ The authorities have faced massive criticism from national opposition actors, as well as international actors like the UNHCR this, as well as for deporting asylum seekers arriving via the Norway-Russia border in the winter of 2015, rejecting all asylum cases in fast-track procedures, without considering their individual cases.⁶⁰ Criticism has been harsh also for the practice of detaining asylum seeker children unlawfully (SOURCE), a 10.000 Norwegian kroner (1100 Euro) bonus to asylum seekers willing to leave the country voluntarily,⁶¹ the replacement of pocket money with food stamps⁶² and, for the first time in history, process to revoke 1600 refugee statuses, initiated by the Norwegian state.⁶³ In sum, both the government itself and its opponent parties argue that the policies adopted in Parliament and instructions initiated by the government has had clear effects in restricting the influx of asylum seekers to Norway. Reports from the migration authorities (UDI) shows that the Norwegian asylum system experienced a decrease of 64 percent during the first half of 2016, compared to the same period the preceding year.⁶⁴ This should be seen in line with a general decrease of migration fluxes to Europe in 2016 compared to 2015 and the so-called refugee crisis, but numbers show that Norway has had a bigger decrease in asylum applications than other European countries⁶⁵.

In other words, the case of Norway is in line with the idea that immigration policies become increasingly stricter simultaneously as the extreme and populist right has obtained electoral success. The renowned scholar on populist radical right parties, Cas Mudde, do argue that while it is untrue that the rise of these parties has led to a 'right turn' in general, the extreme right had important influence on immigration policy – but define their influence as 'catalyst' rather than 'initiator'.⁶⁶ In the case of Norway it is accurate to say that a tightening of immigration policies started before Frp gained governmental power – in line with Arbeiderpartiet's (The labour party or Ap) mantra: "A strict, but fair, asylum policy". Nonetheless, the several recent measures taken by the current government, discussed in the precedent paragraphs, demonstrate that the rise and governmental power of Frp goes hand in hand with an increasingly restrictive immigration policy in Norway.

⁵⁹ Tarjei Abelsen, André Bendixen, and Andrea Lindquist, "Mulig nye asylsøkere på Storskog," *NRK*, October 5, 2016, <https://www.nrk.no/finnmark/mulig-nye-asylsokere-pa-storskog-1.13164877>; Ida Karine Gullvik and Tarjei Abselsen, "Asylsøker meldte seg på Storskog," *NRK*, September 23, 2016, <https://www.nrk.no/finnmark/asylsoker-meldte-seg-pa-storskog-1.13147937>.

⁶⁰ Johnsen, Alf Bjarne; Mikkelsen, Maria. "FNs høykommissær: Tre norske brudd på menneskerettighetene", *VG*. 27.01.16 <http://www.vg.no/nyheter/innenriks/asyl-debatten/fns-hoeykommissaer-tre-norske-brudd-paa-menneskerettighetene/a/23604198/>

⁶¹ Palazzo, Chiara. "Norway offers to pay £1000 bonus to leave the country", *The Telegraph*. 26.04.16 <http://www.telegraph.co.uk/news/2016/04/26/norway-to-pay-asylum-seekers-extra-money-to-leave/>

⁶² Lofstad, Ralf. "- Matkuponger er stigmatiserende og umyndiggjørende", *Dagbladet*. 09.11.15 <http://www.dagbladet.no/2015/11/09/nyheter/innenriks/politikk/hoyre/frp/41882008/>

⁶³ Strand, Tormod. "Somaliere kan miste flyktningstatus", *NRK*. 22.10.16 <https://www.nrk.no/norge/somaliere-kan-miste-flyktningstatus-1.13191328>

⁶⁴ The Norwegian Directorate of Immigration (UDI), «Færre asylsøkere til Norge – stor usikkerhet», UDI, 05.07.2016. <https://www.udi.no/aktuelt/farre-asylsokere-til-norge--stor-usikkerhet/>

⁶⁵ Ibid.

⁶⁶ Cas Mudde, "Three Decades of Populist Radical Right Parties in Western Europe: So What?," *European Journal of Political Research* 52, no. 1 (January 1, 2013): 1, doi:10.1111/j.1475-6765.2012.02065.x.

2.2 Protecting queers: The rise of ‘LGBT friendly’⁶⁷ politics

Parallel to the rise of far-right politics and anti-immigration attitudes, we have witnessed another Europe-wide trend: the upsurge and normalization of progressive discourses on sexual freedom and queer rights. Homophobia has increasingly been represented as alien in Western part of Europe, and several scholars describe considerable changes in attitudes, laws and policies concerning sexual minorities in all over Europe, in recent years.⁶⁸ Out of the 18 jurisdictions in the world that allowed for same-sex marriage in 2015, eleven of them were European states.⁶⁹ In 2009, the commissioner of Human Rights of the Council of Europe endorsed the Yogyakarta Principles⁷⁰ and The Charter of Fundamental Rights of the EU explicitly prohibits discrimination based on sexual orientation in Article 21.⁷¹ This importance of legislation and its relevance to social norms and peoples’ attitudes, will be elaborated on in the following chapter, describing the theory of norm diffusion.

It is, however, important to stress that hate crime against sexual minorities still occur in Europe, homophobic sentiment is not eradicated and that LGBT persons still lack several right to become fully right-bearing individuals in several European countries. But in Norway, rights and laws for sexual minorities have been adopted in recent years. Norway’s new Anti-Discrimination Act on sexual orientation⁷² was adopted in Parliament in 2013 and entered force the subsequent year. Up until then, several other legal measures were used to protect sexual minorities from differential treatment or intolerable treatment; the 1981 enactment of a law to prevent discrimination against gays and lesbians at the workplace is one example, the prevention of discrimination of people because of sexual orientation in The Tenancy Act is another⁷³. A crime conducted out of homophobic attitudes is characterized as a “particularly aggravating circumstance” in the Norwegian Criminal Code, and homosexuality is explicitly mentioned in Article § 135 criminalizing hate speech. Additionally, positive legal measures for queers in Norway have been adopted in recent years. How same-sex legislation specifically work as “socializing agents” and affects people’s attitudes towards and perceptions of sexual minorities, will be explained in the next chapter.

Alongside the specific act of recognizing gays and lesbians as eligible asylum seekers, several other general measures promoting of tolerance towards and anti-discrimination of LGBT individuals and communities were taken during the 1990s and early 2000s. In 1993, the Act on registered partnership entered force – and in 2009, the Same-sex marriage Act was adopted in Parliament. On 11 April 2016, the Church of Norway (Evangelical Lutheran) decided after years

⁶⁷ See footnote 28. Puar, “Rethinking Homonationalism.”

⁶⁸ Gartner, “(In)credibly Queer: Sexuality-Based Asylum in the European Union.”; Phillip M. Ayoub, “Contested Norms in New-Adopter States: International Determinants of LGBT Rights Legislation,” *European Journal of International Relations* 21, no. 2 (June 1, 2015): 293–322, doi:10.1177/1354066114543335.

⁶⁹ Gartner, “(In)credibly Queer: Sexuality-Based Asylum in the European Union.”

⁷⁰ Council of Europe: Commissioner for Human Rights, “Contribution of the Commissioner for Human Rights to the Work of the Committee of Experts on Discrimination on Grounds of Sexual Orientation and Gender Identity (DH-LGBT), CommDH(2009)7” (2009), <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2954749&SecMode=1&DocId=1370816&Usage=2>.

⁷¹ Ibid.

⁷² Act (No. 58 of 2013) prohibiting discrimination based on sexual orientation, gender identity and gender expression

⁷³ Act (No. 17 of 1999) relating to tenancy agreements. Also, see Act (No. 61 of 2013) prohibiting discrimination on grounds of disability; Act (No. 62 of 2005) respecting working environment, working hours and employment protection; Act (No. 40 of 2005) on the Equality and Anti-Discrimination Ombudsman and the Equality and Anti-Discrimination Tribunal; Act (No. 45 of 1978) relating to Gender Equality.

of controversy to order a liturgy for church wedding of same-sex couples,⁷⁴ which was finally adopted on 30 January 2017, with a large majority of the vote.⁷⁵ The fight against discrimination of sexual minorities was also a priority in the Government's Action Plan for Women's Rights and Gender Equality in Development Cooperation 2007–2009.

In 2009, the Government launched the “Action Plan for Improved Life Quality of LGBT persons 2009-2012”. Here, a whole chapter is devoted to how Norway should protect and promote rights for sexual minorities internationally. The promotion of LGBT rights has as a matter of fact not been limited to Norway's own borders. Since the mid-2000s, foreign authorities have taken on the role as an international LGBTI defender⁷⁶: In 2006, Norway issued a joint statement on sexual orientation, gender identity and human rights to the United Nations Human Rights Council, on behalf of 54 countries⁷⁷. Four years later, the Ministry of Foreign Affairs created the first specific set of guidelines for Norwegian embassies, to coordinate and reinforce their work on queer rights, which has been updated in the subsequent years.⁷⁸ Representatives representing the state's interest abroad were provided ‘guidelines for systematizing and strengthening embassy efforts’, where four Norwegian *pilot embassies* in Kenya, Uganda, Nepal and Nicaragua took part in developing the guidelines, based on best practices. They urged that embassies should investigate the local situation for LGBT people, maintain contact with local LGBT organizations, promote LGBT rights in their talks with authorities and human rights organizations and encourage equal access to prevention and health. The last point considers potential persecution of LGBT persons – however not mentioning asylum in Norway as a possibility for protection, but rather encouraging embassies to “contact other like-minded countries to coordinate their response”, to follow court cases, express objection to authorities and express support to the arrested. The guidelines were updated and extended in 2013, making it very clear in the header that “Norway is a consistent defender of human rights. This also applies to the rights of lesbians, gays, bisexuals and transgender people (LGBT). We must dare to speak up where others remain silent.”⁷⁹

However, it is worth to notice that living conditions for queers have far from always been good in Norway, historically. Back in 1687 a law criminalized homosexual acts with punishment to death by burning. Even though there exists no evidence that this gruesome punishment was in fact carried out, the legal texts that today are safeguarding queer people stand quite far away from the legal texts of the 17th century Norway. In the criminal code of 1842, the punishment for homosexuality was reduced from death penalty to penal labour of (maximum) three years, and

⁷⁴ Church of Norway, “Historic Decision on Church Weddings for Same-Sex Couples,” *Church of Norway*, accessed April 8, 2017, <https://kirken.no/nb-NO/church-of-norway/articles/historic-decision-on-church-weddings-for-same-sex-couples/>.

⁷⁵ The Church of Norway, “Ny Vigselsliturgi Vedtatt,” *Den Norske Kirke, Kirkerådet*, January 30, 2017, <https://kirken.no/nb-NO/om-kirken/aktuelt/ny-vigselsliturgi-vedtatt/>.

⁷⁶ Norway's role as an international LGBTI rights advocator was first in the Government's “Action Plan for Women's Rights and Gender Equality in Development Cooperation 2007-2009”

⁷⁷ Statement delivered at The United Nations Human Rights Council (OHCHR) “Joint statement on Human Rights violations based on sexual orientation and gender identity”, *3rd session 2006*, 1 December 2006. Available on: <http://www.norway-geneva.org/unitednations/humanrights/hrc011206/>

⁷⁸ The Royal Norwegian Ministry of Foreign Affairs, “Norsk innsats for menneskerettigheter, seksuell orientering og kjønnsidentitet Veiledning for Utenriksdepartementet og utenriksstasjonene” (The Royal Norwegian Ministry of Foreign Affairs, 2013), https://www.regjeringen.no/globalassets/upload/UD/Vedlegg/Menneskerettigheter/lhbt_veileder.pdf.

⁷⁹ The Royal Norwegian Ministry of Foreign Affairs, “Fremme Av Menneskerettighetene Til LHBT – Lesbiske, Homofile, Bifile Og Transpersoner” (The Royal Norwegian Ministry of Foreign Affairs, 2010), https://www.regjeringen.no/globalassets/upload/UD/Vedlegg/Menneskerettigheter/Veiledning_MR_LHBT.pdf.

limited to only encompass males.⁸⁰ However, few cases were brought before court, and even fewer were convicted for carrying out a ‘crime against nature’. Still, even if homophobia in Norway has been less brutal and more discreet compared to other European states, scholars argue that it has imaginably just as effective.⁸¹

Today, all major, mainstream political parties in Norwegian politics recognize queers as full rights-bearing individuals and direct homophobic/transphobic statements from politicians, are frowned upon. In the case of the current right-wing government, both Høyre (the Conservative party) and Frp (the Progress Party) assert to be advocating for LGBTI rights. In June 2016, the Minister of Children and Equality, Solveig Horne (Frp), launched the Government’s Action Plan on Anti-Discrimination based on Sexual Orientation, Gender Identity and Gender expression,⁸² during the Pride Festival. Two years earlier, she officially opened Europride, which in 2014 was hosted in the Norwegian capital, Oslo. This caused controversy, however. Gay rights and human rights activist Kim Friele was one of several critics who raised her voice, accusing the government for falsely claiming that they have been gay-friendly all along, “always at the forefront in ‘gay politics’.”⁸³ In fact, both parties have up until recently voted down progressive political proposals that their political opponents in Parliament pushed forward, Friele argues. In 2001, Frp voted against the decision on adoption of stepchildren, in 2005 the party leader at the time criticized what he called “the glorification of gays in society”, and in 2008 the party voted against the Same-Sex Marriage Act. However, only four years later, Frp made a U-turn in its view on LGBTI issues, and took a much more liberal stand on for example same-sex marriage and adoption for gays and lesbians.⁸⁴ It is therefore safe to say that all the mainstream political parties in Norway – at least at the leadership level – self-identity as ‘gay-friendly’ today.

In the case of immigration, people applying for asylum because of persecution due to sexual orientation have been recognized as eligible for refugee status in Norway since 1997.⁸⁵ The following year the Ministry of Justice and Public Security issued their first instructions on the assessment of LGBTI asylum seekers available for immigration officers in the Norwegian Directorate of Immigration (UDI).⁸⁶ These have later been updated after the 2012 landmark ruling in the Norwegian Supreme Court. The developments of queer asylum in Norway will be elaborated on in subchapter 2.3 and 2.4.

⁸⁰ Øystein Rian, “Homoseksualitet Mellom Fortielse Og Straff - Apollon,” *Forskningsmagasinet Apollon*, March 4, 2000, <https://www.apollon.uio.no/bokanmeldelser/2000/homoseksualitet.html>.

⁸¹ Ibid.

⁸² Ministry of Children, Equality and Social Inclusion, “Regjeringens Handlingsplan Mot Diskriminering På Grunn Av Seksuell Orientering, Kjønnssidentitet Og Kjønnsuttrykk 2017–2020,” Action Plan, (June 21, 2016), https://www.regjeringen.no/contentassets/6e1a2af163274201978270d48bf4dfbe/lhbt_i_handlingsplan_web.pdf.

⁸³ Friele, K., «Blåblå homovennlighet er en blåblå skrøne», *Aftenposten*. 14.07.14, <http://www.aftenposten.no/mening/kronikk/Blåblå-homovennlighet-er-en-blåblå-skrøne-84748b.html>

⁸⁴ Skarvøy, L.J. “Slik skal Frp-Siv flørte med homo-velgerne”, VG. 16.10.12., <http://www.vg.no/nyheter/innenriks/foreldre-og-barn/slik-skal-frp-siv-floerte-med-homo-velgerne/a/10062353/>; Randen, A. and Myklebust, B. “Frp snur i homo-spørsmål”, NRK. 16.10.2012, from: <https://www.nrk.no/norge/frp-snur-i-homo-sporsmal-1.8359703>

⁸⁵ Deniz Akin, “Assessing Sexual Orientation- Based Persecution A Closer Look at the Norwegian Practices of Asylum Evaluation of Gay and Lesbian Claimants,” *Lambada Nordica*, no. 1 (2015): 19–42.

⁸⁶ Justis-og Ministry of Justice and Public Security, “Retningslinjer for nye asylkriterier,” *Retningslinjer, Retningslinjer for nye asylkriterier*, (January 13, 1998), <https://www.regjeringen.no/no/dokumenter/retningslinjer-for-nye-asylkriterier/id107731/>.

2.3 Not *all* asylum seekers: How LGBT asylum seekers were included and prioritized in times of immigration restrictionism

« The save-ability of the queer migrant is constructed at the same time that immigration violence is conducted. »⁸⁷

As explored in the previous subchapters, the political climate has become increasingly liberal and progressive towards sexual minority politics,⁸⁸ simultaneously to the major political parties have been advocating for an increasingly restrictive immigration policy. How, then, has the ‘cross pressure’ between the liberal LGBT policies and the restrictive asylum policies framed the phenomenon of queer asylum in Norway as we know it today?

The answer of this development lies outside the Norwegian borders. Queer has asylum in several aspects in the overall international asylum regime came to represent a liberalization that stand in contrast to the increasingly restrictionist immigration regime. In the EU, the Asylum Qualification Directive Member States are now obliged to explicitly recognize both sexual orientation (accepted in 2004) and gender identity (added in 2011) as viable reasons for asylum. In the Procedures Directive, where Member States should make sure that the caseworkers who conduct asylum interviews are professionally trained in LGBTI⁸⁹ issues. In the spring of 2016, the European Parliament demanded inclusion and protection of LGBTI refugees also coming from countries evaluated as a ‘safe’ country to return to.⁹⁰ Queer refugees also specifically prioritized outside European receiving-states as well, such as the US, Canada, Australia and New Zealand. On a global level, the UNCHR issued specific guidelines on sexual minorities fleeing persecution in 2008.⁹¹

In Norway, most political and legal developments within queer asylum have happened in the last five years, with an increased media focus the last two of them.⁹² The main milestones do fit in a one-page timeline (see next page).

⁸⁷ Jung, “Logics of Citizenship and Violence of Rights,” 305.

⁸⁸ Akin, “Assessing Sexual Orientation- Based Persecution A Closer Look at the Norwegian Practices of Asylum Evaluation of Gay and Lesbian Claimants,” 19.

⁸⁹ Here is “I” (intersex) included because it is included in the directives.

⁹⁰ Mary Honeyball, “Report on the Situation of Women Refugees and Asylum Seekers in the EU,” Motion for a European Parliament Resolution (The European Parliament (Committee on Women’s Rights and Gender Equality), October 2, 2016),

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bREPORT%2bA8-2016-0024%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>.

⁹¹ United Nations High Commissioner for Refugees, “Refworld | UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity,” *Refworld*, accessed February 1, 2017, <http://www.refworld.org/docid/48abd5660.html>.

⁹² Hillestad, “Politiet Kom for Å Kaste Ut Henry - Før Asylsøknaden Var Avslått”; Erlend Friestad, “UNE: Ikke Nok Tvil Til Å Ha Møte,” *Vårt Land*, January 3, 2017, <http://www.vl.no/nyhet/une-ikke-nok-tvil-til-a-ha-mote-1.908665>; Georg Schjerven Hansen, “UNE Velger Å Glemme Jussen,” *Dagbladet.no*, December 29, 2016, <http://www.dagbladet.no/a/66577211>; Erlend Friestad, “«Joseph» Blir Ikke Trodd På at Han Er Homofil,” *Vårt Land*, accessed January 10, 2017, <http://www.vl.no/nyhet/joseph-blir-ikke-trodd-pa-at-han-er-homofil-1.908658>; Pelle Bamle, “HOMSETESTEN: I Løpet Av Ett Intervju Med UDI Må Asylsøkere Bevise at de Er Homofile,” *NATT&DAG*, December 1, 2016, <http://www.nattogdag.no/2016/12/homsetesten-i-lopet-av-ett-intervju-med-udi-ma-asylsokere-bevise-at-de-er-homofile/>.

Queer asylum in Norway

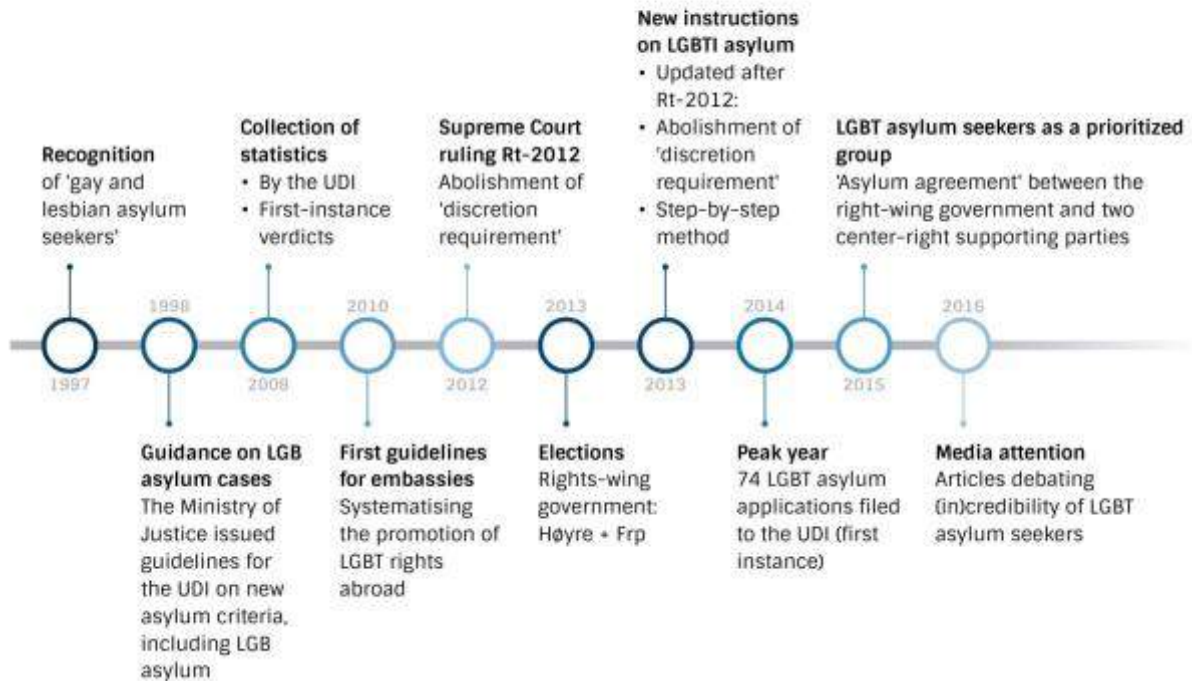


Figure 1. Timeline with main milestones for inclusion of LGBT refugee claimants in Norway's asylum policy regime 1997-2016

As mentioned above, Norway officially recognized gays and lesbians as eligible to asylum and protection under the Refugee conventions in 1997. This decision was taken after a meeting between the Ministry of Justice and the UNHCR in 1995, where the international agency pointed at the fact that the rates for granted asylum applications were low in Norway compared to other comparable countries.⁹³ Accordingly, the department concluded to undertake a review of the Norwegian policy of the interpretation of the refugee definition. The minister of justice at the time, decided to undertake a 'softening' of the immigration regime. One of these measures was to 'recognize gays and lesbians as asylum seekers', the National Association for Lesbian, Gay, Bisexual and Transgender People (LLH), praised in an article of the International Lesbian, Gay, Bisexual, Trans and Intersex Association's European newsletter in 1997.⁹⁴

The Ministry of Justice and Public Security issued the subsequent year concrete instructions to interpret the new asylum criteria to the Norwegian directorate of Immigration (UDI).⁹⁵ The UDI followed these instructions for years until they were updated in 2012, after the 2012 landmark Supreme Court ruling on LGBT asylum (to be elaborated on below in section 2.4). However, immigration officers were (and still are) also guided by the general Guidelines on Gender-Related Persecution, firstly circulated by The Ministry of Labor and Social Affairs in 2008, and later updated by The Ministry of Justice and Public Security in 2009 and 2012.⁹⁶

⁹³ Ministry of Justice and Public Security, "Retningslinjer for nye asylkriterier."

⁹⁴ Gro Lindstad, "ILGA Euroletter 54," "Asylum in Norway for Lesbians and Gay Men.," October 1997, <https://www.france.qrd.org/assocs/ilga/euroletter/54.html#N>.

⁹⁵ Ministry of Justice and Public Security, "Retningslinjer for nye asylkriterier."

⁹⁶ Ministry of Justice and Public Security, "G-08/2012 Retningslinjer om kjønnsrelatert forfølgelse" (2012), <https://www.regjeringen.no/no/dokumenter/retningslinjer-om-kjønnsrelatert-forfolg/id696289/>.

The latest milestone that illustrate the recent focus on, and liberalization/prioritization of queer asylum in the Norwegian context, is the 25th point in the Immigration Agreement between the right-wing government and its two supporting parties (Venstre and Krf) reading: “The practice of protection based on religion or affiliation to a [particular] social group (sexual orientation) is examined and compared to the UNHCR guidelines and the EU Qualification directive”.⁹⁷ It can reasonably be argued, then, that the outcome of these agreements, guidelines and statements in the media has contributed to put queer refugees on the political agenda in Norway – at least on paper.

Asylum policies have always differentiated between different types of migrants and refugees and thus constructed hierarchies of migrants in the refugee system. The status of the various groups of migrants “is defined on a sliding scale”⁹⁸ and depends in the end on factors as the political climate and the state’s labor needs. The requirements of protection and subsequently citizenship, is dynamic, and can quickly change. In her article “Logics of Citizenship and Violence of Rights: The Queer Migrant Body and the Asylum System”, Mariska Jung argue that this relationship between LGBT emancipation and border enforcement have in the UK lead to asylum policies that “construct hierarchies of migrants, currently with the LGBT asylum seeker towards the top of the pecking order.”⁹⁹ This topic will be examined in the theory chapter, in section 3.2.1 and 3.4. Right now, in Norway, the political climate is leaning toward a more anti-immigration or immigration sceptic ambiance – but simultaneously more favorable towards certain categories of migrants and refugee claimants, than to others. The general progress in rights for sexual minorities has made the situation for LGBT asylum seekers generally more favorable (or less unfavorable) in recent years. But do this mean that all queer asylum seekers are now prioritized and granted asylum in Norway?

2.4 Not *all* queers: How *credibility* became the crux of the matter in queer cases in 2012

From the presented overview of progressive developments of LGBT rights, one might get the impression that all asylum seekers coming from persecutory, homophobic countries and who claim refugee status due to fear of sexual or gender-based persecution guaranteed protection. This seems far from the reality. Queer asylum seekers still face great challenges in their application procedures – it is rather the nature of the obstacles they face, that have changed. Several leading scholars in the field argue that the main challenge now concerns (*in*)*credibility*.¹⁰⁰ How did the credibility assessment, defined by the UNHCR as the examination of all relevant information available to decision-makers who determine whether a claimant’s asylum testimony seems trustworthy and plausible¹⁰¹, become so decisive explicitly in the context of queer asylum seekers? What factors have led migration authorities to put increasingly weight on the (un)trustworthiness of the asylum applicants alleged sexual or gender identity that academics have been debated the last years?

⁹⁷ Regjeringen (2015) «Avtale mellom Venstre, kristelig Folkeparti, Fremskrittspartiet og Høyre om utlendingsfeltet», Art. 25, p. 4

⁹⁸ Jung, “Logics of Citizenship and Violence of Rights,” 310.

⁹⁹ Ibid., 305.

¹⁰⁰ Millbank, “From Discretion to Disbelief”; Millbank, ““The Ring of Truth””; Murray, “Real Queer”; Lewis, Lewis, and Naples, ““Gay?””; Gaucher and DeGagne, “Guilty Until Proven Prosecuted.”

¹⁰¹ Akin, “Assessing Sexual Orientation- Based Persecution A Closer Look at the Norwegian Practices of Asylum Evaluation of Gay and Lesbian Claimants,” 20.

One of the obvious reasons is the lack of reliable information and objective evidence, which will be elaborated on below, in section 3.3.1.¹⁰² The UNHCR Handbook states that given these general difficulties to put forward proof, refugee claimants should be given the ‘benefit of the doubt’, if the interviewer is ‘satisfied as to the applicant’s general credibility’.¹⁰³ Moreover, in the UNHCR’s guidelines on asylum claims based on sexual orientation and gender identity, it is emphasizing that self-identification should be the starting point in the credibility assessments of LGBT asylum seekers. However, the practical implementation has complications, several of them connected to stereotypes and what immigration authorities perceive as ‘correct’ and ‘trustworthy’ LGBT identity. This poses difficulties for immigration authorities entitled to assess the credibility of the claimant as affiliation to the ‘particular social group’ of sexual minorities seldom comes with a membership card. This is in line with, among others, Advocate General Sharpston, articulated in his opinion in the A, B & C joint ruling of the CJEU in July 2014: “An averred sexual orientation cannot easily be objectively verified; and it is unlikely that there will be documentary or other evidence to support an applicant’s self-declared statement of his sexual orientation. Credibility therefore becomes the central issue.” This will be elaborated on in the theory chapter, section 3.5.

The main reason why the (un)trustworthiness of the queer asylum seekers alleged sexual/gender identity has come to be so important, however, can largely be explained by studying recent legal developments, scholars argue.¹⁰⁴ In the case of Norway, the year 2012 became a turning point in this regard, as previously briefly discussed.¹⁰⁵ When a gay Iraqi asylum seeker got his asylum application rejected due to lack of risk of persecution, because he could avoid risk by “acting discreet” and not be open about his sexuality, he took the case to court. After several appeals, it went all the way to the Supreme Court.¹⁰⁶ The Iraqi applicant won, and his case marked the end of a year-long practice of what has become known in queer migration scholarship as the ‘discretion requirement’ of forcing returned LGBT asylum claimants “back in the closet” or to simply “stay in the closet”. Norwegian immigration authorities could no longer, according to the law, return LGBT refugee claimants to their country of origin and compelling them to conceal their sexual/gender identity to avoid persecutory risk.

The landmark ruling in the Norwegian Supreme Court in 2012 was followed by new guidelines issued by the Ministry of Justice, that added the “B” (bisexuals) “T” (transsexuals and transgender) and “I” (intersex people) to the definition. The instructions also included guidance for immigration officers, describing the “step-by-step method” which was built on the court case and were to be followed by the UDI during the interviews. The method instructed immigration officers to start the assessment of the claimant’s claim, by an assessment of the credibility of the applicants alleged sexual/gender identity. Is he speaking the truth when he says he is gay? Is the applicant convincing when she alleges to be lesbian? UNE has its own “practice note” to provide

¹⁰² Millbank, “From Discretion to Disbelief,” 7; Gartner, “(In)credibly Queer: Sexuality-Based Asylum in the European Union.”

¹⁰³ UNHCR (2011.) “Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees”, para. 203 and 204

¹⁰⁴ Hathaway and Pobjoy, “Queer Cases Make Bad Law”; Millbank, “From Discretion to Disbelief”; Millbank, “The Ring of Truth.”

¹⁰⁵ The Supreme Court of Norway, *Utlendingsrett - Asyl. Homofili*.

¹⁰⁶ The landmark ruling followed in the footsteps of the UK Supreme Court, with a similar judgement in two very alike asylum cases, in 2010. In *HJ and HT v. Home Secretary*, two gay men from Iran and Cameroon were initially rejected refugee status on the basis of “discretion reasoning”, but in the appeal case the Supreme Court overruled this and concluded that “every gay man should be able to live freely and open”. (The High Court of Australia was the very first to abolish the discretion requirement – already in 2003, when it rejected the previous utilized argumentation that immigration authorities could simply expect or require that the applicant could hide his/her sexual orientation or gender identity)

guidance in LGBT asylum cases, but have officially stated that they are “loyal to the 2012 legislation and accordingly the “step-by-step method”.

Three years later, shortly after Norway’s abolishment of the ‘discretion requirement’, the European Court of Justice landed on the same conclusion in *X, Y & Z v. Minister voor Immigratie en Asiel*,¹⁰⁷ the Court ruled that neither concealment nor restraint can be required in these cases to make return a safe option. Instead, national asylum authorities should look at country or origin information regarding the situation of queer persons and the assessment of the “well-foundedness” of the fear of persecution.¹⁰⁸ The ‘discretion reasoning’ is today (almost) abolished in Europe, but this concealment requirement was regarded tolerable by several jurisdictions throughout Europe for years.

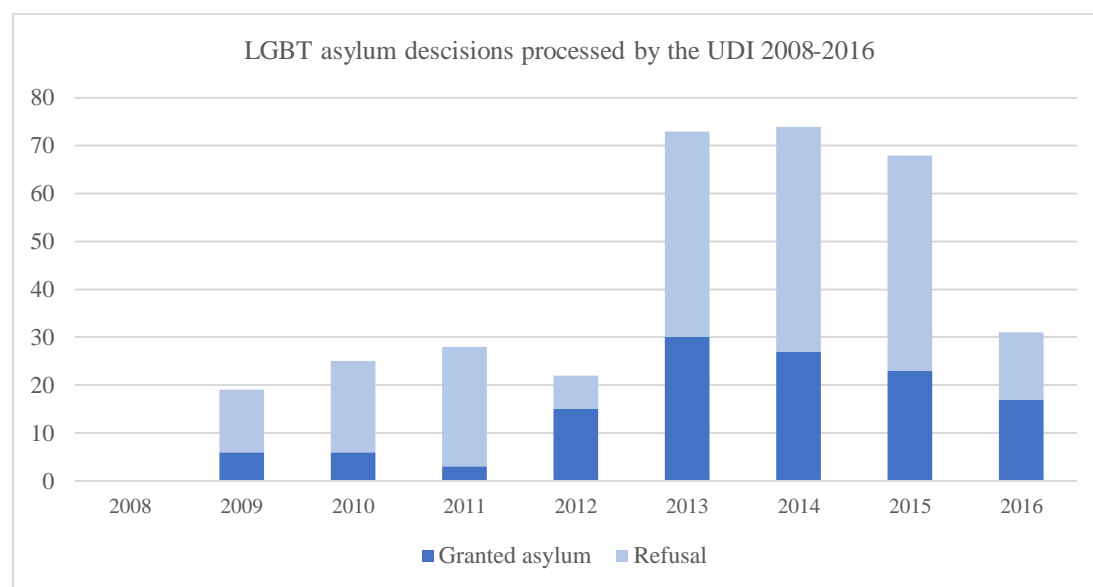


Figure 2. LGBT asylum decisions processed by the UDI 2008-2016

Table 1. LGBT asylum decisions processed by the UDI 2008-2016

| Year | Granted asylum | Refusal | Total |
|------|----------------|---------|-------|
| 2008 | - | - | 3 |
| 2009 | 6 | 13 | 19 |
| 2010 | 6 | 19 | 25 |
| 2011 | 3 | 25 | 28 |
| 2012 | 15 | 7 | 23 |
| 2013 | 30 | 43 | 73 |
| 2014 | 27 | 47 | 74 |
| 2015 | 23 | 45 | 68 |
| 2016 | 17 | 14 | 32 |
| | | | 347 |

¹⁰⁷ The European Court of Justice (November 2013) *X, Y, Z v Minister voor Immigratie en Asiel*, cases C-199/12, C-200/12 and C-201/12

¹⁰⁸ S. Jansen (2014), “Good Practices related to LGBTI Asylum Applicants in Europe”, J. L. Derooff (ed.), ILGA Europe, May 2014.

According to 2008-2016 UDI statistics, which include all LGBT asylum applications processed at a first instance level (manually counted), the institution has administered 346 LGBT asylum claims the last 8 years. The average refusal rate at 63 percent, granting asylum to 37 percent of the claimants.¹⁰⁹ Prior to 2012, the refusal rate was higher (68% in 2009, 76% in 2010, 89% in 2011). A marked change came in 2012, the year when the Supreme Court repealed the “discretion requirement”. But significant questions remain: Firstly, the 2016-2008 UDI statistics only show the share of refusals/granted claims per year, and do not disclose whether the shift came before or after the 2012 Court ruling. Second, the statistics do not show *why* suddenly a larger share of applicants were granted asylum. Third, the number of applications more than tripled after the 2012 Supreme Court ruling. In the following years there was also a sharp increase in the refusal rate. The numbers do not reveal the argumentation in these refusals or why the refusal rate rose again after 2012. An analysis of the most pertinent analytical categories of argumentation in the 187 verdict summaries from between 2010-2015 (first half) will give answers to these questions.

Accordingly, there are two probable reasons why the LGBT applicant’s (in)credibility has become the crux of the matter. First, it became legally difficult to refuse applicants on other grounds after the repeal of the “discretion requirement” in both Norwegian and European jurisdictions. This have limited decision-makers and left “incredibility” as the only ‘refusal tool’ available. This is in line with Jenni Millbank’s (2002, 2009) findings for the UK and Australia, which in the queer migration literature has become known as a shift “from discretion to disbelief”. Second, it has become ideologically impossible to require sexual minorities to conceal their sexual orientation and gender identity. This is in line with overall LGBT rights and diffusion of progressive norms. Still, immigration authorities have obligations to only grant asylum to the ‘deserving’ and ‘genuine’ claimant and avoid abuse of the asylum system. Combined, these two aspects have created an intensified focus on the LGBT asylum seeker’s (in)credibility. Forcing LGBT refugee claimants “back into the closet” became both legally and ideologically impossible in Norway and in Europe. This development in light of theory on social norms and norm diffusion, perceptions of sexual minorities and the constraints that immigration authorities are under, will be further discussed in the subsequent chapter.

¹⁰⁹ Rates based on the manually counted statistics from 2009-2016, since information on the distribution of granted/refused asylum claims is non-existent in 2008.

3. Theory: Norms, law, sexuality and the state

The following pages will account for central concepts and relevant theories that will facilitate the forthcoming analysis of the data and thus address the research questions laid out above. There is not one, single overarching theory applicable to explain citizens' attitudes and immigration officers' judgements. However, several developments within the relevant theoretical field focus on the significance of norms in shaping people's attitudes. This includes peoples' attitudes towards sexual minorities and how human rights norms generally, and LGBT right norms specifically, proliferate and are incorporated by states. These aspects will be accounted for, along with a short review of the literature regarding how states construct and codify sexual identity in queer asylum cases, and the scholarly of relevance to the analysis.

First, theories on norm diffusion provide a definition of norms and their relations to peoples' attitudes towards sexual minorities. Akker et al.'s (2013) review of socialization and integration theory in relation to norm diffusion, and the importance of the national legal context, is central to the chapter. Second, an overview is given of how sexuality has been framed in Norway by the LGBT rights advocacy movement, including a definition of homonormativity and homonationalism. Third, I discuss how states have resorted to legislation to control immigration, while immigrants increasingly take their case to court and invoke human rights that potentially limit the state's ability to regulate migration. Fourth, I outline how the state construct sexuality and how this applies to the context of LGBT asylum in Norway. Finally, based on all this, theoretical expectations will be set forth.

3.1 Norm diffusion in light of socialization and integration theory

Risse and Sikkink (1999), two leading scholars in the field of the diffusion of human rights norms, point to James Fearon's explanation of a norm as a type of *rule* that people follow – not because “to get Y, do X”, but because “good people do X” (Fearon 1997). This is the nature of a social norm, people – and states – act in a particular manner or express an opinion “because they want others to think well of them, and because they want to think well of themselves”.¹¹⁰ As discussed in relation to the survey data, prevailing attitudes, especially when they are measured in self-reporting survey research,¹¹¹ are closely connected to social norms; what collectively is expected and perceived to be appropriate behaviour for a given identity.¹¹²

Akker et al. (2013) bring norm diffusion theory into their study of individual¹¹³ and national determinants of disapproval to homosexuality in Europe, using data from the European Social Survey. They draw on theories of socialization and integration which are “considered to be

¹¹⁰ Thomas Risse and Kathryn Sikkink, “The Socialization of International Human Rights Norms into Domestic Practices: Introduction,” in *The Power of Human Rights. International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge, United Kingdom: Cambridge University Press, 1999), 7.

¹¹¹ i.e. ‘Social Desirability Bias’, which will be explained and examined in section 4.2.2 of the Methods chapter.

¹¹² Ronald L. Jepperson, Alexander Wendt, and Peter J. Katzenstein, “Norms, Identity, and Culture in National Security,” in *The Culture of National Security: Norms and Identity in World Politics*, ed. Peter J. Katzenstein (Columbia University Press, 1996), 54.

¹¹³ A large scholarship on individual determinants of attitudes towards homosexuals concludes that “men, elderly, lower educated and religious people disapprove of homosexuality and homosexual rights more than women, young, higher educated and non-religious people.” In addition, “being acquainted with a ‘LGBT friendly’ political party preference correlate with a positive attitude towards homosexuals. See Ayoub, “Contested Norms in New-Adopter States,” 11.

fundamental for explanations on individual differences in (moral) attitudes”,¹¹⁴ like the theories of socializing agents (Durkheim 1897) and socializing circumstances (Mannheim 1936/1972).¹¹⁵ The latter theory focus on people’s norms being affected by personal characteristics like age – your age “circumstance”, or cohort, is socialized in a specific time period, and the suggestion is that this can explain differences in values and opinions.¹¹⁶ The theory of “socializing agents” argue that people absorb social norms by being exposed more (or less) to particular socializing agents like religious institutions that comply conservative norms, or educational systems that teach and induce liberal attitudes.

Most relevant to the current study, is Akker et al.’s focus on two socializing circumstances of the *national context* that they find to have strong effects on people’s attitudes towards homosexuality: a country’s liberal or restrictive laws and the level of religiosity in the country.¹¹⁷ They found that these two socializing circumstances of the national context affect individuals’ (dis)approval of homosexuality. A country’s laws on homosexuality can be regarded as “socializing agents”, Akker et al. argue, in line with socialization and integration theory, because laws state what is right and what is wrong in a society. This is underpinned by Carmines and Woods’ (2002) findings that demonstrates people’s readiness to adopt the legal norms and rules that are dominant, and even approve new ones.¹¹⁸ Concerning religiosity, people in highly religious countries are to a stronger degree exposed to anti-homosexual norms than people from more secular countries,¹¹⁹ both because they are surrounded by more people that are religious, and because the country’s culture and governmental policies are more pervaded with religious norms. Accordingly, individuals living in more secular countries or in countries with same-sex marriage, registered partnership and/or joint adoption law, have a more positive perception of homosexuals than people living in highly religious countries without such laws.

Takács and Szalma’s (2011)¹²⁰ findings are consistent with the ones in Akker et al.’s study and their theory of tolerant laws on homosexuality working as “socializing agents” that can decrease anti-gay/lesbian attitudes. Few years later, Ayoub (2014)¹²¹ widened the scope to include laws also for gays and bisexuals (LGB legislation).¹²² In other words; despite that liberal laws for same-sex couples still incite much debate in contemporary politics, also in Europe, Ayoub show that a growing number of European states adopt these norms into their national laws.¹²³ This is consistent with above-mentioned work by Risse and Sikkink’s on norm diffusion theory. While the variation on country-level between European states is great, Norway is one of

¹¹⁴ Hanneke van den Akker, Rozemarijn van der Ploeg, and Peer Scheepers, “Disapproval of Homosexuality: Comparative Research on Individual and National Determinants of Disapproval of Homosexuality in 20 European Countries,” *International Journal of Public Opinion Research* 25, no. 1 (March 1, 2013): 66, doi:10.1093/ijpor/edr058.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid., 69–70.

¹¹⁸ Ibid., 66.

¹¹⁹ Ibid., 64.

¹²⁰ Judit Takács and Ivett Szalma, “Homophobia and Same-sex Partnership Legislation in Europe,” *Equality, Diversity and Inclusion: An International Journal* 30, no. 5 (June 28, 2011): 356–78, doi:10.1108/02610151111150627.

¹²¹ Ayoub, “Contested Norms in New-Adopter States,” 294.

¹²² 15 European countries, including Norway, was comprised.

¹²³ Ayoub, “Contested Norms in New-Adopter States,” 294.

the states that have adopted these laws, with the self-determination for trans people aged 16 as the latest contribution.¹²⁴

3.2 Proliferation of LGBT rights and norms in Norway

In a study of how sexual minority refugees are perceived by Norwegians and the Norwegian state, it is crucial to understand what attitudes towards queers look like in the national context. Norway is ranked as the 8th European country (out of 20) with least disapproval of homosexuality in Akker et al.'s study on individual and national determinants. Takács and Szalma came to the same ranking and conclusion on their study on homophobia and same-sex partnership legislation in 26 European countries, placing Norway in "the democratic-tolerant corner of the examined social space". Moreover, in the latest "Rainbow index", ILGA Europe rank Norway as the 4th best country to live in for lesbian, gay, bisexual, trans and intersex people in Europe. Norway has, however, been far from always being a 'queer paradise'. Several LGBT rights and laws have been adopted in recent years, as briefly discussed in the preceding chapter.

LGBT rights diffusion through advocacy and social mobilization is central in this respect. Risse and Sikkink (1999:5) and Brysk (1993) argue that advocacy networks lobby for human rights in pressuring regimes both "from above" (transnational advocacy networks and NGOs like ILGA) and "from below", on domestic level. In Norway, Akin explains that the strategy for the liberation and recognition of sexual minorities in Norway has been to celebrate romantic love and focus on identity and inherency, and accordingly highlighting that sexuality and gender expression is an immutable part of who one is.¹²⁵ First, Norway is one of few countries that use the term "homophile", instead of homosexual – a strategy used by the gay and lesbian movement in Norway since the 1950s to avoid sexual connotations and stereotypes.¹²⁶ Instead of sexual attraction, the movement focused on romantic attraction.¹²⁷ Both the focus on love, and the usage of the term homophile, reinforce the construction of (non-hetero) sexual orientations as immutable and intertwined with identity. Second, this has been used strategically by LGBT rights advocacy groups, for example promoting same-sex marriage law as "the right to love". Moreover, Akin argue that the Norwegian national association for gays, lesbians, bisexuals, and transgender people (LLH) also have used this focus on love to push for recognition of sexual minorities as eligible for refuge in Norway.¹²⁸ This is important because it is this understanding of sexual identity that queers seeking asylum in Norway, are measured against.

There are several good reasons for using this homonormative strategy of immutability and identity, in order to fight stereotypes of the promiscuous homosexual or of sexual minorities being able to simply *choose* to stop being queer. Nevertheless, critics within queer theory have pointed at several potential obstacles with a strategy that conflates sexuality and identity and highlight the immutability of sexual and gender identities. One of the most well-known queer

¹²⁴ European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association, "Norway Becomes Fourth Country in Europe to Introduce Model of Self-Determination," accessed April 9, 2017, <http://www.ilga-europe.org/resources/news/latest-news/norway-introduces-self-determination>.

¹²⁵ Akin, "Assessing Sexual Orientation- Based Persecution A Closer Look at the Norwegian Practices of Asylum Evaluation of Gay and Lesbian Claimants"; Deniz Akin, "Queer Asylum Seekers: Translating Sexuality in Norway," *Journal of Ethnic and Migration Studies* 0, no. 0 (October 11, 2016): 1–17, doi:10.1080/1369183X.2016.1243050.

¹²⁶ Akin, "Assessing Sexual Orientation- Based Persecution A Closer Look at the Norwegian Practices of Asylum Evaluation of Gay and Lesbian Claimants," 35.

¹²⁷ Ibid.

¹²⁸ Ibid.

theorists critical to this framing of sexual identity, Jasbir Puar, argue that “the gay and lesbian human rights industry constitutes to proliferate Euro-American constructs of identity (...) that privilege identity politics, “coming out”, public visibility and legislative measures as the dominant barometers of social progress.” In line with this, drawing on previous research (see Mühleisen and Røthing 2009) on Norway’s progressive recognition and inclusion of sexual minorities, Akin argue that Norwegian, homonormative framing of sexuality does “not only idealize particular practices as Norwegian, but also construct and represent the sexuality of ethnic others as primitive and oppressive”.¹²⁹

3.2.1 *Homonormativity, homonationalism and immigration*

The concept that Lisa Duggan (2002:50) refers to as ‘a new homonormativity’, is central in this context. Homonormativity, according to Duggan, is the mechanism when politics avoid or fail to “contest dominant heteronormative assumptions and institutions, but upholds and sustains them, while promising the possibility of a demobilized gay constituency and a privatized, depoliticized gay culture anchored in domesticity and consumption.”¹³⁰ Or in other words; homonormativity does not contest heteronormativity, which set heterosexuality as the norm, but asks instead for inclusion.¹³¹ Later, Jasbir Puar (2008) developed Duggan’s concept when she coupled the notion of homonormativity to the notions of nationalism and geopolitics.¹³² Coining the term ‘homonationalism’, Puar broke important ground when she problematized the inclusion and mainstreaming of sexuality and gender issues in political discourse.¹³³ The conceptual frame of homonationalism describe how sexual progressivity – meaning “acceptance” and “tolerance” for sexual minorities – has become a vital part of our constructions of national identity and can be (and is being) used to reinforce a division between “us” and “them”. “Us” being the liberal and “gay friendly” state, “them” being the “backward, homophobic and culturally different other”.

Originally, Puar explained homonationalism as a tactic from Western societies, especially the US, to legitimize military intervention. In her updated version, “Rethinking Homonationalism”, she adjusts the definition of homonationalism to denote “rather a facet of modernity and a historical shift marked by the entrance of (some) homosexual bodies as worthy protection by nation-states”. She argues that homonationalism now is a global phenomenon, where “nation-states are now vested with the status of ‘gay friendly’ versus ‘homophobic’.”¹³⁴ In this way, homophobia and anti-homophobia becomes geopolitically mapped, and the two opposites risk “work[ing] together to produce ‘homonormative’ gay subjects”.¹³⁵ For Norway, in the global context, as discussed in the previous chapter, this has among other things played out in the sense that the country has (wanted to) become a vocal on LGBT rights abroad.¹³⁶

¹²⁹ Akin, “Queer Asylum Seekers,” 14.

¹³⁰ Eithne Luibhéid, “Queer/Migration: An Unruly Body of Scholarship,” *GLQ: A Journal of Lesbian and Gay Studies* 14, no. 2 (July 12, 2008): 178–79.

¹³¹ Jung, “Logics of Citizenship and Violence of Rights,” 308.

¹³² Jasbir K. Puar, *Terrorist Assemblages* / Duke University Press, Inderpal Grewal, Caren Kaplan, Robyn Wiegman (Duke University Press, 2007), <https://www.dukeupress.edu/terrorist-assemblages>.

¹³³ Ibid.

¹³⁴ Puar, J. (2013) *Terrorist Assemblages. Homonationalism in Queer Times*, p. 337.

¹³⁵ Karl Bryant and Salvador Vidal-Ortiz, “Introduction to Rethorizing Homophobias,” *Sexualities* 11, no. 4 (August 1, 2008): 455, doi:10.1177/1363460708091740; Henriette Gunkel, “Some Reflections on Postcolonial Homophobia, Local Interventions, and LGBTI Solidarity Online: The Politics of Global Petitions,” *African Studies Review* 56, no. 2 (September 2013): 73, doi:10.1017/asr.2013.42.

¹³⁶ Akin, “Assessing Sexual Orientation- Based Persecution A Closer Look at the Norwegian Practices of Asylum Evaluation of Gay and Lesbian Claimants.”

Gender and queer scholars as Manalansan (2006) and Luibhéid (2008), are among those who challenge the understanding of queer (im)migration “as a movement from ‘repression’ to ‘liberation’”¹³⁷, in line with the critical theory of homonationalism. While Puar did not make direct reference to migration when she developed the theory, Cantú (2009) draws upon her work and argues that it is useful to see that while “the homosexual was earlier completely outside nationalist imaginaries”, sexual minorities are today “delimiting and defining borders”.¹³⁸ This will be elaborated further in section 3.4 of this chapter, where theoretical discussions on immigration authorities understanding of sexual and gender identity are reviewed. First, however, a note on the constraints that immigration authorities are under.

3.3 Constrained immigration authorities

Several scholars have argued that a democratic state’s obligation to outsiders is shaped by several constraints; political, structural, legal and ethical, among others. Some scholarly theories choose to focus more on one type of constraint. Due to limited space, it is obviously not possible to account for all the considerations immigration authorities face in immigration policy-making, and my focus here will be on rights and laws, due to their relative importance.

The importance of rights is not only manifested in the context of LGBT advocacy. Holliefield (2000) highlights the importance of human rights as a factor that potentially limit states’ ability to manage and control migration in his ‘liberal state thesis’.¹³⁹ Castles draws attention to the fact that today, the European Convention on Human Rights, are regularly invoked by asylum seekers having been refuted refugee status in a European country, often through appeals to the European Court of Justice”.¹⁴⁰

Parallel to this development of increasingly more asylum seekers taking their case to court after a negative decision, Thomas (2006) argue that this is also reinforced by the state increasingly turn to legal guidance. Legislation in the field of asylum is welcomed in the sense that it provides consistency in the system, which is often associated with fairness and predictability; two decisive factors in the rule of law. On the other hand, an important and fundamental prerequisite in the flexibility of the asylum scheme is the judicial discretion or “sensitivity” immigration officers should consider when they assess each asylum claim individually. But as a consequence of immigration policy-makers being under political and structural constraints, including pressure from media, politicians, citizens and the public perception that migration is out of control¹⁴¹ immigrant-receiving states “have resorted to legislation, which may adversely affect the determination of claimants’ credibility”, Thomas argues.¹⁴² Two relatively recent examples of states seeking guidance from court in relation to queer asylum, are the previously mentioned joint rulings “X, Y and Z”¹⁴³ (2013) which, among other things, repealed the discretion

¹⁴⁰ Castles, “The Factors That Make and Unmake Migration Policies1,” 868–69.

¹⁴¹ Ibid., 857.

¹⁴² Robert Thomas, “Assessing the Credibility of Asylum Claims: EU and UK Approaches Examined,” *European Journal of Migration and Law* 8, no. 1 (April 1, 2006): 96, doi:10.1163/157181606776911969.

¹⁴³ The European Court of Justice, Joined cases C-199/12, C 200/12 and C 201/12, X, Y and Z, 7 v Minister voor Immigratie en Asiel”, November 2013

requirement, and “A, B and C”¹⁴⁴ (2015), which provided guidance on what receiving states are prohibited to do in a credibility assessment of sexual identity, to not violate rights¹⁴⁵ in the European Charter of Human Rights.¹⁴⁶

In Thomas and other scholars’¹⁴⁷ view, the credibility assessment is one of the most “problematic, difficult and complex decision-making in the modern state”, especially taking into account the scope for exploiting the asylum system. On the one hand, the asylum decision-maker is thus under the general legal obligation to ensure that all genuine, and thus credible, asylum applicants who qualify for international protection are given refugee status and not return anyone to a risk of being persecuted. On the other hand, Thomas (2006) continues, the immigrant officer must also ensure that the incredible or non-genuine applicant is not granted asylum in order to maintain immigration control, taking into account the scope for exploitation of the system.¹⁴⁸ Accordingly, the nature of the credibility assessment do involve “a continuing risk of making two types of error: either refusing refugee status to the genuine claimant or granting refugee status to the non-genuine claimant.”¹⁴⁹ Which one of the errors is most grave, is a subjective and normative opinion. It is in this context that the immigrant officer must assess and decide upon which claimants are credible and which are not.

3.3.1 *The credibility assessment*

In his review of credibility determination in the refugee context, Macklin (1998) identifies three “markers of credibility” that guide migratory case-workers through credibility assessments¹⁵⁰ in immigration systems in general: consistency and plausibility in the asylum testimony, and the refugee claimant’s demeanour.¹⁵¹ When the case-worker examines the consistency of the claimant’s narrative, she is in simple words searching for contradictions between different statements put forward by the claimant.¹⁵² The plausibility of the asylum narrative “usually refers to the relationship between what the claimant describes and what we think we “know” about how the external world works”¹⁵³. The latter indicator focuses on the applicant’s verbal and non-verbal behaviour; eye-contact, hesitation, intonation and pace, body language and in what manner questions are answered; if he or she for example is ‘too laconic’ or ‘too verbose’, say ‘way too

¹⁴⁴ The European Court of Justice, Joined cases C-148/13 to C-150/13 A, B and C v Staatssecretaris van Veiligheid en Justitie, 2 December 2014

¹⁴⁵ Specifically Art. 1; respect to human dignity and Art. 7; right to respect for private and family life.

¹⁴⁶ S Chevlan, “C-148/13, C-149/13 and C-150/13, A, B and C v Staatssecretaris van Veiligheid En Justitie: Stop Filming and Start Listening – a Judicial Black List for Gay Asylum Claims,” *European Law Blog*, December 12, 2014. Cecile Rousseau and Patricia Foxen, “Constructing and Deconstructing the Myth of the Lying Refugee: Paradoxes of Power and Justice in an Administrative Immigration Tribunal,” in *Lying and Illness: Power and Performance*, by Els Van Dongen and Sylvie Fainzang (Het Spinhuis (Amsterdam), 2005), 1–28, [PDF version provided by author C. Rousseau].

¹⁴⁸ Thomas, “Assessing the Credibility of Asylum Claims,” 80.

¹⁴⁹ *Ibid.*

¹⁵⁰ See section 2.4 for UNHCR’s definition of the credibility assessment.

¹⁵¹ Audrey Macklin, “Truth and Consequences. Credibility Determination in Refugee Context,” 3rd (The Realities of Refugee Determination on the Eve of a New Millennium : the Role of the Judiciary, Ottawa, Canada: International Association of Refugee Law Judges, 1998), 134–40.

¹⁵² *Ibid.*

¹⁵³ *Ibid.*

much' or 'way too little'.¹⁵⁴ Several factors as culture, gender, class, education, experiences of trauma and level of nervousness, can however largely affect how people express themselves.¹⁵⁵

The credibility assessment of refugee claimants is an issue that has produced a large literature¹⁵⁶, in many cases highly critical, pointing at several fallacies and their possibly severe outcomes. Macklin, for example, underlines the subjectivity of the exercise and stresses that assessing credibility is "not about discovering truth", but "rather about making choices".¹⁵⁷ One of the archetypal error is what he calls "the trap of false confidence" – the belief of the immigrant officer that s/he can determine whether something occurred (or not) and, furthermore, *why* it occurred or not. According to Amnesty International (2013), the most common errors when assessing credibility of asylum claimants in the UK were the interrogator's use of speculative arguments or unreasonable plausibility findings, using a small number of inconsistencies to dismiss the application, not properly considering the available evidence and not making proper use of country of origin information.¹⁵⁸

In the case where the credibility of an asylum-seeker is evaluated, the immigration officer in charge of the assessment is under several pressures, as accounted for above. As I will explain in the next chapter on methodological approach and data, I argue that asylum case verdicts – on both institutional and appellate level – are good sources of information to examine how decision-makers face these pressures, and how this affects the credibility assessment.

3.4 Immigration authorities' perceptions of sexuality

In line with the discussion on homonormativity and homonationalism above, it is crucial to examine how the mechanisms in the assessment of an asylum seekers' credibility is particularly normative in queer cases. Several scholars argue that credibility assessment in sexual minority refugee cases remains particularly contested because of an added factor: a lack of consensus on how sexuality or sexual identity is manifested and expressed. While I assume that LGBT right and norms, which according to the above-mentioned studies are prevalent in the Norwegian society according to the above-mentioned studies, affect all citizens – including immigration officers – it is still important to understand how these norms influence individual behaviour of state actors.¹⁵⁹

What constitutes sexual identity, according to the state? The question is the point of departure for Stefan Vogler's recent analysis of the construction of sexuality in queer asylum claims, adjudicated in the US.¹⁶⁰ He argues that these asylum claims are one out of the rare examples

¹⁵⁴ Ibid., p. 137-38

¹⁵⁵ Ibid.

¹⁵⁶ See for example Thomas, "Assessing the Credibility of Asylum Claims"; Rousseau and Foxen, "Constructing and Deconstructing the Myth of the Lying Refugee"; Pär Anders Granhag, Leif A. Strömwall, and Maria Hartwig, "Granting Asylum or Not? Migration Board Personnel's Beliefs about Deception," *Journal of Ethnic and Migration Studies* 31, no. 1 (January 1, 2005): 29–50, doi:10.1080/1369183042000305672.

¹⁵⁷ Macklin, "Truth and Consequences. Credibility Determination in Refugee Context."

¹⁵⁸ Elizabeth Williams and Natasha Tangarides, "A Question of Credibility: Why so Many Initial Asylum Decisions Are Overturned on Appeal in the UK" (Amnesty International and Still Human Still Here, April 2013), <http://www.refworld.org/pdfid/518120c64.pdf>.

¹⁵⁹ Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," 7.

¹⁶⁰ Vogler, "Legally Queer," 856.

where democratic state authorities, like judges, give “a glimpse into how the state understands sexuality”. As other scholars have emphasized before him, Vogler show that queer asylum law consolidates and regulate the state’s understanding of sexual identities and what is, and is not, perceived as acceptable.¹⁶¹

What, then, is seen as acceptable sexual behaviour by immigration officers and how do the state codify specific sexual identities? Prior to Vogler’s study, several scholars have given a variety of answers to these questions, and criticized state-practices in a number of receiving states. Even though critiques in case studies vary, since immigration control is left for each nation-state to regulate, some patterns pervade LGBT asylum adjudication. Vogler (2016), highlight three main criticisms; Immigration authorities see sexual identity as immutable and inherent, reinforce and reproduce stereotypes and Western identity categories, and prioritize sexual identity over conduct.¹⁶²

Murray argues that the credibility of LGBT refugee claims is “evaluated through processes and questions that impose a prism of assumptions about “real” gays or lesbians” that reflect white, middle-class LGBT experiences and beliefs about their own and “other cultures”.¹⁶³ Several scholars problematize that these terms like sexual identity, LGBTI, queer, non-heterosexual or non-cisgender are very alien in many cultures.¹⁶⁴ The same goes for the notion of “coming out”, in line with Cass’ (1979) stepwise ‘model for homosexual identity’, which according to Cass move from inner confusion, comparison of sexual identity with others, gradually tolerance, later acceptance and finally “pride and integration of the sexual identity”.¹⁶⁵ Berg and Millbank (2009) have criticized this Western process of self-disclosure where sexual minorities are expected to “move from confusion and self-denial to acceptance and ultimately “coming out” to the world at large”¹⁶⁶ for being too linear and culturally blind.¹⁶⁷

The “coming out” story is just one of several aspects that immigration officers focused on in credibility assessments of LGBT asylum seekers, identified by Middlekoop (2013). Others are the applicant’s demeanour, knowledge of criminalizing laws or “gay culture” in the country of origin, and the applicant’s “difficulties to embrace gay identity” (internalized homophobia).¹⁶⁸ Moreover, another highlighted aspect in the credibility assessment, was the interrogator’s “expectations about homosexual feelings and emotions”, according to Middlekoop: “In this respect, elements regarding becoming aware of these feelings, a coming out, entering into relationships etc., are important for the credibility of the narrative”.¹⁶⁹ The last aspect she highlights that reappeared in several of the cases, were divergence in the claimant and the immigration officer’s characterisations of sexual identity/orientation.

¹⁶¹ However, it is worth to take note of an optimistic aspect which he argues has been downplayed in the field of this research; namely the many possibilities of widening the recognition of marginalized queer identities, that queer asylum cases provide. (Vogler 2016, p. 858)

¹⁶² Vogler, “Legally Queer,” 864–65.

¹⁶³ Murray, R. (2014), p. 26

¹⁶⁴ Murray (2014), p.26, Gaucher and DeGagne (2016)

¹⁶⁵ Louis Middlekoop, “Normativity and Credibility of Sexual Orientation in Asylum Decision Making,” in *Fleeing Homophobia: Sexual Orientation, Gender Identity and Asylum*, ed. Thomas Spijkerboer (Routledge, 2013), 161.

¹⁶⁶ Laurie Berg and Jenni Millbank, “Constructing the Personal Narratives of Lesbian, Gay and Bisexual Asylum Claimants,” *Journal of Refugee Studies* 22, no. 2 (June 1, 2009): 210, doi:10.1093/jrs/fep010.

¹⁶⁷ Middlekoop, “Normativity and Credibility of Sexual Orientation in Asylum Decision Making,” 161.

¹⁶⁸ *Ibid.*, 159–65.

¹⁶⁹ *Ibid.*, 160.

Gaucher and DeGagne (2016) argue that in the case of Canada, claimants are found incredible and refused as they don't fit the specific understanding of sexuality in the country.¹⁷⁰ This create a safe haven only for those who adhere Canada's specific sexual norms¹⁷¹ or more general, the contemporary ideal model of Western sexuality – which is seen as immutable, manifests a coherent identity, is acted upon (meaning the individual is open or “out”) and “sexual identities (and acts) are valued according to binary categories of healthy/unhealthy, normal/abnormal, and acceptable/unacceptable”.¹⁷² Gaucher and DeGagne, see this in light of “homonationalism”, which by creating (and reproducing) hierarchies of sexual acceptability “pits queer bodies against each other”.¹⁷³ They argue that refugee claimants inevitably encounter these Western conceptions of ‘acceptable sexuality’ and those who do not fit in the norm, according to the refugee receiving state, “are ignored, silenced and ultimately delegitimized”.¹⁷⁴ Other claimants, Akin (2016) argues in the case of Norway, “engage in a process of ‘doing queerness’, similar to Candace West and Don H. Zimmerman’s conceptualisation of ‘doing gender’ (1987, p. 126)” to present themselves ‘readable’ or ‘digestible’ to immigration authorities to be found worthy protection.¹⁷⁵

3.5 Theoretical expectations

Based on this theoretical review, and in line with my overarching research question *How do Norwegian immigration authorities and citizens perceive queer asylum seekers' credibility*, I set forth some hypotheses or theoretical expectations. These all stem from my two concrete research questions:

- i. Do Norwegian citizens' perceptions of LGBT asylum seekers' credibility reflect “pro LGBT” norms and/or restrictionist immigration policies?
- ii. Do UDI and UNE's perceptions of LGBT asylum seekers' credibility, reflected trough case verdicts, mirror “pro LGBT” norms and/or restrictionist immigration policies?

3.5.1 Norwegian citizens' perceptions

How do I, backed by theory, anticipate that Norwegian citizens perceive LGBT asylum seekers and their (in)credibility? Do Norwegian citizens' perceptions of LGBT asylum seekers' reflect “pro LGBT norms” and/or a restrictive immigration policy?

1) LGBT rights have proliferated and is now incorporated and institutionalized in the Norwegian society (rights of LGBT people to same-sex marriage, registered partnerships etc.) . Taking this into account, and in line with the theory of norm diffusion, I anticipate that findings from the Norwegian citizen panel (NCP) will show that:

... the support among citizens' increase if people are given additional information on LGBT legislation in Norway and Europe.

¹⁷⁰ Ibid., 461

¹⁷¹ Ibid, p. 459

¹⁷² Ibid., p. 463

¹⁷³ Gaucher and DeGagne, “Guilty Until Proven Prosecuted,” 461.

¹⁷⁴ Ibid., 477.

¹⁷⁵ Akin, “Queer Asylum Seekers,” 12.

...most people are not in favour of the “discretion requirement” which expects queer asylum seekers to return to their country of origin and conceal their sexual/gender identity to avoid persecution.

... certain attitudinal predictors increase the probability for support of LGBT asylum; of opposition to the discretion requirement; and increases the probability to believe that LGBT asylum seekers speak the truth. These predictors, I anticipate, are: support for gay rights in general, association with a political party that advocate for LGBT rights, and support for cultural heterogeneity (diversity).

2) Simultaneously, as discussed in the previous chapter and as demonstrated by Aalberg et al (2012), immigration has become a polarizing issue within Norwegian politics with the Progress Party¹⁷⁶, now in government, staking out a restrictionist immigration policy in Norway. Given this background, I anticipate that...

...given the negative focus on asylum seekers in general in the media, portrayed as potential threats by several political actors, citizens are more likely to express disbelief in asylum seekers in general, than in LGBT asylum seekers specifically.

... Given the negative framing of single, young immigrants¹⁷⁷, as well as the overall secularisation in our society, I anticipate that people perceive LGBT asylum seekers as more credible than unaccompanied minors and religious convert asylum seekers.

3.5.2 UNE and UDI's perceptions (reflected through case verdicts)

How do I, backed by theory, anticipate that UDI and UNE perceive LGBT asylum seekers and their (in)credibility? Are Norwegian immigration officers' perceptions of LGBT asylum seekers (in)credibility, expressed through the justification of their verdicts, reflecting “pro LGBT norms” and/or restrictive immigration policy?

1) LGBT rights have proliferated and is now incorporated and institutionalized in the Norwegian society. Taking this into account, I anticipate that an analysis of UDI and UNE's LGBT asylum verdicts will show that:

...LGBT asylum is institutionalized in Norway, and LGBT asylum seekers who are believed and found to have a credible claim, are granted asylum and protection in Norway.

...However, in line with previous research, I anticipate that to be found credible by the UDI/UNE immigration officer, the asylum seeker must fit into a homonormative norm shaped by Western identity categories, where sexual identity is seen as immutable and/or inherent.

2) Simultaneously, as previously discussed, immigration has become a polarizing issue within Norwegian politics with the Progress Party¹⁷⁸, now in government, staking out a restrictive

¹⁷⁶ Aalberg, Iyengar, and Messing, “Who Is a ‘Deserving’ Immigrant?,” 107.

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

immigration policy in Norway. Given this background, I anticipate that an analysis of UDI and UNE's LGBT asylum verdicts will show that:

.... Immigration authorities are under legal, political and structural constraints and will find ways to restrict access also for LGBT asylum seekers. Given the restrictions on of immigration in general, Jenni Millbank's argument regarding the shift 'from discretion to disbelief' in LGBT asylum cases specifically is likely to hold also for Norway. I thus anticipate that the reasons provided for refusal is likely to increasingly be that claimants are "incredible".

4. Methodology: A mixed methods approach with qualitative, quantitative and experimental data

This chapter presents the methodological approach applied in analyzing data used in the thesis. This case study of Norway aims at contributing to new empirical knowledge to the field of queer asylum specifically, and more generally to the research fields of immigration, sexual minority and gender politics and how norms diffuse and stand in conflict to each other. With the literature review in the previous (theory) chapter as a foundation, this study builds on essentially three sources of data; summaries of asylum verdicts conducted by Norwegian immigration authorities; LGBT asylum statistics; and a survey of Norwegian citizen's opinions on and perceptions of LGBT asylum. The latter includes a survey experiment. The research question calls for data that demonstrate the perceptions or judgements of LGBT asylum seekers' credibility both from A) decision-makers' and B) regular citizens' points of view. To analyze the (accessible) data from group A), a qualitative method was employed, while quantitative and experimental methods were used in order to analyze data from group B).

This chapter is structured as follows: First, the study's two-staged *research design* will be laid out, explaining the rationale for a mixed method approach. This underpins the subsequent section, which explains in detail the qualitative and quantitative methods and methodological tools employed; qualitative content analysis and statistical analysis of survey data and experiments. Reflections on possible methodological challenges associated with these methods are included in the presentation.

Following the presentation of the research design and methodological approach, the data collection and the body of data subject to analysis is presented. As the sources encompass both qualitative and quantitative sources of information, the chapter discusses the value and caveats of using the different forms of data to address the research question. The representativity, possibilities and challenges of the different data will also be put under scrutiny.

4.1 Methods

Scholars have for a long time debated the epistemological chasm between qualitative and quantitative methods. However, leading scholars in social sciences methodology, Bryman and Hardy, highlights the similarities between the two.¹⁷⁹ Both methods are concerned with data reduction, answering questions and relating data analysis to the research literature. Moreover, both approaches use variation as a foundation for analysis, attempt to avoid deliberate misrepresentation and argue that transparency is crucial.¹⁸⁰ Finally, the question of error must be addressed by both quantitative and qualitative analysts, who acknowledge that absolute certainty is an illusion in all research. Quantitative methods operate with various margins of error, where we with 1% margin are a bit more certain than with a 5% or 10% margin. A qualitative analyst cannot mathematically measure and address error, but “generally relies on rules of logic”, Hardy and Bryman explains, considering how well the theoretical predictions fits the empirical

¹⁷⁹ Melissa Hardy and Alan Bryman, *Handbook of Data Analysis* (1 Oliver's Yard, 55 City Road, London England EC1Y 1SP United Kingdom: SAGE Publications, Ltd, 2004), doi:10.4135/9781848608184.

¹⁸⁰ *Ibid.*, 4–7.

findings.¹⁸¹ The scholars do conclude, however, that notwithstanding both methodical approaches' fallibility, researchers "must rely on argument and the strength of evidence they muster from their data to convince others of their story."¹⁸² Despite certain shortcomings, thorough and transparent quantitative and qualitative research provide high quality data, and by analyzing them, we can get new, meaningful insights.

In a book edited by above-mentioned Bryman (together with Burgess)¹⁸³, the chapter "Linking quantitative and qualitative data" by Jennifer Mason lays out a two-stage research design employed in a study of adult kin and family obligations.¹⁸⁴ I found great similarities and inspiration in this two-stage orchestration, and have followed some of the same approaches. Mason's reflections on her mixed methods design linking qualitative and quantitative data, correspond very well to my study's research design:

From the beginning, then, we were using the *two parts of our study to ask distinct sets of questions* about family obligations. **Not only were we employing different methods to generate different types of data, but we anticipated that these would tell us about different aspects** of family obligations. *We were explicitly not following the more conventional model of using a survey to provide a broad picture of a phenomenon, and a qualitative study to cover a more limited area of the same ground but in more depth.*¹⁸⁵

However, critics of mixed methods research claim that the epistemology of the two methodological approaches are so incompatible that it is like mixing oil and water. The previous mentioned Bryman, who is a pioneer in addressing methodological questions in using mixed-methods in social science, counter these critics and argue that a mixed approach often generate synergy, corroboration of sources and facilitates data triangulation.¹⁸⁶ The reasons why this study employs a mixed method design, are manifold. First, I argue that the research question asks for both decision-makers and citizens' perception of queer asylum seekers' (in)credibility, which I argue calls for both qualitative and quantitative data. Like Mason, I argue that the dual ambition for the research, apparent in the dual nature of the research question – *not only employing different methods to generate different types of data, but anticipating that these would tell us about different aspects* – have implications not only for which methodological approaches are required, but also for the data analysis. Second, I argue that a mixed methods design was the best feasible way to approach the phenomena(s) I wanted to study, given the limited access to data material on the decision-makers (to be elaborated on below), and limited time frame. The combination of a qualitative content analysis of secondary data on Norwegian immigration authorities, and a quantitative statistical and experimental survey analysis of primary data on Norwegian citizens, contributes to new empirical knowledge on the phenomenon of LGBT asylum in the specific case study of Norway. Third, and lastly, I argue, in line with Bryman's argumentation, that a mixed method approach can be beneficial in most social science research. The two methods employed, as well as their challenges and strengths, are outlined below.

¹⁸¹ Ibid., 11.

¹⁸² Ibid.

¹⁸³ Alan Bryman and Bob Burgess, *Analyzing Qualitative Data* (Routledge, 2002).

¹⁸⁴ Jennifer Mason, "Linking Qualitative and Quantitative Data Analysis," in *Analyzing Qualitative Data*, ed. Alan Bryman and Bob Burgess (Routledge, 2002), 89–110.

¹⁸⁵ Ibid., 90–91.

¹⁸⁶ Roger Pierce, *Research Methods in Politics* (1 Oliver's Yard, 55 City Road, London England EC1Y 1SP United Kingdom: SAGE Publications Ltd, 2008), 48.

4.1.1 Qualitative methods: Qualitative content analysis

While there are several types of content analysis in social sciences research, which all aims at “systematically categorizing textual data in order to make sense of it”¹⁸⁷, this study employs a *qualitative* content analysis within a discourse analytical approach.¹⁸⁸ While *quantitative* content analysis use categories developed beforehand, and apply them automatically, qualitative content analysis generate categories inductively from the data (at least in part).¹⁸⁹ This way of searching the data for themes and develop analytical categories to which the data will be classified, is essential to all qualitative research.¹⁹⁰ Mason describes two distinct processes in the qualitative researcher’s work; making the data manageable and actually developing an analysis. The first step implicates the work of indexing and categorizing the data, while the second use the categories to craft an analysis.¹⁹¹

Challenges in qualitative content analysis

In general, qualitative methods have been criticized for its difficulties in measuring the data’s external validity¹⁹² – which is one of the great strengths with its quantitative counterpart.¹⁹³ While some scholars counter these claims by arguing that these concepts fall short in the context of qualitative data and methods, and argue that terms as *trustworthiness* or *quality* are more appropriate, it is undoubtedly crucial to make sure the qualitative methodological approach and data analysis are thorough and transparent.¹⁹⁴ One effort to address these issues of rigor and consistency, is the use of Assisted Qualitative Data Analysis Systems, or so-called CAQDAS, to make the data manageable. One such respected software is *Nvivo*, which supports qualitative and mixed methods designs. Welsh argues that Nvivo assists the researcher to examine the data in an utmost thorough, transparent, rigorous and consistent manner.¹⁹⁵ In this study, the asylum verdict summaries have been systematized in Nvivo and coded with analytical categories. However, the categories are design and applied by the researcher, so the analysis is therefore by no means *automatic*.¹⁹⁶

Welsh points to the tendency that many analysts using qualitative data analysis software like Nvivo, believe that their data analysis is based on *grounded theory*. This is because in grounded theory-based analysis, the data “speak for themselves” and the theory emerge from the data,

¹⁸⁷ Jane Forman and Laura Damschroder, “Qualitative Content Analysis,” in *Empirical Methods for Bioethics: A Primer*, ed. Liva Jacoby and Laura A. Siminoff, vol. 11, Advances in Bioethics 11 (Emerald Group Publishing Limited, 2007), 39.

¹⁸⁸ Cynthia Hardy, Bill Harley, and Nelson Phillips, “Discourse Analysis and Content Analysis: Two Solitudes?,” in *Qualitative Methods*, 2004, 19–22, http://wcfia.harvard.edu/files/wcfia/files/870_symposium.pdf.

¹⁸⁹ Forman and Damschroder, “Qualitative Content Analysis,” 39–40; Vogler, “Legally Queer,” 866.

¹⁹⁰ Mason, “Linking Qualitative and Quantitative Data Analysis,” 91; Hardy and Bryman, *Handbook of Data Analysis*.

¹⁹¹ Mason, “Linking Qualitative and Quantitative Data Analysis,” 91.

¹⁹² Pierce, *Research Methods in Politics*, 83.

¹⁹³ Elaine Welsh, “Dealing with Data: Using NVivo in the Qualitative Data Analysis Process,” *Forum Qualitative Sozialforschung / Forum: Qualitative Social Research* 3, no. 2 (May 31, 2002), <http://www.qualitative-research.net/index.php/fqs/article/view/865>.

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid.*

¹⁹⁶ Pierce, *Research Methods in Politics*, 42.

which facilitate theory building.¹⁹⁷ However, Welsh point to Kelle (1997) who argue that many researchers are tempted to claim they are using grounded theory when they are in fact rather “applying a ‘coding paradigm’ which is neither inductive nor deductive, but a mixture of both”.¹⁹⁸ While my methodological approach do share some similarities with grounded theory research, and I have used techniques from Barney Glaser and Anselm Strauss’ ‘third way’ method – going from open to selective coding via theoretical sampling and memoing – I argue that my approach is rather holistic, or in Welsh’ words, a mixture of inductive and deductive coding. For example, while grounded theory is in nature a-theoretical, I have indeed reviewed existing theory and associated literature before my coding.¹⁹⁹ Reviewing existing empirics and theories, as well as the fact of having my research question always in mind, provided ideas for what to look for (which concepts, words, arguments etc.). This resulted in a list of central topics deductively deriving from previous research on the field, that formed the first analytical categories of my coding. Subsequently, after working with the data, new categories emerged inductively. The concrete procedure for making my data manageable, and the specific design of the analytical categorized developed, is presented below in the data presentation.

One critic of computer coding in qualitative research, is that the analytical categories (nodes) risk to be preconceived or biased by the researcher. These issues can arise for example by the researcher’s knowledge of existing scholarship in the field. In this case, I had knowledge of the field through revising literature, which increases the risk of bias. However, it is evident that the benefits of employing a computer-assisted methodological tools outdo the weaknesses. First, it ensures more consistency and transparency, since the data and its corresponding categories are readily retrievable and thus also easy to scrutinize.²⁰⁰ It minimizes the risk of overlooking aspects and help the researcher follow a systematic and thorough line of coding. Second, Nvivo helps the researcher to structure and categorize the data more efficiently than simply doing it manually. The efficiency also encompasses the activity of discovering insights and uncovering connections in the data material. The tool did therefore make the data more easily manageable and the method more time- and resource efficient.

4.1.2 Quantitative methods: Statistical analysis of survey data and experiments

Even though survey research today is one of the most influential research techniques in fields of economics, sociology, political science and several other areas, the sample survey is a quite new tool applied in the social sciences.²⁰¹ According to Schuman and Presser, two leading scholars on the field, the reason for the success is simple: Surveys “combine two things: the ancient but extremely efficient method of obtaining information from people by asking questions; and modern random sampling procedures that allow a relatively small number of such people to represent a much larger population”.²⁰² This enables us to obtain information about a large

¹⁹⁷ Welsh, “Dealing with Data,” 5.

¹⁹⁸ Ibid., 3.

¹⁹⁹ Pierce, *Research Methods in Politics*, 34.

²⁰⁰ Mason, “Linking Qualitative and Quantitative Data Analysis,” 91.

²⁰¹ Peter V. Marsden and James D. Wright, *Handbook of Survey Research* (Emerald Group Publishing, 2010), 3.

²⁰² Howard Schuman and Stanley Presser, *Questions and Answers in Attitude Surveys: Experiments on Question Form, Wording, and Context* (SAGE, 1996), 1.

population that would be impossible in other ways.²⁰³ The generalizability and the external validity of survey research stand out from other methods researching people's attitudes and behaviors. Through statistical regression analysis in a software such as *Stata*, hypotheses and potentially explanatory independent variables can be tested. An additional upside with survey research concerns transparency, as the statistical data can be re-examined.²⁰⁴

An increasingly popular technique survey research is the utilization of experimental design in survey questions. Paul Sniderman and Douglas Grob, pioneers on the field of survey experiments, together with Steven Nock and Thomas Guterbock, describe the benefits of combining the distinctive external validity advantages of the large, representative public opinion survey with the decisive internal validity strengths of the fully randomized, multifaceted experiment.²⁰⁵ By embedding an experimental manipulation in an opinion survey on attitudes to immigrations or immigrants, one can separate and test for example the 'generic anti-immigration component' from a more specific component like 'anti-economic migrant component', 'anti-Muslim component' or, in this study's case; 'anti LGBT-asylum seeker component'.²⁰⁶ This is done by randomly assigning respondents to *treatment and control groups*. All other variables held constant, "any observed differences in outcomes [between the groups] can therefore be attributed with some confidence to the treatments applied to the subjects."²⁰⁷ Two survey experiments and three additional survey questions are analyzed in this study. The question designs are outlined in the end of the data section.

Challenges in survey research

Data collected from survey research face many risks and possible pitfalls concerning both the design of the questions, the implementation of the survey and the subsequent analysis. While some of them are connected to choices made by the researcher or the practicalities of the method, many of the challenges are linked to psychological research and how respondents think and act.²⁰⁸ Issues in the first group mentioned, include challenges like spurious correlation, contamination, mutual causation and several other miscalculations related to statistical research.²⁰⁹ The second group relate to issues of attitudes surveys, where some scholars argue they produce unreliable and biased self-reports.²¹⁰ Some of these issues, and how to address them, will be elaborated in the following pages. The main focus will be directed towards the respondents who do not know what answer option to pick, who don't have an opinion on the subject, who lack knowledge or who choose the middle position because this seem safest. The importance of these matters is deliberated on because these responses will be subject to discussion in the following chapter of findings and analysis.

²⁰³ Ibid.

²⁰⁴ Pierce, *Research Methods in Politics*, 43.

²⁰⁵ Paul M. Sniderman and Douglas B. Grob, "Innovations in Experimental Design in Attitude Surveys," *Annual Review of Sociology* 22, no. 1 (August 1, 1996): 377–99, doi:10.1146/annurev.soc.22.1.377.

²⁰⁶ Strabac, Aalberg, and Valenta, "Attitudes towards Muslim Immigrants."

²⁰⁷ Steven Nock and Thomas Guterbock, "Survey Experiments," in *Handbook of Survey Research*, by Peter V. Marsden and James D. Wright (Emerald Group Publishing, 2010), 837.

²⁰⁸ Schuman and Presser, *Questions and Answers in Attitude Surveys*, 203.

²⁰⁹ Brian J. Gaines, James H. Kuklinski, and Paul J. Quirk, "The Logic of the Survey Experiment Reexamined," *Political Analysis* 15, no. 1 (December 21, 2007): 2, doi:10.1093/pan/mpl008.

²¹⁰ Cheryl S. Alexander and Henry Jay Becker, "The Use of Vignettes in Survey Research," *Public Opinion Quarterly* 42, no. 1 (March 20, 1978): 93, doi:10.1086/268432.

Most surveys incorporate a “don’t know” answer, but many researchers do this with substantial hesitancy²¹¹ because a ‘no opinion alternative’ reduces the effective sample size and accordingly the representativeness. Schuman and Presser explain that most survey analysts regard the “don’t know answer” as a form of missing data²¹², and therefore want to avoid people choosing this response. However, they point to scholars as Bogart (1967) and Converse (1970) that assign the ‘no opinion answers’ a more important significance: These answers often reflect lack of knowledge about or lack of opinion on the issue, they argue, suggesting that much error in surveys without a don’t know option is caused by “random responses by persons who really have no view on the issues”.²¹³ To reduce such error, the questions in the Norwegian Citizen Panel include a “don’t know” option, however, answers are coded as “missing” data.

The matter of acquiescence bias, or “yeasaying”, is also linked to respondents who lack knowledge or don’t have an opinion on the subject matter. This is the presumed tendency for respondents to agree to attitude statements presented to them, and may occur when the survey item they are supposed to respond to, is designed as a statement one could agree or disagree with. Instead of actively making up their mind, some respondents simply (figuratively) “nod their heads” to the statement.²¹⁴ This bias is hard to address, but scholars argue that adding a higher level of details in the survey item, may make the question closer to real-life decision-making and thus reduce the frequency of “yeasaying”.²¹⁵

The “don’t know” responses and acquiescence bias are linked to a third issue which is relevant to this study. This concerns how respondents handle questions on topics that are unfamiliar to them – or what Schuman and Presser calls “the fine line between attitudes and non-attitudes”.²¹⁶ This is linked to what is defined as “the middle position” in question design. In-between options can be statements such as “same amount as today”, “about right” or “neither nor”. When alternatives are presented on a scale, like in the Norwegian Citizen Panel (NCP) items analyzed in this study, it is common to use descriptions of intensity to distinguish alternatives from each other. For example, a scale can go from “very satisfied” to “very unsatisfied” or “high level of trust” to “high level of mistrust” (or “low level of trust”). On a *bipolar* scale, from “strongly agree” to “strongly disagree”, which is the design used in this study, the alternatives are divided into a positive and a negative side. In such a case, Schuman and Presser argue that an in-between position should be offered. They assume that if respondents are forced to choose a polar alternative, the likelihood of error increase.²¹⁷ Omitting a middle position may also increase the levels of “don’t know” responses by forcing respondents who hold the middle position to answer that they don’t because they find it difficult to choose from the other alternatives.

Nonetheless, some researchers do omit the middle alternative because they believe it attracts people who have no opinion on the issue and find it easier to pick what they see as a non-committal opinion than to admit that they simply don’t know. However, Schuman and Presser find evidence that this connection is rather weak. Another criticism of the middle position stresses that it is an (too) easy alternative to pick. It invites evasion and can result in large shares of respondents picking the middle option. Research on surveyees show that the combination of verbal negative/positive descriptions and a bipolar scale can affect the reliability of the distribution of

²¹¹ Schuman and Presser, *Questions and Answers in Attitude Surveys*, 8.

²¹² *Ibid.*, 113–14.

²¹³ *Ibid.*, 114.

²¹⁴ *Ibid.*, 203.

²¹⁵ Alexander and Becker, “The Use of Vignettes in Survey Research,” 93.

²¹⁶ Schuman and Presser, *Questions and Answers in Attitude Surveys*, 147.

²¹⁷ *Ibid.*, 177.

responses with an artificial high occurrence of the middle alternative option.²¹⁸ Even though this is a valid critique, there is an existing consensus in survey research literature that the benefits of offering a middle alternative is higher than the possible hurdles with an excessively high rate of middle-positioners. Additionally, to decrease the size of the middle-positioners, intermediate categories around the midpoint can be offered on a scale varying on intensity (“partially agree”, “strongly agree” etc.). Schuman and Presser find that offering such intermediate categories reduces the number of respondents who move into the middle position, but more importantly, it draws significantly from the polar positions. In the NCP items analyzed in this study, a seven-point scale including intermediate categories, is used.

Lastly, and importantly, comes the challenge linked to *social desirability bias*, which is highly relevant to this study as it is connected both to social norms, and to self-reporting research such as opinion surveys. Krumpal (2013) describes the problem related to ‘social desirability’ in a survey as not the sensitivity of a question – but the sensitivity of an *answer*.²¹⁹ The risk of social desirability bias in survey research has focused largely on peoples’ reluctance to answer honestly to sensitive questions about for example racism, sexual behavior or economic fraud. Tourangeau and Yan (2007) explains that socially motivated misreporting also occurs when some survey respondents tend “admit to socially desirable traits and behaviors and to deny socially undesirable ones”, to conform to social norms. Instead give an answer that they find “appropriate” due to follow the leading norm that has diffused into the society.²²⁰

4.1.3 Research design

As briefly mentioned in section 1.2, describing the rationale and relevance of this study, I have used Norway as a case for several reasons. A case, according to George and Bennett (2005), is “an instance of a class of events”²²¹ and is methodologically advantageous to use when a complex phenomenon is studied. Norway is in this regard an interesting empirical case in relation to queer asylum: First, because of the early repeal of the “discretion requirement” (before the CJEU) and second, because the two described trends of safeguarding queers and safeguarding borders, have both been very strong.

The first stage in my research design of the Norwegian case, was the quantitative large-scale, national internet-served survey the Norwegian Citizen Panel (NCP). Through random sampling, a statistically representative sample of the Norwegian population answered survey questions and were part of survey experiments, designed by me. The second stage in my research design was a qualitative study of LGBT asylum verdicts (summaries) conducted by the Norwegian Directorate of Immigration (UDI) and The Immigration Appeals Board (UNE). In between and parallel to these two stages of data collection, I collected official statistical data on the numbers of LGBT asylum seekers and their citizenship (country of origin) from the UDI. These data are not included in this methods and data section, as 1) they did not require an advanced or sophisticated method to

²¹⁸ Nora C. Schaeffer and Stanley Presser, “The Science of Asking Questions,” *Annual Review of Sociology* 29, no. 1 (August 1, 2003): 77, doi:10.1146/annurev.soc.29.110702.110112.

²¹⁹ Ivar Krumpal, “Determinants of Social Desirability Bias in Sensitive Surveys: A Literature Review,” *Quality & Quantity* 47, no. 4 (June 1, 2013): 2028, doi:10.1007/s11135-011-9640-9.

²²⁰ Ibid., 2029.

²²¹ Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (MIT Press, 2005), 17.

be analyzed and 2) have already been presented in the first and contextual chapter, mapping out the phenomena of LGBT asylum in an anti-immigrant and pro LGBT environment in Norway. The qualitative, textual data, and the quantitative statistical survey data, did however demand an advanced handling with sophisticated methods and tools. A presentation is to be found below.

4.2 Data

This last part of the chapter will present the body of data subject to analysis; first, the qualitative secondary data on decision-makers' judgements, and second, the quantitative data on citizens' attitudes. The processes of accessing and collecting the material will be explained, the validity and representativity of the data will be examined and challenges and strengths of the material will be discussed. In the end of the presentation of the qualitative data, the design of the analytical coding categories (coding scheme developed for the qualitative analysis in Nvivo) is outlined. The same applies for the quantitative data, where the design of survey questions and survey experiments are outlined in the end of the section.

4.2.1 Qualitative (secondary) data: LGBT asylum verdicts by UDI and UNE

Queer asylum cases do very seldom end up in the Norwegian court system, so to study how Norwegian authorities interpret international and regional obligations, it is important to examine UDI's first instance decisions and UNE's appellate judgements. I argue that asylum case verdicts – on both institutional and appellate level – are good sources of information to examine the previous mentioned constraints that decision-makers face and how they answer these pressures and justify their decisions. The qualitative data on decision-makers' judgements analyzed in this study, entails a sample of LGBT asylum verdicts conducted by both UDI and UNE. The body of data comes in forms of *summaries*, meaning that this is secondary data material.

Primary data from Norwegian Immigration authorities, such as asylum verdicts, is not readily available for a master's student. According to the UDI's webpages, researchers may apply for admission, but students will not gain access because of sensitive information and "exceedingly resource-sensitive work".²²² Accordingly, UDI refer to publicly available information, like numbers of registered asylum seekers by citizenship, registered applications of unaccompanied minors by nationality and month or statistics of quota refugees. However, most information concerning LGBT asylum applications, such as statistics, interview guides, first-instance verdicts, appeals and reversal requests, are material exempted from public disclosure. I considered the possibility of acquiring interviews with decisions-makers, but rejected this route for two reasons. For one, I wanted to comprehend the immigration officers' perceptions of LGBT asylum seekers and their argumentation of what made these asylum claims credible or not. Their attitudes and perceptions may be "muffled" or adjusted during a face-to-face interview.²²³ Case verdicts, on the other hand, contains the actual argumentation that leads to the final decision, and is written in black and white on paper. Secondly, interviews with immigration case-workers are

²²² "Innsyn Og Tilgang Til Data," UDI, accessed January 13, 2017, <https://www.udi.no/en/statistics-and-analysis/informasjon-til-forskere-og-studenter1/informasjon-til-forskere-og-studenter/>.

²²³ Granhag, Strömwall, and Hartwig, "Granting Asylum or Not?"

also considered resource-sensitive work and is consequently restricted to researchers and not offered to students.²²⁴

Jubany (2011) stresses “the difficulty of gaining access to institutional organizations charged with border control” and argue this is a general issue “in any current modern state”.²²⁵ As I was not able to obtain access to the original asylum verdicts, I found a solution that enabled me to get insight into the credibility assessments of queers seeking asylum in Norway. Master’s student Andrea Gustafsson at the University of Oslo had in June 2016 submitted her master’s thesis where she conducted a legal analysis of former and current laws on LGBT asylum in Norway.²²⁶ She had, as an exception and for various reasons, gained access to verdicts despite not being a researcher/PhD candidate. She approved my request to use her data material, and access was gained on approval by the Norwegian Center for Research Data (NSD) and UDI.

The material consists of individual summaries of 187 asylum verdicts, where of the UDI had processed 87 of the cases and UNE the remaining 100. Gustafsson accessed, read and abridged each of the verdicts into summaries between one to six pages, resulting in a corpus counting 361 pages. The synopses were not coded with a corresponding coding scheme so the secondary data material were therefore coded for the first time when I coded them systematically in Nvivo. However, the synopses included an introductory first section in each summary, describing certain key data like the year of the final decision in the case, the name of immigration institution, the applicant’s geographical region and the applicant’s claimed sexual orientation or gender identity. Gustafsson had also marked each summary with the final decision of the verdict; whether the applicant was granted asylum or refused due to lack of persecutory risk or refused due to lack of credibility. The reason for asylum/refusal were according to her apparent in most cases. Moreover, the sum-ups encompass the main part of the applicant’s narrative, as well as the arguments, reasoning and justifications made by the immigration officer, including references to laws and guidelines that underpins the decision. Sixty-five of the summaries, all of them UDI verdicts, included remarks from the asylum interview. This means that the transcripts were examined by Gustafsson, which strengthens the empirical base of the sample.

Selection of cases

It was the UDI who oversaw the collection of verdicts in the demarcated period (2010-first half of 2015) and undertook the selection. One challenge in terms of retrieving the material was caused by privacy considerations. Neither the UDI or UNE are allowed to compile information about sexual orientation or gender identity with the case number in the particular case. The two institutions therefore had to look up and retrieve each LGBT verdict manually.

The selection of cases proceeded as follows: The person in charge of the selection, a UDI case-worker, was provided with two lists of LGBT asylum verdicts, one from the UDI and one from UNE. The UDI list consisted of 173 cases in total, and the UNE list 194. The case-worker then separated the rejected claims from the granted applications and systematically picked every third case from the two list – thereby making it a systematic sample.²²⁷ After minor adjustments

²²⁴ Ibid.

²²⁵ Olga Jubany, “Constructing Truths in a Culture of Disbelief Understanding Asylum Screening from within,” *International Sociology* 26, no. 1 (January 1, 2011): 77, doi:10.1177/0268580910380978.

²²⁶ Andrea Gustafsson, “Fra handling til identitet - troverdighetsvurderingen i seksualitetsbaserte asylsaker” (University of Oslo, 2015), <https://www.duo.uio.no/handle/10852/52301>.

²²⁷ Pierce, *Research Methods in Politics*, 93.

(duplications and addition of cases), the collection of cases ended at 64 UDI verdicts (first instance) and 58 UNE verdicts (appeals and reversal requests), a total of 122 cases. In addition, 10 cases were retrieved by a subunit at the UDI. The UDI case-worker selected seven of these to the sample, finding the remaining three irrelevant. These seven cases were thereby not systematically selected. The sample counted thus 129 cases after the collection and selection.

However, the final total sample ended up at 187 cases. This is because in addition to the 129 retrieved by the two institutions on Gustafsson's request, the final selection 'inherited' some previously retrieved cases. They were made accessible to the Norwegian lawyer Cecilie Schjætvet in 2014, for a report commissioned by the UDI published the subsequent year.²²⁸ The report examined two types of asylum cases where the applicant is seeking protection due to membership of "a particular social group": LGBT persons and religious converts. In total, the UDI and UNE retrieved 106 LGBT asylum cases from between January 2012-July 2014 and made them accessible for Schjætvet. While she used only a selection of the cases, UDI used cases from this pool of 106 verdicts and redirected them to Gustafsson's sample. This means that the data material used in this study contains several cases from the entire pool of 106 cases, including verdicts both examined and unexamined in Schjætvet's report.

Representativity of the sample

In sum, two thirds of my whole sample were selected by UDI by systematic selection (picking every third case from two lists),. The remaining cases, one third of the sample, were 'inherited' from Schjætvet's preceding research, and included both refusals and granted asylum applications. After the collection process, a few cases were removed due to duplications and wrong categorizations. With 187 verdicts in the end, the total sample encompasses a quite large share of all LGBT asylum cases processed between 2010 – 2015 (first half). UDI estimated that they administered approx. 250 first-instance LGBT asylum cases and UNE estimated to have processed approx. 150 appeals and reversal requests, during the same period. In other words, the sample encompasses *two thirds of all UNE cases* and *slightly more than one third of all UDI applications* on sexual orientation or gender identity in the demarcated period. While it is true that the annual numbers of LGBT asylum in Norway are small, the sample is large. This strengthens its representativity. However, it should be noted that it is difficult, and arguably neither the purpose, for qualitative data to generate definitive conclusions or generalizations.²²⁹ Still, the material is valuable as it provides information on decision-maker's judgements that are not publicly disclosed. This information is thus indicative of how they perceive queer asylum seekers and their credibility, and demonstrate how their perceptions affect their judgements.

By triangulation, the sample of UDI/UNE verdicts can be contrasted to the 2008-2016 UDI statistics of LGBT asylum cases processed the last eight years, which were presented in chapter 2, describing the Norwegian context. These numbers are primary quantitative data that I have obtained from UDI on request. It should be noted that these numbers have been counted

²²⁸ Cecilie Schjætvet, "Forfølgelse Basert På Religion Og Medlemskap I En Spesiell Sosial Gruppe (Seksuell Legning) – Praksis I UDI Og UNE Etter Høyesteretts Dom Av 29. Mars 2012," Report commissioned by the Norwegian Directorate of Immigration (UDI) (Oslo: Advokatfirmaet Hestenes og Dramer & Co, 2015).

²²⁹ Pierce, *Research Methods in Politics*; Matthew B. Miles and A. Michael Huberman, *Qualitative Data Analysis: An Expanded Sourcebook* (SAGE, 1994).

manually, and the UDI has underscored that “Case-workers may forget to account for [the cases], omit to register [them] because they consider them to be irrelevant, fail to catalogue [them], [or] they can register [them] in the wrong category.”²³⁰ The two types of data material are not straightforward comparable numerically, as the sample is demarcated from 2010 until the first half of 2015, while the UDI statistics covers all the years where LGBT asylum applications have been registered, from 2008-2016.²³¹ Another dissimilarity is that the sample encompass both UDI verdicts (first instance) and UNE verdicts (appeal cases), while the official statistics only cover UDI verdicts (first instance level). These two sources of information do, together, contribute to paint the overall picture of Norwegian immigration authorities’ management of LGBT asylum applications over the last years. Given the large size of the sample, I argue that it can be prudent to review the sample against the official numbers in the analysis, to possibly uncover (dis)convergences or spot trends.

For 2010 and 2011, the UDI cases in the sample contains slightly too few refusals compared to the statistics. However, the numbers for these years are very small (25 applications in 2010, 28 in 2011) and that the 2011 UNE cases in the sample are solely refusals. For 2012, which is the decisive year because of the Supreme Court ruling, the distribution of the UDI sample is almost identical to the reality. However, adding the UNE cases, the refusal rate increases. This may nevertheless be a valid picture, as appellate cases have higher refusal rate. For 2013, the UDI sample cases are overrepresented by granted claims while the UNE sample is strongly overrepresented with refusals, so when the two are added together, the sample matches the statistics. For 2014, both the UDI and UNE sample resemble the real numbers. For 2015, the sample includes only verdicts from the first half of the year, but do, nevertheless, fit the pattern. Hence, taken together, the UDI and the UNE case verdicts in the sample do match the UDI 2008-2016 statistics remarkably well. The sample show approximately the same distribution with regards to the direction (overall increase) and the dispersion (of granted asylum cases/refusals). See Fig. 3 and 4 below for illustration; the dark blue stacks in both figures shows granted asylum claims. The orange bars in the left chart, and the right chart’s light blue and green stacks taken together, are refusals. The distribution will be discussed comprehensively in the next chapter.

²³⁰ Email correspondance with UDI case-worker in charge of the collection and selection of the LGBT asylum verdict sample, 15. March 2017.

²³¹ It is crucial to emphasize that these numbers was counted manually, as this may have consequences for statistical ramifications, due to small numbers. The UDI itself underscored the possible flaws of manual counting in email correspondance: “Case-workers may forget to account for [the cases], omit to register [them] because they consider them to be irrelevant, fail to catalogue [them], [or] they can register [them] in the wrong category.”, UDI, *personal communication*, email dated 15. March 2017, 09:27

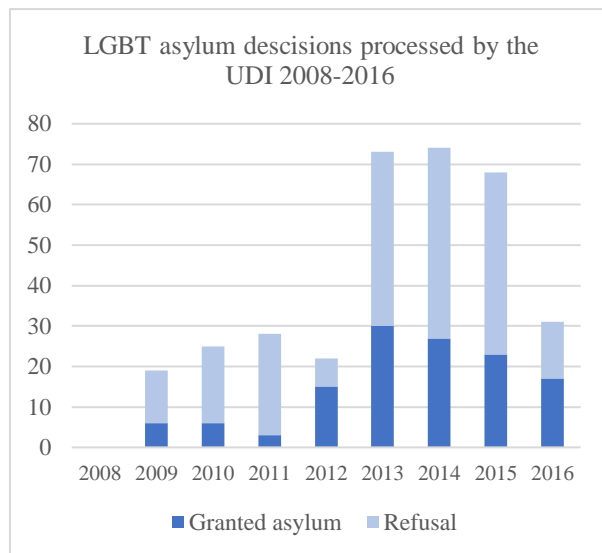


Figure 3. LGBT asylum verdicts (UDI) 2008-2016, official numbers.

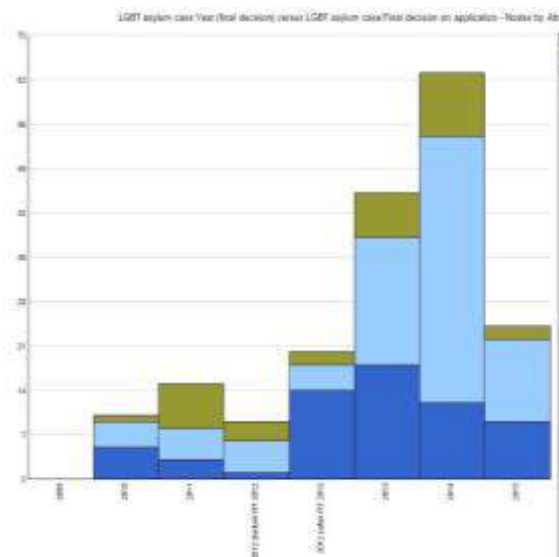


Figure 4. Sample of LGBT asylum verdicts (UDI & UNE): 2010-06.2015.

Challenges with the qualitative data

The huge scope of misinterpretation is one of the archetypical criticisms of qualitative methods generally. How can the researcher know and demonstrate that s/he has interpreted the material in a correct and unbiased manner? Pierce argues that one of the strengths of qualitative methods is that they actually do recognize that “language is never neutral”, or in Nietzsche’s words, that “every word is a bias”. We should beware, he argues, that all data – even primary sources – are to some degree biased, interpreted, edited and colored by the perception of both the sender and the receiver.²³² However, there *are* more pitfalls associated with secondary data – data already edited and interpreted by others. Pierce acknowledges that “when interpretation is reinterpreted, some distortion of the original is inevitable”, yet he concludes that secondary data should not be discarded.²³³ In the case of this study, how much of the migration officer’s original expressions is preserved in the material interpreted by Gustafsson? How much of the original meaning is lost in her first interpretation and subsequently in my reinterpretation?

The collection of data and the interpretation of the verdicts has been discussed with Gustafsson several times between May 2016 and January 2017. She assured to have endeavored to reproduce the original content and phrasing applied by the immigration authorities. In the verdicts that included transcribed asylum interviews, she incorporated certain direct quotes in the summaries. This has assured me of the methodology and ethicality behind Gustafsson’s interpretation of the verdicts and crafting of summaries. Furthermore, the tradition of standardized, legal language pervades all the 187 verdicts, as specific phrases reappears several times. Hence, it can be argued that behind the asylum verdicts lies a form “template-based” language and argumentation, as previously mentioned. This suggests that there is reason to believe immigration officers are trained or socialized into a systematic argumentation “template”, to ensure precedence across units, and accordingly that their judgements reflect more than individual perceptions and interpretations of the law.

²³² Pierce, *Research Methods in Politics*, 81.

²³³ *Ibid.*, 80.

I will use the data material to reanalyze the argumentation of the immigration officers to study how they perceive the credibility of the asylum seekers and end up either believing or disbelieving their claims. Thorne characterizes this type of secondary qualitative research “retrospective interpretation, in which an existing database is tapped to develop themes that emerged but were not fully analyzed in the original study”. I will utilize a different, methodical approach than Gustafssons master thesis in law. In addition to the research question and focus being different from Gustafsson’s research, I have also employed different method in the sense that I have coded the material in a systematic way, using the analytical software Nvivo. The coding scheme and analytical design of categories, is outlined below.

Strengths with the qualitative data

Risks of misinterpretation and representational issues must be compared to the opportunities that such a secondary analysis can give, Thorne argues. I want to emphasize that the qualitative secondary sources analyzed in this thesis is a truly unique data material. Asylum verdicts conducted by case-workers are, as earlier assessed, very hard to access from outsiders of the Norwegian immigration institutions. Regarding LGBT asylum verdicts specifically, barely no one have examined these decisions before. The scarce scholarship on LGBT asylum in Norway has for the most part been limited to qualitative interviews of a handful immigration case-workers, and examinations of court cases. Therefore, I argue that it is valuable to re-examine the verdicts that comprise the sample under study, because this study can extract other kinds of information than the first time they were analyzed.

A second strength with the qualitative data material is that the sample contains decisions from both the institutions UDI and UNE. Most the studies of LGBT asylum policies and laws internationally, only examine court cases or appeal cases. Arbel et al. problematize the fact that ‘case law’ and appellate cases “are in many respects a pinnacle of exceptionalism, an infinitesimally small tip of a gargantuan pool that may neither reflect the mass of cases before it nor be effective in transforming the practice that occurs thereafter”.²³⁴ This qualitative material *does* however include a large number of verdicts made on first-instance level, as well as appeal cases and reversal requests. The large sample and the relatively large time-span contribute to paint the larger picture of Norwegian immigration authorities’ practices in this field. They mirror both Norwegian asylum and LGBT politics.

A third strength of this secondary data material is that the verdict summaries benefit from being written sources and not, for example, interviews conducted face-to-face. The verdicts show the actual outcome of each case and the decision-makers argumentation and reasoning, word for word. We therefore, in Roger Pierce’s words, “see the world through the subject’s eyes”.²³⁵

Design of analytical categories: coding scheme

In Nvivo, every individual verdict summary was imported and stored as an individual *case node*, (hereafter ‘case’). Each case was subsequently coded with certain meta data or *attributes*, containing information like the year of decision or the immigration institution responsible. Then,

²³⁴ Arbel, Dauvergne, and Millbank, *Gender in Refugee Law*, 8.

²³⁵ *Ibid.*, 45.

text in each case were coded to break it down to more manageable chunks.²³⁶ Sequences of arguments, whole sentences or group of words were coded into existing analytical categories called *theme nodes* (hereafter ‘nodes’), or formed new ones. Some categories were closely connected to others, creating tree nodes with *parent nodes* and *child nodes*. Furthermore, the reason for refusal were either based on [the decision maker’s perception of] a lack of well-founded fear of risk for persecution (risk), or lack of credibility to the claim of membership to a particular social group, LGBT persons (credibility).

Moreover, working with the data material revealed several specific reasons of why the immigration officer argued there was no reason to believe the applicant did risk persecution or spoke the truth. Consequently, thematic child nodes emerged. Much (but not all) of the argumentation employed by the immigration officers reappeared in several of the cases, which were accordingly grouped together in specific, but inclusive nodes. The coding unfolded as follows: reading closely the textual data, looking for argumentation, words, reasoning, references, categorizing content into nodes, adding new nodes as new themes emerged, counting categories, detect patterns in the data and taking notes for analysis.

The verdicts were obviously written in Norwegian. It would be too time-consuming to translate the whole corpus of data, close to 350 pages, from Norwegian to English. In the first coding scheme draft, the analytical categories (nodes) were therefore in Norwegian. Subsequently, I translated them into English. I carried on the coding going through the corpus (in Norwegian), marking specific parts of text and placing it in the correct (English) node. As the employed language in the verdicts proved to be rather standardized and templated, no further linguistically problems arose during the coding.

The systematic coding of the body of data resulted in a codebook.²³⁷ The coding scheme’s *units* are the 187 asylum verdict summaries (cases). The *variables* are the nodes. Five main overarching categories emerged early in the process: 1) Granted asylum claims; 2) Refusals; 3) Aspects with Interview/Application and 4) The Applicant’s narrative. The two latter classifications, will not be elaborated on here, however, the full codebook is provided in the Appendix. In short; Group 3) contain nodes related to which references, guidelines and laws the immigration officer(s) point(s) to, whether the appeals committee was unanimous or divided, whether the applicant filed a complaint or a reversal request, remarks to the interview, and other “practical” matters. Group 4) contain information on what the applicant voiced or uttered in the interview and/or application, presenting his/hers narrative. The topics were varied, but some reappeared and were emphasized in several cases; whether the applicant had suffered from ill-treatment and/or sexual abuse, whether s/he had been discreet (concealed sexual orientation/gender identity) in the home country or claimed to have taken precautions, the applicant’s self-identification and “coming-out story”, among other things.

Adding the overarching parent nodes with the thematic/analytical child nodes, the total number of categories count 76. However, as this study focuses on immigration officer’s perceptions, the most decisive categories to study are the thematic nodes (51 in total). These include immigration officers’ arguments, reasoning, wording and framing in the two first categories: 1) Granted asylum claims and 2) Refusals. The latter category was divided into 2.1) Incredibility, 2.2) Risk,

²³⁶ Welsh, “Dealing with Data.”

²³⁷ An overview of all the analyticsl categories is found as a coding scheme in Annex II.

and 2.3) Argumentation.²³⁸ Content encompassing immigration officers' perceptions of the applicant's untrustworthiness, implausibility, inconsistency, and more, goes in the 2.1 category. The 2.2. category includes child nodes concerning the applicant's lack of risk of sexual-/gender-based persecution in the country of origin, whether the immigration officer argues that the applicant's (alleged) past experiences of sexual/gender-based violence was an isolated incident or not, and arguments connected to the previously discussed issue of "(voluntary) discretion". The 2.3 category, named "Argumentation", involves arguments performed by immigration officers that underpins either the applicant's lack of credibility or the lack of risk of the asylum claim – or both. Some of the arguments presented, are connected to the applicant's demeanor – as it is perceived by the immigration officer.

Demeanor is one of three main types of *credibility markers* used by immigration bureaucrats in refugee determination, according to Macklin²³⁹, who points out consistency, plausibility and demeanor at the main ones. Scholars on queer migration employ different markers of (in)credibility, however, they do only differ slightly. Thomas²⁴⁰ navigate in the same landscape as Macklin, but do highlight the difference between differentiation between internal and external inconsistency – meaning lack of consistency in the applicant's narrative (internal) or information/details that seem inconsistent with for example 'objective' country of origin information.²⁴¹ These credibility markers became the point of departure for the development of analytical categories. However, this study ended up with slightly other versions of the ones proposed by the two mentioned scholars, additional categories inspired by other scholars on the field, as well as additional categories that emerged inductively. An overview of the nodes coded under "credibility" (Granted asylum claims) and "incredibility", are to be found below. For the full coding scheme, see Annex II.

²³⁸ The node "argumentation" encompass argumentation used in both refused and granted cases.

²³⁹ Macklin, "Truth and Consequences. Credibility Determination in Refugee Context," 137.

²⁴⁰ Thomas, "Assessing the Credibility of Asylum Claims."

²⁴¹ Ibid., 81.

1. GRANTED ASYLUM

- Overall credibility
- Consistent
- Plausible
- High level of reflection
 - “Coming-out-story”
- Rich in detail
- Feelings
- Otherness, taboo, shame
- Plausible precautions
- Realistic and not exaggerated narrative
- Sexual conduct
- Little focus on sex
- Knowledge of LGBT org. or country information
- Member of LGBT community
- Visible LGBT
- Evidence
- Discreet upon return because of fear
- Well-founded fear of persecution
- Will live openly LGBT
- Ill-treatment or harassment
- Internal relocation not an option
- Benefit of the doubt

2. REFUSAL

2.1 INCREDIBILITY

- External implausibility
- Inconsistency
- Internal implausibility
- Lack of details or memory
- Lack of knowledge of LGBTI org., persons or country
- Lack of or unreliable evidence
- Low level of reflection
- Overall lack of credibility

2.3 ARGUMENTATION

- Irrational or odd explanation or behaviour
- Late disclosure or modified explanation
- Prostitution
- Relationships (past and future)
- Risky behavior
- Sexualized, stereotyped, or exaggerated narrative
- Unclear sexual identity
- Vague, evasive or generalized answers

Table 2. Main nodes (analytical categories) coded in Nvivo. See Appendix for a comprehensive coding scheme/codebook.

4.2.2 Quantitative (primary) data: Survey data from the Norwegian Citizen Panel

The quantitative body of data analyzed in this study, is survey data from the Norwegian Citizen Panel (NCP). This statistical data is primary data, where survey questions and survey experiments are designed by me. The NCP is a research-purpose internet panel survey²⁴² that was established in 2012 as a collaboration between several departments at the Faculty of Social Sciences at the University of Bergen and the UNI Research Rokkan Centre, two institutions both placed in Norway. Social Scientists from the two institutions run the panel, asking Norwegians' questions on societal matters twice a year. Topics include several questions concerning politics, environmental issues, immigration, religion, media habits and justice, among other things. The survey has been conducted seven times so far, with the most recent round orchestrated in November and December, 2016.²⁴³ The panel's members were recruited in the first and third wave, drawn from the *National Registry* of Norway, which holds information on all persons born in Norway. 25,000 people over the age of 18 were recruited, randomly drawn from the register.²⁴⁴

As this study is written in affiliation with The Centre on Law and Social Transformation in Bergen, Norway, I was invited to contribute with survey questions and experiments during the spring and the fall of 2016, in wave 6 and 7, which are to date the two last rounds of the survey. Each wave had close to 5000 respondents in total ($N^6=4859$ and $N^7=4689$), that were subsequently divided into four 'subsets'²⁴⁵ or focus research groups. This additional subdivision is to reduce the length of the survey and avoid survey fatigue. Accordingly, the focus research groups had approximately 1200 respondents each (in both waves), whereas my questions and experiments were placed in the "environment focus groups" in wave 6 and the "diversity and welfare" group in round 7. It is worth to note that respondents in all four groups are asked questions on different topics, meaning that the questionnaire developed for the group with an environmental focus also included questions on diversity, and equally that the diversity focus group counted in questions concerning environmental issues.²⁴⁶

Representativity and generalizability of the data

The overall response rate of wave 7 was 72 percent, which according to the methodology report was an increase of 5% from wave 6 and thus higher than expected.²⁴⁷ However, the report point at both endogenous and exogenous possible explanations for this; members were for the first time reminded of the survey via SMS and the American Presidential Election that was ongoing

²⁴² "Digital Social Science Core Facility," *Digital Social Science Core Facility*, accessed December 29, 2016, <http://digsscore.uib.no/home>.

²⁴³ Øyvind Skjervheim and Asle Høgestøl, "Norwegian Citizen Panel 2016, Seventh Wave: Methodology Report," Methodology report (Norwegian Citizen Panel, DIGSSCORE / Ideas2Evidence, December 2016), 2, <http://digsscore.uib.no/download-data-and-documentation>.

²⁴⁴ Skjervheim and Høgestøl, "Norwegian Citizen Panel 2016, Seventh Wave: Methodology Report."

²⁴⁵ Ibid., 6.

²⁴⁶ "My" pool of respondents are thus not the same in wave 6 and 7. Accordingly, there is no risk that respondents in wave 7 had seen the questions from wave 6. There are both methodological benefits and disadvantages with this: There is less risk of survey fatigue bias when the questions are asked in a group with few questions on immigration (Which is the case in wave 6). But would have been interesting/helpful to run regressions and test the potential significance of how respondents' attitudinal factors concerning specific topics on immigration may could have had an effect on the results. I did not myself decide in which groups my questions were assigned.

²⁴⁷ Skjervheim and Høgestøl, "Norwegian Citizen Panel 2016, Seventh Wave: Methodology Report," 3.

in the middle of the data collection period may have boost interest for a survey focusing on political issues.²⁴⁸ In general, persons who are interested in politics are more likely to participate in surveys – particularly surveys with politics as a topic.²⁴⁹

The report also explains that as the number of active panel members (meaning those who responded to the survey) decreased from the total pool of 10.130 panel members²⁵⁰, those who were highly motivated stayed. As much as 66 percent of the respondents in wave 7 have participated in *every* survey they have been asked to answer. Concerning the representativity of the survey, the methodology report points out a handful of challenges that are familiar in most internet-served surveys. Lack of access or familiarity with the internet may lead to non-responses predominantly among the elderly strata of the respondents. The lack of motivation or interest in responding the study may also serve as an explanation to why some choose not to answer; an issue often explained by the respondent's level of education.

Challenges with the quantitative data

Who is the typical respondent of the Norwegian Citizen Panel? Like in most surveys, persons with higher education are overrepresented, and individuals from younger age groups (18-29 years) are underrepresented (they constitute 20.5% of the population but only 10.6% in the survey). While those between 30-59 years are on par with the age distribution in the population (51.4% vs. 51.6%), those over 60 years old are clearly overrepresented (they constitute 28.0% of the population but are representing 38.0% of the survey respondents). Men over the age of 60 and living in or close to the capital Oslo, are clearly most overrepresented.²⁵¹

Another factor considered in the examinations of the surveys representativity, is the level of education. This is the element that creates the most bias, as stated in the methodology report.²⁵² The use of weights is well-established in survey research, but scholars have been arguing that the effect of such weights is generally relatively small (see Groves et al. 1988).²⁵³ In this study, however, the level of education is not of theoretical importance and is not part of any predicated hypothesis. Moreover, as demonstrated by Aalberg et al. (2012) “in the Norwegian context, education does not appear to be a proxy for political tolerance” and thus that “more educated Norwegians were not any more welcoming” towards individual immigrants (also see Hainmueller & Hiscox 2010).²⁵⁴

Strengths of the quantitative data

The main benefits of analyzing quantitative data, as mentioned above, regards rigor, generalizability, validity and the transparency. The quantitative material found in the NCP is primary data and can be re-examined as the data file is publicly accessible (upon request of the

²⁴⁸ Ibid., 4.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ Ibid., 8.

²⁵² Ibid., 10.

²⁵³ Vehovar Vasja, Katja Lozar Manfreda, and Batagelj Zenel, “Web Surveys: Can the Weighting Solve the Problem?,” in *Proceedings of the Section on Survey Research Methods: Papers Presented at the Annual Meeting of the American Statistical Association*, (American Statistical Association, 1999), 964, <http://www.amstat.org/sections/srms/Proceedings/>.

²⁵⁴ Aalberg, Iyengar, and Messing, “Who Is a ‘Deserving’ Immigrant?,” 107.

Norwegian center for Research Data), and is thus possible to reanalyze. Moreover, the national survey panel have close to 5000 respondents and the analysis of the data can therefore be generalizable for the whole population. Additionally, the data material and data collection is dealt with in a highly rigorous way, as the web-based research software *Confermit* that administers the surveys and the panel provides stringent data security measures and operational stability.

In addition to these typical characteristic strengths of quantitative data, comes specific advantages from experimental designs in surveys. Today, there exists several studies of attitudes towards immigrants and immigration in general, also for Norwegian citizens', as well as numerous studies on European and American citizens' attitudes. However, in my opinion, a typical shortcoming in attitude surveys examining attitudes towards immigrants, is that the design of questions – and therefore subsequently also the data – fail to distinguish between different categories of immigrants. Respondents have been asked questions about what they think about asylum seekers, or about refugees, compared to each other, or in general. Hence, we have several publications that examine for example attitudes towards different types of immigrants and distinguish between high-skilled and low-skilled asylum seekers. Studies have also been conducted to measure the racial component and reluctance to diversity, mapping different attitudes towards African immigrants or Muslim immigrants. But people may have very different attitudes towards or perceptions of narrower categories within these broad groups. For example; how do people feel (or self-report their feelings) about political asylum seekers compared to those who seek asylum because they fear persecution due to their ethnicity? These kinds of facets have rather seldom been examined, at least in Norway.²⁵⁵ By carrying out a randomized survey experiment in the opinion survey, we can measure attitudes towards one specific type of asylum seeker – compared to another. The survey experiments on queer asylum seekers permits the (unique) possibility to investigate a research topic that up until now only has been studied from the viewpoint of either decision-makers, courts or queer asylum seekers.

Design of survey experiments

Two experiments from the Norwegian citizen panel feed into the data analyzed in this study. The experiments aim, in large, at measuring Norwegian citizen's attitudes towards LGBT asylum seekers. Both are designed as a statement, whereupon respondents are asked to indicate their level of agreement or disagreement on a seven-point bipolar *Likert scale*, which goes from “strongly agree”, “agree” and “partly agree” via “neither nor”, and all the way to “strongly disagree”.²⁵⁶ Both are also *split-ballots experiments*, where the total sample is randomly divided into (approx.) equally-sized sub-samples. The questions that are presented, are almost identical, only slightly differing due to the experimental design.

The first experiment was designed in January and conducted in wave 6 of the NCP in April 2016. This experiment from wave 6 (hereafter ‘ex6’) assessed how the support for LGBT asylum seekers varies with giving increasingly more information about existing laws in Norway and in Europe on this field (treatment effect). The rationale for including an examination of ex6, and analyze the findings, is to fulfill the rationale for this study; developing new empirical knowledge

²⁵⁵ Strabac, Aalberg, and Valenta, “Attitudes towards Muslim Immigrants”; Aalberg, Iyengar, and Messing, “Who Is a ‘Deserving’ Immigrant?”

²⁵⁶ Pierce, *Research Methods in Politics*, 42.

on the field of queer asylum in Norway. Ex6 contributes to place Norway’s views on LGBT asylum in a European context.

The second experiment was designed in August 2016 and conducted in wave 7 of the NPC in November. It is the main experiment of the study (hereafter ‘ex7’) and seeks to measure differences in expressed trust/distrust – or (in)credibility – towards different types of asylum seekers that have been issues for debate, or have faced extra suspicion due to their (in)credibility. These groups are LGBT asylum seekers compared to asylum seekers in general (hereafter ‘G1’); asylum seekers in general (control group, ‘G2’); asylum seekers that claim protection because of they’ve converted to a new religion (‘G3’); and asylum seekers that claim to be under the age of 18 years old (‘G4’). Accordingly, the experimental design yields estimates of the independent impact of the asylum seeker’s claimed reason for asylum on the respondent’s decision to believe or disbelieve. Do people have different perceptions of the trustworthiness of asylum seekers that have different reasons to apply for refugee status? As (in)credibility is the focus of the thesis, ex7 will be outlined first:

| | | |
|---|----------------------------------|----------------------------------|
| Experiment wave 7 (ex 7) Credibility | | <i>N</i> _{total} = 1165 |
| <i>To what extent do you agree or disagree with the following statement:</i> | | |
| G1ex7 | LGBT | <i>N</i> = 279 |
| <i>There is reason to believe that most speak the truth [when they state sexual orientation as the reason why they have left their home country and] seek asylum in Norway.</i> | | |
| G2ex7 | Asylum seekers in general | <i>N</i> = 299 |
| <i>There is reason to believe that most speak the truth [about the reason why they have left their home country and] seek asylum in Norway.</i> | | |
| G3ex7 | Religious converts | <i>N</i> = 310 |
| <i>There is reason to believe that most speak the truth [when they state conversion to a new religion as the reason why they have left their home country and] seek asylum in Norway.</i> | | |
| G4ex7 | Unaccompanied minors | <i>N</i> = 277 |
| <i>There is reason to believe that most speak the truth [when they state that they are unaccompanied minors when they] seek asylum in Norway.</i> | | |

Table 3. Survey experiment wave 7: credibility of categories of asylum seekers

The main purpose of the experiment is to analyze differences in expressed negative or positive *attitudes towards the perceived credibility of LGBT asylum seekers* compared to the credibility of the three other groups. Ex7 is designed so that the only difference between the four sets of questions, are the characteristics of the asylum seeker and his/her claim. The respondents are asked to judge whether they find the claim reasonably trustworthy. Since the respondents were randomly assigned to the four sub-samples, we are assured that any differences in the distributions of answers are a result of the difference between the four versions of the question.²⁵⁷

²⁵⁷ For a similar design, see Strabac, Aalberg and Valenta “Attitudes towards Muslim Immigrants” (2014), 108.

| | |
|---|---------------------------------|
| Experiment wave 6 (ex6) Support | <i>N_{total} = 1208</i> |
| G1ex6 | <i>N = 388</i> |
| [Question text provided to all respondents in all the three experiment groups:] <i>Some persons who seek asylum are granted a residence permit in Norway because they risk persecution in their home country due to their sexual orientation (homosexual/lesbian/bisexual) or gender identity (transgender).</i> | |
| <i>To what extent do you agree or disagree that risk of persecution because of sexual orientation or gender identity shall be a valid reason for being granted a residence permit in Norway?</i> | |
| G2ex6 | <i>N = 432</i> |
| [Question text] <i>This is in accordance with current Norwegian law.</i> | |
| <i>To what extent do you agree or disagree that ...</i> | |
| G3ex6 | <i>N = 388</i> |
| [Question text] <i>This is in accordance with current Norwegian law. Similar laws exist in several other European countries.</i> | |
| <i>To what extent do you agree or disagree that...</i> | |

Table 4. Survey experiment, wave 6: Support for LGBT asylum.

The experimental design of ex6 have similarities and differences with ex7. Both are split-ballots experiments, but the treatment added in ex6 is designed to give respondents zero/some/maximum information about the enforced laws on LGBT asylum in Norway. In each version of the question, respondents are – through the opening accounts – exposed to different amounts of information about the legal context of the phenomena of LGBT asylum seekers that apply for asylum in Norway. The first experiment group only gets this basic information, the second are provided with additional information telling that it is in accordance with current Norwegian law, and the last and third group gets maximum information adding that this is today practiced by law in both Norway *and* in several other European countries. The aim is to assess how the support for LGBT asylum seekers varies with giving increasingly more information about existing laws in Norway and legal practice in Europe. How will this treatment (provision of additional information) affect the support/opposition for LGBT asylum in Norway? Treatment effects will, like Kevin et al. explains, be measured by the difference in support, or lack thereof.²⁵⁸ In this experiment, the effects will measure the difference in support for the policy ensuring that this type of asylum applications should be a valid reason for asylum and protection in Norway. This design serves to identify the controlled direct treatment effect of the experimental manipulation. Additionally, whether the differences in support/opposition are statistically significant, determines whether this (possible) treatment effect is generalizable to the whole population.

Design of additional survey questions

In addition to the above-mentioned experiments, three regular survey questions, with a traditional ‘statement design’, were conducted in wave 6 of the survey. They measure citizens’ attitudes

²⁵⁸ Kevin J. Mullinix et al., “The Generalizability of Survey Experiments,” *Journal of Experimental Political Science* 2, no. 2 (Winter 2015): 113, doi:<http://dx.doi.org/pva.uib.no/10.1017/XPS.2015.19>.

towards the phenomena of LGBT asylum and LGBT asylum seekers coming to Norway, contributing to paint the larger picture, taking the previously discussed diffusion of LGBT rights and norms into account, as well as the opposition to immigration. These questions were designed in the same way as the experiments, presenting statements that respondents were asked to agree or disagree with, specifying their level on a bipolar *Likert scale*. However, here, the same questions were asked to the total sample ($N \approx 1200$), not dividing the sample into randomized, equal groups, as was done in the experiments. The two first questions aim at measuring support. While the first question (1qw6) measure general support for LGBT asylum in Norway, the second question (2qw6) tests respondents' attitudes towards the previously discussed "discretion requirement". The third and last question (3qw6) has a different take, aiming at measuring respondents' perceptions of LGBT asylum seekers credibility. This question is roughly framed as the one asked to one of the experimental groups in wave 7 (G1ex7).

| Additional questions wave 6 (qw6) | | |
|--|-------------|------------|
| <i>How much do you agree or disagree with the following statements:</i> | | |
| 1qw6 | Priority | $N = 1205$ |
| <i>Norway should prioritize accepting asylum seekers who are homosexual/ lesbian/bisexual/transgender because they are particularly vulnerable to maltreatment and discrimination in refugee camps in their neighboring countries.</i> | | |
| 2qw6 | Discretion | $N = 1198$ |
| <i>It should be possible to send asylum seekers who are homosexual/lesbian/bisexual/transgender back to their home countries if they can avoid persecution and discrimination there by hiding their orientation</i> | | |
| 3qw6 | Credibility | $N = 1202$ |
| <i>There is reason to believe that most of those who state sexual orientation as the reason they have left their home country and are seeking asylum in Norway are telling the truth.</i> | | |

Table 5. Survey questions, wave 6: Attitudes towards LGBT asylum (seekers).

For my theoretical expectations or hypotheses regarding these survey questions, concerning potentially explanatory independent variables (attitudinal and non-attitudinal), and hypothesized outcomes of the survey experiments, see section 3.5.1. The analysis is to be found in the introductory parts of the next chapter.

5. Findings and analysis: Queer asylum seekers – hard to refuse, hard to believe

This chapter will present findings from the analysis of quantitative data of Norwegian citizens' attitudes to LGBT asylum seekers, followed by the findings from analyzing the qualitative data from verdicts in LGBT asylum cases processed by the UDI and UNE. These two sections will both discuss outcomes and their possible explanations, based on developments, concepts and theories examined in the previous chapters. With regard to the quantitative analysis, all survey questions will be accounted for, but the key survey experiment concerning citizen's perceptions of groups of asylum seekers' credibility, will be especially highlighted. The full examination of the corpus of qualitative data, and corresponding encoding, is too big to present,²⁵⁹ but relevant excerpts and examples will be used to exemplify the patterns of argumentation uncovered in the analysis of the greater material. After the data is presented, an overarching analysis will be developed, reviewing the qualitative and quantitative findings in relation to each other. The chapter is structured as follows:

5.1 Norwegian citizens' perceptions of LGBT asylum seekers: *In favor – but in doubt*

5.1.1 Survey questions

5.1.2 Survey experiment ex6: Support

5.1.3 Survey experiment ex7: Credibility

5.1.4 Reflecting 'LGBT friendly' norms or restrictionist immigration politics?

5.2 UDI and UNE's perceptions of LGBT asylum seekers: *Prioritized – but disbelieved*

5.2.1 Distributions in the UDI/UNE sample

5.2.2 From discretion to disbelief?

5.2.3 Incredible and refused asylum: *The unreflected, ungay claimant*

5.2.4 Credible and granted asylum: *The reflected, persuasive claimant*

5.2.5 Reflecting 'LGBT friendly' norms or restrictionist immigration politics?

5.3 Overarching analysis: *Protecting borders or protecting queers?*

²⁵⁹ The body of verdict summaries, 361 pages, are not publically disclosed (Gustavsson, 2015). Moreover, they are in Norwegian. For the full coding scheme, see Appendix II. For a thorough discussion on the qualitative data material and its challenges and strengths, see section 4.2.1.

5.1 Norwegian citizens' perceptions of LGBT asylum seekers: *In favour – but in doubt*

Do Norwegian citizens' perceptions of LGBT asylum reflect "LGBT friendly" norms and/or restrictive immigration policy? From the context and theory laid out above, I have shown how LGBT rights and norms have proliferated and is now incorporated and institutionalized in the Norwegian society, and argued that this is likely to affect people's attitudes towards sexual minorities. Simultaneously, as discussed in the context chapter, and briefly referred to in the theory chapter, immigration has become a polarizing issue within Norwegian politics, especially with the government party the Progress Party (Frp), stalking out a restrictionist immigration policy in Norway. Moreover, most Norwegians are in favour of strict immigration policies, but prone to be more positive to individual immigrants.²⁶⁰

5.1.1 Survey questions

Three survey questions designed as traditional statements whereupon respondents could agree and disagree on a 7-point Likert Scale, were asked in wave 6 of the NCP survey. The first question measure citizens' support or disapproval to the idea that Norway should prioritize to accept LGBT asylum seekers because they are particularly vulnerable in refugee camps:

Norway should prioritize accepting asylum seekers who are homosexual/lesbian/bisexual/transgender because they are particularly vulnerable to maltreatment and discrimination in refugee camps in their neighbouring countries.

The second question measure (dis)approval of the "discretion requirement":

It should be possible to send asylum seekers who are homosexual/lesbian/bisexual/transgender back to their home countries if they can avoid persecution and discrimination there by hiding their orientation

The third question measure to what extent Norwegians find it reasonable to believe that those applicants claiming asylum due to persecution due to their sexual orientation:

There is reason to believe that most of those who state sexual orientation as the reason they have left their home country and are seeking asylum in Norway are telling the truth.

²⁶⁰ Aalberg, Iyengar, and Messing, "Who Is a 'Deserving' Immigrant?"

Attitudes towards and perceptions of LGBT asylum seekers

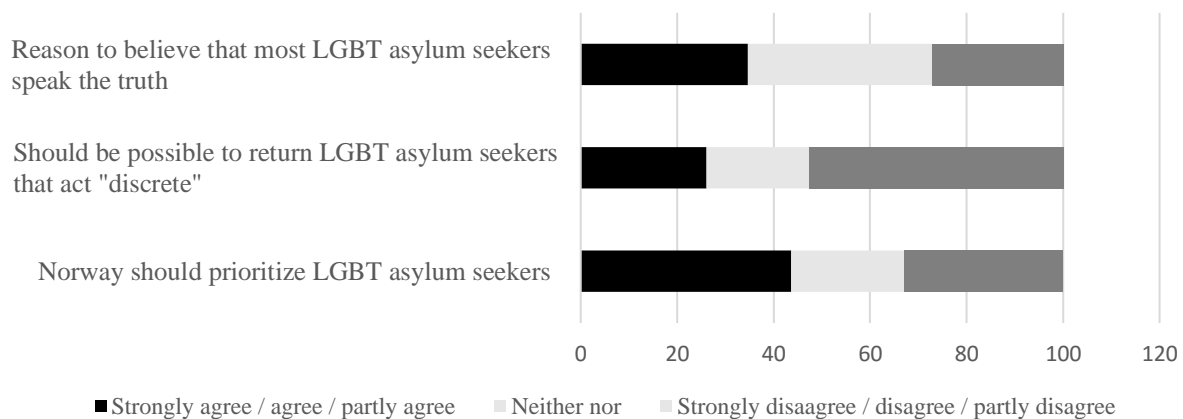


Figure 6. Attitudes towards and perceptions of LGBT asylum seekers. Support (1), "Discretion requirement" (2), Credibility (3). NCP wave 6.

Firstly, the shares of "neither nor" responses are strikingly large.²⁶¹ Between every fourth and fifth Norwegian citizen choose the middle alternative in the response to the two first questions regarding priority (23,4%) and discretion (21,2%), while the share of "neither nor" opinions increases to account close to 38,3% percent of the responses to the question of credibility. As discussed in the methods section 4.1.2, the middle alternative can be an "easy option" to choose for those who don't know, but don't want to admit that they don't have a meaning. Schuman and Presser (1996) do however argue that a middle alternative should be offered to avoid forcing people to take a stand and thus increase the likelihood of error or of exaggerated levels of "don't know" responses, which are normally coded as "missing data".²⁶² In this case, the large share of "neither nor" responses are interesting. This demonstrate, more than anything, Norwegian citizens' ambiguity to the phenomenon of LGBT asylum. It is furthermore, I argue, an indication of the previously discussed cross-pressure of citizens' approval of sexual minorities and immigration scepticism.

Regarding the first question, the relative majority of the respondents (43,7%) supported the idea that Norway should prioritize LGBT asylum seekers, and answered either partly agree, agree or strongly agree. The fact that these favourable options accounts for the plurality of respondents is in line with the prediction that "LGBT friendly" norms have proliferated in Norway and had a positive effect on people's attitudes towards sexual minorities. However, as discussed in the methods chapter (4.2.2), survey questions designed as statements run the risk of acquiescence responding, or "yeasaying", in which respondents simply agree with the statement put forward. Also, taking into consideration the general risk of social desirability bias in opinion surveys on sensitive or political topics, there is reason to believe that the positive responses might be inflated.

The picture is not uniform, however, as every third Norwegian oppose the idea of prioritizing LGBT asylum claimants that risk to become victim of discrimination and ill-treatment in refugee camps, while every fourth are in doubt. First, it must be stressed that this question touch upon an ongoing debate in the Norwegian political and medial landscape, where especially the two parties

²⁶¹ For tables with exact shares of responses (in percent), see Annex IV.

²⁶² Schuman and Presser, *Questions and Answers in Attitude Surveys*, 177.

in government (The Progress Party and The Conservative Party) advocate for “helping the refugees where they are”, while their opponents at the political left have expressed that the Norwegian state should take in more refugees due to the refugee crisis. The discussion about whether to give financial support directly to refugee camps in neighbouring countries or in the proximity of refugee ‘sending countries’ or to spend the money on reception and integration of refugees in Norway, is often generalizing and reducing refugees to one, uniform group. Some respondents may for the first time have reflected upon the possibility that the reason why queer refugees seek refuge in the first place, is still prevalent in refugee camps, when answering this survey question. Second – and equally importantly – taking into account that queer asylum is a relatively new phenomena and Norway processes few applications annually, this may be the first time that respondents hear of sexual minorities seeking refuge. This possibility should be taken into consideration in the evaluation of all survey questions and experiments.

The question asking respondents indirectly if they approve or disapprove of the “discretion requirement”, or whether they believe it should be possible to return LGBT asylum seekers if they could avoid persecutory risk by concealing their sexual orientation/gender identity, aggregates the highest levels of “disagree” responses. The majority of Norwegians (52,8%) oppose the former practice of the Norwegian immigration authorities. It is interesting, however, that so many are in disfavour without being given any information on the Norwegian Supreme Court’s repeal of “the discretion requirement” in 2012. The idea that someone could be forced to hide one’s sexual/gender identity is in other words now seen as alien by most citizens. Even though responses to this question also show great hesitation (21,2%), and also straight-forward support (26,1%), I argue that the majority of citizen’s opinions reflect “LGBT friendly” norms.

The question concerning the topic central to this thesis, credibility, do also uncover interesting findings. Respondents are extremely ambivalent or hesitant in their responses on whether they find it reasonable to believe that asylum applicants seeking asylum in Norway due to risk because of their sexual orientation or gender identity. First, it is indeed understandable that so many, close to 40%, choose the neither nor option, because it is a complex question. The middle alternative, as explained in the methods chapter, may hide many interesting mechanisms. Respondents may find it reasonable to believe some individual LGBT claimants, but not LGBT claimants generally, and they might go for the easy “neither nor” option because they 1) feel they don’t have sufficient information to agree or disagree or 2) are afraid of answering something politically incorrect (amongst other things). It is therefore interesting to compare respondents’ perceptions of LGBT asylum seekers’ credibility with other categories of asylum seekers. This will be tested below, in the elaboration of the survey experiment from wave 7 of the NCP. First, a brief examination of the theoretical expectations previously set forward, through a regression analysis of all three survey questions.

Taking the previously discussed diffusion of LGBT rights and norms into account, as well as the public opposition to immigration, I set forward some theoretical expectations in the preceding chapter. For one, I anticipated that most people would agree in the statement that Norway should prioritize to take in LGBT asylum seekers (‘priority’) and be in disfavour of the “discretion requirement” (‘discretion’). Moreover, I hypothesized that attitudinal (personal-political) predictors such as support for gay rights (“equal rights for homosexual and heterosexual couples”), association with a political party that advocates for LGBT rights, and support for cultural heterogeneity would increase the probability for support of LGBT asylum; the opposition to the discretion requirement; and the probability to believe that LGBT asylum seekers speak the truth. In contrast to this, I anticipated that those who sympathize with the Progress Party emphasize restrictionist immigration policies and are thus more prone to oppose LGBT asylum

and disbelieve those who claim that their sexual orientation is the reason for their asylum application ('credibility').

Table 6. Regression analysis of survey questions on LGBT asylum, wave 6.

| | (1) priority | (2) discretion | (3) credibility |
|---------------|----------------------|----------------------|----------------------|
| frplike | -0.114*** (-4.32) | -0.167*** (-5.99) | -0.133*** (-5.72) |
| diversity | 0.144*** (4.88) | 0.0767* (2.47) | 0.165*** (6.33) |
| gayrights | 0.250*** (9.35) | 0.214*** (7.58) | 0.0746** (3.15) |
| refugeerights | 0.217*** (7.93) | 0.208*** (7.21) | 0.191*** (7.92) |
| female | 0.385*** (4.74) | 0.225** (2.62) | 0.143* (1.99) |
| _cons | 1.341*** (5.75) | 2.617*** (10.63) | 2.621*** (12.72) |
| <i>N</i> | 1167 | 1161 | 1165 |

t statistics in parentheses

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

Table 6 demonstrate that with regards to the theoretical predications, the outlined attitudinal and personal-political variables have significantly statistical effects on all three survey questions. People who support gay rights and cultural diversity are more prone to be in favour of prioritizing LGBT asylum seekers, in disfavour of the "discretion requirement" ('diversity' $p < 0.05$, 'gay rights' $p < 0.001$), because positive coefficients indicate a stronger positivity bias to the idea of prioritizing queer asylum seekers, and a negativity bias to the idea of requiring LGBT asylum seekers to conceal their sexual identity.²⁶³ Those who support gay rights and multiculturalism are also more likely to find it reasonable to believe that LGBT refugee claimants credible. Moreover, there is strong statistical significance of the probability to be in disfavor of prioritizing LGBT asylum seekers, in favor of the "discretion requirement" and disbelieving LGBT refugee claimants, if the respondent say s/he like the Progress Party ('frplike' $p < 0.001$).

Regressions were also run with some non-attitudinal variables that normally are predictors for attitudes towards immigrants/immigration and homosexuals/sexual minorities. In line with previous research on individual attitudes towards sexual minorities and towards immigrants, women are more prone to be positive to both groups; in this survey, being female elicits higher levels of belief in LGBT asylum seekers ($p < 0.05$), increases disfavor to the "discretion requirement" ($p < 0.01$) and strongly increases support for prioritizing queer asylum seekers in risk of persecution in refugee camps ($p < 0.001$). Finally, and not puzzling, people who support that refugees "should have the same right to social security as Norwegians", are more likely to be

²⁶³ For 'Priority' and 'Credibility', the scale goes from 1="strongly disagree" to 7="strongly agree". For 'Discretion', the scale is reversed and goes from 1="strongly agree" to "strongly disagree".

in favor of a political priority of LGBT asylum seekers and find these asylum seekers credible, and in disfavor of the “discretion requirement”.

5.1.2 Survey experiment: Support

The survey experiment measuring peoples support of the notion of LGBT asylum provided the following questions text: “Some persons who seek asylum are granted a residence permit in Norway because they risk persecution in their home country due to their sexual orientation (homosexual/lesbian/bisexual) or gender identity (transgender). To what extent do you agree or disagree that risk of persecution because of sexual orientation or gender identity shall be a valid reason for being granted a residence permit in Norway?” One baseline group was given no additional information, a second group was told this practice was in accordance with current Norwegian law, and the third group was also told that “several similar laws exist in several European countries”.

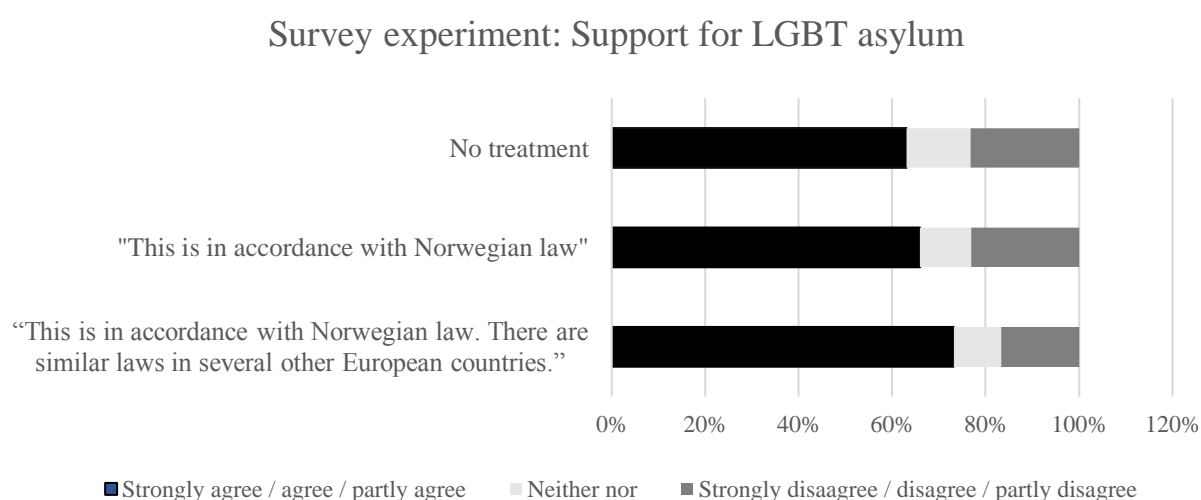


Figure 6. Survey experiment: support for LGBT asylum with treatment effects: information on legislation. NCP wave 6.

The survey experiment measuring Norwegian citizens’ support for the concept of queer asylum provides interesting findings. In sum, the majority in all groups are favorably inclined towards LGBT individuals being eligible for refugee status in Norway. Both experiment groups that were given additional information on LGBT asylum law in Norway and in Europe demonstrates an increase in support. The support increases from 63,1% (“agree” responses) to 66% when respondents are provided the information that “this is in accordance with current Norwegian law”, however, this effect was not statistically significant. When respondents also were given information that “there are similar laws in several other European countries”, the support rose to 73,2% and the treatment effect was statistically significant ($p < 0.05$). In line with previously discussed theory of same-sex legislation as “socializing actors”, the results show that support for LGBT asylum increases when respondents are given maximal information that this is within the scope of both Norwegian and European law. This respect for laws in general and same-sex laws specifically, is in line with norm diffusion theory.

5.1.3 Survey experiment: Credibility

The survey experiment measuring people's perceptions of the (in)credibility of LGBT asylum seekers, ask whether there is reason to believe that most speak the truth about the reason why they have left their country of origin and seek asylum in Norway. Four groups are compared: one base line group (asylum seekers in general) and three specific subgroups of asylum seekers.

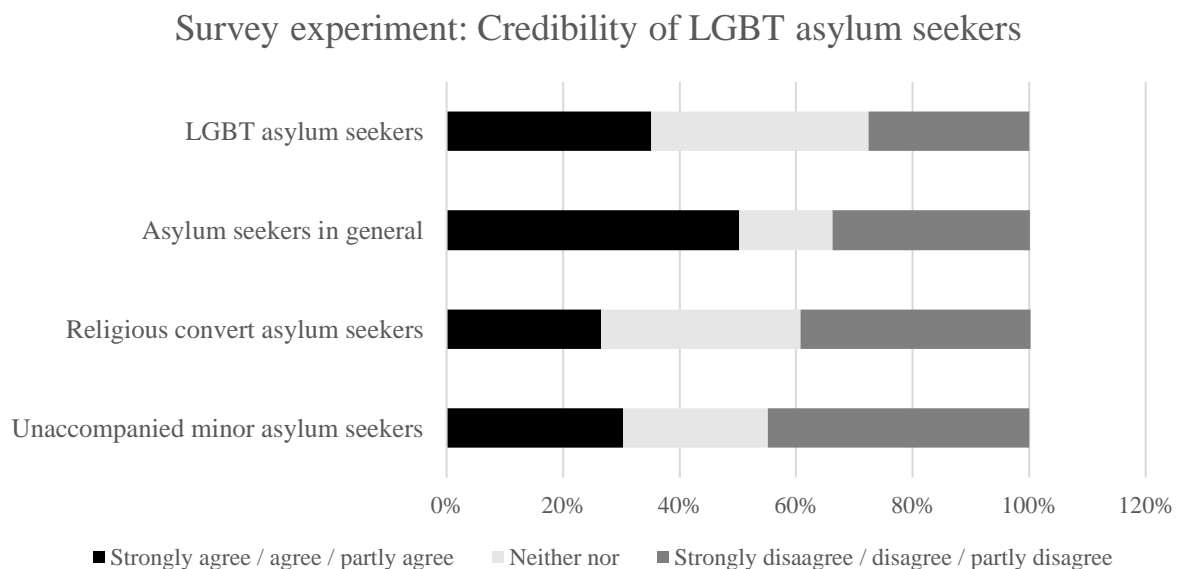


Figure 7. Survey experiment: Perceived credibility of LGBT asylum seekers compared to other groups. NCP wave 7.

The survey experiment from round 7 of the NCP provides several interesting findings comparing different groups of asylum seekers against each other. Interestingly, Norwegian citizens' perceptions of LGBT asylum seekers, asylum seekers in general, religious convert asylum seekers and unaccompanied minor asylum seekers, are divergent.²⁶⁴ The findings show clearly that half of the population (50,2%) are favourably inclined towards the statement saying there is reason to believe asylum seekers in general. Compared to the three more specific groups, these are high levels. This finding was not anticipated – rather, I expected Norwegians to be more sceptical towards general asylum seekers credibility overall, due to the political and medial climate, questioning asylum seekers' intentions and regularly framing them as “economic migrants” as opposed to “genuine refugee claimants”. However, 33,8% do not find it reasonable to believe that asylum seekers in general are truthful about their claim, so the picture is not solely positive for general applicants neither. The share of middle option responses is relatively small, as 16,1% answers they neither agree nor disagree to the statement concerning general asylum seekers' credibility.

When the question is narrowed to the specific groups, however, the levels of “neither nor” responses are very high. This may be because most people have made up their mind on what they think about asylum seekers in general – whether they are trustworthy and genuine or not – while

²⁶⁴ The mean value in group 1 (LGBT asylum seekers) and 2 (Asylum seekers in general) – despite very different dispersal in responses of the two groups – are statistically significant from group 3 (religious converts) and 4 (unaccompanied minors). The test of statistical significance is to be found in Appendix IV.

people do not, maybe, have any perception of the subgroups of refugee claimants asked about in the study. Do “everybody” have a general perception of asylum seekers, and whether they are credible or not, while people do not have a specific perception of LGBT/unaccompanied minor/religious convert asylum seekers? Moreover, due to the polarized topic of immigration, the “agree” responses might indicate an ideological response from people who are in favour of immigration generally. If a respondent which is in favour of a liberal asylum policy instinctively answer “strongly agree” on the question whether there is reason to believe that asylum seekers in general speak the truth, she may come to a halt when presented to a specific asylum seeker that *can*, apparently, lie about his reason for refugee claim.

LGBT asylum seekers are the category that make Norwegians hesitate the most. This is interesting, because as we saw in the responses from the survey questions in round 6, on whether it is reasonable to believe that LGBT asylum seekers speak the truth, that the levels were about the same: 38,3% in wave 6 and 37,3% in the experiment of wave 7. However, it is not before we do the experiment that we can see that LGBT refugee claimants make more people ambivalent when judging the likelihood of (in)credibility. The middle alternative can, as previously problematized, cover several distinguishable phenomena.²⁶⁵ It may, for example, indicate that people have little knowledge of the phenomena, or interest in it. While unaccompanied minor asylum seekers have been a politicized topic for political debate in Norway the last year(s), fewer respondents (24,9%) answer “neither nor” when asked about unaccompanied minors’ credibility, while the more unfamiliar refugee categories of religious converts and LGBT asylum seekers make people more ambivalent (34,2% and 37,3% respectively).

A highly interesting finding lies in the “disagree” responses, referring to those who answer that they *disagree* to the statement that there is reason to believe the specific group of asylum seekers speak the truth about their reason for claiming refugee status. In other words; those who find it unreasonable to believe the claimant is credible. As stated in the theory chapter, I anticipated that citizens are more likely to express disbelief in asylum seekers in general, as well as in religious converts and unaccompanied minors. This is found to be true, as less people seem to perceive LGBT asylum seekers as likely to be incredible or dishonest. Moreover, the difference between those who disbelieve LGBT asylum seekers (27,6%) is statistically significant from those who disbelieve religious converts (39,6%) and unaccompanied minors (44,8%).²⁶⁶ This shows that asylum seekers claiming to be under the age of 18 is the group that most people express disbelief towards. This high share should be seen in relation to politicised debates in the Norwegian media concerning how unaccompanied minors can, and are accused of having, lied about their age.²⁶⁷

The reason why more people are cautious to disbelieve that LGBT asylum seekers lie about their reason for refugee (sexuality/gender identity) is not easy to uncover. In light of the reviewed theory, one possible explanation can be that Norwegians link sexuality closely with identity, believe sexual identity and gender identity is immutable and inherent, and not a matter of choice. Maybe Norwegian citizens’ perceive lying about one’s sexual/gender identity more difficult than lying about one’s religion or age? In line with the theories of homonormativity,

²⁶⁵ Schuman and Presser, *Questions and Answers in Attitude Surveys*, 168–69.

²⁶⁶ This was found by isolating the “disagree” responses in all four groups and compare the difference by calculation the adjusted predications of margins, and the Stata output can be found in Appendix IV. The difference in levels of “disbeilievers” between group 1 (LGBT asylum seekers) and group 2 (general asylum seekers), however, is not statistically significant.

²⁶⁷ Per Anders Johansen and Olga Stokke, “UDI: Ni Av Ti Eldre Enn de Hevdet,” *Aftenposten*, accessed April 9, 2017, <http://www.aftenposten.no/article/ap-257837b.html>; Rolf J. Widerøe, “En Av Tre Mindreårige Asylsøkere Som Alderstestes Er over 18 År,” *VG*, accessed April 9, 2017, <http://www.vg.no/a/23547330>.

homonationalism and the geopolitical mapping of homophobia, there may be reason to believe that it is difficult for someone that comes from a “homophobic country” to lie about something like one’s sexuality, since it relates to shame and taboo to be a sexual minority where same-sex conduct is criminalized. Further, in line with several Norwegian media clips, people may think it is less difficult, or rather easy, to lie about one’s age, since there is not the same stigma connected to this. Lastly, another possible explanation of the significantly lower levels of respondents saying there is reason to disbelieve LGBT asylum seekers, may be an effect of “LGBT friendly” norms combined with social desirability bias; people are more afraid of “saying the wrong thing” and express scepticism to sexual minority refugees than to other refugees. Adding support for immigration control to the equation, may increase the temptations to answer the middle alternative. The survey data do not give answers to these questions behind citizens’ less sceptical view of LGBT asylum seekers credibility, compared to unaccompanied minors and religious converts asylum seekers, but this could be a starting point for further research.

5.1.4 Norwegian citizens: Reflecting ‘LGBT friendly’ norms or restrictionist immigration policies?

The responses from the three survey questions paint the larger picture of Norwegian attitudes towards and perceptions of LGBT asylum seekers. I argue that the findings indicate that the progressive same-sex legislation that Norway have adopted in recent years (see section 2.3 and 3.2) have indeed worked as “socializing agents” – not only in people’s views on sexual minorities in general, but also on people’s views on the phenomenon of LGBT asylum specifically. Accordingly, there is reason to believe the socializing effect of “LGBT friendly” norms have positive influence on perceptions of sexual minorities also when the politicized issue of asylum is added to the equation. Moreover, Norwegians perceive LGBT asylum seekers as less incredible, dishonest or untrustworthy than two other groups of asylum seekers also facing additional constraints in proving the credibility of their asylum claim; unaccompanied minors and religious convert asylum seekers. For many respondents, though, it may be the first time that they’ve heard of queer asylum seekers, and this should be kept in mind for the further analysis.

In order to answer research question 1 (i), whether Norwegian citizens’ perceptions of LGBT asylum seekers reflect “LGBT friendly” norms or restrictive immigration policies, the answer is complex, and I argue that both trends are reflected. However, as one of the theoretical anticipations put forward, the cross-pressure that people are under, turns out in aggregated levels of “neither nor” responses. It is also interesting to point at the effect of information about legislation, which is statistically significant when respondents are told that LGBT asylum policy is within the scope of both Norwegian and European law, and increase peoples support for the concept of queer asylum. Further interpretation of the findings is developed in section 5.3, where the quantitative survey data is reviewed in relation to the qualitative data in an overarching analysis.

5.2 UDI and UNE's perceptions of LGBT asylum seekers: *Prioritized – but disbelieved*

5.2.1 Distributions in the UDI/UNE sample

Of the 187 verdicts comprised in the sample, 62 were granted asylum claims and 125 were refused applications. Based on the analysis conducted in this study, 93 of the refusals (74%) were due to incredibility of the claimant's alleged sexual/gender identity and membership to the particular social group of a sexual minority (hereafter 'incredibility'). The remaining 32 refusals (26%) were based on the case-worker's judgement that the claimant lacked a well-founded fear of persecution (hereafter 'risk').

An overwhelming majority of the cases, 75%, were refugee claims based on gay sexual orientation/identity. Asylum applications filed by lesbian claimants accounted for 13%, bisexual refugee claims counted for 5% and transgender claims only for 1% (1 case). Moreover, 6% of the cases referred to "imputed gay identity" where the applicant do not claim to be a sexual minority but claim nevertheless to be in risk of persecution due to previous or potential persecutors incorrectly believing the claimant is gay.

With regards to where the claimants' originate from, the data material did not contain information of the country of origin, only region. The dispersal of the claimants' region, however, demonstrate that the vast majority come from Eastern and Western Africa, with notably 75 and 68 cases each throughout the demarcated period. The third largest group came from the Middle east, with 20 applications. Moreover, based on information accessed directly from the department of statistics in the UDI, I assembled the information of the number of applications based on country of origin, per year. A 2011-2016 overview of the annual number of applications per citizenship, including information on whether the application was successful or not, is provided in Annex I. For these numbers, it becomes clear that the main 'sending countries' have been Uganda and Nigeria, where the latter country have a particularly high refusal rate (see Annex I).

5.2.2 From discretion to disbelief?

As previously discussed, the 2012 Supreme Court ruling imposed legal constraint on Norwegian immigration authorities when the discretion requirement was abolished. The immigration institutions seemingly found a new tool to steer clear of an escalation in the granted application rate; refusal based on the applicant's lack of credibility. UDI and UNE do find 50% of all the applicants in the sample incredible. This accounts for 74% of the refusals. In 2013, incredibility-founded refusals in the sample accounted for 44 % of all applications processed, and 74 % of the refusals. Furthermore, in 2014, refusals due to lack of credibility rose to 66% of the total number of cases, and accounted for 81% of the refusals that very year. The overarching, quantified picture of the LGBT verdict sample does thus indicate a shift in argumentation "from discretion to disbelief", in Jenni Millbank's (2009) terms. As explored in the contextual chapter (2.4), Millbank's findings after examining court cases in Australia and the UK before and after the legal abolition of the "discretion requirement", showed that case-workers disbelieved LGBT asylum seekers more often after the possibility of demanding the applicant to conceal his/her sexual/gender identity, was ruled out. This is congruent with the findings of this analysis of the

Norwegian case as well, where refusals based on risk went down, and refusals based on credibility, went up after the 2012 Supreme Court ruling (see figure below).

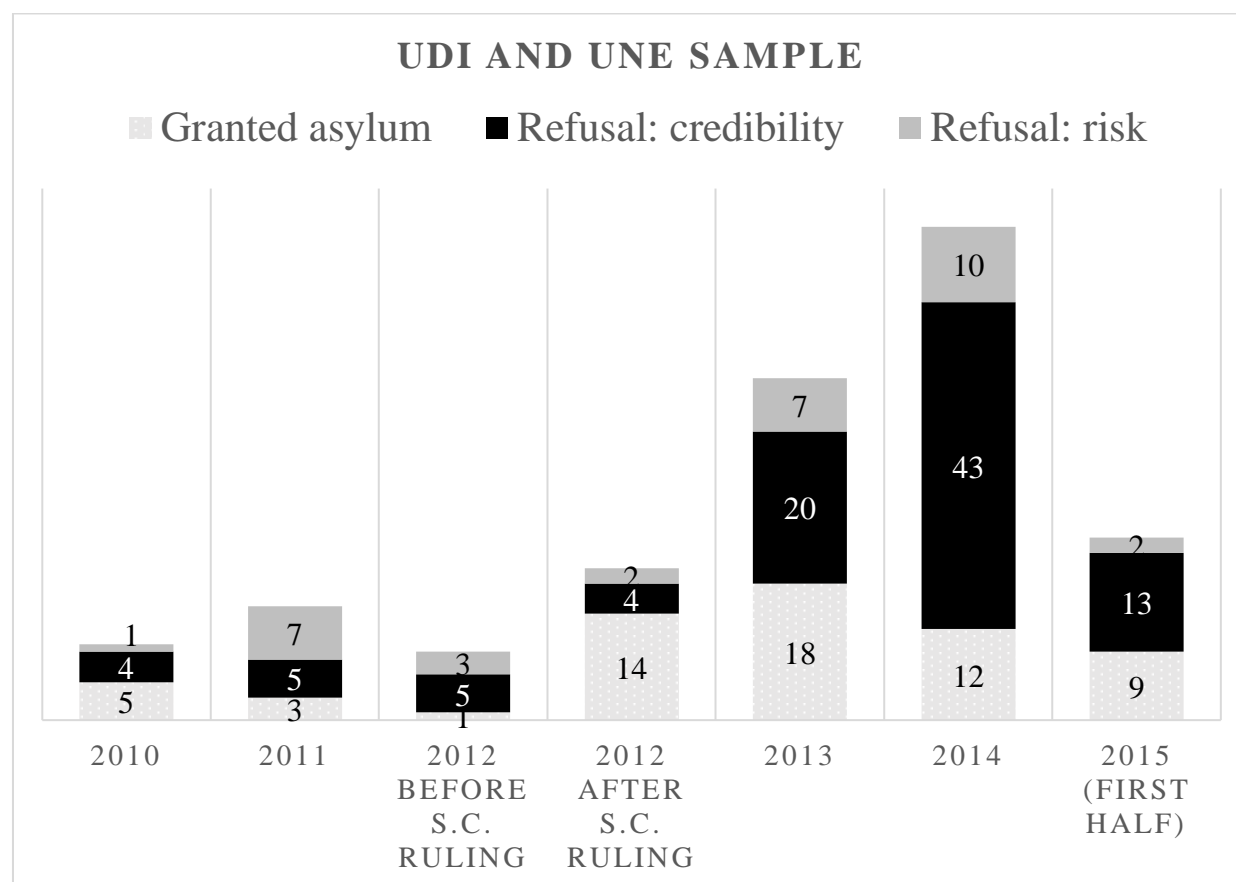


Figure 8. UDI/UNE case verdict sample 2010-2015 (first half). Year/final decision on application. Dark blue: Granted asylum claims. Light blue bars: Refusals due to incredibility. Green bars: Refusals due to risk. 2012 divided in before and after the 2012 Supreme Court Ruling.

However, it would perhaps be insufficient to describe it solely as a shift from discretion to disbelief; some asylum claims post 2012 are still refused due to lack of risk, and the rate of granted claims increased in 2012 and 2013. This means that more LGBT asylum seekers are recognized and granted protecting after the Supreme Court ruling, and some of those who are refused, are still returned to their country of origin with the expectation that persecutory risk is not likely due to the applicant's (voluntary) discretion; a topic that should be researched further. Nevertheless – the most marked change is the shift in argumentation from lack of risk to lack of credibility or from “discretion to disbelief” in Millbank's words.

5.2.3 Incredible and refused asylum: The unreflected, ungay claimant

In the refusals based on the applicant's incredibility, the immigration case-worker typically finds that “the applicant's statement, including his/her claimed sexual orientation, is not made sufficiently substantiated, and thus will his/her claims not be considered in the judicial review of the application.” However, in addition to this general, templated statement that appears in all

incredibility-based verdicts, supplementary explanatory arguments are provided to substantiate the immigration officer's final judgement. The most common argumentation is based on "Inconsistency" (69 cases), "Overall lack of credibility" (64 cases), "Low level of reflection" (57 cases), "Implausibility (internal and external)" (38 and 61 cases), "Lack of details or memory" (51 cases), "(Unlikely) risky behaviour" (30 cases), "Irrational or odd explanation or behaviour" (48 cases), "Sexualized/stereotyped narrative" (35 cases), "Lack of/unreliable evidence" (22 cases), "Vague, evasive or generalized answers" (46 cases) and "Lack of knowledge of LGBT organizations/persons in the country of origin" (36 cases). Some of these will be elaborated on below, and analysed in light of the previous reviewed theory, followed by a short examination of the uncovered arguments, in granted asylum cases.

Inconsistency and implausibility

As explained in the theory chapter (section 3.3.1) Macklin (1998) describes inconsistency and implausibility as two of the main 'markers of credibility' in asylum credibility assessments in general. This is also true for queer asylum cases, as argumentation linked to these two indicators, where the most frequent reasons why a claim was unsuccessful. However, it becomes clear from the analysis of case verdicts that the immigration officer's perceptions of inconsistency and implausibility often is highly normative and subjective, and should be seen in light of the previously discussed aspect that sexual identity in the West is essentially seen as immutable and inherent, defined by Western identity categories, and that identity is prioritized over conduct when sexuality is constructed.

Some of the immigrant officer's arguments that were based *inconsistencies* in the claimant's story were linked to more general shortcomings, for example connected to contradictions concerning the travel to Europe and Norway or flaws in the overall asylum claim, like disputed citizenship or lack of identity documents. Several of the argument were however specifically linked to sexuality, previous relationships or sexuality-based persecution. Moreover, in many of the cases that were refused because of this, the aspect of time was central. In Case 23, the UDI argue that "*the applicant has given inconsistent explanations about key episodes that allegedly occurred. This includes the point in time when the rumor about the applicant being gay, was spread. Furthermore (...) the applicant explains itself contradictory about how long he and his first boyfriend were together.*" It can be argued that defining an exact time of when a rumor about oneself started to spread, or the exact start date for a romantic and/or sexual relationship, can be difficult to define, or even to know, precisely. Moreover, in several of the examples found in the analysis, the immigration officer focus on details, like in case 73 where UNE "*notes that the appellant alleges to have moved to a relative the same day he heard that his boyfriend was arrested. This is in contradiction with his explanation in the asylum interview, where it was stated that it took two [more] days before the applicant received this information. UNE finds it striking that this information was first made known in the appeal.*"

The asylum narratives that were disbelieved because immigration authorities found them to be *implausible* reflect several interesting aspects which were discussed in the theory chapter. In several of the 61 cases where aspects of external implausibility were decisive, the immigration officer's argumentation is tied up to information about the country of origin. This is not limited to asylum claims based on sexual orientation and gender identity,²⁶⁸ but in these cases, the notion

²⁶⁸ Baillot, Cowan, and Munro, "Reason to Disbelieve," 134.

of homonationalism and the geographical mapping of homophobia is added to the credibility assessment. An example is Case 9, where the immigration officer argues that “*According UDI’s country of origin information, gays are very cautious to tell others that they are homosexual due to possible consequences. UDI therefore believes that it is both unlikely that the applicant ‘turned gay’ the way he describes, and that he seduced his boyfriends without knowing that they were gays.*”

Country of origin information, which Thomas (2006) disputes can ever be “objective”, is a debated issue in the field of asylum in general.²⁶⁹ In LGB it seems like the notion of what we can know and don’t know about a country’s social and cultural practices, become even more complex in the issue of sexual identities. In the case where the excerpt above stems from, the UDI officer has an apparent perception of how flirting or romantic/sexual encounters work (and don’t work) in “a homophobic country”, and what the claimant would and would likely not do. In relation to the previously reviewed theory, this seems like a combination of the concept of homonationalism, where states are geopolitically mapped as “gay friendly” versus “homophobic”, and the fallacy that Macklin (1998) calls “the trap of false confidence” – that we think we know if something occurred and why it occurred. In this case, and I several other verdicts, the immigration officer base his/her arguments on the notion of knowing if and why something *didn’t* occur. This is closely linked to the next node of argumentation, to be explained below.

Unlikely risky behavior

A relatively recurring argument (30 cases) concerns the applicant’s former acts and decisions which is found to be incredible because, according to the immigration officer, they do seem too risky or irrational to be true. This is linked to the above-mentioned external implausibility, which reflect immigration officers’ perceptions of what is normal and abnormal behaviour in the applicant’s country of origin. Behaviour seen as “irrational” or “risky” may be kissing, touching, holding hands or being intimate in public. However, there are also examples where the case-worker have found the applicant’s story less trustworthy due to other, non-intimate action such as talking, approaching other LGBT individuals, disclosing one’s sexual orientation to strangers or acquaintances, or introducing one’s partner to family members or taking the partner home.

Several of these cases were appealed, and subsequently handled by UNE, who in most cases upheld or reinforced the argumentation put forward by the UDI. This UDI verdict from 2013, upheld in the appeals board by UNE in 2014 (twice), demonstrates the reasoning connected to the perceived situation in the country of origin and open, (possibly) visible intimate actions:

UDI does also finds it strange that the applicant on the one side paints a picture of the home country as a country where homosexuality is taboo, with grave reactions for homosexuals, and simultaneously has sex openly on an open beach in the home country. The applicant claiming that he did exactly this, shows how little he knows about the situation for homosexuals in his home country, something that adds on in debilitating the credibility of his claim being gay.

²⁶⁹ For example, Singer (2014) argue that country of origin information concerning gender-based persecution and the treatment of women is harder to access than other information about for example political, ethnic or religious persecution. I argue that this there is reason to believe that this is also the case for sexual minorities. Deborah Singer, “Failing at Each Hurdle: Assessing the Credibility of Women’s Asylum Claims in Europe,” in *Gender in Refugee Law. From the Margins to the Centre*, ed. Efrat Arbel, Catherine Dauvergne, and Jenni Millbank (Routledge, 2014), 98–115.

Moreover, it should be seen in light of homonationalism, which has been discussed several places throughout this thesis (see section 3.2.1). Several of the verdicts containing this argumentation, seems to reflect immigration officers' perceptions of 'homophobic countries' versus 'LGBT friendly countries', which reinforces the distinction between 'us' and 'them'. In combination with the mechanisms of the credibility assessment.

The argumentation in these verdicts are based on the implausibility of *two types* of "risky decisions", internal and external. Firstly, the irrational or risky conduct can have been performed by the applicant – for example by staying in a relationship *despite* risk of getting caught or *despite* criminalization of same-sex conduct in the country of origin. The analysis provides examples of "irrational" and "unlikely" decisions like settling in a part of country where sexual minorities are frequently targeted, or to "continue to live out" one's sexual orientation despite previously attacks on queer individuals in general or the applicant specifically, or the "risky move" to get involved in a relation with someone very shortly after one owns self-disclosure as LGBT or without knowing much about the new partner's sexual/gender identity. However, in most of these arguments, the immigration officer questions the applicant's risky decisions on being intimate in an outdoor or public space. The credibility of the applicant's story is debilitated because LGBT individuals and communities are in potential risk in the country of origin, and accordingly it would be irrational to act openly and not discreet. This type of argumentation may look like a transformation of the "discretion requirement" that fits the 'post discretion context'. Instead of returning an applicant back to a closeted life in his/her country, the applicant is rejected because an applicant tells an 'incredible story' that the immigration officer, in relation to the country of origin information available, don't find plausible.

However, there are also examples of the immigration case-worker finding something implausible or unlikely due to "irrational decisions" made by other actors than the applicant him/herself. This is clearly illustrated by a decision made by the UDI in 2010, and supported by UNE in 2013. Here, the applicant claimed he was victim to rape, which was dismissed by the immigration institutions reviewing the application:

It is pointed out that the way the applicant has explained how he was forced to have sexual relations [by the applicant referred to as rape] with other men appear to be incredible as this would have entailed great risk for the men as they could risk to be revealed themselves. Further on, the applicant explains that it was one of the men who gossiped about what had happened. UDI believes that this also appears to be unlikely.

In sum, the argumentation of something being unlikely due to a "too risky, and thus implausible, behavior" is based on an anticipation of humans being hundred percent rational, not acting in a way that could put oneself in risk. This way of perceiving humans as rational actors is in line with classical economic cost-benefit argumentation. However, several acts made by human beings are not founded in such a rational tradeoff – especially sexually aspects, which are often marked impulsivity, attraction, affection and irrationality. Moreover, such behavior is maybe not even 'irrational' considering that in countries where same-sex conduct is criminalized, there may exist few or no arenas for LGBT individuals to meet or have intimate relations.

It may also be argued that the argumentation of the applicant's incredibility due to "too risky behavior" is paradoxical because the applicant's comportment and its consequences (e.g. getting busted) may in fact be the mere reason for the flight and request for asylum. Moreover, if you have not been openly gay before arriving Norway, and have no experiences to refer to, and no vocabulary to use, there is a risk for being disbelieved as well. Gaucher and DeGagne has

described this “Catch 22” situation queer asylum cases in Canada. There, immigration officers come to the conclusion that “one’s sexual orientation is only genuine if desires are acted upon and/or if the individual is “out” to their family, friends, and community” – but simultaneously if one is “too out” or “too open”, there is reason to disbelieve that it is true.²⁷⁰

Low level of reflection

One of the most common arguments in incredibility-founded refusals, is the applicant’s incapability of reflecting upon his/her sexual orientation or gender identity, according to UDI and UNE case-workers. The claimant’s “low level of reflection” is a line of argumentation in 61% of the refusals based on credibility.

The standard phrase or template expressed in these verdicts goes as follows: “UDI/UNE believes the applicant provides few reflections and have little awareness of his/her--- sexual orientation/identity” or “UDI/UNE believes that the applicant fails to substantiate a personal ‘recognition process’”. This process of ‘recognition’ refers to a self-disclosing ‘coming out process’, which in these cases the applicant fails to substantiate, according to the UDI or UNE. The immigration officer often highlights that the applicant fails to reflect upon what it really *means* to have a non-normative sexual/gender identity or what *feelings* and *thoughts* s/he got when “realizing” s/he was a sexual minority.

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UDI also believes that the applicant provides few reflections about, and is not very aware of, his own sexual orientation. When the applicant is telling about the process he went through when he realized that he was gay, the applicant answers "in fact there was no process really". The applicant presents his awareness of his own sexual orientation as very simple and almost trivial. In the light of homosexuality being illegal in the applicant's country of origin and associated with strong taboo, UDI argues that a person who has acknowledged his sexual orientation for several years should be able to say more about this than simply that one at some point understands that one do not have feelings for the opposite sex. (...) It is pointed to the applicant stating he was unsure of his [sexual] identity as a teenager, and he was an adult before he became sure of his true sexual orientation. UDI believes that a person who has lived with the uncertainty concerning his own identity for so many years should be able to say more about this than what the applicant abilities in the asylum interview. (...) The applicant tells very little about how his sexual orientation has affected his life and what thoughts and reflections he has had concerning his uncertainty about his sexual orientation.

Firstly, it becomes clear that the UDI case-worker perceives the applicant’s reflection on what it means to be a sexual minority, as insufficient. The applicant describing his self-disclosing

²⁷⁰ Gaucher and DeGagne, “Guilty Until Proven Prosecuted,” 463.

process as “not a process really”, lacking a “coming out” in line with Cass’ model,²⁷¹ is found to be too simple and trivial. This argumentation appears in several other cases, like in verdict number 66, where the immigration officer similarly argues that “the applicant presents his awareness of his own sexual identity as very simple and almost trifling”. This demonstrates immigration officers’ presumption of a streamlined coming out process, the applicant’s capability to “see him/herself from outside” and reflecting upon one self’s sexual/gender identity, carefully considering the *severity* of the context.

This aspect of place and context should be seen in relation to the previously discussed concepts of homonationalism and geopolitical mapping of homophobia in section 3.2.1.²⁷² The verdict judgement argues that since the applicant has lived in a homophobic society, and been aware of his/her sexual identity, the applicant should have reflected upon how it is like to have a non-normative sexual/gender identity and be able to convey these contemplations to the immigration officers during the asylum interview. When the asylum seeker is found to “say too little” or are “too laconic”²⁷³, or answer questions in a vague or evasive manner, the immigration officer is more likely to perceive the claimant as incredible.

Lastly, UDI’s argumentation is closely linked to the aspect of time. This is a pattern in several cases, where the immigration officer argues that if the applicant self-disclosed his/her sexual orientation several years ago, the applicant should have reflected upon this and be able to talk about it in an eloquent manner during the asylum interview. This anticipation involves both an expectation of *internal* reflection in line with Cass’ (1979) linear “identity formation” or “coming out process”.²⁷⁴ The anticipation also reflects an expectation of *external* contemplation of disclosure of sexual/gender identity, involving the application of LGBTQI terms like ‘gay’, ‘bisexual’, ‘lesbian’ etc. A point for further research should be what class, background, level of education etc. is decisive for being successful in a queer asylum claim. Murray (2014) has raised the same question in the case of Canada, where he argues that “The ‘authentic LGBT identity’ reinforces the invidious distinction made between migrants in migration policies... This results in the granting of citizenship to preferred subjects bearing particular, valorised combinations of race, gender, class and sexuality.”²⁷⁵

5.2.4 Credible and granted asylum claims: *The reflected, eloquent, persuasive queer*

All of the granted asylum claims have in common that the applicant is believed to have a well-founded fear of persecution in the country of origin, as a consequence of being a sexual minority. Some of the successful cases reflect only aspects connected to risk, indicating that the applicant’s claim is found to be fundamentally credible and that the case-worker accordingly have moved forward to the risk assessment, in line with the step-by-step method adopted after the 2012 Supreme Court ruling (described in section 2.4). Some of these cases focus on the applicants claimed experiences of harassment, or persecution, while other cases are successful because the

²⁷¹ Middlekoop, “Normativity and Credibility of Sexual Orientation in Asylum Decision Making,” 162.

²⁷² Puar, “Rethinking Homonationalism”; Gunkel, “Some Reflections on Postcolonial Homophobia, Local Interventions, and LGBTI Solidarity Online”; Jung, “Logics of Citizenship and Violence of Rights”; Murray, “Real Queer”; Gaucher and DeGagne, “Guilty Until Proven Prosecuted.”

²⁷³ Ibid., p. 137-38

²⁷⁴ Middlekoop, “Normativity and Credibility of Sexual Orientation in Asylum Decision Making,” 161.

²⁷⁵ Murray, “Real Queer,” 25.

immigration officer, based on country of origin information, concludes that a so-called internal relocation upon return would not be possible.

Exactly which questions the applicants are asked about self-disclosure, we cannot know as the “question guide” immigration officers use as a point of departure for the asylum interviews, is exempt from public. Still, the verdicts reflect some topics that are likely to be discussed in the asylum interview with the UDI. From the analysis of verdict summaries, I argue that there is reason to believe applicants are asked about *when* s/he self-disclosed as a sexual minority and *what* thoughts and reflections this provoked. Moreover, the claimant is also asked about how s/he would live and act (as a sexual minority) upon an *eventual return* to the country of origin. 35 of the successful claims, all of them processed after the 2012 Supreme Court ruling, contain information on the applicant answering that s/he would, upon return, be discreet and hide his/her sexuality due to fear persecution. Lastly, what seems to have been a recurring topic in most successful asylum claims, are what thoughts and feelings the applicant expresses when describing how it has been to live in an *environment where sexual minorities risk persecution*.

Although the verdict summaries of the granted asylum claims are not as equally rich in details and arguments as their incredible counterpart, the majority of cases contain interesting data on immigration officers’ perceptions of “the credible claimant”. Applicants that are found to be credible by UDI and UNE are in many ways perceived to be opposite to the ones deemed incredible; the claimant has a consistent, plausible story, which is unexaggerated, not excessively focused on sexual conduct, but nevertheless rich in detail, especially on emotions. Some of the asylum claims found to be credible, highlight the applicant’s convincing knowledge of LGBT organizations or information about laws criminalizing same-sex conduct. In other cases, the immigration officer take into consideration that the applicant is an active member of the LGBT community in Norway, or that s/he in some way is “visibly LGBT” according to the immigration officer. Importantly, credible applicants are described as highly capable to talk about, and reflect upon, their own sexual identity. Ideally, this would involve an account of the applicant’s “coming out” process, however, not necessarily completely linear and stepwise as Cass (1979) model, as Middlekoop describes it.²⁷⁶ One illustrative example is from a UDI case verdict from 2014, where the immigrant officer argues that the claimant “narrates in adequate words his self-disclosure and his feeling of otherness. It also appears that it took a couple of years from his self-disclosure until he had his first boyfriend, unlike many others who “comes out” along with physical experiences”.

Interestingly, the analysis of the 187 verdict summaries show that references to the applicant’s capability to “reflect upon” his or her sexual orientation is only present in one single case prior to the 2012 Supreme Court ruling. However, following the repeal of the discretion requirement as we know it, and the subsequent increase in incredibility-based refusals, the focus amplified on the claimant’s aptitude of reflection, coded in totally 26 cases. Analysis show that in successful claims, the immigrant officer perceives the asylum applicant convincing in his/her reflections on what it implies to be a sexual minority and how it felt like to live in a homophobic society. The case verdicts show an emphasis on the applicant’s *feelings* in 21 of the cases, whereupon in 7 of them, the immigration officer take explicitly note of the applicant’s reflections on “otherness”, taboo and feelings of shame. This is consistent with Akin (2015) findings from semi-structured interviews of UDI case-workers, however, it is worth to underline that the issue of feelings was not the main point highlighted in the case verdicts.²⁷⁷ The most pertinent argumentation in the

²⁷⁶ Middlekoop, “Normativity and Credibility of Sexual Orientation in Asylum Decision Making,” 161.

²⁷⁷ Akin, “Assessing Sexual Orientation- Based Persecution A Closer Look at the Norwegian Practices of Asylum Evaluation of Gay and Lesbian Claimants.”

successful claims, were the cases where the immigration officer stated that the claimant was given the benefit of the doubt – despite certain inconsistencies or points of implausibility.

5.2.5 UDI and UNE: Reflecting ‘LGBT friendly’ norms or restrictionist immigration policies?

How do Norwegian immigration officers in first-instance and appellate institutions perceive LGBT asylum seekers and the (in)credibility of their claim? In sum, Norwegian immigration officers are of the belief that credible LGBT refugee claimants, should be granted asylum – in accordance with Norwegian law and EU law and directives. However, incredible applicants should not. UDI and UNE do find 50% of all the applications in the sample incredible. This accounts for 74% of the refusals. Applicants that are rejected are argued to have a low capability to reflect upon his/her sexual identity or fail to substantiate a personal, detailed and reflected story of self-disclosure/identification, are perceived as bogus and accordingly disbelieved.

Immigration officer’s judgements reflect restrictive immigration policies in the sense that Millbank’s (2009) description of a shift in argumentation “from discretion to disbelief” seems applicable after the 2012 Supreme Court ruling. In order to safeguard Norwegian borders, avoid exploitation of the asylum system and not give refugee status to “anyone who claim to be gay”, immigration authorities use the tool of incredibility instead for “discretion” to reject claimants. In addition to being under this legal constraint, immigration officers are also under political, structural, and ethical constraints to do thorough credibility assessments and only accept ‘genuine claimants’. It is, however, worth noticing that the discretion requirement is still used in some new forms; applicants that are found by the decision-maker to be likely to act “voluntarily discreet” upon a potential return to the country of origin, are still refused (due to “lack of risk”). Moreover, closely tied up to the country of origin information, and in line with Puar’s theory of *homonationalism* and the geopolitical mapping of homophobia, some immigration officers use an “indirect discretion argument”, finding claimants incredible due to “unlikely risky behaviour”.

As a last point in the context of “safeguarding borders” and the argumentative shift “from discretion to disbelief”, it must be emphasized that even though most LGBT asylum seekers are rejected based on incredibility, which is the main reason for refusal, it does not necessarily mean that LGBT asylum seekers are more often refused than other applicants. On the contrary, LGBT asylum decisions have gone from a high refusal rate prior to the 2012 Supreme Court ruling (with a peak of 89% refusal rate in 2011), to a relatively low refusal rate (41% in 2016).

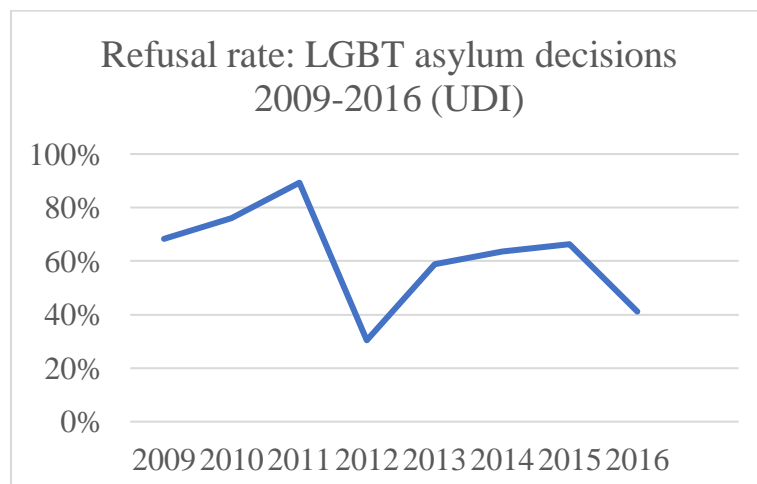


Figure 9. Refusal rate, LGBT asylum decisions 2009-2016

Norwegian immigration officers' judgements do not show that LGBT asylum claims are less successful than other types of asylum seekers. Other studies have also pointed at this. In Gaucher and DeGagne's (2016) study of LGBT asylum verdicts on first-instance and appellate levels, similar to this study, 66% percent of the 150 applications were unsuccessful (refused).²⁷⁸ In comparison, this study's sample of UDI and UNE verdicts showed an overall refusal rate at 67%. Several scholars have found that despite the added barriers in queer refugee claims, these cases are not necessarily less successful than other asylum decisions. For Norway, comparing the official refusal rate in LGBT asylum decisions to refusal rates for religious convert asylum seekers ('particular social group') and asylum seekers in general, it looks like LGBT asylum seekers today actually have a lower refusal rate than other groups (see figure below). This should therefore be researched further.

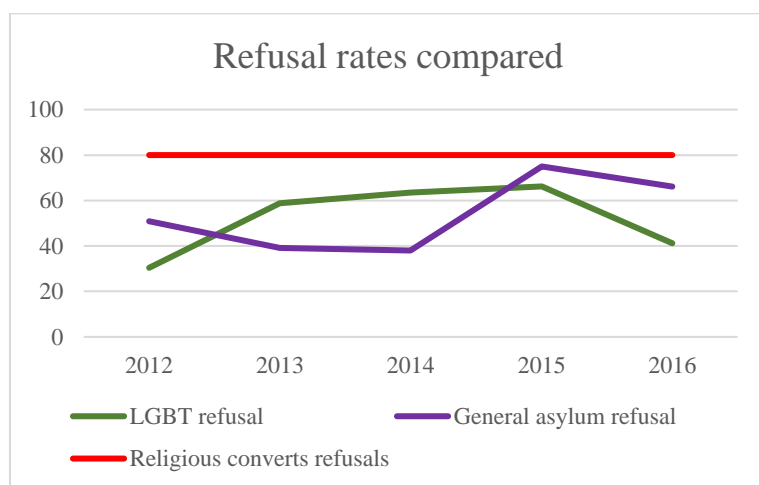


Figure 10. Refusal rate 2009-2016 (UDI). LGBTs; religious converts; and all asylum claims compared.²⁷⁹

* The UDI has no comprehensive statistics of the dispersion of refused/granted claims in religious converts cases. The number are based on Schjatvet (2014), which found that 80% of all religious converts claimants were refused by the UDI between 2012-July 2016. ** Unaccompanied minors are not included as the age test eliminates many claimants from the statistics and this gives a misleading picture of the overall refusal rate.

I argue that Norwegian immigration officers' perceptions of LGBT asylum seekers and their credibility, manifested through the UDI and UNE's case verdicts, do reflect "LGBT friendly" norms in the sense that they steer clear of sexualized stereotypes of the promiscuous, effeminate gay and the masculine lesbian, which have been highlighted as a problem in LGBT asylum.²⁸⁰ This is in line with the development that Vogler (2016) found for the US, which he argues has moved away from a former emphasis of "gendered stereotypes of gayness" the last 15 years.²⁸¹ Other stereotypes, however, are pertinent. While immigration officers, according to their verdicts, do not focus on the applicant's clothing, mannerism or stereotyped demeanour,²⁸² the claimant

²⁷⁸ Gaucher and DeGagne, "Guilty Until Proven Prosecuted," 464.

²⁷⁹ UDI, "Asylvedtak etter statsborgerskap og utfall", Statistikk og analyse: Statistikk om innvandring, <https://www.udi.no/statistikk-og-analyse/statistikk/> (Accessed at 06.04.17), Cecilie Schjatvet, "Forfølgelse Basert På Religion Og Medlemskap I En Spesiell Sosial Gruppe (Seksuell Legning) – Praksis I UDI Og UNE Etter Høyesteretts Dom Av 29. Mars 2012", 2015

²⁸⁰ Spijkerboer, "Sexual Identity, Normativity and Asylum"; Spijkerboer and Jansen, "Fleeing Homophobia, Asylum Claims Related to Sexual Orientation and Gender Identity in Europe"; Vogler, "Legally Queer"; Lewis, Lewis, and Naples, "'Gay?'"

²⁸¹ Vogler, "Legally Queer," 877.

²⁸² Ibid., 865.

is expected to have reflected upon his/her sexual/gender identity, be able to talk about his/her “coming out story”, ideally in emotional detail marked by stages of internal confusion and later acceptance of his/her sexuality; which is often seen as immutable, inherent and a part of one’s identity. This is in line with the theoretical discussion of norm diffusion and how the Norwegian LGBT emancipation has looked like, where love, identity, equality and inclusion have been emphasized in the advocacy strategy (see section 3.2 of the theory chapter). Identity is favoured over conduct, which is in line with previous critiques from classical queer migration scholars.²⁸³

Moreover, I argue that both granted asylum claims and refusals reflect what Duggan (2002) has called ‘the new homonormativity’, and in some cases, also Puar’s (2008, 2013) concept of Homonationalism. Like Mepschen and Duyvendak²⁸⁴ (2010) argue is the case for the Dutch society, I argue that LGBT asylum in Norway seems to reflect a Norwegian “gay identity [that] does not threaten heteronormativity, but in facts helps shape and reinforce the contours of “tolerant” and “liberal” [Norwegian] national culture.” Norway wants to be, and has become, a marked defender of LGBT(I) rights homes and abroad. We do, as several other states in the Western world, recognize sexual minorities in risk of persecution as refugees. In line with the previously discussed “geopolitical mapping of homophobia and transphobia”, the Norwegian state is indeed on the “right side” (i.e. the “LGBT friendly” side, not the “homophobic, unsophisticated and underdeveloped” side, in line with Puar’s theory of *homonationalism*), because we grant asylum to credible LGBT(I) refugees from countries where sexual minorities are persecuted, and thus keep our status as “LGBT friendly”. Through the credibility assessment, Norwegian immigration authorities run the risk of reinforcing certain stereotypes and include just some queers, or one type of (credible) queer in our protection of sexual minorities. The credible and the incredible LGBT asylum seeker are both assessed within the same, homonormative norm and do thus reinforce each other.

Both trends, safeguarding queers, and safeguarding borders, are reflected in the verdicts. I argue that there is reason to believe Norwegian immigration authorities have been influenced by the norm diffusion of “LGBT friendly” rights and norms, like the rest of the Norwegian society. Moreover, this is reflected in an increased focus on the eligibility of sexual minorities to be recognized as refugees, manifested in several specific and updated guidelines, laws and political decisions that immigration authorities are obliged to follow when they assess LGBT asylum cases. However, their (homo)normative perceptions of sexual identity and gender identity – which are the same perceptions that the mentioned guidelines, laws and political action are built on – can potentially turn out in a discriminatory way. This thesis argues that while “LGBT friendly” norms have proliferated also in Norwegian immigration decision-making, it is only the homonormative LGBT asylum seeker that are rendered eligible for refugee status in Norway. Asylum seekers claiming to be fleeing from (potential) risk of persecution due to their sexual orientation or gender identity, but that fail to provide a reflected, eloquent and persuasive narrative – and instead have an exaggerated focus on sexual conduct or tell incredible stories of ‘risky’ behaviour in the home country – are likely to be disbelieved. LGBT asylum in Norway thus reflect a “recognition of” and an increased “emphasis on” the potential risks that sexual minorities as individuals and as a ‘particular social group’ are subject to, but at the same time, this emphasis reproduces particular understandings of sexuality and gender identity.

²⁸³ Ibid., 858; Spijkerboer, “Sexual Identity, Normativity and Asylum.”

²⁸⁴ P. Mepschen, J. W. Duyvendak, and E. H. Tonkens, “Sexual Politics, Orientalism and Multicultural Citizenship in the Netherlands,” *Sociology* 44, no. 5 (October 1, 2010): 962–79, doi:10.1177/0038038510375740.

5.3 Overarching analysis: *Safeguarding borders and safeguarding queers?*

How do Norwegian immigration authorities and citizens perceive queer asylum seekers' (in)credibility? Do their perceptions reflect "LGBT friendly" norms or restrictive immigration policies? I argue that both trends are reflected.

I argue that we can see in both groups examined that progressive LGBT rights and "LGBT friendly" norms have diffused in the Norwegian society and worked as "socializing agents" that in turn have affected attitudes towards not only sexual minorities in general, like previous studies have shown, but also on LGBT asylum seekers specifically. It is also these LGBT rights norms that, if not completely abolished, then significantly and substantially *reduced* the utilization of the discretion requirement by law in 2012. Moreover, I argue that these "LGBT friendly" norms and their proliferation make citizens more cautious to say they disbelieve LGBT asylum seekers, more positive to the notion of queer asylum (and even more positive if backed by laws), and negative to the discretion requirement. However, the picture is complex; both large shares of citizens and immigration officers disbelieve queer asylum seekers and still find the discretion requirement acceptable.

Furthermore, I argue that there is reason to believe that there is a trend that both Norwegian citizens and immigration officers have shifted from seeing sexuality as first and foremost conduct, to now be an immutable and inherent part of one's identity. This is found in the analysis of UDI and UNE case verdicts, where sexual identity is seen as immutable, reflecting Western identity categories generally and Norwegian LGBT movement's advocacy strategies specifically. It is difficult to prove the same findings in the case of Norwegian citizens' perceptions, however, since the survey question did not differentiate between different "types of" queer identities. Norwegian citizens are more than anything ambivalent or hesitant when expressing their opinions on, and their perceptions of, LGBT asylum seekers and their (in)credibility. Additionally, they are also less prone to express disbelief in LGBT asylum seekers than in both religious converts and unaccompanied minors that claim refugee status in Norway. Equally importantly, the majority of Norwegians disapprove of the "discretion requirement" and do not find it reasonable to return LGBT asylum seekers back to their country of origin to live a life in concealment and "be discrete" about their sexual/gender identity. This *can* potentially be because people, like immigration officers, see sexuality as a part of one's identity, as immutable and inherent, and hard to lie about – at least more difficult than lying about religion or age.

Both Norwegian citizens' and immigration authorities show ambivalence and are in doubt when asked about LGBT asylum seekers credibility. It is only the average citizen that can leave it with the hesitation, while the immigrant officers must always take a stand and judge. In that judgement, the homonormative LGBT individual in risk of persecution is believed, while others are not. After 2012, however, the UDI and UNE do more frequently state in their asylum case verdicts that the claimant has been given the benefit of the doubt. This should be researched further.

It is interesting to try to review the findings from the two analyses against each other and see whether the two together can detect a pattern of how "LGBT friendly" norms have proliferated in the Norwegian society. However, as previously discussed, there are obvious obstacles that arise to straightforward compare the quantitative and qualitative findings, because the two sources of data material are not answering the exact same questions. For example, we do not have information about how Norwegian citizens perceive different types of queer identities, like

we do for UDI and UNE officers. Equally, we do not have information of what immigration officers personally think of whether the Norwegian state should prioritize to take in more LGBT refugee claimants due to their particular vulnerability in refugee camps, or whether these decision-makers personally oppose or support the “discretion requirement”.

6. Conclusion

Sexual minorities leaving their home countries and claiming refuge, known as *queer asylum*, is today an acknowledged part of the international immigration regime, and recognized by international and national actors. 175 million sexual minorities estimated to live in persecutory environments in the world to they, many of them in countries that have seen a pushback with “anti-gay” laws recently, and some of them seek for asylum as belonging to a ‘particular social group’ under the Refugee Convention. Parallel to this, however, LGBT emancipation have evolved with impressive speed and success in countries like Norway, which has taken on a role as a defender of sexual minorities at home and abroad. Norway and several other countries have since the 1990s recognized queer individuals as eligible for refugee status, but simultaneously, in recent years, staked out a course of increasingly restrictive immigration policies.

This study has aimed to answer one overarching research question: How do Norwegian citizens and Norwegian Immigration authorities perceive queers’ asylum seekers and their (in)credibility? The experimental survey data analyzed have given interesting, new empirical insights concerning public opinion. For the first time, we can know something about how Norwegian citizens perceive the specific category of refugee claimants that seek asylum because of their sexual orientation or gender identity. While the survey data reflect great hesitation among respondents, I argue that people overall express support to the notion of queer asylum and to LGBT refugee claimants. Compared to asylum seekers in general, and two other groups of refugee claimants that face additional hurdles in proving the credibility of their claim – notably religious converts and unaccompanied minors, Norwegian citizens perceive LGBT asylum applicants significantly less likely to lie. Moreover, the the majority of citizens disapprove of the “discretion requirement” that required queer asylum seekers to conceal their sexual/gender identity before the Norwegian Supreme Court repealed the practice in 2012. And legislation do not only influence how immigration decision-makers judge in queer cases – the citizens’ general support for queer asylum increases when respondents are told that recognizing sexual minorities as asylum seekers, are within the scope of both Norwegian and European law. While the majority of Norwegian citizens approve of a restrictive immigration policy,²⁸⁵ I argue that the survey data from the Norwegian Citizens Panel demonstrate that people are very cautious to disapprove of and disbelieve in sexual minorities claiming refuge. In the question of whether the Norwegian

²⁸⁵ Aalberg, Iyengar, and Messing, “Who Is a ‘Deserving’ Immigrant?”

state should prioritize to safeguard queers or safeguard its borders, Norwegian citizens are ambivalently in favour – but in doubt.

How do Norwegian immigration authorities perceive queer asylum seekers and the credibility or incredibility of their claims? Expressed through their judgements and justifications in LGBT asylum case verdicts, I argue that Norwegian immigration officers' perceive credible asylum seekers as those who are capable to reflect upon their own sexual orientation or gender identity and use Westerns identity categories to substantiate their claim. Further, if the claimant has knowledge of LGBT organizations or communities in the country of origin, or have thoughts on how sexual minorities are maltreated in the country, Norwegian immigration authorities could perceive the claimant as more credible. In contrast to this, those applicants that fail to give a convincing reflection or talk about *when they "came out"* and *what that felt like to be a sexual minority in a "homophobic society"*, UDI and UNE officers are more likely to disbelieve. Immigration authorities refuse claimants that they feel give evasive or generalized answers, lack details in their narratives, or give explanations that seem inconsistent or implausible in contradiction to existing country of origin information – like behaviour that seem too risky to be true.

While the 2012 Supreme Court decision was undoubtedly a significant milestone in the context of queer asylum in Norway, as the end of a long practice of demand queers asylum applicants to "stay closeted", I argue that this has led to a shift in argumentation "from discretion to disbelief".²⁸⁶ This shift has reinforced the focus on the claimant's credible or incredible sexuality, which in turn reinforce homonormative understandings of sexual and gender identity. Both successful and unsuccessful queer asylum claims demonstrate, I argue, that Norwegian immigration authorities have a homonormative perception sexual minorities, that notably don't contest dominant heteronormative assumptions and institutions, but upholds and sustains them.²⁸⁷ In the case of Norway, I argue that this should be seen in light of the Norwegian LGBT emancipation where the strategy has been to emphasize identity, immutability and inherency in the construction of sexualities.

²⁸⁶ Millbank, "From Discretion to Disbelief."

²⁸⁷ Luibhéid, "Queer/Migration," 178–79.

Both immigration authorities' and citizens' perceptions should, I argue, be seen in light of a change in norms in Norway. After decades with LGBT emancipation which have emphasized the inherency and immutability of sexuality its closely linkage to identity, together with a legal development of including and safeguarding sexual minorities and their right, both Norwegian citizens and immigration authorities have been influenced by progressive same-sex legislation which have worked as "socializing agents" and diffused "LGBT friendly" norms in the Norwegian society. Even though sexual minorities still face several obstacles in Norway to this date, the dominant social norm is to respect divergent sexual and gender identities, and homophobia is in general frowned upon.

In this study of Norwegian citizens and immigration authorities' perceptions, attitudes and judgements, I argue that both a wish to safeguard queers *and* to safeguard borders are reflected in the Norwegian society. However, when immigration officers assess LGBT asylum seekers' credibility, it is essentially one specific type of queer that is safeguarded; the reflected, eloquent and persuasive one. Norway can be a safe haven for queer asylum seekers, but merely those who adhere Norway's homonormative understanding of sexual identity and gender identity. In this way, Norway reinforce and reproduce normative understandings, in line with dominant norms and understandings of sexuality, *and* in line with the restrictive immigration policy staked out. In this way, the Norwegian state is able to keep its status as a "LGBT friendly" and vocal on sexual minorities' rights, while simultaneously ensure that the *incredible* queer is not granted asylum in Norway. In doing this, the Norwegian state risk to reproduce and reinforce a hierarchy for types of sexualities and types of migrants.

Because queer asylum is framed within the complex and constantly evolving picture of sexual and gender politics and border struggles, several scholars have in recent years scrutinized court cases and appellate verdicts in several jurisdictions where queer asylum claimants are seeking refuge. However, despite that the scholarship is rapidly expanding, several questions remain unanswered and the need for more research is thus evident. This study has aimed to examine the phenomenon of queer asylum through the case of Norway, studying the perceptions of (in)credible LGBT asylum seekers from two different perspectives. This is in line with Aalberg et al.'s (2012) recommendations "that immigration researchers measure public support for immigration both at the policy and individual immigrant level", and Arbel et al. (2014) that stresses the benefits of a mixed methods approach combining qualitative data material with statistical data at the national

and international level.²⁸⁸ In the case of queer asylum, as far as I know, the phenomenon has never been studied from a public opinion point of view together with an examination of case verdicts. From the findings, we have gained new insights on how Norwegian citizens perceive LGBT asylum seekers differently from other asylum seekers, which I argue is possibly also the case for immigration officers. We have also gained insight in how immigration officers perceive different types of queer identities, which I argue is possibly also the case for how Norwegians in general understand and identify sexualities.

There are, naturally, several questions that this study does not give an answer to. For example, we do not know exactly *why* citizens express so much hesitation when asked about their opinions on queer asylum. Moreover, the survey research cannot tell us whether Norwegian citizens, like Norwegian immigration officers, perceive different types of queer asylum seekers differently. Would they be more skeptical towards a claimant unable to reflect upon his/her sexual identity, or not? This could be interesting to research further, by for example use of vignettes in survey experiments, in line with the previous mentioned studies by Aalberg et al. (2012) and Strabac et al. (2013). Moreover, a discourse analysis of the possible connections between the Norwegian homonormativity, homonationalism and the rise of identity politics could be another interesting way to proceed in this field of research. How is sexual progressiveness possibly used as a discourse of power that produces immigrants as cultural “others”? Further, the findings indicate that the applicant’s country of origin is closely tied to Norwegian immigration officers’ perceptions of the credible and the incredible queer asylum seeker. How the specific information about sexual minorities in a country is constructed and interpreted by immigration authorities, should be put under scrutiny. Moreover, line with the research question, this study did not go into detail in differentiating between the two immigration institutions, but asked for UDI and UNE officers’ perceptions overall. A point for further research could be to investigate if there are differences and discrepancies between the two institutions in how they judge queer asylum claimants. Lastly, I argue that it would be beneficial to research further whether the so-called “discretion requirement” was fully repealed in 2012 or not. In conclusion, the field of queer asylum, where struggles over borders and sexualities clash – or conflate – is still a topic with huge potential for further research.

²⁸⁸ Arbel, Dauvergne, and Millbank, *Gender in Refugee Law*.

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Annex

I. LGBT asylum decisions at initial level (UDI) per citizenship 2011-2016

| | 2011 | | | 2012 | | | 2013 | | | 2014 | | | 2015 | | | 2016 | | | |
|----------------------|----------|---------|-------|-----------|---------|-------|-----------|---------|-------|---------|---------|-------|--------|---------|-------|--------|---------|-------|----|
| | Avslag | Opphold | Total | Avslag | Opphold | Total | Avslag | Opphold | Total | Avslag | Opphold | Total | Avslag | Opphold | Total | Avslag | Opphold | Total | |
| Afghanistan | | | | ? | ? | | | | | | | | | | | | | | 1 |
| Albania | | | | | | | | | | | | | | | | | | | 1 |
| Algerie | 1 | | 1 | | | | | | | 1 | 1 | 2 | | | | | | | 1 |
| Benin | | | | | | | | | | | | | | | | | | | 2 |
| Burundi | | 1 | 1 | | | | | | | | | | | | | | | | 2 |
| Dem. Rep. Kongo | | | | | | | | | | | | | | | | | | | 2 |
| Egypt | | | | | | | | | | | | | | | | | | | 2 |
| Etiopia | | | | | | | | | | | | | | | | | | | 2 |
| Eritrea | 1 | | 1 | 2 | | 2 | 4 | 2 | 6 | 2 | 4 | 6 | 2 | | 2 | | | | 1 |
| Gambia | 12 | | 12 | 1 | | 1 | 4 | | 4 | 2 | | 2 | 2 | | 2 | | | | 3 |
| Ghana | | | | | | | 2 | | 2 | | | | | | | | | | 1 |
| Georgia | | | | 1 | | 1 | | | 1 | | | | | | | | | | 1 |
| Guinea | | | | 1 | | 1 | | | 1 | | | 1 | | | 1 | | | | 1 |
| Hviterussland | | | | | | | | | | | | | 1 | | 1 | | | | 1 |
| Irak | | | | | | | | | | | | | | | | | | | 1 |
| Iran | | | | 1 | | 1 | 6 | | 7 | 1 | 1 | 2 | 1 | 1 | 1 | 2 | 1 | | 3 |
| Kamerun | | | | | | | | | | | | | | | | | | | 1 |
| Kapp Verde | | | | | | | 1 | | 1 | | | | | | | | | | 2 |
| Kenya | | | | | | | 1 | | 1 | | | | | | | | | | 1 |
| Liberia | 1 | | 1 | | | | 1 | | 1 | 1 | 1 | 2 | | | 1 | | | | 1 |
| Malaysia | | | | | | | | | | | | | | | | | | | 2 |
| Marokko | | | | | | | | | | | | | | | | | | | 2 |
| Mauritania | | | | | | | | | | | | | | | | | | | 2 |
| Montenegro | | | | 1 | | 1 | | | 1 | | | | | | | | | | 1 |
| Niger | | | | | | | 3 | | 3 | | | | | | | | | | 1 |
| Nigeria | 2 | | 2 | | | | 20 | 2 | 22 | 30 | 3 | 33 | 12 | 1 | 13 | 1 | | | 1 |
| Russland | 2 | | 2 | | | | | | | | | | 1 | 1 | 2 | | | | 1 |
| Rwanda | | 1 | 1 | | | | | | | | | | 1 | | 1 | | | | 1 |
| Senegal | 2 | | 2 | | | | | | | | | | | | | | | | 1 |
| Sierra Leone | | | | | | | 1 | | 1 | | | | | | | | | | 1 |
| Somalia | | | | | | | | | | | | | | | | | | | 1 |
| Syria | | | | | | | | | | | | | | | | | | | 1 |
| Tchad | | | | | | | | | | | | | | | | | | | 1 |
| Tunisia | | | | | | | | | | | | | | | | | | | 1 |
| Uganda | 4 | | 4 | 1 | 5 | 6 | 6 | 17 | 23 | 10 | 16 | 26 | 27 | 10 | 37 | 4 | 6 | | 10 |
| Zambia | | | | | | | | | | | | | | | | | | | 1 |
| Zimbabwe | | | | | | | | | | | | | | | | | | | 1 |
| Total avslag/opphold | 25 | 3 | 28 | 8 | 15 | 24 | 43 | 30 | 73 | 47 | 27 | 74 | 45 | 23 | 68 | 14 | 17 | 1 | 32 |
| | 5 til 15 | | | 15 til 25 | | | 25 til 35 | | | over 35 | | | | | | | | | |

II. Codebook, Nvivo

1. GRANTED ASYLUM

- o Overall credibility
- o Consistent
- o Plausible
- o High level of reflection
 - “Coming-out-story”
- o Rich in detail
- o Feelings
- o Otherness, taboo, shame
- o Plausible precautions
- o Realistic and not exaggerated narrative
- o Sexual conduct
- o Little focus on sex
- o Knowledge of LGBT org. or country information
- o Member of LGBT community
- o Visible LGBT
- o Evidence
- o Discreet upon return because of fear
- o Well-founded fear of persecution
- o Will live openly LGBT
- o Ill-treatment or harassment
- o Internal relocation not an option
- o Benefit of the doubt

2. REFUSAL

2.1 INCREDIBILITY

- o External implausibility
- o Inconsistency
- o Internal implausibility
- o Lack of details or memory
- o Lack of knowledge of LGBTI org., persons or country
- o Lack of or unreliable evidence
- o Low level of reflection
- o Overall lack of credibility

2.2 RISK

- o Attack was isolated incident
- o Country of Origin Information
- o Discretion is tolerable
 - Voluntarily discreet
- o Internal relocation is possible
- o Lack of evidence
- o No previous violent experiences
- o No well-founded fear for persecution
 - Criminalized, but seldom implemented
- o Not criminalized
 - Homosexual conduct is criminalized (not identity)
- o Not LGBT or visibly LGBT
- o Applicant is ‘resourceful’

2.3 ARGUMENTATION

- o Irrational or odd explanation or behaviour
- o Late disclosure or modified explanation
- o Prostitution
- o Relationships (past and future)
- o Risky behavior
- o Sexualized, stereotyped, or exaggerated narrative
- o Unclear sexual identity
- o Vague, evasive or generalized answers

3. APPLICANT'S NARRATIVE

- o Discreet
- o Focus on sexual conduct
- o Ill-treatment
 - Sexual abuse
- o Openly LGBT
- o Problems with opposite gender or hetero relation
- o School
- o Self-disclosure
- o Precations

4. INTERVIEW AND PROCEDURE

- o Complaint
- o Reversal request
- o Remarks to interview
- o No interview
- o UDI/UNE Questions
- o Concerning disclosure
- o Disunity within committee
- o Granted asylum on other grounds
- o Reference to (legal) document
 - 2012 007 GI. JDs instructions
 - 2012 008 JD Guidelines
 - HT and HJ 2010
 - Ot.prp. nr. 75 2006-2007
 - RT 2012 s. 494
 - Rt. 2011 s. 1481
 - UNHCR Guidance Note
 - UNHCR Guidelines 2002

III. Output, Nvivo

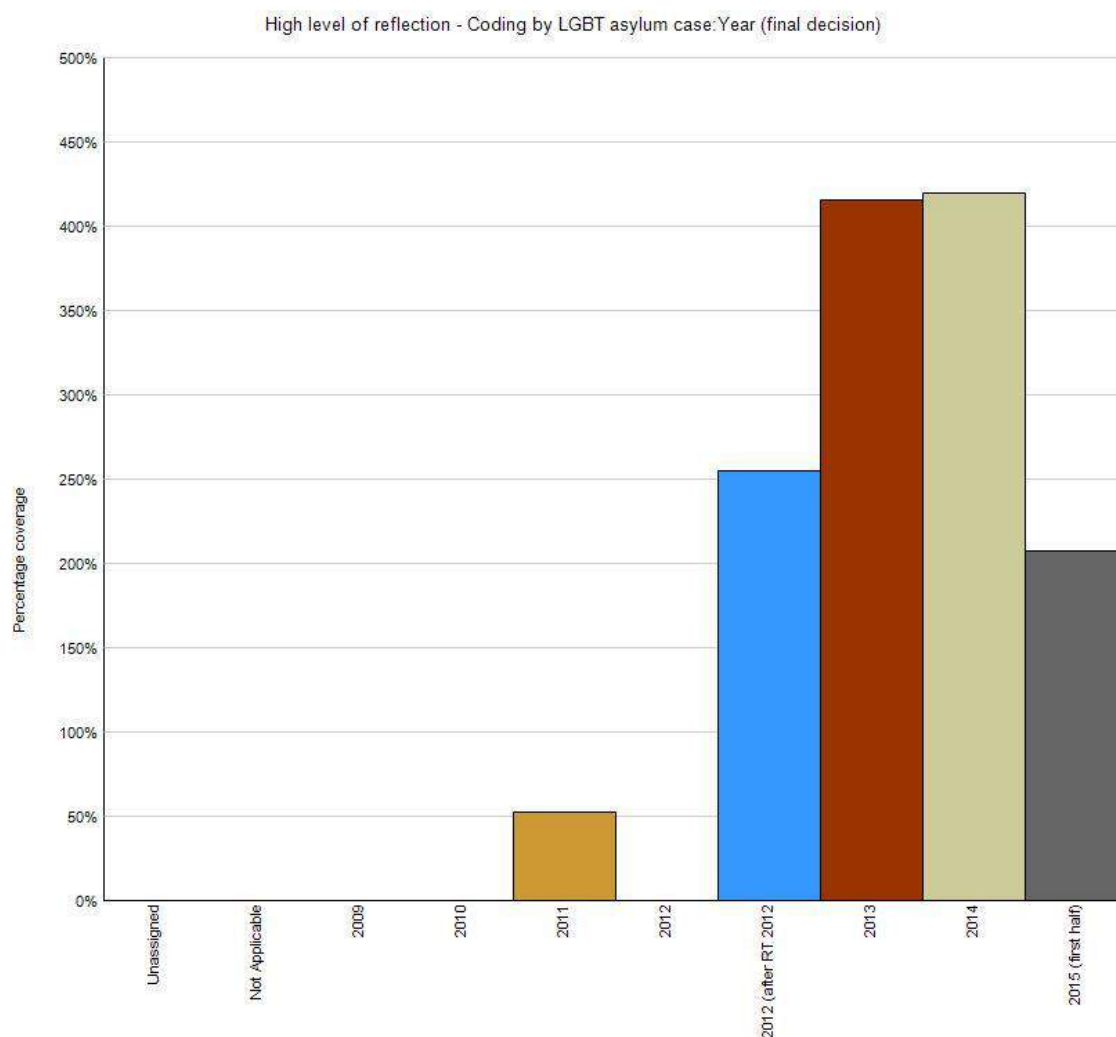


Figure 14. Nvivo output: “High level of reflection”, per year, percentage coverage.

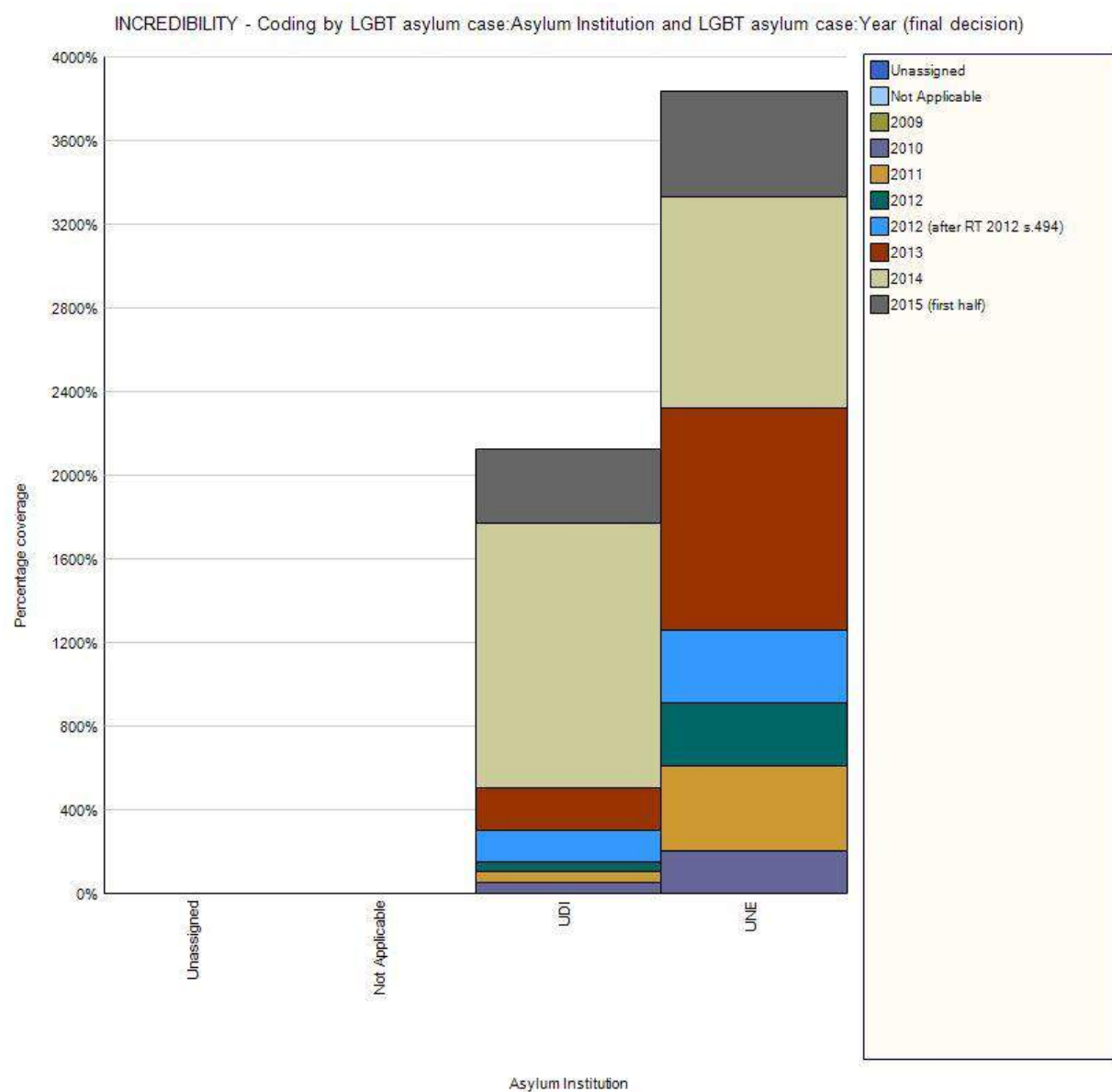


Figure 14. Nvivo output: “Incredibility”, Nodes coded as “incredibility argumentation”. Per institution and year. Percentage coverage.

IV. Output, Stata

Survey questions and survey experiments. Numbers in percent. See section 5.1.1, 5.1.2 and 5.1.3.

Survey questions: Prioritization, “Discretion requirement” and Credibility.

| | Strongly agree Agree Partly agree | Neither nor | Strongly disagree Disagree Partly disagree |
|---|---|-------------|--|
| Norway should prioritize LGBT asylum seekers because they are particularly vulnerable in refugee camps | 43,7 | 23,4 | 32,9 |
| It should be possible to send LGBT asylum seekers back if they can avoid persecution by hiding their sexual orientation or gender identity | 26,1 | 21,2 | 52,8 |
| Reason to believe that most of those who state sexual orientation as the reason why they have left their home country and are seeking asylum tell the truth | 34,6 | 38,3 | 27,2 |

Table 7. Attitudes towards and perceptions of LGBT asylum seekers. Survey questions, NCP wave 6.

Survey experiment: Support for LGBT asylum

| | Strongly agree Agree Partly agree | Neither nor | Strongly disagree Disagree Partly disagree |
|---|---|-------------|--|
| No treatment | 63,1 | 13,7 | 23,2 |
| “This is in accordance with Norwegian law” | 66,0 | 10,9 | 23,2 |
| “This is in accordance with Norwegian law. There are similar laws in several other European countries.” | 73,2 | 10,1 | 16,8 |

Table 8. Survey experiment: Support (ex6). Support for LGBT asylum, treatment effects: information on legislation. NCP wave 6.

Survey experiment: Credibility of LGBT asylum seekers

| | Strongly agree Agree Partly agree | Neither nor | Strongly disagree Disagree Partly disagree |
|------------------------------------|---|-------------|--|
| LGBT asylum seekers | 35,1 | 37,3 | 27,6 |
| Asylum seekers in general | 50,2 | 16,1 | 33,8 |
| Religious convert asylum seekers | 26,5 | 34,2 | 39,6 |
| Unaccompanied minor asylum seekers | 30,3 | 24,9 | 44,8 |

Table 9. Survey experiment: Credibility (ex7). Perceived credibility of LGBT asylum seekers compared to other groups. NCP wave 7.

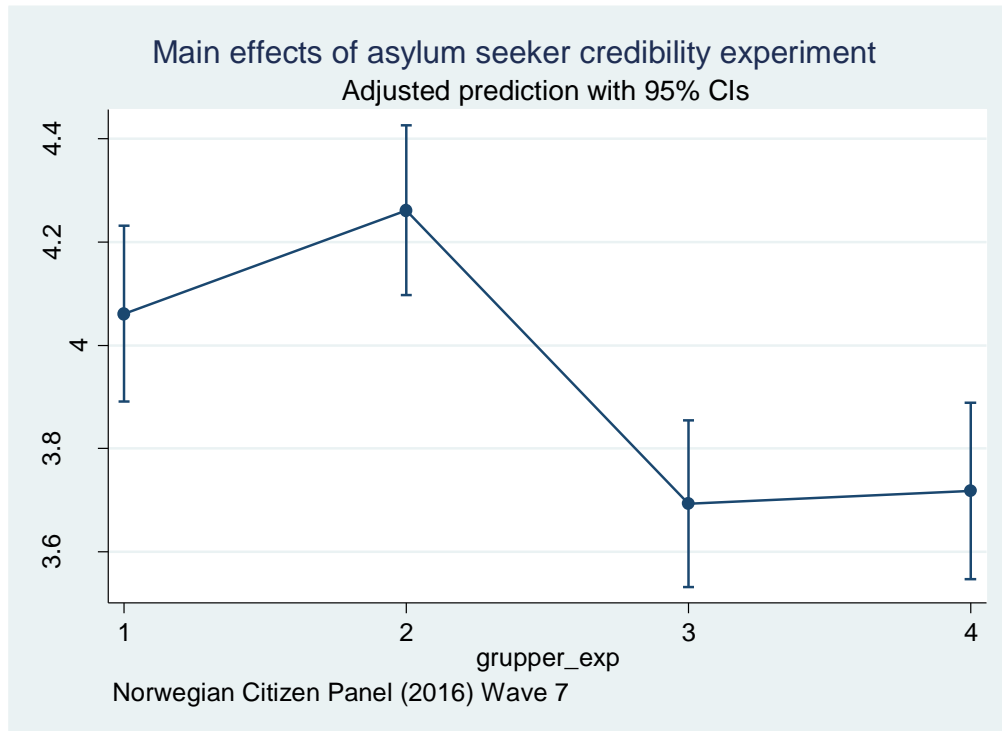


Figure 16. Test of statistical significance, main value, ($p < 0.05$), Survey experiment: Credibility (ex7). NCP wave 7. See section 5.1.3

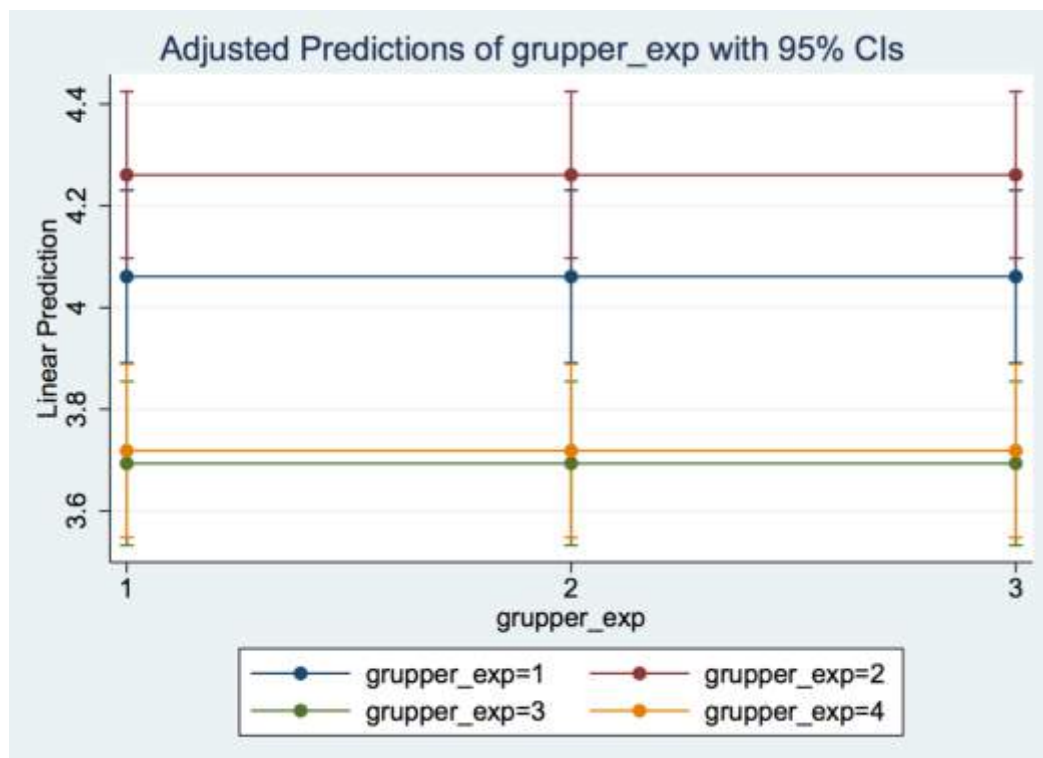


Figure 17. Test of statistical significance of margins between “disagree” respondents in four groups, adjusted predictions. Survey experiment: Credibility (ex7), NCP wave 7. See section 5.1.3.