

# “It depends a lot on the case officer”

– A qualitative study of case- and executive officers' assessment of asylum applications at the Swedish Migration Agency.

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## **Abstract**

The purpose of this study is to highlight the work of asylum case- and executive officers at the Swedish Migration Agency. It focuses on the oral investigation that is conducted by the Swedish Migration Agency with an asylum seeker in Sweden, how the case- and executive officers assess if an asylum seeker is credible, and if there are any difficulties with this process. The aim of this study has not been to investigate how the credibility and reliability assessments should be conducted; instead, it has been to understand the complexity of these assessment and how the case- and executive officers experience the same. The study is ethnographic, and the empirical material consists of interviews with individuals who work as case- and executive officers at the Migration Agency's asylum units in Sweden. The study has a qualitative approach since the interest lies in individual experiences. The analysis is based on extracts from the interviews and is linked to existing research and theories. Theoretically, the thesis is inspired by Michael Lipsky's concept of street-level bureaucracy. In addition, we have also built up a theoretical chapter presenting the legal framework. The study shows that the assessment of an asylum seeker is a complicated and abstract process. And in the end, it all comes down to an overall assessment.

## **Keywords**

Asylum, Credibility, Asylum investigation, The Swedish Migration Agency, Street-level bureaucrat.

## **Preface**

We would like to thank the Swedish Migration Agency and all of our informants for their friendly welcome and for taking the time from their busy schedule, to talk to us. This study could not have happened without your participation, and for that we are forever grateful. We would also want to thank our supervisor Peo Hansen for his valuable inputs, and our families who have given us unconditional support and love when we needed it. Finally, we want to thank each other, these five years as students at Linköping university have really been a roller-coaster of emotions and they are now coming to an end. Throughout these years we have supported each other through every exam, essay, seminar and previous fieldworks.

## **Distribution of work**

At the initial phase of the thesis, we divided the theories, previous research and legal framework between each other. Introduction and background were divided so we each wrote half of it. We conducted all the interviews together, but we had decided in advance that one should take a “leader role” and ask the questions from the questionnaire and the other should focus on follow-up questions. Regarding the transcriptions, we divided the recordings between us and transcribed them individually. Analysis and method were discussed and written together. Moreover, the final discussion was reflected and discussed with each other and also written together. All in all, several parts of the thesis have been a fruitful collaboration and we have helped each other writing them.

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# Introduction

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Migration is at the basic level about people's movement from place A to place B. Usually, the term is used to describe geographic movements across territorial borders. Nevertheless, the term should also be understood as a political and social phenomenon since the journeys migrants undertake are constructed and conditioned by several different circumstances. Besides from territory, they are also affiliated to the economy, labour markets, social rights and ideas of nation and belonging. Additionally, many migrants also move between different categories, which are connected to different rights, responsibilities and conditions. Martin Qvist et al. argue that this movement between categories can sometimes occur even though the migrant does not physically move in a geographical manner. The mentioned categories, such as; “legal” and “illegal” or “labour migrant” and “refugee”, are attributed to particular designations and bring forth associations and preconceptions regarding migrants, their situations and effects on the host society. Thus, migration is not merely created by the physical movement of people but also by the borders and various systems of control where the categorisation takes place. Qvist et al. argue that in order to understand the relationship between migration and the nation-state it is central to understand how the phenomenon is made visible and also defined. Moreover, it is argued that while nation-states in the global north are in the process of attempting to regulate migration more than ever, paradoxically they experience an increasing difficulty to control the movement of people. A cumulative part of this movement has now been categorised as “irregular migration”. Governments and policy makers at different levels are implementing new means to direct migration, attempting to make it a more controlled and predictable process. Migration control has traditionally stressed the guarding of the physical border, but the new mechanisms now emphasized in migration policy are increasingly focused on regulating the conditions regarding people’s mobility and possibilities for settlement.<sup>1</sup>

Sweden was one of the major European emigrant countries up to the first decades of the twentieth century. However, the situation changed quickly in the aftermath of the Second World War. Together with labour migration from the south and east came refugees from the war, and later, refugees from the Soviet invasions of Hungary, Czechoslovakia and Poland and the formation of the Nordic region as a union with free movement transformed Sweden rather dramatically. Magnus Dahlstedt and Anders Neergaard bring up that this migration occurred during a time when labour demand was strong in declining sectors such as; agricultural and domestic work, and in expanding sectors, like industry and services. Strong assimilationist policies were slowly replaced by multicultural policies in the end

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<sup>1</sup> Martin Qvist, Brigitte Suter & Sara Ahlstedt, “Migration: Sovereignty, borders and control”, in *International Migration and Ethnic Relations*, ed. Magnus Dahlstedt & Anders Neergaard, (London, 2015), p. 38.

of this period, although Sweden did not adopt a model of guest workers or temporary refugee migration. Instead, the policies were geared towards permanent residence and settlement in Sweden. Together with the economic crisis in the 1970s, labour migration came to an end and from here on, refugee and family reunification migration was dominant in Sweden. Dahlstedt and Neergaard argue that despite this, Swedish asylum policy has been rather non-restrictive in comparison with other European countries.<sup>2</sup>

An asylum seeker is an individual who makes the journey to Sweden and applies for protection (asylum) here but has not yet received a decision on the application. Sweden has signed the UN Convention Relating to the Status of Refugees, which means among other things that Sweden will examine each application for asylum individually. The individual examination includes taking the applicant's gender identity and sexual orientation into account. Sweden will grant a residence permit to a person who is a refugee in accordance with the UN Convention, and also to a person in need of "subsidiary protection" in accordance with joint EU regulations. In 2016, The Swedish Parliament passed a temporary law that limits the possibilities for asylum seekers and their family members to be granted residence permits in Sweden. The law entered into force in July and is intended to apply for three years. The law entails that a person who is in need of protection will be granted a temporary residence permit. A person who is assessed as being a refugee will be granted a residence permit that is valid for three years and a person who is assessed as being eligible for subsidiary protection will be granted a permit for 13 months. If the person still has grounds for protection when their residence permit expires, they can be granted an extension. Furthermore, if the person can support him or herself, they can be granted a permanent residence permit. Unaccompanied minors and families with children under the age of 18 who are assessed as being in need of protection will be granted permanent residence permits if they applied for asylum at the latest on 24 November 2015.<sup>3</sup>

The importance of an asylum procedure to be in compliance with the law and to be legally secure cannot be overstated. An incorrect asylum decision may mean that a person loses his or her life or freedom. The asylum case- and executive officers at the Swedish Migration Agency are working in a position that is on the border between residence permit and rejection in which they embody a border that asylum seekers must respond to. The officers are working within a complicated process, in which they must create an opinion on the asylum reasons that are evoked and assess if they are credible and sufficient for a residence permit or not. It places great pressure on the Migration Agency's asylum

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<sup>2</sup> Magnus Dahlstedt & Anders Neergaard, "Swedish exceptionalism and beyond", in *International Migration and Ethnic Relations*, ed. Magnus Dahlstedt & Anders Neergaard, (London, 2015), p. 258 f.

<sup>3</sup> Migrationsverket, "Begränsade möjligheter att få uppehållstillstånd i Sverige", <https://www.migrationsverket.se/Om-Migrationsverket/Aktuella-fragor/Begransad-ratt-till-uppehallstillstand-i-Sverige.html>, (retrieved, 2018-05-01).



units to process and assess whether the asylum seekers are entitled to a residence permit. The case- and executive officers at the asylum units, whose work is to assess reasons for asylum and make decisions, an important role that involves a lot of responsibility. Requirements are made to perform and act properly, especially in accordance with the law. Making the right decisions and acting properly is not only important from the point of view of law, but also crucial to the applicant's future. It is also important for both the case- and executive officers and the public that the decision taken by the officers entails a trust in the agency. It is the role of the investigator to assess whether the person is in need of protection and is thus also the person implementing the law.

Before the asylum seekers come to the case- and executive officers at the asylum units, he or she has told about their reasons for seeking asylum at the application unit. The case officer should then, with the help of the Aliens Act determine whether the asylum seekers has valid individual reasons to get to stay in Sweden or not. Based on Michael Lipsky's definition, the case officer at the Migration Agency, is a street-level bureaucrat, a person who works with the legislation as a tool towards the people the legislation applies to.<sup>4</sup> A profession that may entail difficulties since the straightforward ideals of the legislation and their own subjective perception may differ. In many professions there is the problem of following a regulatory framework that you may not always agree with as an individual. Even when people feel empathy and feel for their clients as private individuals, these feelings can, in practice, be hampered by the need to comply with the law and prevailing practice. These discrepancies and boundaries between the private role and the work role are interesting to study and reflect more closely on. Moreover, the work as a case- and executive officer at the Swedish Migration Agency has significant consequences for the people who make up their clients, the asylum seekers.

Most refugees do not have any identity documents to support their identity when they apply for asylum. When they come to the oral investigation at the Migration Agency, which is the first instance of the asylum process, most often they only have their asylum narrative as evidence for invoked asylum reasons. The adjudication of asylum cases is often determined in a credibility and reliability assessment of the oral statement of the asylum seeker. In asylum cases, the evidence is usually flawed, as opposed to, for example, criminal or tax matters. In most cases, it is the oral statement that underlies the question of whether the asylum seeker is entitled to international protection. It is then the credibility and reliability of the oral statement that will be judged. The oral statement should be as detailed as possible, coherent, self-experienced and should not contain contradictory information from commonly known facts. In some cases, there may be cultural and linguistic obstacles between the perceptions of the asylum seeker and the decision maker.

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<sup>4</sup> Michael Lipsky, *Street-Level Bureaucracy – Dilemmas of the individual in public services*, (New York, 1980), p. XVI.

How does the case- and executive officer assess if the asylum seeker is credible or not? This is, among other things, what will be highlighted in this thesis: an analysis of the assessment of an asylum seeker's oral statement, as well as how the officers must comply with the legal framework. The core in most asylum cases is the applicant's narrative. Since it is very common that information which could verify what the applicant has told often is missing, the case- and executive officers at the Swedish Migration Agency face a big challenge: to assess the degree of credibility and reliability of the asylum seeker. That is often all they have, the applicant's asylum narrative. Every individual applicant has a right to tell their story, and the right to be listened to. Every individual's asylum narrative must be assessed with a high legal certainty and in a correct manner. Even though the law is expected to handle like cases alike, this is a challenge in asylum law. An important part of applications is arguably decided on the basis of evidentiary assessment, rather than on legal issues. Especially, the credibility of the applicant's narrative has a central role. This moves decisions into a domain characterised by the discretion of the officer, and raises the issue about where its limits are, or ought to be. Hence, it is important to examine and elucidate, based on the case- and executive officers own experiences on how they work with these difficult assessments and what tools they have at their disposal.

### ***Aim and Research Questions***

Our starting point is an understanding of politics as something that is made when it is practiced. This means that our analytical focus is aimed at the places where politics is made and the individuals working there. Our aim is to provide insight and transparency to the work of asylum case- and executive officers at the Swedish Migration Agency. Through our informant's descriptions of their daily work we will examine how they experience their work at the agency, how they manage their roles as civil servants, the asylum hearing and the credibility assessment and which factors play a role for the quality of such an assessment. To fulfil the aims of the study, we have formulated three overarching research questions.

- How do the informants experience their role as asylum case- and executive officers at the Swedish Migration Agency?
- How is the oral investigation conducted and what experiences or thoughts do the informants have regarding the oral investigation?
- What routines are in place to assess credibility and reliability in the asylum statement and what experiences or thoughts do the informants have regarding the assessment?

## ***Disposition***

The initial chapter gives a brief background about the so-called refugee crisis in 2015, and why the Swedish Migration Agency, now three years later, must adjust and downsize their organisation. We also define the refugee convention. Furthermore, a legal framework is presented as a chapter of its own. In the following chapter we present the theories that have been the basis for the thesis. In the same chapter there is also a presentation of the previous research. After these chapters, we discuss how we have conducted the thesis, which approaches have been used and their relevance for the thesis. We also reflect about our own roles as both researchers and case officers at the Swedish Migration Agency. Then, an ethical discussion follows. The data that has been collected is presented in the analysis and connected to previous research, legal and theoretical framework. The thesis concludes with a reflective discussion in which the results are presented.

## ***Background and Context***

### **Understanding the Swedish Asylum System**

During 2015, approximately 160 000 asylum seekers came to Sweden. For a short period of time Sweden was the open and warm country many had imagined. In September 2015 the Swedish Prime Minister Stefan Löfven talked about the need to open our hearts to the refugees and an open Europe. Sweden was to accept these individuals and offer them a chance to live their lives in peace and freedom. However, when September became October they were perceived as being too many for Sweden to handle. The Swedish government argued that the Swedish refugee reception was strained. In a short period of time, Sweden did drastic changes to its asylum law with the aim of reducing the number of asylum seekers coming to Sweden. Consequently, those who already were in Sweden, would face a much more restrictive framework. The principle that asylum seekers should be granted permanent residency permit was revoked. Sweden also changed the rules regarding family reunification, which consequently made it more difficult for refugees to be reunited with their loved ones. In so doing, Sweden became a nation with one of the toughest asylum laws in the EU.<sup>5</sup>

Sweden was known for its generous asylum policies, it was internationally considered as a humanitarian pioneer country. Government after government had held on to the right to apply for asylum, a right that went beyond what was required under EU law and the international convention commitments. The Arab Spring led to the civil war in Syria, forcing millions of people to flee from

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<sup>5</sup> Anders Banke, *Andrum: om stölden av en flyktingkris och om de bestulna*, (Stockholm, 2017) p. 9 ff.

the war. The same war became a crucial yardstick when Sweden radically reorganized their asylum policies. After the outbreak of the war, the numbers of asylum seekers increased dramatically.<sup>6</sup>

Later in November 2015, the Swedish Prime Minister's tone had completely changed. It was during a press conference regarding the so-called refugee situation; barely two months had passed since he held the speech during the manifestation in September 2015 in favour for refugees. Banke states that it became clear for the Swedish government that more than half of the asylum seekers that had come to Sweden, would get a residence permit, and later, their relatives would apply for family reunification. Which would entail a big commitment for Sweden. The Prime Minister explained that the Swedish refugee reception needed room to breathe. Thus, the government introduced new reforms to their asylum laws to reduce the number of refugees. The Swedish government decided that the asylum legislation would be reduced to an absolute minimum, and all rights that was not required under the refugee convention and EU law, would be revoked. It would be a temporary law, for three years, and was implemented in the summer of 2016. In short, the proposal stated that permanent residence permit as a rule was revoked; instead temporary residence permits would be granted. Three years permit for refugees and permits that are valid for thirteen months for subsidiary protection needs. According to Banke, the climate in Sweden changed from helping refugees, to an outcry and fear of a system collapse.<sup>7</sup>

The Swedish government claimed that a system collapse was imminent. Banke is critical toward this claim, because when the debate is primarily about the sustainability of the system, the human rights perspective easily gets lost. According to Banke it is on this perspective that asylum law must be based. There are no laws that states that nations' asylum obligations can cease to exist if the refugee reception becomes unsustainable. Banke argue that the reasons for this are simple, since the right to protection and to claim asylum is a human right, it is protected by law. Thus, Sweden has an absolute obligation to try each asylum application and grant protection to those who need it; it does not matter how many people seek asylum at the same time. However, as Banke state, Sweden's refugee reception has never been characterized as a human rights perspective, rather it has always been based on a quest to keep the refugee reception in balance.<sup>8</sup>

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<sup>6</sup> Banke, p. 23 f.

<sup>7</sup> Banke, p. 96 ff.

<sup>8</sup> Banke, p. 107 f.

## The Readjustment of the Swedish Migration Agency

The Swedish Migration Agency examines applications from people wishing to settle in Sweden, visit, seek protection from persecution or Swedish citizenship. The Swedish Migration Agency is commissioned by the parliament and government, which establishes the Swedish asylum and migration policy. Thus, the agency works on behalf of the Swedish people, through the politicians who decide on migration policy. The agency shall apply the regulations that the citizens, through the country's elected representatives have decided to apply regarding migration. Every year, the agency gets appropriation directives from the government, stating objectives and commissions, and how much money the Migration Agency has at their disposal. The government's goals for the Swedish Migration Agency is to ensure a long-term, sustainable migration policy that safeguards asylum rights and, within the framework of regulated immigration, facilitates mobility across borders and promotes a needs-driven labour immigration, while utilising and considering the development effects of migration, and furthering European and international cooperation.<sup>9</sup>

Since the end of the 1980s, the public sector in Sweden has been affected by change, rationalization and restructuring. The research summarizes these changes with the term "New Public Management" (NPM). According to Hans Hasselbladh and Eva Bejerot, many of these changes have deeper roots than economic problems. Instead, the changes are considered to be a consequence of new management ideals, which have been transformed into new governance and organizational structures. Established ways of managing and organizing the public sector have been considered insufficient or inadequate.<sup>10</sup> In line with the outside world's increased demands for quality, productivity, service and reduced costs, the need for routines that stimulates continuous improvement efforts has steadily increased and become decisive in maintaining public sector efficiency.

The Migration Agency decided in February 2014 to implement a reorganisation called, "Good will be better" (Bra ska bli bättre). The new organisation was introduced in January 2015.<sup>11</sup> The aim was to achieve a more flexible and efficient operation. Therefore, it was decided that the agency should be organised regionally. With the reorganization, the agency would increase the local responsibility while strengthening the central control. In connection with the reorganization, the agency's process-oriented approach was also developed. The new organisation means that the Swedish Migration

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<sup>9</sup> Migrationsverket, "Vårt uppdrag", <https://www.migrationsverket.se/Om-Migrationsverket/Vart-uppdrag.html>, (retrieved 2018-04-30).

<sup>10</sup> Hans Hasselbladh, Eva Bejerot & Rolf. Å Gustafsson, *Bortom New Public Management: institutionell transformation i svensk sjukvård*, (Lund, 2008), p. 7.

<sup>11</sup> Migrationsverket, "Migrationsverkets omorganisation utvärderad", <https://www.migrationsverket.se/Om-Migrationsverket/Nyhetsarkiv/Nyhetsarkiv-2017/2017-04-28-Migrationsverkets-omorganisation-utvarderad.html>, (retrieved 2018-06-08).

Agency will work on the basis of a process-oriented overall view. In other words, the authority should act to provide the best possible flow for the applicant. The cases should be handled quickly and effectively throughout the process.<sup>12</sup> One of the purposes of the new organization was to improve the conditions for a present and coaching leadership. In order to achieve that, the agency decided to reduce the distance between manager and employee. The ambition that managers should conduct a coaching and present leadership were introduced in the late nineties when the agency began to work with the so-called Lean model. The Lean model is used to identify and remove the factors in a process that does not create value for the applicant.<sup>13</sup>

As mentioned, approximately 160 000 asylum seekers came to Sweden during 2015. To handle all asylum applications, the agency had to expand. Since the fall of 2015, more asylum cases than ever have been decided at the Swedish Migration Agency. After that, significantly fewer people have applied for asylum in Sweden. In line with this, the number of employees in asylum testing is proposed to be reduced from 2000 to about 770 employees in 2018.<sup>14</sup> Beginning in November 2017, the Migration Agency took steps into a reduced organisation and reduce the number of employees. In 2018, adjustment will continue for a reduced budget of approximately SEK 700 million and demand for a cost-effective operation.<sup>15</sup>

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<sup>12</sup> Statskontoret, *Utvärdering av Migrationsverkets nya organisation*, (Stockholm, 2017), p. 7 ff.

<sup>13</sup> Statskontoret, *Utvärdering av Migrationsverkets nya organisation*, (Stockholm, 2017), p. 64 f.

<sup>14</sup> Migrationsverket, "Neddragningar inom asylprovningen 2018", <https://www.migrationsverket.se/Om-Migrationsverket/Nyhetsarkiv/Nyhetsarkiv-2017/2017-11-10-Neddragningar-inom-asylprovningen-2018.html>, (retrieved 2018-04-30).

<sup>15</sup> Migrationsverket, "Om Migrationsverket", <https://www.migrationsverket.se/Om-Migrationsverket/Nyhetsarkiv/Nyhetsarkiv-2017/2017-11-09-Sa-planerar-Migrationsverket-att-stalla-om-under-2018.html>, (retrieved 2018-04-30).

## Legal Framework

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In this chapter we will present parts of the legal framework which govern the case- and executive officers in how they execute their tasks within the government body. These regulations affect how they perform their work, how they should act as civil servants and are thus an important part in understanding how they experience their work as employees at a Swedish administrative authority. The regulations also contain certain provisions regarding the definition of who is an asylum seeker and the applicant's responsibility during an asylum procedure.

Administrative authorities, such as the Swedish Migration Agency handle cases that are governed primarily by the Administrative Procedure Act. The conditions in the Administrative Procedure Act apply unless there is another law or regulation that contains a different provision. Alexandra Wilton Wahren state that the Swedish Migration Agency is governed by the Administrative Procedure Act, but also by the Aliens Act, which contains special provisions on how the Swedish Migration Agency must handle their cases as it is stated in chapter 13, Aliens Act. Administrative authorities manage their cases generally in writing. One way the authorities can ensure that the applicant receives an adequate decision-making process is to give the individual the opportunity to present his or her case to the authority orally. The rule regarding orality is stated according to Alexandra Wilton Wahren in section 14 the Administrative Procedure Act; a part who wishes to provide information regarding his or her case orally to the authorities, shall be given the opportunity. The authorities may also decide that an oral process can be implemented without the applicant requesting it; authorities should pay attention to the fact that an oral process can ease the individual's interaction with the authorities.<sup>16</sup>

As mentioned, the Swedish Migration Agency is also governed by the Aliens Act, which contains a special provision for oral proceedings regarding cases where the applicant is an individual of foreign nationality, coming to Sweden to apply for asylum. In these cases, the Migration Agency cannot decide on rejection or expulsion without an oral procedure. The Aliens Act contains specific provisions on what should be included in the oral procedure. For example, an applicant's circumstances and background information that the agency needs to have clarified must be examined during the oral procedure. Moreover, the applicant must have the opportunity to state his or her asylum claims. The Migration Agency may also decide that other individuals than the applicant may be heard at the hearing. The Aliens Act also contains a provision that states that an asylum case cannot be settled without the applicant being informed if new information has been added to the case by

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<sup>16</sup> Alexandra Wilton Wahren "Introduktion till migrationsrätten", in *Bevis 8, Prövning av migrationsärenden*, ed. Christian Disen et al. (Stockholm, 2012), p. 95.

someone else other than the applicant. Moreover, the applicant must be given the opportunity to comment on this new information. However, this rule only applies if the applicant is in Sweden.<sup>17</sup>

## **Refugee Status**

In the Swedish Migration Agency's assessment if an asylum seeker falls within the refugee definition, the agency must consider all relevant facts and circumstances in the case. Moreover, the agency must also assess if the applicant meets all the criteria in the refugee definition. What is central for the agency when assessing if an applicant should be granted refugee status, is to determine if there is a harmful risk for the applicant should their refugee status be denied.

A refugee is the one who, in the face of well-founded fear of persecution because of his race, religion, nationality, belonging to a particular community or political view, is outside the country in which he or she is a national and is able to of such fear as has just been said, does not wish to avail himself of the protection of the country concerned or who, without being a citizen of any country, is outside the country in which he or she previously had his habitual residence and is able to or because of such fear as just said, do not want to return there.<sup>18</sup>

According to Karolina Lindholm Billing and Madelaine Seidlitz, this legal definition contains three essential criteria. Each criterion must be met if an asylum seeker is to be regarded as a refugee within the meaning of the convention.<sup>19</sup> In addition, the asylum applicant must be outside his or her country of origin. These three essential criteria are;

1. a well-founded fear of persecution,
2. due to his or her race, religion, nationality, political view or their belonging to a particular community,

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<sup>17</sup> Wahren, p. 95 f.

<sup>18</sup> Karolina Lindholm & Madelaine Seidlitz "Den internationella flyktingrätten" in *Bevis 8, Prövning av migrationsärenden* ed. Christian Diesen et al. (Stockholm, 2012), p. 126.

<sup>19</sup> The Convention regarding refugees' legal status was adopted on the 28<sup>th</sup> of July in 1951 and came into effect on the 21<sup>st</sup> of April in 1954. According to the general definition of the 1951 Convention, a refugee is a person who: due to events occurring before 1<sup>st</sup> of January in 1951, and in the reason of well-founded fear of persecution [...] is outside the country in which he is national. Ratified by 145 State parties, it defines the term 'refugee' and outlines the rights of the displaced, as well as the legal obligations of States to protect them. The core principle is non-refoulement, which asserts that a refugee should not be returned to a country where they face serious threats to their life or freedom. This is now considered a rule of customary international law. (UNHCR, *Handbok om förfarandet och kriterierna vid fastställande av flyktingars rättsliga ställning*, Stockholm, 1996).



3. is unable to, or due to above mentioned fear, do not wish to exercise the protection of their country of origin.<sup>20</sup>

The term, a well-founded fear of persecution is according to the authors central to the definition of who is a refugee. The term is future-oriented, and there is no requirement that an individual must have experienced persecution in his or her country of origin. In order to determine if an asylum seeker has a well-founded fear, the executive officer should take in to account the applicant's subjective state of mind, and s/he should obtain objective information about the asylum seekers circumstances in their country of origin. Additionally, according to Billing and Seidlitz there is no common accepted definition of the term "persecution". Thus, the officer must decide if the well-founded fear the asylum seeker feels, constitutes persecution. In this assessment, the officer should also take in to account the applicant's feelings and opinions, the applicant's psychological state of mind and also the circumstances of the case. Thus, according to the authors, an overall assessment is therefore necessary. The authors state that fear is by definition a state of mind, therefore the officer's assessment regarding the case is based on the applicant's behaviour and their story. Billing and Seidlitz argue that the applicant's previous experiences must be included in the officer's assessment. For an example, an asylum seeker who has had their human rights violated may carry a trauma that raises a fear of new violations. In practice, an applicant's expression of unwillingness to return to their country of origin should establish that a subjective fear is present.<sup>21</sup>

In regard to the assessment whether the applicant's fear is well-founded, the officer must take into account the applicant's personal circumstances and overall situation in their country of origin. Thus, the officer must develop a detailed understanding of the asylum seeker's home country and experiences. Afterwards, the applicant's credibility and his or her fear must be assessed based on objective and reliable information regarding the situation in the applicant's country of origin. The authors suggest that reports from UN agencies such as Amnesty International and Human Rights Watch are good assessment tools for the officers. An officer must regard the applicant's fear as justified if there is a reasonable possibility that the applicant would be in risk of harm if returning to their country of origin.<sup>22</sup>

It is not enough to establish that the applicant's fear is well-founded, his or her well-founded fear must also refer to persecution. Although the persecution concept is not defined in the convention, Billing and Seidlitz claim that it can be concluded from Article 33 that threats to life or threats to freedom on the basis of race, religion, nationality, political opinion or belonging to a particular social

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<sup>20</sup> Billing & Seidlitz, p. 126.

<sup>21</sup> Billing & Seidlitz, p. 128.

<sup>22</sup> Billing & Seidlitz, p. 129.

group always constitute persecution. This means that officers must be aware that certain rights may never be violated; the authors state:

In determining whether specific actions constitute persecution, decision makers should be aware that certain rights are never restricted. These include the right to life, the right not to be subjected to torture and cruel, inhuman or degrading treatment or punishment, freedom from slavery and forced labour, be entitled to be recognized as a person before the law and freedom of religion.<sup>23</sup>

### ***Evidentiary Assessment***

Christian Diesen aims to highlight evidentiary assessment in asylum cases and argue that previous reviews and analyses of these cases in Sweden have shown that similar asylum cases are not treated equally. This is not only due to the fact that executive officers have different skills and reference framework, it is also because officers have not focused on the relevant circumstances in the case. The author argue that some officers shift their focus from the main issue; the asylum seekers right to protection to a question of the applicant's overall credibility. Because of this fundamental error in handling cases, many asylum seekers decision are likely to be incorrect according to Diesen.<sup>24</sup>

Diesen argue that to achieve legal certainty in asylum cases, the officer is required to use all the means available for them to ensure that their decision is legally accurate. Not least when it comes to the question if fear of persecution is well founded. Furthermore, the author state that the greater the risk of persecution in the applicant's country of origin, the more extensive should the case be investigated, especially if the applicant's case is to be rejected.<sup>25</sup> However, the burden of proof lies with the applicant, the asylum seeker has a duty to disclose to the best of his or her ability, the circumstances that may be relevant in their case. It is the applicant's responsibility to submit any written evidence that supports their asylum claims. If the applicant cannot provide further evidence, s/he should be able to provide satisfactory explanations instead. If the asylum seeker has fulfilled these obligations, s/he has then also fulfilled their part of the investigation. However, if the applicant has fulfilled their burden of proof depends on the value of the information that has been added to the case, and of the reliability and credibility of the applicant. Nonetheless, in a refugee situation, it can be hard for the applicant to obtain evidence from their country of origin and fulfil their obligation. Diesen stresses that in these situations, it should be enough for the applicant to try to answer the officer's questions

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<sup>23</sup> Billing & Seidlitz, p. 130.

<sup>24</sup> Christian Diesen "Bevisvärdering i flyktingärenden" in *Bevis 8, Prövning av migrationsärenden*, ed. Christian Diesen et al. (Stockholm, 2012), p. 198.

<sup>25</sup> Diesen, p. 205 f.

as accurately as possible and make an effort to complement evidence to their case. If the applicant has provided all the information she or he has to the Migration Agency, the investigative responsibility is transferred to the agency. In concrete terms this means that what could not be investigated, should not be a burden for the applicant since a refugee cannot 'prove' each of their claims. This is called benefit of the doubt; it is sufficient if the applicant claims are considered as probable.<sup>26</sup>

Another important aspect in the decision-making process is the method the officer use in their work. Officers who assess cases on pure sense and intuition, who base their decision solely on their own life experience are according to Diesen often unaware of which mechanisms are put in to motion in their decision-making. These mechanisms are, the tendency to regard their own knowledge as sufficient and their experiences as general, to accept general prejudices against certain nationals. Those officers also tend to identify themselves with applicants who resemble themselves and treat applicants who belong to a different social category differently. An applicant's ethnic origin, class, education, social affiliation and political values are factors that Diesen claim always are involved in the decision-making and argue that officers must overcome these tendencies. A more systematic method rather than the intuitive is thus necessary in the assessment of evidence in asylum cases because the outcome of a case should not depend on who the officer is.<sup>27</sup>

### ***Credibility and Reliability***

In asylum cases the evidentiary assessment often consists of an oral statement by the applicant, which is not without its difficulties. In order for the officers to evaluate the data in an asylum hearing, the officer must not only have knowledge of the matter, but also life experience, empathy and even some psychological competence. Also, the officer must understand the differences between credibility and reliability. This distinction is very important according to Diesen, especially since credibility is often used as a synonym for both terms. Credibility is according to the author the applicant's ability to stay consistent in their statements. This kind of assessment is subjective and builds on how the officers feel and if they experience the applicant as trustworthy, even though the information provided may be untrue. Reliability, however, is according to the author about testing the extent to which a statement is supported by other facts in the matter. These other facts can consist of written evidence and other statements, to compare between the applicant's statement and other facts and to objectively assess the value of the statements. In general, the more support of controllable facts a statement has, the more

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<sup>26</sup> Diesen, p. 207 ff.

<sup>27</sup> Diesen, p. 212.

solid it is. All in all, this means, that reliability is more important than credibility. However, the problem in many asylum cases is that there are not enough good opportunities to assess reliability of a statement. Thus, credibility becomes more important.<sup>28</sup>

As explained, the reliability of a statement should not be judged based on credibility. An asylum case should not be assessed based on what impression the applicant's story has on the officer. However, Diesen argue that the authenticity of a story depends largely on the references the officers have. Diesen state that there are cultural views of what characterize a true or false story. For example, if the applicant looks the officer in the eyes or not, if they are nervous or lack coordination between their words and body gestures. In short, the credibility assessment can be considered as a search for so-called false signals in the applicant's statements. This kind of assessment is very unreliable and Diesen argue that psychological experiments show that people's ability to distinguish lies from the truth is not greater than a random choice. We must also consider that trying to make credibility assessments of people from other cultures becomes even more difficult. Thus, intuitive references used to make an assessment may not be relevant at all.<sup>29</sup>

### ***Proof, Evidentiary Assessment and Credibility in Asylum Procedures***

Even though the law is expected to handle all cases alike, in asylum cases this poses real challenges. Gregor Noll argue that asylum cases, instead of being judged on legal issues, are often decided based on evidentiary assessment. More specifically, the applicant's credibility plays an essential role in the decision-making process. Agencies use background information regarding the applicant's country of origin to oppose the applicant's narrative. Noll argue that the officers often find themselves between two poles in most asylum cases.<sup>30</sup>

The bridging of the distance between applicant and adjudicator and the overcoming nature of the enumerated obstacles requires effort and expertise beyond what is demanded in adjudication exclusively turning on domestic claims. Simultaneously, decision-takers build up their horizon of expectations along domestic analogies ('what would a reasonable person do?'). This might imply that they use standards of what is deemed credible, plausible and probable which are inappropriate in the alienated setting of asylum adjudication.<sup>31</sup>

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<sup>28</sup> Diesen, p. 245.

<sup>29</sup> Diesen, p. 248.

<sup>30</sup> Gregor Noll, "Introduction: Re-mapping Evidentiary Assessment in Asylum Procedures", in *Proof, Evidentiary Assessment and Credibility in Asylum Procedures*, ed. Gregor Noll, (Leiden, 2005), p. 1 ff.

<sup>31</sup> Noll, p. 4 f.

In addition, the asylum process is often obstructed by others, and by the legal system itself. For many asylum seekers, leaving their country legally is not possible. Thus, many applicants have no other choice than to leave their country with the help of a human smuggler. In turn, the smugglers might advise the asylum seeker to destroy their identity and travel documents, and instead use forged documents and give standardized or prefabricated statements of their persecution. Noll stresses that it is crucial that decision makers can reach beyond this veil of misguidance. Studies show that officers often find that statements who have been altered have an impact on the applicant's credibility.<sup>32</sup>

However, as Henrik Zahle puts it, questions of evidence and proof do not occur only in the field of asylum law. Same questions arise in relation to all legal cases handled by courts and administrative agencies, such as civil, criminal and administrative cases. Thus, evidence is a legal discipline that relates to our general human condition. In other words, we take decisions based on facts that we often cannot be entirely sure of. Asylum cases differ in the sense that they are decided upon the information the officers have at hand, which makes asylum cases private and individual. From a broader perspective however, asylum cases may be considered and evaluated as political. Zahle state that there is a political focus on the evidentiary assessments of refugee status, which administrative agencies must have in mind and keep a distance to.<sup>33</sup>

In refugee law there is a special position assigned to the asylum seeker's statement based on his or her fear of persecution, the situation in their country of origin and their journey to the nation where the asylum application is filled out and handed in. The statement made by the individual seeking asylum is supposed to advance the application process. Zahle argue that the concept of credibility is a natural part of the procedural framework regarding asylum cases. Nevertheless, when we put the focus on applicants' credibility we look for facts that may influence our assumptions regarding the applicants' credibility. When case officers ask questions to the applicant, their replies can affect the officer, who in turn may contemplate if the story is trustworthy or if the applicant have a well-founded fear of persecution. Zahle point out that when officers ask questions regarding credibility, they pose these questions from their own position, their belonging to a culture and a tradition that some people are trustworthy and others are not.<sup>34</sup>

This brings up the question, how are case officers to decide the credibility of a statement? Zahle argue that credibility is often based on repetitive experiences, that similar situations involving the same individual have been repeated several times. Another yardstick that case officers may use, is if the

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<sup>32</sup> Noll, p. 5.

<sup>33</sup> Henrik Zahle, "Competing Patterns for Evidentiary Assessments", in *Proof, Evidentiary Assessment and Credibility in Asylum Procedures*, ed. Gregor Noll, (Leiden, 2005), p. 13 f.

<sup>34</sup> Zahle, p. 14 f.

situation is familiar to them from previous cases, such as the applicants' situation, the threat they experience in their country of origin, their travel route and et cetera. If the case follows a certain pattern, this may affirm the applicants' credibility. However, if the case deviates from the officers known pattern, this may raise suspicion. With this in mind, it is not surprising that many officers concentrate on the statements of the applicant. It can also explain why contradictions in applicants' statements have attracted such a large interest in the practice of asylum and refugee law. This way of establishing credibility can, according to Zahle only be realised if the officers have some familiarity and understanding with the components on which an assessment of credibility is based on. Especially regarding asylum cases, where the applicant often comes from a culture that is different from the one of the officers. In asylum law, a reliable statement from the applicant should be acceptable as proof, this is a rule described as benefit of doubt. However, which statements that should be trusted depends not only on the applicants' credibility, but also on the information the administrative agencies have obtained. It is a common practice that administrative agencies assist in the decision-making. Their duties are to forward correct information, question and sometimes even refute the applicants' statements for example by, using reports done by embassies or NGOs. It is not the applicants' responsibility to produce material that confirms his or her statement, and any absence of such information does not imply that their credibility can be doubted.<sup>35 36</sup>

However, Nienke Doornbos note that, the main source of information remains the applicant. It is up to the applicant to provide as much information as possible regarding his or her asylum claims. This information will later be used in the asylum process as a starting point for the administrative agency. Given that the asylum seekers' statements play a central role, it is crucial that interviews conducted with applicants remain impartial and objective. Doornbos argue that officers must be aware that asylum seekers are in a vulnerable situation when they are interviewed. The author refers to UNHCR, who acknowledges that due to their experiences in their country of origin, some asylum applicants might feel a hesitation towards immigration officials. The applicant could also feel inhibited, anxious and tired during the interview, thus affecting the interview process. Officers must have in mind that these conditions could lead to the applicant's statement being inconsistent and contradictory. Nevertheless, officers must identify if an applicant has fabricated their personal background and

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<sup>35</sup> Zahle, p. 16 ff.

<sup>36</sup> The Swedish Migration Agency uses reports from Lifos, which is an expert institution for legal and country of origin information. Country of origin information is about the conditions in the countries where the applicants come from. The reports are available through the Lifos database. (Migrationsverket, "Country of origin information, Lifos", <https://www.migrationsverket.se/English/About-the-Migration-Agency/Country-of-origin-information-Lifos.html>, , (retrieved 2018-05-01).

history, or if they have been instructed by a third part, such as human traffickers, to withhold important information. Thus, officers have the complicated task of finding out what happened.<sup>37</sup>

Doornbos bring up findings from research which shows that there are communication problems in the asylum interviews, they lack a clarity whether the purpose of the interview is to gather information regarding the applicants claims, or if the interview is conducted to test the applicants' credibility. Research shows that officers have presumptive ideas that most asylum seekers do not meet the criteria for well-founded fear of persecution, and officers' attitude influence how they conduct their interviews. There is a general expectation that asylum hearings are conducted by professional and experienced officers. However, as Doornbos states, studies show that this is rarely the case. The issues that the author wish to highlight are under which manner and circumstances do officers conduct interviews? How do officers determine applicants' credibility? Doornbos focus on the communication between officers and asylum seekers.

Moreover, it is not unusual that a third part is present during the interview, the interpreter. It is generally assumed that peoples' physical movement, eye contact and facial expression reveal underlying motives for the conversation. However, as Doornbos state, these behaviours hold different meanings in different cultures. Thus, they can easily be misjudged in a cross-cultural interview setting. Even though the study focused on verbal communication, the author found that the applicants' emotions did play a role in the officers' assessment of credibility. An absence of emotions could be a sign of the applicant's non-credibility.<sup>38</sup>

Doornbos state that communication in asylum hearings are different from our everyday conversation, due to three factors; first, the officer and the applicant do not speak the same language. In the majority of asylum cases, the interview is conducted with the help of an interpreter. Moreover, the presence of a third part can also complicate the communication between the officer and applicant. The interpreter's task is to bridge the linguistic gap, stay impartial and not give background information regarding the applicant, or his or her country of origin. Secondly, the communication in asylum hearing is a form of cross-cultural communication, officers reference frame differs from the applicant. We tend to judge each other based on group characteristics, such as, gender, religion, ethnicity and so on, something that can trigger decisions tainted by prejudice. Doornbos argue that our perception of the other plays a central role in cross-cultural communication. Literature on cross-culture communication highlights that cross-cultural encounters gain more meaning when officers try to improve their cross-cultural communicative competence. In doing so, officers and applicants' own

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<sup>37</sup> Ninenke Doornbos, "On Being Heard in Asylum Cases – Evidentiary Assessment through Asylum interviews" in *Proof, Evidentiary Assessment and Credibility in Asylum Procedures*, ed. Gregor Noll, (Leiden, 2005), p. 103 f.

<sup>38</sup> Doornbos, p. 105 ff.

cultural background does not have to be the starting point in asylum hearings. The author argues for adopting a third perspective, one that is compliant with new ideas and experiences. Furthermore, such a perspective is less ethnocentric, meaning that people are less inclined to view their own culture as superior. Thirdly, asylum hearings are a form of institutional interaction, one that is strictly organised and bureaucratic. Institutional communication is often organized in a question-answer structure. Officers have the control over the interview, they determine when the applicant may speak, and which questions to answers.<sup>39</sup>

To conclude Doornbos's argument, testing asylum seekers' credibility has become a routine in the asylum process. However, testing applicants' credibility based on their consistency in the asylum hearing can, according to the author only be effective if a neutral and patient approach of interviewing is adopted. Officers must be aware that inconsistencies are common and are likely to arise if applicants have experienced a traumatic event. Officers must also bear in mind if the interpreter has translated the interview properly, and if the officer's different cultural background have been a barrier in the process. Officers must also be aware of their own part in the asylum process, has s/he been objective and neutral? The author conclude that officers should be trained in interview skills, and cross-cultural communication, which according to Doornbos could improve their interview practices.<sup>40</sup>

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<sup>39</sup> Doornbos, p. 107 f.

<sup>40</sup> Doornbos, p. 120 f.



# Theoretical Framework and Previous Research

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## What is an Organisation?

Most often, we label corporations or a hospital as an “organisation”, but we might not use it to describe a family or a social group. When we make a difference between organisations and other social groups, we think about what the purpose is of being together, and how the participant’s activities are linked together. What matters is if we call a group of people "organisations" is that the participants have tasks and goals that unite them, and that there are procedures or guidelines that coordinate the participants' endeavours to actualize these shared goals. In other words, we could say that an organisation is a social system that is deliberately designed to solve specific tasks and achieve certain goals. With this perspective, one could argue that the Swedish Migration Agency could be described and analysed as an organisation. An organisation is not a single actor with its own consciousness, it consists of people who interact with each other. None of us have taken an organisation in hand. Many of us on the other hand, have shaken hands with a representative, an individual, for an organisation. The person you shake hands with has been given the responsibility to represent the organisation in this particular situation. An organisation therefore consists of relationships established between people, by reaching agreements which make them form a social system together in which they cooperate to achieve certain goals. Therefore, Dag Ingvar Jacobsen and Jan Thorsvik argue that when we study organisations, we need to gain insight into the basic social and human nature of the organisation. Furthermore, an organisation relies on resources from the outside world in order to maintain its business. Each organisation depends to varying degrees on cooperation with other organisations in order to access the resources (raw materials, capital, labour,) that are necessary for the organisation. Similarly, each organisation is dependent on the presence of someone in the outside world (customers, clients) who benefits from the results that the organisation produces. The authors also mention that organisations are dependent on revenue from its clients,<sup>41</sup> but since the Migration Agency receives money from the government, they are not dependent on clients in a direct way. However, how much money the Swedish Migration Agency receives, depends on the anticipated number of asylum seekers.

Moreover, the reason why the organisation has been established is that it is seen as an effective way of solving a task. The essence of each organisation is thus task-solving, usually based on the desire that the task be resolved in the best possible way with the least use of resources. At the same time, organisations set goals that they want to achieve in the future. Organisations are designed in a way

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<sup>41</sup> Dag Ingvar Jacobsen & Jan Thorsvik, *Hur moderna organisationer fungerar*, (Lund, 2014), p. 12 f.

that someone thinks are the most effective way to solve the task. It sets formal objectives and strategies that are often formulated in written documents. Tasks are divided between departments, a pattern of accountability is established (who does what), there are routines for how individual cases are handled and so on. The Swedish Migration Agency is divided into different units, depending on what you are applying for, a certain unit will handle your application.

Jacobsen's and Thorsvik's starting point is to consider organisations as production systems. This means that all organisations must produce something, it may be a product, a service or a decision (for example, a public administration that produces rules and measures on how to allocate something). Organisation theory focuses on the people who perform the tasks, and thus human behaviour becomes the central subject of study. Organisation theory is therefore called behavioural science.<sup>42</sup> The authors bring up that some researchers believe that public organisations (such as the Migration Agency) are so different in comparison to private organisations that they require their own organisational theory. Firstly, it is argued that public organisations are different because they are led by elected representatives. This means that they must relate to democratically elected bodies. Secondly, public organisations are different because they are multifunctional, which means they must consider several and possibly contradictory considerations. Public organisations must guard central democratic values such as majority rule, protection of permanent minorities and representativeness. At the same time, they should produce goods and services in the most efficient way, and they should defend central government values such as equal treatment, predictability and transparency. And thirdly, public organisations are different because they do not work in a market. They do not sell their goods and services, and therefore do not receive the response from the market that private organisations receive. Against such an approach, it can be argued that public and private organisations are not fundamentally or qualitatively different from one another, but rather about degrees of differences according to the authors. Even private organisations are governed by representatives of different groups, they must also comply with laws, regulations and public actions. Many private organisations can also be multifunctional and operate in imperfect markets where it is often difficult to get clear reactions. At the same time, the authors believe that public and private organisations are increasingly becoming more alike. Public organisations are increasingly subject to efficiency requirements. On the other hand, they see that private organisations are increasingly expected to take in other considerations than just making money. This has contributed to the fact that public and private organisations are increasingly similar, and sector affiliation (public vs. private) probably means less and less.<sup>43</sup>

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<sup>42</sup> Jacobsen & Thorsvik, p. 14 f.

<sup>43</sup> Jacobsen & Thorsvik, p. 24 f.

## ***The Organisation and the Outside World***

All organisations are dependent on the outside world. The organisation needs resources (capital, labour, commodities and the like) from around the world, and they often depend on the outside world's support and legitimacy to survive. The general definition of the outside world is all those outside an organisation that may have a potential effect on its effectiveness and legitimacy. The outside world includes both clearly defined actors, individuals, groups and other organisations, and social conditions, such as political development, national politics and international trends.<sup>44</sup> Here, we consider the outside world which the Migration Agency is dependent on; for example, national politics, Swedish law, international trends (both migration policy and trends in migration) society's view of the government organisation as legitimate or not. All these parts of the outside world influence the organisation.

The organisation's goals and strategies are strong signals to the employee about what to focus on. If an organisation has a strategy of cost-cutting (producing at the lowest possible cost), employees focus on information that is relevant for a gradual improvement and streamlining of production and distribution processes, so as to reduce costs further. For an organisation, it is desirable that an employee who has different choices in a certain situation asks the question: "What is the best option for the organisation?" And what is the best for the organisation is the formal goals and strategies. Thus, in many organisations, it is found that people in this situation value different options against superior goals and strategies, but also towards more specified sub-goals. The clearer and more concrete goals are, the stronger they will act as decision-making.<sup>45</sup>

When a person is given a position in an organisation, the person also gets a certain work- and area of responsibility. This sets limits on what the person holding the position should and ought to draw their attention to. He or she should first and foremost concentrate on his subject area and, to a lesser extent, devote time and resources to what others in other positions are involved with. The authors argue that a consequence of division of labour and specialisation is that certain information becomes important, while other is overlooked or considered to be unimportant. The information collected is therefore largely a result of how the organisation is structured, that is, what principles have been chosen for division of labour and specialization, what formal units has been set up and what procedures have been established for communication and coordination across the organisation. A central aspect of the formal structure is routines and procedures. If problems (or cases) are equal or relatively similar, this

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<sup>44</sup> Jacobsen & Thorsvik, p. 184 f.

<sup>45</sup> Jacobsen & Thorsvik, p. 292 f.

is a very effective way of working, and a reason that most organisations try to develop standard procedures where possible. The authors bring up an example when a patient with unclear diagnosis comes to the hospital and the doctors need to establish what should be done. Similarly, we can think of a person seeking asylum and the officer must find out what grounds for asylum are being invoked. The officer then seeks information in connection with what the organisation has done before, and when the asylum seeker is placed in a category along with previous similar situations, the organisation's members start offering him or her something that is already known. Organisations are therefore systematically looking for information in connection with what has been done previously and offer what has previously been offered. Organisations also have procedures for reaching collective decisions that cannot be handled through standard procedures, for example in cases that are complex or brand new and unknown. The most traditional is to send the issues up in the hierarchy. Some have argued that the purpose of higher hierarchical positions is that they can make decisions that are not possible at lower levels with standard procedures. Here, the leader can make a decision, either alone or in consultation with others.<sup>46</sup> At the asylum units within the Swedish Migration Agency, all asylum decisions are made in consultation between executive officers and case officers. Organisationally, the executive officer has a higher position in the hierarchy than the case officer.

### ***Planned and Hierarchically Controlled Change***

Jacobsen and Thorsvik argue that what one usually thinks of when we talk about organisational change, are planned and hierarchically controlled changes. This means that the change is the result of deliberate actions where people change organisations to improve the situation, or to adapt to a situation they think will occur. Scheduled and hierarchically driven change is based on the fact that the change takes place by people acting as rational subjects with certain goals and with the desire that something decided will happen. Organisations are supposed to be something that can change and be governed by management. In this perspective, the reason for change is linked to the idea that central actors in an organisation (what the authors call; change agents) analyse situations that evolve and change over time, anticipate different forms of change pressure, as well as develop and implement change strategies to master challenges and exploit opportunities. Planned and hierarchically controlled change is often anchored in an idea of how things can be done better. Planned change is often linked to strategic management, where you are interested in adapting your organisation to changes in the outside world.

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<sup>46</sup> Jacobsen & Thorsvik, p. 293 ff.

In order for planned change to succeed, it is crucial that the change agents manage to make the impression that change is necessary in large parts of the organisation. In other words, the change agents must create an experienced pressure. One of the most important social development features that can create pressure on an organisation that Jacobsen and Thorsvik raise are: political control and actions that affect the competitive situation or the framework conditions for the business.<sup>47</sup> Political governance that affected the framework conditions for the Swedish Migration Agency is the tightened budget in the letter of appropriation, which is a result from a reduced immigration to Sweden.

## Resistance to Change

Changes to an organisation are often encountered by resistance. Jacobsen's and Thorsvik's starting point is that resistance to change is a rational response from individuals and groups. Individuals confronted with changes that they are not prepared for are said to go through seven typical reaction phases;

1. Surprise phase: You get shocked. Is this really possible? What does these changes mean to us as a group, and to me as a person?
2. Denial phase: No, this is not possible. They will never get it done. Someone will stop this whole process.
3. Depression phase: The employee experiences powerlessness, and many simply quit from the whole process and resign. It is not worth it.
4. Reluctant acceptance: There is no other way, we have to do this.
5. Test phase: Testing new ways of organizing the organisation and new working methods.
6. Consolidation phase: Where the changes that work in practice are consolidated in structures and processes.
7. Adaptation phase: Where you accept the changes.

As the description of the phases shows, feelings play a big role. Resistance does not have to be a dysfunction or a pathological condition. In many cases, resistance to change is based on the fact that the individual defends something that is known, something that is believed to be right and true.<sup>48</sup>

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<sup>47</sup> Jacobsen & Thorsvik, p. 358 ff.

<sup>48</sup> Jacobsen & Thorsvik, p. 363 f.

## Understanding Welfare Politics from the Employees' Position

The concept of *street-level bureaucrats* and *street-level bureaucracies* comes from the political scientist Michael Lipsky and his study *Street-level bureaucracy: dilemmas of the individual in public services* (1980). With this concept Lipsky introduced a perspective on politics which places public service agents, who within their line of work meet clients of the welfare state, in the centre of the analysis. To understand how welfare politics is practiced, it is necessary to study the local practices, namely what occurs on the street-level, in the meeting between public service agents and the welfare state clients. Since the street-level bureaucracies is where the individual encounters the welfare-state, the street-level bureaucrats (public service agents) are those who negotiates welfare politics. Thus, Lipsky argue that politics needs to be understood as something that is shaped by and in the context, it is executed.

I argue that the decisions of street-level bureaucrats, the routines they establish, and the devices they invent to cope with uncertainties and work pressures, effectively *become* the public policies they carry out. I argue that public policy is not best understood as made in legislatures or top-floor suites of high-ranking administrators, because in important ways it is actually made in the crowded offices and daily encounters of street-level workers.<sup>49</sup>

From this point of view, the people who work operationally in the administration are those who, in practice, do public policy. Paula Blomqvist and Bo Rothstein state that; "It is the sum of the employees' actions that in fact becomes the public program."<sup>50</sup>

In its original form, the term street-level bureaucrat aims at the public service agents that citizens meet in their encounter with the state: teachers, police, social workers, but also professions who do not have the same clear occupational affiliation: case officers at the public employment service, social insurance service et cetera. What these professions have in common, is that they can grant access to government programs and to provide with services within them. The street-level bureaucrat is also recognized by having substantial discretion in the execution of their work.<sup>51 52</sup> The public service agencies that, in proportion to their workforce, employ a considerable number of street-level bureaucrats are named street-level bureaucracies. People in these professions have somewhat similar working conditions and therefore, they tend to have much in common. They are united in the sense

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<sup>49</sup> Lipsky, p. xii.

<sup>50</sup> Paula Blomqvist & Bo Rothstein, *Välfärdsstatens nya ansikte: demokrati och marknadsreformer inom den offentliga sektorn*, (Stockholm, 2008), p. 16.

<sup>51</sup> See also, Evelyn Brodtkin, (2007) "Bureaucracy Redux: Management Reformism and the Welfare State", in *Journal of Public Administration*, 17:1, p. 1 - 33.

<sup>52</sup> See also, Evelyn Brodtkin, (2011) "Policy Work: Street-Level Organizations under New Managerialism", in *Journal of Public Administration Research and Theory*, 21:2, p. 253 - 277.

that their work is too complex to be regulated in detail, since it requires that they independently make decisions based on situations that arise.<sup>53</sup> In order for them to perform their work, they have a room for discretion attached to their mission.<sup>54</sup> With this perspective, the people who work operatively in the administration become those who in practice *do* the public policy. The analytical gain with the street-level bureaucracy perspective is, in other words that it enables an analysis of the places where policy is done and the individuals who do policy.

The sociologist Celeste Watkins-Hayes believes that street-level bureaucracies are still in some ways a "black box" in policy studies. In order to increase the transparency of what happens in the meeting between the welfare state and its clients, she sees a need for analyses of organisations and civil servants.<sup>55</sup> Evelyn Brodtkin has described street-level bureaucracies as a mysterious space and argues that there is an analytical gap between studies that analyse politics as policy and those studying the outcomes of politics. According to Brodtkin, this gap can be bridged by studying the actions and negotiations that street-level bureaucrats make policy through.<sup>56</sup>

### ***The Role as a Public Service Agent***

Street-level bureaucrats may influence people's lives considerably, the way they provide people with benefits and sanctions, structure and determines the limits of people's lives and prospects. Consequently, they also orient and provide the social and political context in which people can act. Additionally, Lipsky argue that with every service benefit provided, the influence and control of the state follows. But since it is the street-level bureaucrats who act as the providers of public benefits, and some of them as protectors of public order, they are often the focus of political disagreement. They are often torn between the demands and expectations of clients of the welfare state to be more effective and responsive and demands from citizen groups to improve the efficiency of government services. Because of the impact that street-level bureaucrats may have on people's lives they dominate political controversies regarding public services. Lipsky argue that this is for two reasons. Firstly, the debates about where governmental services should put their focus, which according to Lipsky is essentially about the public employees and what they should focus on. And secondly, because these public employees have substantial impact on people's lives. This power to impact entails that they socialize citizens to expectations of government services, they decide over the individual's eligibility

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<sup>53</sup> See also, Isabell Schierenbeck, *Bakom Vålfärdsstatens Dörrar*, (Göteborgs: Univ., 2003), p. 19.

<sup>54</sup> Lipsky, p. 3 f.

<sup>55</sup> Celeste Watkins-Hayes, *New welfare bureaucrats: entanglements of race, class, and policy reform*, (Chicago, 2009), p. 38 f.

<sup>56</sup> Evelyn Brodtkin & Larsen Flemming (2013) "Changing Boundaries: The Policies of Workfare in the U.S. and Europe." in *Poverty & Public Policy*, 5:1, p. 37 – 47.

for government benefits and sanctions and they supervise the service and treatment that the citizens receive. In other words, the street-level bureaucrats facilitate and negotiate the relationship between the state and the welfare state clientele.<sup>57</sup> As Lipsky puts it; “[...] they hold the keys to a dimension of citizenship.”<sup>58</sup>

Something that is defining of the work of a street-level bureaucrat is that they must deal with the clients’ reaction when a decision has been made, however they might react and cope with the implications of the decision. When a client is affected, or their evaluation of themselves are affected, because of actions taken by the street-level bureaucrat, it is basically a reaction towards the policy, although the reaction is in practice directed towards the public service agent. The clients of the welfare state react irritably to actual, or what might be, perceived injustices. They might also develop strategies to put themselves in favour with the street-level bureaucrat, act appreciative, joyful or glum and passive in response to decisions taken by street-level bureaucrats. Lipsky here compares the treatment one might accept from other customer services who don’t know anything of the personal circumstances regarding a claim or request to how people expect they should be treated when in contact with street-level bureaucracies. He argues that clients expect an open and sympathetic hearing from the street-level bureaucrat. In other words, the working conditions for the street-level bureaucrats is far from the bureaucratic ideal of objective detachment in decision making. Instead, in street-level bureaucracies the objects of decision (people) in fact change because of their decisions.<sup>59</sup>

## Working Conditions

The working conditions at street-level bureaucracies are characterized by a high level of discretion and interaction with citizens on a regular basis. Furthermore, they experience these following conditions in line of their work: 1) In relation to their mission, the resources are consistently insufficient. 2) The request for services often increase to meet the supply. 3) The set goals and expectations for the agencies are ambiguous, unclear or even contradictory. 4) Performance aimed towards achieving set goals is difficult to measure. 5) The clientele is most commonly nonvoluntary.<sup>60</sup>

Moreover, the decision making of street-level bureaucrats often take place under conditions marked by insufficient time and information. They are also often bound and constrained by the costs to get hold of information and the unavailability of the same. At the same time, the street-level bureaucrat tends to be used to uncertainty because of the complexity of working with people and that they are

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<sup>57</sup> Lipsky, p. 4.

<sup>58</sup> Lipsky, p. 4.

<sup>59</sup> Lipsky, p. 9.

<sup>60</sup> Lipsky, p. 27 f.



often stressed to make decisions frequently and rapidly. Not only is trustworthy information costly and hard to obtain, the street-level bureaucrat is often pressured with high case-loads and under constant pressure to make decisions, which pushes them to act before considering whether more information would be preferable or not.<sup>61</sup> Lipsky argues that it is characteristic of street-level bureaucracies to not provide their employees with necessary resources. Most commonly is the number of workers in relation to cases and time. Street-level bureaucrats often have large caseloads and therefore cannot fulfil their responsibilities. High caseloads will have an effect on the time for making decisions.<sup>62</sup>

As mentioned, a distinctive feature of Lipsky's street-level perspective is that the street-level bureaucrat's work is characterised by having significant room for discretion. Which is an aspect that separates street-level bureaucrats from other professions. The street-level bureaucrats are those who are directly responsible for the services they provide to the public. Thus, room for discretion is considered to create opportunities to influence the everyday life of the citizen and his or her living conditions.<sup>63 64</sup> Room for discretion is a course of action that the street-level bureaucrats use to solve issues related to their performance of various assignments. Furthermore, room for discretion is used as a tool to achieve the organisation's overall goals, which in practice are often very comprehensive and difficult to achieve.<sup>65 66</sup> Janet Vinzant Denhardt and Lane Crothers mean that discretion entails that the individual civil servant can in practice create an independent space to choose how a situation is to be judged and managed within the framework of their work and regulations.<sup>67</sup>

An important point of departure in Lipsky's theory is that the street-level bureaucrats often find themselves somewhere between their room for discretion and the regulatory framework. Room for discretion in relation to the regulations, is regarded as an essential part of the street-level bureaucrat's work. Furthermore, street-level bureaucrats are assumed to differ in how they perform their work, with regard to the application of the regulations. It is the street-level bureaucrats who determine how the regulations are applicable and how the room for discretion should be used. Moreover, Lipsky points out that the street-level bureaucrat's discretion does not mean that they should disregard rules, policies and directives. The directives and regulations are usually formulated by officials who are higher in the organisation and does not perform tasks in the operational part of the organisation.

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<sup>61</sup> Lipsky, p. 29.

<sup>62</sup> Lipsky, p. 29 f.

<sup>63</sup> Michael Lipsky, *Street-level bureaucracy: dilemmas of the individual in public services*, (New York, 2010), p. 3 f.

<sup>64</sup> Schierenbeck, p. 18 f.

<sup>65</sup> Lipsky, (2010), p. 13.

<sup>66</sup> Janet Vinzant Denhardt & Lane Crothers, *Street-level leadership: discretion and legitimacy in front-line public service*, (Washington, 1998), p. 35 f.

<sup>67</sup> Denhardt & Crothers, p. 37.

Lipsky means that it is not realistic to provide the street-level bureaucrat with detailed instructions and tell them how to handle each situation.<sup>68</sup> Isabell Schierenbeck strongly criticizes this, she argues that Lipsky has not questioned enough how the room for discretion should be used.

In similarity with Lipsky, Schierenbeck's starting point is that all street-level bureaucrats have room for discretion in relation to their tasks that occur within the framework of their work and in the meeting with clients.<sup>69</sup> Although, Schierenbeck argue that the street-level bureaucrats develop their own interpretation of established practices alongside the regulations that already are in place. Such an interpretation could entail that the street-level bureaucrat choses to not follow the existing regulations, it can also mean that the interpretation of established practices occurs within the frame of the discretion that is granted in connection to the regulations. It does not necessarily have to be in conflict with the regulations the street-level bureaucrats have at their disposal, but rather, this falls within the frame of the discretion that is allowed in connection to the regulations. However, discretion can be used to avoid the regulations the street-level bureaucrats use in their work.<sup>70</sup>

Furthermore, Lipsky argues that the street-level bureaucrats sometimes find themselves in situations that require an empathetic approach, and that people cannot be pre-programmed to handle this. In the meeting with clients, a contradiction arises for the street-level bureaucrat. One the one hand, their work takes place in interaction with people, the bureaucrat and the client, which requires human interaction, to take care of the client and act responsibly. One the other hand, their work is regulated through a bureaucracy which demands impartiality and equivalence and resources are limited, which makes the caring and responsible part conditional.<sup>71</sup> Schierenbeck agrees with Lipsky on this matter and argues that the room for discretion does not only take place in relation to regulations, but also in the street-level bureaucrats relation to the clients.<sup>72</sup>

## The Clients of Welfare Politics

The clientele of street-level bureaucracies is hardly ever voluntary, which may be explained by the fact that they supply services that cannot be obtained somewhere else. The governmental agencies may have a monopoly on the service, or the clients may not have any other choice because they might not afford the same services at a private organisation.<sup>73</sup> Even though the client may have some means

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<sup>68</sup> Lipsky, (2010), p. 13 ff.

<sup>69</sup> Schierenbeck, p. 18 ff.

<sup>70</sup> Schierenbeck, p. 32.

<sup>71</sup> Lipsky, (2010), p. 71.

<sup>72</sup> Schierenbeck, p. 28.

<sup>73</sup> Lipsky, p. 54.

to affect their relationship to the street-level bureaucrat, it is not a balanced one. The relationship between the two is characterised by unidirectional power, since only one of them has the power to make and carry out a decision regarding the request of the client. How the relationship will continue is often decided by the street-level bureaucrat, but the character and terms of it is primarily affected by the limits of the job.<sup>74</sup>

The individuals who comes to street-level bureaucracies arrive as unique individuals, separated by their different life experiences, personalities and circumstances. In the meeting with bureaucracies they become clients and are put into categories and treated as if, and treat themselves as if, they fit into standardized definitions of bureaucratic slots. Categorizing clients is a central part of the street-level bureaucrat's work and something they need to use their discretion to do. Lipsky argue that public service agents must give the client a bureaucratic identity in order to carry out their work. These identities are based on certain assumptions about the client. If the employees do not base their work on stereotypes, they will not be able to handle the work and satisfy the needs of clients. The stereotyping of clients is partly about that street-level bureaucrats should be able to systematise and categorize the clients in different systems, and partly about that they often have such a job situation where they should quickly place the clients in a category in order to provide the right service or correct actions.<sup>75</sup>

The relationship between the client and the bureaucrat is also characterised by a difference on what they believe is the reality. This is partly due to that the two are intrinsically in conflict over objectives and that the relationship is considerably unequal. According to Lipsky, the street-level bureaucrats and the client often think differently about what is going on. Clients often see their needs and problems as individual and thus their demands or requests as individual expressions of expectations. With this position, they tend to expect to be treated appropriately, as individuals, which often also is encouraged by society in general. On the other side of the table sits the bureaucrat, who experiences the problems of their clients as calls for categories of action. Clients seek the provision of services and benefits, while street-level bureaucrats seek to control the process of providing them.<sup>76</sup> Lipsky argue that it is a contradiction to distribute street-level policy through bureaucracy. Here we have a situation where service is distributed by people to people, which calls for human interaction and caring. At the same time, this takes place through a bureaucracy, which invokes detachment and equal treatment under the conditions of limited resources, making care and responsibility contingent.<sup>77</sup>

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<sup>74</sup> Lipsky, p. 59.

<sup>75</sup> Lipsky, p. 59.

<sup>76</sup> Lipsky, p. 60.

<sup>77</sup> Lipsky, p. 71.

## ***To do Integration Policy***

In her doctoral dissertation, Jennie K. Larsson analyses how establishment administrators at the Swedish Public Employment Service (*Arbetsförmedlingen*) and private actors do integration policy, and why they do policy in the way they do it. Additionally, her purpose was to explore the meaning of “Swedishness” in the implementation of integration policy. Based on the street-level bureaucrats’ stories and by observing the places where they do policy, Larsson analyses how they with more or less informal strategies, decisions, negotiations and actions do integration policy. The questions guiding the dissertation were the following: What conflicts do the bureaucrats experience in their work, and how are they expressed? How do these individuals use their room for discretion? Do they develop strategies in their implementation of policy and how are these expressed? In order to understand why they made the policies the way they did, she also analyzed how work situations, resources, professional and social backgrounds affected the implementation.<sup>78</sup>

Larsson based her study on literature about the street-level bureaucracies, starting with Lipsky’s study and other researchers that have further developed and made use of the perspective. She chose to use the concept of the street-level bureaucrat in line with researchers who seek to broaden analyses of street-level bureaucracies to also include companies and nonprofit organisations. Larsson argue that the implementation of policy also needs to be analyzed by a power perspective since political documents, actions and decisions can produce unequal conditions for people depending on social situations. To make this possible, Larsson added an intersectional approach to theories regarding street-level bureaucracies, which she argues is often missing in the street-level bureaucracy perspective. By joining these perspectives, Larsson opened for an analysis that further problematizes the crucial role that establishment administrators and private actors who implement policy has.<sup>79</sup>

In her concluding discussion, Larsson writes that the dissertation showed that street-level bureaucrats develop strategies to adjust the work to fit with the requirements of efficiency and to meet the set goals that are imposed upon them. One of these strategies is that service officials “park” clients they categorize as “hard work”. Clients that are perceived to be closest to the labor market do not receive the most amount of service or help, since they are thought of as able to establish themselves. Also, clients that are seen as the least employable are “parked”. The so called “middle clients” are those that the service officials help the most. Furthermore, the study showed that employment service officials put very little of their time into doing their main mission, trying to find jobs for newly arrived

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<sup>78</sup> Jennie K. Larsson, *Integrationen och arbetets marknad: hur jämställdhet, arbete och annat "svenskt" görs av arbetsförmedlare och privata aktörer*, (Stockholm, 2015), p. 22.

<sup>79</sup> Larsson, p. 57 ff.

immigrants. Larsson also showed how service officials developed strategies to keep costs low and how this negatively affected the opportunities for education and information regarding assimilation for the newly arrived immigrants. In Larsson's research it becomes clear that Lipsky's concept of street-level bureaucrats and bureaucracies was highly useful in studying how policy is implemented and what the results were.<sup>80</sup>

As mentioned, individuals who work at street-level bureaucracies are characterized by having significant discretion attached to their tasks and work. Larsson brings up that Lipsky describes discretion as; the choices and assessments that occur within defined limits. Furthermore, Larsson also argues that discretion is necessary and is within the scope of the civil servants' work. Without discretion, it would be impossible for street-level bureaucrats to perform their work because they often need to make decisions based on specific situations. They are in a complex situation in which they must comply with the regulations attached to their mission, be loyal to the organization, and take into account the specific needs of individual clients. In a specific situation, one of the relationships can be perceived as more important than others, but in practice, it entails a balancing act between different possibilities or requirements when the bureaucrat makes a decision within the framework of their work. Additionally, the bureaucrat also has to relate to demands of results and efficiency that characterize their work situation.<sup>81</sup>

### ***A Review of the Asylum Process***

In a study which is the final product of a project financed by the European Refugee Fund (ERF), conducted by UNHCR in collaboration with the Swedish Migration Agency, Liv Feijen and Emelia Frennmark writes about the Swedish Migration Agency's application of the refugee convention and the subsidiary protection provisions in Swedish law. The study provides recommendations for how to improve the quality of the asylum procedure in accordance with international standard. The importance of an asylum procedure to be in compliance with the law, to be legally secure, cannot be overstated. An incorrect asylum decision may mean that a human loses his or her life or freedom. When assessing the need for protection, all relevant circumstances which the asylum application is based on must be considered. A complete investigation is therefore a prerequisite for the decision on international protection to be legally secure. The demarcation between the applicant's burden of proof and the authorities burden of investigation is often hard to draw in asylum cases. The burden to provide proof may shift due to several factors, in some cases it can be placed completely on the

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<sup>80</sup> Larsson, p. 316 ff.

<sup>81</sup> Larsson, p. 63.

authorities. According to the UNCHR's manual, the burden of proof should in principle be on the applicant and the burden of investigation, the obligation to find out and evaluate all the relevant facts, should be shared between the applicant and the investigator. The applicant should be given an opportunity to declare all relevant information about themselves, as well as previous experiences in such detail that the investigator can determine all essential facts. The applicant should be encouraged to give a coherent account on all the grounds that are invoked to support the asylum application and answer all questions asked by the agency.

The investigator's task is among other things, to make sure that the applicant puts forth all the facts possible and that all evidence available is submitted. It is a general legal principle that the burden of proof lies with the person that invokes a certain circumstance. What the burden of proof entails for the applicant must be understood within the special context of asylum. UNHCR's manual says that first and foremost, the applicant has the responsibility to put forth the reasons for seeking asylum. One must, however remember that the applicant might have experienced traumatic events that may affect his or her ability to speak freely, remember events correctly and to reproduce details. Furthermore, it cannot be required of the asylum applicant to put forth evidence from the country of origin if it would pose risks for the applicants remaining family or relatives.<sup>82</sup>

Article 4.1 in the EU's Asylum Procedure Directive stipulates that the state may consider it as the applicant's obligation to hurriedly put forth everything that is required to strengthen an application of international protection, which entails the oral statement, all documents s/he possesses regarding age, background, relative's backgrounds, identity, nationality, previous country of settlement, itinerary, identity- and travel documents, and also the reasons for their application of international protection. The EU's asylum procedure directive stipulates that the member states should take suitable actions to make sure that the oral investigations are conducted in a way that guarantees that the applicant is able to put forth his or her reasons for their applications in a comprehensive manner. In Swedish law, the main rule is that the asylum applicant should give a credible and reasonable narrative about the need of international protection, while the authorities have the responsibility to make sure that the matter is sufficiently investigated in accordance with the "official principle" (*officialprincipen*<sup>83</sup>). The authority's investigative responsibility means that the authority is responsible for ensuring that the investigation is as complete as the case requires, including circumstances that the asylum seeker has not invoked, but which may constitute grounds for protection. In asylum cases, the need for protection for the individual must be weighed in, which

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<sup>82</sup> Liv Feijen & Emelia Frennmark, *Kvalitet I svenska asylprövning: En studie av Migrationsverkets utredning av och beslut om internationellt skydd*, (Stockholm, 2011), p. 20.

<sup>83</sup> The National Encyclopaedia, *Officialprincipen*, <https://www.ne.se/uppslagsverk/encyklopedi/l%C3%A5ng/officialprincipen>, (retrieved 2018-01-07).

means that the agency has a greater investigative responsibility than for other cases, a so-called expanded investigation responsibility. When the applicant has fulfilled his or her responsibility to state the basis for the application, the responsibility is transferred to the Swedish Migration Agency to obtain the required information to make a decision. Which means that if something has not been possible to investigate it cannot be used against the applicant. It is important to keep in mind that asylum applicants often cannot strengthen their claims with written evidence, or other forms of evidence. Most common, someone who flees from persecution only brings the most necessary and often lacks identity documents and other documents. That asylum applicants can substantiate all their claims is usually an exception, rather than a rule.<sup>84</sup>

In several decisions, the Migration Supreme Court has presented its views on the burden of proof and investigative responsibility in asylum cases (MIG 2006:1<sup>85</sup>). The Migration Supreme Court places greater emphasis on the applicant's burden of proof, without mentioning the investigator's shared responsibility for disclosing the data. Feijen and Frennmark argue that UNHCR does not share this view but believes that the obligation to ensure that the case is sufficiently correct and that all relevant circumstances are investigated as far as possible, should be shared between the investigator and the applicant. The understanding of investigative responsibility and the respective burden of proof is fundamental to the asylum procedure and the interpretation of these concepts directly affects several aspects of the same.<sup>86</sup>

Investigating the need for international protection is a difficult task that requires specialist knowledge, careful preparation and an empathetic and professional approach. UNHCR emphasizes in its manual that specialist skills are required to determine refugee status:

[...] The determination of refugee status is far from a mechanical or routine procedure. Instead, special skills, education and training are required, and above all an understanding of the situation the applicant is in [...]<sup>87</sup>

A basic prerequisite for conducting a good asylum inquiry is that the case officer has good knowledge of the refugee definition and other grounds for international protection and good knowledge of international and national binding practices. Furthermore, UNHCR argue that in order for the officer to conduct an adequate asylum investigation, it is required that the officer has good knowledge of interviewing techniques, an ability to work with interpreters and that they have an empathetic and

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<sup>84</sup> Feijen & Frennmark, p. 21.

<sup>85</sup> Domstolsverket, *Migrationsöverdomstolens avgörande den 18 september 2006 (mål nr UM122-06)*, MIG 2006:1, 2006-09-18.

<sup>86</sup> Feijen & Frennmark, p. 21 ff.

<sup>87</sup> UNHCR, *Handbok om förfarandet och kriterierna vid fastställande av flyktingars rättsliga ställning: enligt 1951 års konvention och 1967 års protokoll angående flyktingars rättsliga ställning*, (Stockholm, 1996), parr. 222.

professional approach. During the study, UNHCR identified a need for more education and training for investigators in Swedish and international asylum law, practice of the European Court of Justice and the European Court of Human Rights, but also country information, interviewing techniques, and investigation techniques. The requirement of good knowledge of refugee rights necessitates both good introductory education and continuous training, as refugee law and routines are constantly evolving.<sup>88</sup>

## The Oral Statement

In both the EU directives and international law, the right to oral investigation is specified for the asylum applicant. In accordance with Article 12.1 of the Asylum Procedural Directive, the applicant shall have an oral investigation, conducted by a competent individual. Article 12.2 of the same directive sets out certain exceptions to the requirement of an oral investigation, for example; if the Member State can make a positive decision based on existing material. The oral hearing is also prescribed in 14 § of the Administrative Procedure Act. The oral statement, along with relevant country information, are the most important sources in the assessment of refugee status and other protection needs. The purpose of the oral investigation is that the asylum seeker should be given an opportunity to submit his or her asylum reasons and that the officer should ask questions to obtain all relevant facts. The oral investigation shall be conducted in such a way as to determine all the relevant facts for the case in the most complete and reliable manner. This means that the oral investigation must establish all relevant facts for all prerequisites in the refugee definition, as well as for other protection reasons.<sup>89</sup>

The applicant shall provide a coherent story, which does not contain conflicting facts. UNHCR's manual indicates that the officers should identify and clarify what appears to be contradictions during the investigation and carry out additional hearings if necessary.

[...] However, the investigator may have to carry out an additional interview to clarify what may appear as contradictions and find explanations for incorrect statements and failure to state significant facts.<sup>90</sup>

According to Feijen and Frennmark there are many reasons why facts may be contradictory, which does not have to relate to whether the fact is correct. When contradictory information is provided, including information relating to country information, the applicant must have the opportunity to

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<sup>88</sup> Feijen & Frennmark, p. 31 ff.

<sup>89</sup> Feijen & Frennmark, p. 57.

<sup>90</sup> UNHCR, *Handbok om förfarandet och kriterierna vid fastställande av flyktingars rättsliga ställning: enligt 1951 års konvention och 1967 års protokoll angående flyktingars rättsliga ställning*, (Stockholm, 1996), parr. 199.



respond and explain such contradictions or vagueness in the statement. It is an absolute requirement that the investigator gives the asylum seeker an opportunity to comment on the information that is considered to be conflicting or unreasonable. This hearing must be done in a skilful way to prevent that the climate of trust is broken. What is perceived as contradictions may have simple explanations in terms of cultural differences, misinterpretations or misunderstandings. The misunderstandings can be derived from the communication between the officer and the applicant or the applicant and the interpreter, and they may be due to many reasons, such as linguistic, cultural or because of negligence and ambiguity in the questions. That the applicant should provide a coherent story must be understood on the basis that people's ability to remember and express themselves verbally varies and that people who have been exposed to trauma may have a reduced ability to remember all the details and that memory gaps are common.

During the project between UNHCR and the Swedish Migration Agency, it was observed that objections regarding credibility were first presented in the decisions. For a statement to be deemed credible, it is necessary that the information is coherent and not contradictory, reasonable and not contrary to generally known facts. If this is true, the applicant has fulfilled their burden of proof and should be given evidence relief for the possible information that has not been proven. The UNHCR noted that while some investigators were skilled at handling contradictory tasks, others needed further training in this area.<sup>91</sup>

It is unusual for an applicant to be able to submit complete argumentation, clearly indicating future persecution. Which is why international law convey that the applicant's statement should be accepted without further evidence. With regards to allegations of persecution, no further evidence is required than that the asylum seeker's story is coherent and credible. The credibility of the applicant is not to be challenged simply because he or she does not present written evidence in support of their claims, which in general cannot be attributed to lack of credibility. According to Swedish law, the Migration Agency shall assess whether the applicant's story is sufficient to meet the criteria for protection and if it is probable, by means of alleged evidence or by being deemed credible and therefore granted the benefit of the doubt. According to case law, the Swedish Migration Agency will first examine whether the applicant was able to make his or hers story probable through the evidence claimed, before making a credibility assessment. The evidence can be written or oral.<sup>92</sup>

The Migration Supreme Court states that one should distinguish between the assessment of evidence and the applicant's oral statement when conducting the credibility examination. The Migration

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<sup>91</sup> Feijen & Frennmark, p. 76 ff.

<sup>92</sup> Feijen & Frennmark, p. 81.

Supreme Court also found in its first ruling that it is in the nature of the case that many of the circumstances relied on by asylum seekers, cannot be made probable by written or other evidence and that the applicant should be given alleviation of evidentiary burden if the applicant has given a credible statement. UNCHR found that there is no standardized interpretation of the evidentiary requirement of "well-founded fear". Many decision makers used the phrase, "it cannot be excluded", which would lie under the requirement of probability. Feijen and Frennmark bring up an example from other decisions where it was argued that;

The Migration Agency finds that your story can neither be refuted nor confirmed. According to the Migration Agency, it is therefore unlikely that your statement is correct.<sup>93</sup>

According to the authors, there is a need for further clarification from the Migration Agency, but also from the Migration Supreme Court on how to interpret "well-founded fear", as well as the probability assessment applied to different types of cases. UNHCR found that the request for written evidence was consistent, which is not supported by international practice or the principle of Swedish evidentiary assessment regarding free sifting of evidence. UNHCR believes that when written evidence is deemed to be a requirement, it should be made clear from the beginning of the process so that the applicant has the opportunity to submit such evidence within a reasonable period of time. UNHCR further believes that all essential documents should be translated from the native language and that explanations for why there is no written evidence should be accepted to a greater extent. In all cases, written evidence is given higher value than oral statements, and in a number of cases it is considered that, in the absence of written evidence, it is necessary to conclude that the applicant has not made his or her need of protection credible.<sup>94</sup>

In assessing the credibility of asylum seekers, one usually distinguishes between internal credibility, external credibility, written evidence and conduct. In assessing credibility, the officer should primarily consider internal credibility, that is, if the applicant's data is consistent, reasonable and that it does not contradict commonly known facts. The external credibility assessment aims at verifying whether the relevant parts of the claim are consistent with country information and what is known about the country of origin and what other applicants has said in similar situations. Whether the applicant's data is contrary to generally known facts should be assessed based on relevant and up-to-date country information and experiences from people of similar background. If the officers have posed knowledge questions, the assessment must be based on the individual circumstances of the asylum seeker, as knowledge about a particular phenomenon may vary considerably depending on

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<sup>93</sup> Feijen & Frennmark, p. 182.

<sup>94</sup> Feijen & Frennmark, p. 182 f.

gender, social and cultural background and education. The credibility assessment shall be based on the central and relevant parts of the applicant's story. The key elements of an application for protection are the information relating to the reasons why the applicant fears persecution. Insignificant details in the applicant's statement should not constitute the basis for the credibility assessment.

UNHCR observed during the project that refusal was given due to credibility deficiencies in 38 percent of the examined cases. The assessment of the adequacy of the asylum seeker's information is largely a subjective assessment. What is fully reasonable behaviour for a person in a certain context can be completely unreasonable to another person in another context. The assessment regarding if someone is being reasonable must be done with caution and insight into how politics, religion, culture and gender and sexuality norms affect the judgment of what is reasonable. While knowledge of various cultural and political systems is important in the investigation, careful attention must be paid to the use of cultural generalizations and stereotypes about how a particular individual is expected to act. The officer should not use his or her own subjective theories about how a particular event occurred, or how the applicant or third party should have acted in a particular situation. UNHCR noted that the officers often make their own assumptions so-called speculative arguments about traditions and other conditions in the asylum seeker's country of origin without referring to country information or other sources.<sup>95</sup>

## The Asylum Investigation

Most asylum seekers perceive the asylum investigation as a very stressful situation, and the investigator must be aware of the impact of stress and power imbalance on the ability of the asylum seeker to express themselves and explain the reasons for their asylum application. It is crucial that the officer creates a confidence-inspiring and encouraging mood during the investigation to enable the applicant to put forth their asylum grounds. A safe and comfortable investigation environment is a prerequisite for the asylum seeker to feel safe to tell about his or her reasons for seeking asylum. The interview environment should be secluded, with respect for privacy and for the applicant's integrity, and any interference, interruptions, such as phone calls or voices should be avoided during the investigation situation. The space used for the investigation should be arranged in such a way that it promotes conversations and reduces the power imbalance. UNHCR observed during the project that most of the investigating rooms were sparsely furnished. The rooms were usually only furnished with tables, chairs, computers and the walls were usually bare. Several of the investigating rooms

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<sup>95</sup> Feijen & Frennmark, p. 190 ff.

lacked windows. However, some investigations were conducted in the investigators' own offices. These investigating rooms were furnished in a less formal manner, often with pictures on the walls, curtains, plants, and etcetera. These cosier rooms created a more comfortable and welcoming environment.

Feijen and Frennmark argue that it is important that there is enough time for all relevant circumstances to be investigated. The applicant should be given the opportunity to report on asylum grounds in their own words and in their own time, which may be time consuming. It is also important that the case officer asks the questions in a friendly and patient manner and that the applicant is given the opportunity and time to tell as freely as possible about his or her reasons for seeking asylum. Asylum investigations are intellectually and emotionally exhausting for all parties, but primarily for the asylum seeker. Pauses are therefore an important part of the asylum investigation and the investigator should initially inform the applicant about the layout and the possibility of breaks when needed. Most investigations that UNHCR participated in lasted for about two, or two and a half hours. In most asylum cases only one oral investigation is conducted. When the time for the initial information, the interpretation and the break is deducted from the investigation time, there is not much time left for the applicant to tell about the asylum claims in his or her own words and pace. Often, this is not enough time for trust to be established between the applicant and the investigator and for all circumstances to be clarified. UNHCR observed that many investigations were short of time and officers seemed stressed. This had a negative impact on the applicant's ability to tell about deeply personal and painful events. It is crucial that the applicant feels that there is enough time to tell about the events and that the officers does not stress the applicant. If necessary, a supplementary investigation should be carried out.<sup>96</sup>

### ***Granting Asylum or Not***

According to the Swedish Migration Agency's official policy it is stated that each claim made by an asylum seeker must be processed individually and equally, regardless of the asylum seeker's social background, country of origin or religion. A central part of a case- and executive officer's work task is to assess if an asylum seeker is truthful or not. Moreover, it is the asylum seekers responsibility to prove themselves trustworthy during the investigation with the agency. Pär Anders Granhag et al. have conducted a study which shows that some factors during the asylum investigation may have an impact on officers. Granhag's et al. study examined what case- and executive officers who work at the asylum units at the Swedish Migration Agency believed about deception during an asylum

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<sup>96</sup> Feijen & Frennmark, p. 87 ff

investigation. The aim was to study if case- and executive officers hold different beliefs regarding deception.<sup>97</sup>

Granhag's et al. research showed that the majority of the officers believed that the most difficult part in the decision-making process was to assess truthfulness. The second most difficult part was if the applicant lacks knowledge about their home country. On third place was new political decisions from the government, which can hinder their work severely.<sup>98</sup> Furthermore, Granhag et al. state that to a large extent most officers do not have a thumb rule regarding how they determine if the asylum seeker is being truthful or not. Granhag et al. state that it could be both positive and negative; on one hand it could mean that case- and executive officers have an open mind and understand that asylum seekers come from different backgrounds and therefore there can be social differences between different applicants. However, Granhag et al. argue that case- and executive officers may just look at the data collected from the asylum seekers and search for (in)consistencies and contradictions.<sup>99</sup>

The study also showed that officers rather relied on verbal indicators than non-verbal. Granhag et al. argue that, perhaps officers understood that there might be some difficulties with cross-cultural communication. Officers might also be aware that non-verbal behaviour may differ culturally and is thus more difficult to interpret. Another important result in the study was the use of interpreters in regard to the asylum investigation. The use of interpreters may be problematic, especially in regard to assessing reliability, because interpreters may misinterpret, misunderstand and lose information. Therefore, Granhag et al. stress that the interpreters' work must be assessed on a regular basis, and the instructions given to them must be very precise. Most officers believed that deceptive statements by applicants were often planned, which means that withholding the truth requires more mental effort. If an asylum seeker took shorter pauses than 'truth-tellers' this could be an indicator that the applicant was withholding the truth, because the officers believed that liars plan their verbal stories more than truth-tellers. When asked more in-depth question, the officers answered that what is most important when assessing reliability was (in)consistencies in the applicant's narrative. The study also showed that there was a high degree of disagreement among the officers, which can indicate that there is a risk that two officers may come to different conclusions regarding the asylum seekers reliability. Granhag et al. findings show that officers acknowledged that determining credibility in an asylum case is difficult. In conclusion, the officers who participated in the study expressed that there is a need for further training and guidance in how to assess reliability and credibility.<sup>100</sup>

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<sup>97</sup> Pär Anders Granhag, Leif A. Strömwall & Maria Hartwig, "Granting Asylum or Not? Migration Board Personnel's Beliefs about Deception", in *Journal of Ethnic and Migration Studies*, 31, (2005:1) p. 29 ff.

<sup>98</sup> Granhag, Strömwall & Hartwig, p. 40.

<sup>99</sup> Granhag, Strömwall & Hartwig, p. 46.

<sup>100</sup> Granhag, Strömwall & Hartwig, p. 42 – 48.

# Method

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## Ethnographic Method

A method is required to make sense of the gathered material, but also to decide on what material to study in order to answer the research questions. It is with the ambition to clarify the relationship between the material and theory that this chapter is written. This is the link that will enable an analysis of the messy empirical reality the study aims to shed a light on. Our starting point is an understanding of politics as something that is made when it is set into motion and practiced. This means that our analytical focus is aimed at the places where politics are made and the individuals working there. In order to study this, we have worked with ethnographic methods. This chapter will also entail a presentation of how the material was gathered, analysed and written. We will begin this chapter with how we understand ethnographic method and how we see our roles as researchers. Then the choice of study will be discussed and how the fieldwork has been done. In connection with this, ethical considerations are also discussed.

The sociologist Patrik Aspers describes ethnographic method as qualitative, interpersonal methods where the researcher interacts with the informants and makes use of the method to understand and describe the present.<sup>101</sup> This interaction with the informants is also a part of the knowledge production. Thus, in our roles as researchers, we do not only explain and describe the present, but we are also taking part in constructing it through our research. The theoretical choices we make affect how the present is understood and presented in the thesis. As researchers, we can never be completely neutral or distanced from what we study. Who we are, what questions we ask, and especially how we interpret the material, makes us active subjects in the knowledge production.<sup>102</sup>

## Interviews

Steinar Kvale and Svend Brinkmann argue that qualitative interviews are increasingly being used in social sciences as a research method since the 1980s. Behind the growing popularity of qualitative methods stands what can be called a qualitative understanding. Based on that understanding, the processes and phenomena of the world are described before they are theorized, understood before they are explained and regarded as concrete qualities rather than as abstract. A qualitative understanding entails a focus on the cultural, everyday life and situated aspects of people's thinking, learning, knowing, acting, and ways of perceiving themselves as individuals. Interviewing is one of

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<sup>101</sup> Patrik Aspers, *Etnografiska metoder: att förstå och förklara samtiden*, (Malmö, 2011), p. 44 f.

<sup>102</sup> Steinar Kvale & Svend Brinkmann, *Den kvalitativa forskningsintervjun*, (Lund, 2013), p. 49.

the most used method to gather information about people's experiences and thoughts. The reason that interviews are so common in our daily lives may fool researchers into thinking that it is merely about meeting people and asking questions.<sup>103</sup> Kvale and Brinkmann focus their discussion on a special form of research interview, the semi structured life world interview, which is partly inspired by the phenomenology. Phenomenologists are typically interested in exploring how people experience their world, while hermeneutic researchers are interested in the interpretation of meaning and discourse analytics in how the language and discursive practices constructs the social worlds that people live in.<sup>104</sup>

The interview method may seem simple to implement, but there are several factors one must pay attention to when conducting an interview. To find out how people perceive their lives and the world around them, the interview is an excellent tool according to Kvale and Brinkmann. Participants are handed an opportunity to express their views, tell about their wishes, events and thoughts that concern them. Through the interview, the researchers get an opportunity to see and understand the world from the informant's point of view. The researcher is given the informant's world and has through her own view of the world, access to several worlds. The interview can be seen as both a tool, used to study human interaction, but also a study object, since in the interview there is a meeting between two people.<sup>105</sup> The research interview is built on everyday life's conversation and is a professional conversation, it is an interview where knowledge is constructed in the interaction between the researchers and the informant. An interview is an exchange of opinions between two, or in our case, three people, discussing a theme of mutual interest. The interview goes beyond the spontaneous everyday exchange of views and becomes a way for the interviewer to get, by asking thorough and diligent formulated questions and careful listening, informed knowledge. The research interview is not a conversation between like parties, because it is the researcher who defines and controls the situation. The interviewer introduces the topic of the interview and critically follows up on the interviewee's answers to the questions.<sup>106</sup> If there is an inherent power relation in the interview, Kvale and Brinkmann argue that the point is not that the power should necessarily be eliminated from the research interview, but rather that the interviewer should reflect on the role that power plays in the production of knowledge. The insight that there is a power relationship in the qualitative research interview raises both epistemological questions about the consequences for the knowledge that is produced and ethical questions about how to handle power asymmetry responsibly.<sup>107</sup>

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<sup>103</sup> Kvale & Brinkmann, p. 27 f.

<sup>104</sup> Kvale & Brinkmann, p. 30.

<sup>105</sup> Kvale & Brinkmann, p. 15 ff.

<sup>106</sup> Kvale & Brinkmann, p. 18 f.

<sup>107</sup> Kvale & Brinkmann, p. 50.

## ***A Reflexive Approach***

Influenced by Donna Haraway's discussion on visibility of the researcher's position, we allow ourselves to take part in the study.<sup>108</sup> This is done through the reflexive approach that the method section is written from, and which we regard as being part of the knowledge production and the research process. As researchers, we have a responsibility to question mechanical explanatory models, but also to clearly reflect and explain our research process. Not least, it is important in relation to the people who let us interview them. Although the material is created in the meeting between us and our informants, ultimately, we have the last word regarding the interpretation and presentation of the material.<sup>109</sup> In the role as researchers, we have the power over their speech and actions since we interpret these, it places us in a position of power that we owe to take responsibility for.

Moreover, a good tool for the researcher to not be pre-controlled is to have a more open research question, this will help to prevent an "expected" result. Pia Langemar states that a more open and wide research question and an empirical research process, combined with a more systematic analysis, is most likely the best way to avoid baseless pre-interpretations. The research question controls which topics are being studied. Thus, a too specific and narrow research question will certainly limit the studies field of vision.<sup>110</sup> When we first started our brainstorming process, we both wanted the study to focus on case- and executive officers' credibility assessments in regard to the oral statement during the asylum hearing. After endless reading of theories and previous research, we both came to the same understanding, that our research focus was too narrow. Thus, we revised our research questions and decided we wanted the study to focus on three themes instead. The themes were; 1) to be a case officer at the Swedish Migration Agency, 2) the asylum investigation, 3) the credibility assessment. Surprisingly, during our interviews a fourth and fifth theme was brought forth by our informants; 4) the current readjustment of the Swedish Migration Agency and 5) the role the interpreter plays in relation to the credibility assessment. Even though our initial thought was that we did not want to write about the interpreter's role, it became clear to us during the interviews that they were of great importance for the case and executive officers and their credibility assessment. Thus, we came to the conclusion that we could not leave out the importance of the interpreter. When working with empirical methods such as interviews, the researcher's approach should be receptive, meaning that the researcher should allow interpretation and structure to emerge from the material. Furthermore,

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<sup>108</sup> Donna Haraway, "Situated knowledge: The science question in feminism and the privilege of partial perspective", in *Feminist Studies*, 14 (3), p. 575 - 599.

<sup>109</sup> Heléne Thomsson, *Reflexiva intervjuer*, (Lund, 2002), p. 37 ff.

<sup>110</sup> Pia Langemar, *Kvalitativ forskningsmetod i psykologi: att låta en värld öppna sig*, (Stockholm, 2008), p. 95.



the researcher should not force the analysis process or try to attempt to apply structures and interpretations that are preconceived or constructed instead of based on the material. Langemar describes it as working according to a concrete method, letting the result come forth by itself.<sup>111</sup>

### ***Thematicization of the Study***

Kvale and Brinkmann argue that there is an important part that should take place before doing the first interview in a study like ours; thematization. Thematization refers to the formulation of research questions and a theoretical clarification of the topic to be investigated. The key issues in the planning of a qualitative study based on interviews concerns the *why*, *what* and *how*. The *why*, is about clarifying the purpose of the study. The *what*, to obtain some basic understanding of the topic that will be investigated. And *how*, to learn about different interview- and analytical techniques and determine which is most appropriate for the specific context. Originally, method stood for how to reach a goal. To reach the goal or show another way to do so, you need to know what the goal is. Therefore, it is necessary to identify the subject of an interview survey and its purpose, in order to make well-grounded decisions regarding which methods should be used in the different stages in the efforts to reach the set goal.<sup>112</sup>

Thematization of an interview study means that you clarify the purpose of the study, the study's *why*.<sup>113</sup> When we first started developing our question guide for the interviews, we simply wrote down all questions we had in mind. It, of course, resulted in a lot of questions and we had to go back and think about the *why*, *what* and *how* of our study. Our discussion resulted in three themes, to be a case officer at the Swedish Migration Agency, the asylum investigation, and the credibility assessment. These three themes helped us rework the question guide and focus our questions on what we wanted to discuss with the informants (see appendix). The thematization of an interview study includes clarifying the theme of the study's *what*. It means that you develop a theoretical understanding of the phenomena to be studied, in order to establish the base with which the new knowledge will be integrated. Kvale and Brinkmann argue that you need to be familiar with the topic to be able to ask relevant questions. The thematic focus of a study will determine which aspects of a topic the questions will allude to and which questions that will stay in the background.<sup>114</sup>

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<sup>111</sup> Langemar, p. 95.

<sup>112</sup> Kvale & Brinkmann, p. 120 f.

<sup>113</sup> Kvale & Brinkmann, p. 121.

<sup>114</sup> Kvale & Brinkmann, p. 122.

## ***Reflexivity and Pre-understanding***

Since the summer of 2017, we are both students and case officers at the Swedish Migration Agency. Because of this, we have some insight as to what it is like to be a case officer at the Swedish Migration Agency. Although, working in different units, also entails very different work tasks. Though we had this insight, we had a very limited understanding of how it was to work with assessing asylum applications because neither of us work at an asylum unit. In both data collection and analysis, it is important for the researcher to be able to have both proximity and distance to the field and to be able to switch between these approaches. Proximity is according to Langemar about being empathic, to know, identify and see things through the informants' eyes. Proximity is about similarity, that the researcher can understand the informants from her own standpoint and understand new things based on what she already knows, her pre-understanding of the subject. Distance means to be able to see what is different and to question the obvious and apparent. Langemar argue that it is easier for a researcher to have distance to the field when the field is unknown to her. Moreover, Langemar put forward that when a researcher feels connected with her informants, she may have difficulties with having enough distance to the field, which may be problematic. Langemar bring up Närvänen's argument, that a researcher's motivation and experience can be positive if her experiences are processed and consciously grounded, so that the researcher also can have a distance to the field. Furthermore, to avoid bias, the researcher should also not be depended on the result, meaning that the study's outcome should not have any personal consequences for the researcher. A researcher should be able to switch between proximity and distancing herself during the analysis process. Proximity can also compare to daring to be creative and independent, while distance can compare to being self-critical and reflective.<sup>115</sup> Our relation to the field is something we have discussed together and also with our supervisor. We have tried to be aware of this during the whole process of this study. On the other hand, a researcher is never a neutral part in relation the field they are studying, there is most often a reason for why they have chosen a certain field. In spite of this, we feel that the study has benefitted from the fact that we are both case officers and researchers. Our pre-understanding of the field helped us focus on our research questions, and not on understanding specific terms used at the agency, or other things that a person who has never been in contact with the agency would have difficulties with understanding. Furthermore, we are not dependent on the results of this study in any way. Our aim has simply been to understand and highlight how the officers at the asylum units do and experience their work.

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<sup>115</sup> Langemar, p. 95 f.

The researcher's personal involvement in the research process is clear during fieldwork. Oscar Pripp argue that it is not easy to discover how one's own presence highlights certain actions, views and stories of the various actors in the field. Although, it may sometimes be more obvious if the researcher controls the research process.<sup>116</sup> Empirical research is always conducted based on some kind of perspective. A certain pre-understanding is thus always necessary when choosing a subject area. Qualitative research is even more limited, specific and theory-driven in its starting points. Therefore, it is important for the researcher to have a reflexive approach. It is also essential for the researcher to be aware of her interpretations, such as how pre-understandings may affect the analysis. The authors pre-understanding is also influenced by theoretical ideas, perspectives on the subject, the context in which the research has taken place, her own social and personal background and lastly, the researchers personality and emotional aspects.<sup>117</sup> Reflection should be continuous throughout the entire research process, both regarding material, results and the researchers own approach to the subject. Therefore, the researchers pre-understanding should not obscure the new knowledge developed during the study, but rather be as useful as possible. Langemar argue that if a researcher has a deep pre-understanding there is a risk of her being judgemental towards the material, rather than describing it from the informants' perspective and taking things for granted. Nonetheless, a deep pre-understanding can also help the author to make more correct interpretations, it helps to see more nuances in the material and not to overgeneralize easily.<sup>118</sup>

According to Aspers, a researcher is first and foremost an individual who has similar perspective as those she studies. Moreover, the more connected and "at home" a researcher is to the field or culture, the better she understands the area she studies. However, at the same time, this makes it harder for the researcher to put on her critical glasses, to see and identify problems in the field. The researcher therefore may risk losing important parts because she sees the field from her everyday perspective, and as a member of the community or the field. Thus, a researcher risks viewing the field from the same perspective as her informants. Nevertheless, Aspers argue that that this does not mean that one should only study fields that are completely unknown to the researcher, since they as well come with their difficulties. However, various researcher with different pre-understandings and starting points of the field will most likely generate in different studies, research questions and conclusions.<sup>119</sup>

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<sup>116</sup> Oscar Pripp, "Reflektion och etik", in *Etnologiskt fältarbete*, ed. Kaijser, Lars & Öhlander, Magnus, (Lund, 2011), p. 65.

<sup>117</sup> Langemar, p. 96.

<sup>118</sup> Langemar, p. 97.

<sup>119</sup> Aspers, p. 38 f.

## ***The Fieldwork***

The practical work of the study began in the first months of 2018. During the autumn in 2017 we read about the field and other researcher's previous work. In this way we gained a basic understanding of the field and developed a narrower thought of what we wanted to study. Our wish then was to interview case officers working in the asylum units at the Swedish Migration Agency. The work as a case- and executive officer at the Swedish Migration Agency has significant consequences for the people who are their clients, the asylum seekers. It is therefore why we chose to interview both case- and executive officers at the Swedish Migration Agency and let them speak about the role they have in the asylum process. It is a role that involves several complicated elements in the asylum process. It is also for this reason that the study focuses on these two work categories within the agency. Choosing is also to opt out. As we decided to include certain actors in the study, we have also decided not to include others, such as team leaders, unit managers and other actors because they are not the ones "doing" politics.

Through personal contacts we e-mailed the unit managers at three different asylum units in Sweden. With the help of one of the unit managers, who informed the case- and executive officers about our study and asked who would like to participate, we were able to do seven interviews in one day. A few weeks later, another unit manager replied to our request and gave us the contact information to one case officer and one executive officer who had expressed an interest to participate. They then asked us through e-mail about our study and why we were interested in this particular part of the asylum process. We sent them a brief explanation about who we are, information about our study and why we wanted to study these particular parts of the asylum process. We also sent them our question guide before we booked the date and place for the interviews. In total we did nine interviews. The reason why we did nine interviews was not planned. As mentioned, we initially contacted three different units in different cities, the third has until today not replied to our request. In the methodology, "theoretical saturation" is used as a way to describe the point when further interviews feel superfluous, when the answers are "the same".<sup>120</sup> We would not go as far as saying that it was "the same answers" in our interviews, but after five completed interviews we felt that several answers and ways of reasoning were alike. Seven of our informants are case officers and two of them are executive officers. They are between the ages of 24 to 29. All of them have attended higher education in various programs such as, Social Studies, Political Sciences, Human Rights and Law Studies.

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<sup>120</sup> Peter Esaiasson, *Metodpraktikan: konsten att studera samhälle, individ och marknad*, (Stockholm, 2007), p. 268.

The interviews we conducted can be described as a combination of semi structured interviews and thematic open interviews.<sup>121</sup> More concretely, this means that we structured the interviews after three themes and that there were several follow-up questions related to the themes. All the interviews covered these three themes: 1) to be a case officer at the Swedish Migration Agency, 2) the asylum investigation, 3) the credibility assessment. The interviews lasted between thirty to eighty minutes. We conducted all the interviews together and in Swedish. After the first seven interviews were done, we focused on transcribing them and later we did two more interviews and transcribed them directly after. We have experienced that it is easier to transcribe interviews directly after they are conducted, while the experience of them is still fresh in your memory. When we scheduled the interviews, we let the informants chose the location, all of them chose to have the interviews at their place of work. We experienced that the informants chose a local where they felt “at home” and a suitable place for an interview. We recorded all the interviews on a dictaphone and chose not to make notes during the conversation, this meant that we could be more present during the interview.

During the interview, as a researcher you are overwhelmed by your informants' expressions and words. As a researcher you try to notice as much as possible of all the subtle interactions between your informant and yourself that occurs during the interview, while simultaneously trying to be a good listener and conversational partner. You must also keep in mind what has just been said and with which question one should follow up with. Parallel to this, the researcher must plan or re-order the questions and themes they have in mind and analyse and interpret what happens, preferably at the same time. In this regard, we benefited from working together, and doing the interviews together. We decided before the interviews that one of us should take on the leading role and ask the pre-determined questions from our questionnaire and the other should focus on reflecting on what the informant answered and ask follow-up questions.

Kvale and Brinkmann argue that the advantage of having individual interviews is that you can customize each interview to each participant and thus the researcher can more easily build a personal relationship with the informant. Additionally, it also gives the informant an opportunity to deepen and clarify their answers, which in turn helps the researcher to get more insight into the topic. This method also allows the informant to have an opportunity to answer the questions based on their own expressions, giving them room for reflection before responding to the question. This method worked well in our study. Our informants answered all our questions. However, we did not follow a specific order but rather let the conversation take its own course. We experienced that we did not have to force the informant to talk about their experiences, we had a more open dialogue and discussion.

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<sup>121</sup> Aspers, p. 143 f.

Nonetheless, with certain “sensitive” questions, we experienced that some informants gave us a more standard response, rather than talking about their own thoughts. According to Kvale and Brinkmann, a researcher must be able to maintain a balance between letting the informant develop their own answers, while at the same time control the interview and not stray from your themes. However, too much control can have the effect that the informant cannot develop their reasoning. While too little control can mean that the researcher comes home with unusable material in relation to the research purpose.

We were exhausted after the interviews, one might even say a little shaky. When we left the field, we felt the need to ventilate and compare our impressions. We both had positive experiences and found every interview highly interesting. Even though the interviews were characteristically different, and some went smoother than others, each of them gave us new insights and thoughts about what the study would entail. We believe that it is beneficial to work together and share experiences and have someone to talk to. In this way you are not left alone thinking about the emotions and impressions you experience when doing fieldwork and interviews.

Through the transcript, the interview is structured into a form that is suitable for closer analysis. Writing the transcript itself becomes the beginning of an analytical process. How much of the interviews to transcribe and in what form, is dependent on such factors as the nature of the material, the purpose of the survey, the availability of time, and let us not forget - a reliable and *patient* person to write the transcript. By doing the transcripts ourselves we have secured all relevant details for our analysis. According to Kvale and Brinkmann, researchers who writes the transcripts of their own interviews learn a lot about their own style of interviewing. Furthermore, to a certain extent they carry with them the social and emotional aspects of the interview situation during the process of transcribing them and have already begun the analysis of the meaning of what was said.<sup>122</sup>

## ***Analysing***

We have given the informants new names and printed out the transcriptions. To give the informants new names is, besides from anonymising the person, also a way of “letting go” of the actual person and letting them become someone new that you can analyse. To get an overview of how the different materials and themes are connected, we have used mind-maps, a kind of mind maps where we designed, sketched and linked the material.<sup>123</sup> With the help of a whiteboard and pens in numerous colours, we “drew up” links between quotes, events, people and concepts. Although we noted some

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<sup>122</sup> Kvale & Brinkmann, p. 196.

<sup>123</sup> Karin Widerberg, *Kvalitativ forskning I praktiken*, (Lund, 2002), p. 143 ff.

theoretical concepts and thoughts on the mind-maps, the work was primarily about thematising and structuring the material. For us, this was the stage when we could put together and connect different parts of the material. It was about links on mind-maps, but also that we could “bring dialogues” between different informants and think about whether the different people would agree on this or that, or see that reasoning by informants was, or was not recurrent. In principle, the different parts of the material began to “talk” with each other. Then we cut out the parts of the interviews that could be sorted under a particular theme. By analysing the same themes from several interviews together, clear patterns appeared in the material. We believe that the analysis starts already when the material is being collected, and that it does not end when the writing takes place. The analysis continues by refining some arguments, others are taken out and new connections are detected. The writing is thus also part of the analysis work.

Thematic analysis means that one structure the data that has been collected in themes. The themes can be determined in advance or be prepared based on the collected data. In practice, it is common to combine predetermined themes with themes that appear in the material in the study. The research questions in the study also matters, the narrower a research question is, the more it will determine which themes are possible to use in the analysis. Langemar writes about the different stages on how to do a thematic analysis. The first step is to transcribe the material to a text if the material is not already in written form. The transcript should then be read as a whole, until a good overview has been obtained. Secondly, the researcher should go through the transcripts and mark keywords that are relevant for the research questions. Quotes and keywords should then be sorted based on the preliminary themes. Going through one theme at a time and sorting through all of the material, everything that belongs to a theme should be categorized as such. Moreover, at this stage the researcher might need to develop the themes further. The researcher should summarize the material under each theme with their own words, one can use quotes to illustrate. Lastly, connect the themes to each other so that it becomes a coherent whole.

Langemar states that, one should remember to thematize based on the answers from the interviews, and not based on the questions or topics from the questionnaire. Nonetheless, these may still coincide, especially if there are few participants. With more participants, there are more variations in the answers and it becomes more natural to divide them into different themes. If necessary, both main themes and sub themes can be used. Themes can be of different characteristics, ranging from very concrete and descriptive to abstract and interpreting. The themes should be based on data in a way that the reader can follow and understand. It is important that the thematization is done carefully, so that the themes which are finally chosen give structure and do not overlap. While simultaneously what is highlighted in each theme should connect with each other. To make it easier for the reader,

we have divided the analysis in different chapter themes, and we have chosen not to re-use the same quote in different themes. Nonetheless, Langemar states that one can use a quote in more than one theme, as long as the quote is descriptive.<sup>124</sup> Because our informants gave us a rich material, we did not feel the need to use a quote more than one time.

## Writing in English

Since the programme we both attend is an international program we already knew that this thesis would be written in English. Nevertheless, writing a study that has its aim and focus on Swedish context in English comes with its challenges. All interviews were conducted in Swedish. We have to the best of our ability translated our informants quotes as directly as possible to English. Nonetheless, some phrases and words that our informants have used are very specific for the Swedish language and does not translate well into English. Thus, some quotes from our informants are to a small extent re-written, but the core meaning of the quotes are still the same. Lynn P. Nygaard highlight that it is not only about finding the right word in English, it is also about to have to explain the whole concept because there is no equivalent word in English. Thus, certain parts of the thesis are more carefully explained, and we have a longer background section so that the reader can understand the whole context of the research.<sup>125</sup>

## Ethical Considerations

The Swedish Research Council have listed four main requirements for research in humanities and social science that have been applied in this study. These requirements are information, consent, confidentiality and utility requirements. Prior to the interviews, an information letter was prepared in Swedish, which was sent by e-mail together with our requests to make interviews with case officers at the Swedish Migration Agency (see appendices).

In the information letter it was conveyed that all participants would be anonymised in the study, that their participation was voluntary, and that the information collected would only be used for the purpose of the study. Before the interviews began, we reminded the informants that the participation was voluntary and that they were to not answer questions they were uncomfortable with. In accordance with the confidentiality requirement, all material for this work has been anonymised and

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<sup>124</sup> Langemar, p. 127 ff.

<sup>125</sup> Lynn P. Nygaard, *Writing your master's thesis: from A to Zen*, (Los Angeles, 2017), p. 11.



protected by passwords and stored in portable memory cards. It was, and is of the utmost importance, that the stories shared by the participants are protected and not exposed to any unauthorized people.<sup>126</sup>

Ethnographic methods are about meetings between people and it is in these meetings that the material is created. As researchers, we have a responsibility to manage the trust that the informants have given us. With seven of the interviews we began telling about the purpose of our study because they had not seen the information letter we sent to the unit manager. The other two informants had seen our question guide and information letter beforehand, because they emailed us and asked about information before we scheduled their interviews. Every participant was also informed that they could interrupt the interview at any time, that they did not have to answer a question if they did not want to. We promised anonymity to the informants, all names are fictitious, but we have chosen to let the informants “keep” their gender and age.

The researcher's role as a person and her integrity, is crucial to the quality of the produced knowledge. Responsible research behaviour is about more than abstract ethical knowledge, it is about the ethical decisions taken during the study, and the researcher's moral integrity, her sensitivity and commitment to moral issues. When carrying out interviews, the importance of the researcher's integrity is enhanced, because it is primarily through her that knowledge is obtained. In addition to the ethical requirements placed on the researcher, she should also strive to obtain high scientific quality of the produced knowledge. This means that the published results should be as accurate and representative of the research field as possible.<sup>127</sup> In qualitative analysis it is important for the researcher to have an open approach, it is also essential that the researcher is sensitive and flexible, this is termed permeability. The term stands for the ability to acquire new things, to make new interpretations, gain new understandings and be able to change theories.<sup>128</sup>

### ***Writing and Conducting Fieldwork Together***

Some prefer to write alone, while others write two and two. The prerequisites to write in pair, and for it to go well, is that you have worked together already before and that both are genuinely interested in the same topic. According to Langemar, it can be more beneficial to collaborate with someone in a qualitative study than a quantitative since the material is often extensive and time-consuming to transcribe and analyse. It is also beneficial to be able to reflect and exchange ideas and arguments with someone who is as acquainted with the subject as yourself. To write with a partner may also

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<sup>126</sup> Vetenskapsrådet, *Forskningsetiska principer inom humanistisk-samhällsvetenskaplig forskning*, (2002) [http://www.gu.se/digitalAssets/1268/1268494\\_forskningsetiska\\_principer\\_2002.pdf](http://www.gu.se/digitalAssets/1268/1268494_forskningsetiska_principer_2002.pdf) (2018-03-26).

<sup>127</sup> Kvale & Brinkmann, p. 90 f.

<sup>128</sup> Langemar, p. 94 f.

provide a feeling of safety and courage to do an open, empirical study where you do not know what the results may be. Furthermore, writing in pair leads to better work discipline.<sup>129</sup>

It was during our first year of the master's program that we both knew that we wanted to write this thesis together. We have previously done two field studies together and we found that we work well together and complement each other, because we have different strengths and weaknesses. In our bachelor thesis, we highlighted refugees' life stories and their experiences of migrating to Sweden. After the study was completed, we started discussing that it would be an interesting continuation to our previous study to interview case- and executive officers who work with these issues. As Langemar state, we have found that it has been beneficial for the study to write together. We have been able to reflect and discuss with each other and whenever one of us has felt the motivation slip away, or the frustration over the endless transcription work has taken over, we have always been able to lift and motivate each other.

Heléne Thomsson discusses the pros and cons of being two, or more interviewers and one informant. She argues that the power situation in the interview will be different than if it is only one person conducting the interview. The advantage with being two interviewers lies in the fact that one can choose to focus on different things during the interview. And if the interviewers know each other well enough and can handle the position of power that is always present, they can blend into the conversation as it falls naturally, instead of taking on different roles during the interview. As mentioned, we decided before the interviews that one of us should take on a leading role and ask the pre-determined questions from our questionnaire and the other should focus on reflecting on what the informant answered and ask follow-up questions. Thus, we took advantage of the fact that we were two researchers.

Regardless of how one chooses to interview, according to Thomsson, two interviewers may sometimes have it easier to pay attention to the informant and what s/he is saying, they can complement each other. Another advantage is that the informant may find a comfort with the fact that there are two people interpreting and trying to understand what is being conveyed during the interview. Of course, there may be some disadvantages to be two interviewers as well. Thomsson mentions that one of the disadvantages is that the interviewers may interrupt each other's thoughts and ideas for follow-up questions. When one of the interviewers intends to follow up on what the informant said, the other may ask a whole new different question and leave the subject. This did happen a few times, that we both started talking. Nevertheless, we all laughed about it and then continued. We experienced that these so-called incidents only helped lightening the tension in the

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<sup>129</sup> Langemar, p. 179.

room. According to Thomson, one of the interviewers might feel anxious about asking certain questions and does not feel supported by the other. One of them can also believe that the other has perceived something that s/he did not really understand. Follow-up questions might not always be asked and what is conveyed by informants can be missed.<sup>130</sup> Because we know each other very well, we did not experience any of the mentioned problems during the interviews. We do not have any problem with addressing any possible tensions between us.

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<sup>130</sup> Thomsson, p. 73.

# Analysis

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## To be a Case Officer at the Swedish Migration Agency

### *The Readjustment of the Agency and Political Priorities*

Before going in to how the informants experienced the readjustment of the Swedish Migration Agency and its political priorities, we would like to recapitulate why we chose to interview case- and executive officers at the agency. Lipsky argues that in order to understand how welfare politics are practiced, it is necessary to study the meeting between the public service agents and the welfare state clients. Since the street-level bureaucracies are where the individual encounters the welfare-state, the street-level bureaucrats are often those who negotiate the practical implementation of welfare policy. Thus, Lipsky argues that politics needs to be understood as something that is shaped at the street-level.<sup>131</sup> Moreover, essentially the Swedish Migration Agency is an organisation. Therefore, we have also applied Jacobsen's and Thorsvik's theory to understand the organisation at a deeper level. Jacobsen and Thorsvik argue that when we study organisations, we need to gain insight into the basic social and human nature of the organisation. Furthermore, an organisation relies on resources from the outside world in order to maintain its operations. Similarly, each organisation is dependent on the presence of clients (asylum seekers) who benefit from the results that the organisation produces.<sup>132</sup> With these perspectives in mind, the analysis will begin with presenting a selection of the informants' thoughts about their work as case- and executive officers and how they have experienced the readjustment of the agency.

Every case- and executive officer we interviewed for this study stated that they enjoyed their work and were passionate about questions regarding asylum in Sweden. They also expressed that their work is challenging, and that they enjoy learning new things and keeping up with the ever-changing legal framework. A negative side of the job was the criticism they feel is directed towards them, while they feel that they are simply doing what they can within the frames of their role as public service agents.

Elin: [...] There is a lot of problems at the Swedish Migration Agency, there is, but the Swedish Migration Agency also gets an unnecessary amount of criticism in the media [...] Those who work here want and try so much, but you do not get the prerequisites from the government, from management, so you do as good as you can, but there is much that can be improved.

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<sup>131</sup> Lipsky, p. 3 f.

<sup>132</sup> Jacobsen & Thorsvik, p. 12 f.

As mentioned above, Jacobsen and Thorsvik state that all organisations are dependent on the outside world. The organisation needs resources (capital, labour, commodities and the like) from around the world, and they often depend on the outside world's support and legitimacy to survive. The general definition of the outside world is all those outside an organisation that may have a potential effect on its effectiveness and legitimacy.<sup>133</sup> Elin expresses that the agency is targeted by the media and that the public do not legitimize the agency, instead they are constantly criticized.

According to Lipsky, street-level bureaucrats are often the focus of political disagreement since they act as the providers of public benefits. Elin expresses that even though there are a lot of problems, the people who work at the agency do their best, and she feels that the government and management do not give them the prerequisites to do more. In similarity with how Lipsky describes the role of a street-level bureaucrat, we can see that Elin is torn between the demands and expectations to be more effective and being responsive and the demands from citizen groups to improve the efficiency of the agency's services. Furthermore, Lipsky argue that because of the impact that street-level bureaucrats may have on people's lives, they dominate political controversies regarding public services. According to Lipsky, this is for two reasons. Firstly, the debates about where governmental services should put their focus, which according to the author is essentially about the public employees, and what they should focus on. And secondly, because these public employees have substantial impact on people's lives.<sup>134</sup>

Since the fall of 2015, more asylum cases than ever have been decided at the Swedish Migration Agency. After that, significantly fewer people have applied for asylum in Sweden. In line with this, the number of employees in asylum adjudication was proposed to be reduced. Beginning in November 2017, the Migration Agency took steps into a reduced organisation and decreased the number of employees.<sup>135</sup> Since we are both student's and case-officers at the Swedish Migration Agency, we were aware of the situation regarding the readjustment. Considering the amount of people that would have to be let go, it was a stressful and agonizing situation at the Agency for many. Naturally, the topic was brought up during the interviews and became a part of this study.

The readjustment the agency has gone through since November, and is still going through, could be explained as planned and hierarchically controlled changes. According to Jacobsen and Thorsvik, this means that the change is the result of deliberate actions where people change organisations to improve

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<sup>133</sup> Jacobsen & Thorsvik, p. 184 f.

<sup>134</sup> Lipsky, p. 9.

<sup>135</sup> Migrationsverket, "Om Migrationsverket", <https://www.migrationsverket.se/Om-Migrationsverket/Nyhetsarkiv/Nyhetsarkiv-2017/2017-11-09-Sa-planerar-Migrationsverket-att-stalla-om-under-2018.html>, (retrieved 2018-04-30).

the situation, or to adapt to a situation they think will occur. In the case of the Migration Agency, it had to adapt to a situation of fewer asylum seekers and a smaller budget. Moreover, the authors argue that scheduled and hierarchically driven change is based on the fact that the change takes place by people acting as rational subjects with certain goals and with the desire that something decided will happen. In this perspective, the reason for change is linked to the idea that change agents in an organisation analyse situations that evolve and change over time (changing migration trends and a smaller budget). Planned change is often linked to strategic management, where the organisation is interested in adapting itself to changes in the outside world.

In order for planned change to succeed, according to Jacobsen and Thorsvik, it is crucial that the change agents manage to make the impression that change is necessary in large parts of the organisation. In other words, the change agents must create an experienced pressure. One of the most important social development features that can create pressure on an organisation that Jacobsen and Thorsvik raise are political control and actions that affect the competitive situation or the framework conditions for the organisation. Political governance that affected the framework conditions for the Swedish Migration Agency is the tightened budget in the letter of appropriation, which is the consequence of fewer refugees seeking asylum in Sweden.<sup>136</sup> The importance of this change and how it was conveyed to the employees can be discussed further. Stephanie, who has been working a little longer at the agency, in comparison to some of the other informants, expressed that the agency had become too big. But this is something that only those who have worked longer at the agency can see, because when they started, the agency was significantly smaller.

Stephanie: [...] I have worked for a while, so I kind of already knew. When I started it was not that high influx, it was stable and then it has changed. So, I think that people knew that we would come to this point. We have become too big too fast. If we think back to the situation we had five years ago or maybe even four years ago, then we do not need to be as many as we are now. [...] Then one can also think about the fact that the agency grew so fast during such a short period of time which comes with its challenges and its negative aspects. We may not need to be so many to do a good job, instead, it may be enough that the agency is smaller. It may be a good opportunity to look back at the agency and rebuild ourselves and focus on the job and do the job right. But it's sad in the way that you lose your colleagues [...]

According to our informants, time has stood still at the Swedish Migration Agency and they are still working with applications they received in the fall of 2015. Elin argued that the applicants who came

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<sup>136</sup> Jacobsen & Thorsvik, p. 358 ff.

to Sweden in 2015 have been waiting for a long time for their asylum interview and that she felt that the Migration Agency has in some ways lost the applicant's perspective.

Elin: I think the Migration Agency is facing quite a lot of problems. It has been a very high workload, ever since the autumn of 2015. And I do not think that the agency has handled it particularly well. Instead it has been put on every employee to do a lot more than what you should do on eight hours a day. So, it is a problem, that there is too much to do. Then we have a lot of new employees. There is constant conversion with people who come and go. Which also means that we must go back a few steps, teach new case-officers all the time, making things a little more difficult and is time consuming.

Another criticism that was lifted during the interviews were the complications that follow when a co-worker resigns and how it affects the asylum seekers applications. The case officers argued that to write a decision for an application you have not yourself investigated and followed is much more difficult, because you are not familiar with every detail and you have no personal relation to the applicant.

Johanna: [...] The ideal is if I write the decision for the investigation that I have conducted, because then I recognise the case. But if a colleague resigns, then you must take over someone else's investigation [...] and write the decision.

Maria: But the routine is that you write the decision for your own investigations?

Johanna: Yes precisely, that is ideal.

The executive officer Elin concurred with Johanna and argued that the asylum seekers also suffer from the circumstances of high staff turnover.

Elin: In a way they do, because as a case-officer, you get a case that you investigate and become familiar with, then you put it in a cupboard and then they resign. Meaning that someone else will handle the case, maybe together with a new executive officer who might be unfamiliar with the case. And then, it gets placed a bit further back in the queue. So, in that way the applicants suffer because of the high staff turnover.

When we asked Anders whether the readjustment of the Agency had affected the daily work in his unit, he explained that it did in the beginning, but as the negotiations between the employer and the unions continued and several months went by with no new information, he and his colleagues accepted the situation, that they could not do anything about the circumstances and focused on doing their jobs. Anders also said that they have had a safe atmosphere in their team and know each other well, which made the whole process a little easier to handle.

Anders: [...] Like I said, a lot is happening. It is things that you cannot control really but [...] above all, I think losing colleagues is extremely sad and starting over all the time [...] New groups in the teams and as well as case management and, it's a bit messy, it is. Although I have the advantage that I have been working here for quite a few years. So, I am used to it. So, right now I personally feel, for my part, that I'm waiting this one out and see what happens.

The experiences of the readjustment vary among our informants and Marcus expressed that several of his colleagues have neglect their work tasks, but that he has too much empathy towards the applicants and feels an obligation towards them.

Marcus: [...] I have a little too much empathy to not work [...] This is still people, who call me and ask, I have a family member in my home country, or, I must get my decision now [...] I cannot sit and not work, they must get their decisions. But several of my colleagues do not, very many have given up. We used to have a production of approximately 30 - 40 decisions a week before and now we make about 5 - 10. People do not work. [...] It becomes clear who does this because they believe it is important and those who are here to further their careers [...] I think that it is tragic, that some stop working.

Oscar brought forth another point of view on the readjustment and argued that people continued to work despite their emotions regarding the readjustment, because they like their work. However, they take the time they need and do not stress the same way they used to.

Oscar: People still work and think the work is fun and they write their decisions. But I experience that you take the time you need to make proper judgments. Taking the time to go through each case carefully. You do not stress the same way you did before, and I do not think that the quality of the decisions has been affected at all. Rather, the speed of producing decisions seems to have been affected [...] You do your job and take the time it requires. People are provoked because there is a lot of talk about production. Since the more cases we finalize, the need for us drops. But from that point of view, you have an applicant who has been waiting since 2015, you will not drag on the decision. You want to write it. [...] You do not work for the employer or for yourself in that way anymore, there is no chance for further development here.

Stephanie said that she has been working at the Migration Agency long enough to know that nothing is ever safe at the Migration Agency, and she also stated that she did not think much about the readjustment. She said that it would be a good thing if she gets to stay, but if she must go then she is grateful for her time at Migration Agency. Stephanie is the only informant who argued that the readjustment could be a good thing for the agency.



In the discussion that Anders has regarding the readjustment, we can see how he expressed the typical reaction phases that Jacobsen and Thorsvik argue are common towards unexpected organisational changes. Anders expressed that when they first were informed about the readjustment it affected him and his colleagues' work. After the news had sunken in, they started to accept the situation and thought of the readjustment as something that one could not control. The phases brought forth by Jacobsen and Thorsvik were: surprise, denial, depression, reluctance, testing, consolidation and finally adaption. Furthermore, as the phases show, feelings play a big role. In many cases, change resistance is based on the fact that the individual is defending something that is known, something that is believed to be right and true.<sup>137</sup> In general, many of the informants expressed an uncertainty and stress regarding the readjustment, which was still ongoing when we conducted the interviews. Several of them were afraid that they would be given notice. Oscar expressed that he and his colleagues knew that there was no chance for further development at the Migration Agency, thus they stopped stressing and took the time that was needed with every decision. Moreover, Oscar stated that many of his colleagues were provoked by the management's focus on production. In Oscar's statement we can see traces of two phases; reluctance and adaption. Reluctance against production, and adaption as in that they continued to work, because they felt a responsibility towards the applicant. In close connection with the interviews, the Director-General spoke out in the Swedish daily newspaper *Dagens Nyheter* (DN), arguing that the Migration Agency produced too few decisions during the previous year (2017). A few of our informants mentioned that they had strong feelings about the Director-General's statement. Regarding what the other informants felt about this subject, we cannot say, because the topic was not included in the questionnaire but was brought up by some of the informants themselves. Marcus explained that he understood why the Director-General puts a lot of weight on production and quantity. Elin, on the other hand was more critical against his statement because she felt that the case officers have done their best during this difficult time.

Marcus: The Director-General has now said that we produce too little decisions. So, he places a lot of weight on quantity. And I can understand it in some way, because if we do not keep up this quantity, we cannot let so many immigrants in to the country. Because you must be able to do this in a reasonable economic manner [...]

Elin: Yes, well he could start by not saying that, while the staff struggles to stay afloat [...] Many have expressed that it was very inappropriate, that he said that. When people have been stressing constantly for two and a half years and have done as good as possible based on the conditions we have. [...] Our Director-General does not take responsibility for

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<sup>137</sup> Jacobsen & Thorsvik, p. 363 f.

anything but simply pushes the criticism downward. And I think that shows a lack of courage. Now he seems to want to save his own skin and I don't think that's okay.

Elin argued that every employee at the agency has done as well as possible based on the conditions they had. Lipsky puts forth that street-level bureaucrats often have to perform their work under conditions marked by insufficient time and information. Nonetheless, in Lipsky's opinion, the street-level bureaucrat is used to uncertainty because of their complex work tasks with people. Because of that, they are often stressed to make decisions frequently and rapidly. The street-level bureaucrat is often pressured with high caseloads and are under constant pressure to make decisions which pushes them to act before considering whether more information would be preferable or not. Lipsky argue that it is characteristic of street-level bureaucracies to not provide their employees with necessary resources. Most commonly is the number of workers in relation to cases and time. Street-level bureaucrats often have large caseloads and therefore cannot fulfil their responsibilities.<sup>138</sup>

In line with Lipsky's theory of street-level bureaucrats and the organisations they work in, our informants have expressed that their workload is too high. Moreover, Elin felt that the Migration Agency has put too much pressure on each employee and have expected their employees to do a lot more than a person can in an eight-hour day. Markus told us that even though the workload is high he has too much empathy towards the applicants to not continue working. In contrast to Markus, a few informants expressed that due to the readjustment, some of their colleagues have neglected their work tasks.

### ***Priorities from Management***

According to Jacobsen and Thorsvik, the organisation's goals and strategies give strong signals to the employee about what to focus on. If an organisation has a strategy of cost producing at the lowest possible cost, employees will focus on gradually improving and streamlining production and distribution processes.<sup>139</sup> Like any other organisation, the Swedish Migration Agency also has strategies and goals. As Marcus stated, one of the Swedish Migration Agency's goals in 2017 was to produce 100 000 decisions. To reach this goal, different categories of applications have been prioritized. When the informants talk about the applications they talk about for example unaccompanied minors, Syrians, Iranians and Afghans. The applications are often categorized based on nationality and age. According to our informants, it is the management that decide which

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<sup>138</sup> Lipsky, p. 29 f.

<sup>139</sup> Jacobsen & Thorsvik, p. 292 f.

categories that are prioritized. If the management decides that unaccompanied minors are to be prioritized, the case officers cannot work on their other cases. Thus, the organisation gives strong signals to the case- and executive officers regarding what they should focus on.

Marcus: It has been, especially during 2016, a huge focus on production and wrong production in addition [...] We began with prioritizing Syrians [...] Our Director-General had promised that we would make 100 000 decisions that year and then you choose the cases that are easiest to decide on. And everyone from Syria gets to stay [...] Therefore, it was thought that we should investigate all Syrians first. Because it would go fast, and we could make many decisions. [...] Then we began to prioritize children [...] for process-economic reasons, I would think [...] But that also leads very wrong, because then we make decisions in matters of children who may have come here for half a year ago. There are people who have come here three years ago, who have not yet gotten their decisions. So, there are some kind of general priorities from the management that impacts on the operative level of the agency. Which I think is more politically motivated, perhaps than reasonably motivated.

Marcus gave us an example of how these priorities collided with the daily work and that some, especially asylum applicants from Iran, created asylum reasons while they waited for the interview in Sweden. Marcus claimed that many asylum seekers from Iran studies the law and what it takes to be granted residence permit in Sweden. He argued that many of them are highly educated and since the oral investigation is probably the most important conversation they will ever have in their lives, they will study what it takes to get the permit. Many of them have been waiting in Sweden a long time for the interview. According to Marcus it is common that they create their own reasons for asylum. They do this by spreading critical information about the government in their country of origin and anti-Islamic information and makes sure that it is spread to their fellow countrymen in Iran. They then often receive threats because of this, which they show the case officers. Marcus argued that if the agency had knowledge of this beforehand, they would not have waited with these investigations for three years, they would have been called to the interview rather quickly. This is also why Marcus felt that the priorities that the management decides upon is purely political and aimed at winning political points. Anders on the other hand, felt that the priorities are rather logical.

Anders: [...] There have been some discussions about what is prioritized by the agency. I think that the demand in 2016 was 110 000 decisions or something like that. So, many cases became, well, Syrians, Eritreans, prospective permit cases were prioritized [...] I do not want to call them easy. It is possible to call them easy, but that is only possible until [...] we suspect, for example, war crimes [...] Usually, the priority system is quite logical, it is.

[...] Children without custodians who came almost three years ago, I think it's good that they are prioritized. And then you do that, this is not particularly strange.

Like Anders, Oscar expressed indifference towards the priorities and that they are simply a fact one must accept and stated that some applicants may wait a long time for their decisions, but on the other hand, most have been waiting a long time for their decisions. Marcus had a different opinion from Anders. He stated that it is provoking for him that he cannot take decisions in cases that are now several years old. Marcus said that he has investigated many applications from Iraq for example, but because of the priorities from the management, he must now wait with writing the decisions. He argued that this is not economical, because these applications are ready, and he could write the decisions, but instead they are just waiting.

Elin claimed that the production of decisions increased during 2017 because it was decided that they would only work with Syrians. She argued that the Syrian applications were somewhat easier decisions to make. Now when the priorities have changed, and they can only work on applications from unaccompanied minors and they must follow these priorities. Furthermore, Elin told us that many have been critical against the set priorities and have questioned why unaccompanied minors have not been prioritized earlier, because many of them are soon turning eighteen, and are thus not considered to be minors any longer.

Elin: [...] Last year, it was decided that we should only work with Syrians. And then, production went up. Because it is somewhat easier decisions. And now it has changed, we must now work with unaccompanied minors. And it becomes a fixed order that we must follow, and we cannot do anything about it. And there has been much criticism as to why unaccompanied minors have not been prioritized earlier. Now they will soon turn eighteen  
[...] Things like this we are chanceless to influence.

Elin continued and told us that she has a strategy to deal with the priorities. Since the unaccompanied minors have not been prioritized until recently, she focuses on writing the decisions for those minors who will soon turn eighteen, and work as fast as possible. However, it is a balancing act. There must be a balance between the rule of law and efficiency. Elin stressed the fact she does not experience that the rule of law has suffered due to this. She also stated that she does not believe that any executive officer would decide on a case if he or she does not think it is the right decision. The most important is that the applicant receives their decision and that it is correct, which can lead to a struggle between the management and the employee because of the priorities. However, due to the pressure from the management Elin argued that the case officers may sometimes turn a blind eye to some things they might have asked more questions about, if they did not feel the pressure to produce decisions.

Elin: [...] Maybe we sometimes turn a blind eye, more than we would have done otherwise. We might actually need to ask some more questions, but now we cannot do that. Instead, we will believe what the applicant says to a greater extent, and therefore he gets a permit. If one would have asked more questions, one might have known more and realized that he had not made some things probable. Of course, it is good that many receive a positive decision. But we are supposed to give asylum to those who actually need it, and this is where we might fall short, I think.

What is common throughout our informants' statements is that the goals for the agency has for a long time been to produce more decisions. Thus, certain categories of applications have been prioritised to reach the set goals. The informants expressed that the priorities have been discussed at length and criticized. Thus, it could be argued that the street level bureaucrats do not share the same goals as the management. As Marcus mentioned, he felt that the focus has been on production, and the wrong production. As Jacobsen and Thorsvik argue, the organisation's goals and strategies give strong signals to the employee on what they should focus on. In the case of the Migration Agency, the goal has for a long time been to produce more decisions. Thus, the strategies seem to have been set up to meet this goal.

### ***To be a Public Service Agent***

Lipsky's term, the street-level bureaucrat, aims at the public service agents that clients meet in their encounter with the state in various forms. In the context of this study, the case- and executive officers are the street-level bureaucrats, and the asylum seekers are the clients. Street-level bureaucrats can grant access to government programs and their services. They are also recognized by having substantial discretion attached to the execution of their work. The public service agencies that, in proportion to their workforce, employ a considerable number of street-level bureaucrats are called street-level bureaucracies (the Migration Agency). People in comparable professions have somewhat similar working conditions and, therefore, they tend to have much in common. They are united in the sense that their work is too complex to be regulated in detail, since it requires that they independently make decisions based on the situations that arise. In order for them to perform their work, they have significant discretion attached to their mission.<sup>140</sup> In spite of this, when we asked our informants whether they feel that they can influence how they do their job and if they are free to act differently, all of them replied that they cannot. The only thing they said that they actually can influence, is what they do and when, and schedule their week, since much of the work is individual. In relation to this

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<sup>140</sup> Lipsky, p. 3 f.

topic, Anders argued that he does not experience it as a problem to separate his civil servant role from his personal thoughts. Furthermore, Christina argued that the work as a case officer is challenging and not for everyone.

Anders: [...] No, it is quite easy for me to step into the civil servants' role. For me, it is about that we are here to investigate the possibilities for a residence permit. This is what we are supposed to do. I have my judicial positions, I have the country information, I have the Aliens Act [...] and then based on what comes forth, well, I would not say that I have difficulties. However, my private political views, that is something completely different from when I am here, definitely [...]

Christina: It is a very challenging job. Partly because it can be psychologically stressful, and I do not think that this job is for everyone. There is a lot we need to keep up with, country information, we must keep track of the law, we must be able to adapt ourselves. And when we have an asylum hearing, we must be able to be factual and professional, yet empathetic and relate to applicants. So, it can be tough, we have production requirements. And you have to write correct decisions with legal certainty. So, of course it is hard, but it is also fun [...] I think you have to be very resistant to stress as a person to work here. You must be able to handle many complex issues at the same time and you must have a plan on how to do so. Because you have many cases, you have many investigations [...] But then of course, we are employed here to write decisions and it is not about production requirements. But, at some point, you want the applicant to get their decision. [...]

Christina brought up the importance of keeping track of the law, but also that it is required that case officers must be able to adapt themselves, to be both professionals and yet at the same time empathic. As Lipsky argues, the street-level bureaucrats often find themselves in situations with the client that requires an empathic approach. According to Lipsky, people cannot be pre-programmed to handle these situations. Thus, in their meeting with the applicant the case officers must interact with the applicant, take care of them and act responsibly. Nonetheless, at the same time, their bureaucratic work demands of them that they stay impartial.<sup>141</sup> In similarity to what Schierenbeck argues, when Christina talk about their role as a case officer, we see that their room for discretion does not only occur in relation to the agency's regulations, but also in their relation to the applicant.<sup>142</sup> Thus, they use their room for discretion to adapt to the situation at hand.

Stephanie stressed that the job has meaning, because they do something good, they want to give protection to people. Nonetheless, in the events of a rejection, it is because the asylum seekers do not

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<sup>141</sup> Lipsky, (2010), p. 71.

<sup>142</sup> Schierenbeck, p. 28.

fulfil the criteria of the Aliens Act, and not because the case officer does not want to grant them protection.

Stephanie: It becomes a dossier number. It is a case in the balance. We categorize people [...] We have Syrians here, Iraqi there, Gambia here or whatever they may be [...] But I think that is natural. Then you have to remind yourself all the time that it is a person and that it is much more than a dossier number [...] One should remember that there is a person behind. But if one's focus is mainly on that, then it can also be difficult to do your job. Because we must always be careful to keep [...] our feelings out from the work. And if I always remember that it is a person and thinking primarily on that, then it can be difficult to perform my job, you have to find that balance.

As the quote above shows, the categorization of asylum seekers is part of their daily routine. Stephanie stated that even though it becomes a dossier number, one should not forget that there is a person behind it. Nevertheless, they still have to stay in their civil servant role and keep their feelings for themselves and not let them affect their work. Otherwise, it may become difficult for the case officers to perform their duties. The individuals who come to street-level bureaucracies arrive as unique individuals, separated by their different life experiences, personalities and circumstances. In the meeting with street-level bureaucracies they become applicants and are put into categories. Categorizing clients is a central part of the street-level bureaucrats' work and something they need to use their discretion to do. Lipsky argues that public service agents must give the client a bureaucratic identity in order to carry out their work. These identities are based on certain assumptions about the client. If the employees do not base their work on stereotypes, they will not be able to handle the work and satisfy the needs of clients. The stereotyping of clients is partly about that street-level bureaucrats should be able to systematise and categorize the clients in different systems, and partly about that they often have such a job situation where they should quickly place the clients in a category in order to provide the right service or correct actions.<sup>143</sup>

Lisa explained that she has her guidelines which she must follow and that some parts of the job are conducted in a certain way. She feels that it is not something she can influence or change, and nor does she want to. Furthermore, she argues that denying someone that does not meet the criteria of the law, means that you leave room for someone else who does. In conclusion of her argument, Lisa stressed that the case officers assess asylum applications and it is not a right to get protection, unless you have fulfilled the criteria of the prevailing laws. All the case officers refer to the law when we

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<sup>143</sup> Lipsky, p. 59.

discussed their room for discretion. In the quotes, it seems as if they do not have much room for discretion, besides in planning their day.

Lisa: I know [...] what it is required to violate human rights. And I also know how the Aliens Act is composed and what I have to do to confirm myself. And no matter how much I want to do a certain thing, I must always follow the law. And I try to look at it as such. I always do my best [...] Everything must go according to the law. And if everything goes according to the law, then I cannot let my personal opinions affect in any way. It may be difficult, there are some things you personally may wish was different. But I am a lawyer, so I always remember the fact that I must have legal support in everything I do. And if I do not have that, then that is simply not what I am supposed to do. [...] Sometimes it is harder than other times. [...] There are very many who have come here looking for shelter, but I grant those who reach the level of vulnerability required by the law [...] And if they do not do that, then I cannot grant them.

Johanna: [...] Our decisions and our investigations are very controlled, based on established practices. And I don't really have room for discretion to change a decision. One must follow the law, and thankfully for the fact that it is so.

Petra: [...] We are governed by the laws and regulations, judicial positions and country information that we use when we take a decision. So, you are very limited. You can influence your own way of working, but not the outcome [...] You can structure your work day or what you must do [...]

Anders: Yes, within the rules and frames that exist [...] When you are a public servant, we have many rules, [...] I cannot influence that much, if I want a change. But, I can influence how I plan my calendar and how I want to organize my work for the week [...]

Stephanie: [...] We have laws to follow, country information et cetera, which one cannot influence. But it is part of the job [...] But I should not have to influence either [...] As an executive officer I can say when the workload is too much. But there are some other things that you cannot influence [...] This job really requires that you are structured, that you organize your week, to be able to succeed. Nevertheless, you feel great pressure because it is such a transparent job. They see your records, your decisions, so you are very vulnerable [...]

When we asked our informants to talk about whether they feel that they can influence their work, they all responded that except from planning their calendars, they cannot. They all argued that they are regulated by established practices, regulations, the law et cetera. It occurred to us that many of



our informants were not aware of the fact that they do have room for discretion, or maybe they do not recognise it as such. As Vinzant Denhardt and Crothers argue, the officers have an independent space to choose how a situation is to be judged and managed within the framework of their work and regulations.<sup>144</sup> Meaning that the case- and executive officers room for discretion does not mean that they work outside the agency's regulations or outside the law. But rather, room for discretion is the individual space the street-level bureaucrats create within the agency's established practices, regulations and laws. As Lipsky stresses, room for discretion does not mean that they should disregard rules, policies and directives. The street-level bureaucrats will often find themselves somewhere between their room for discretion and the regulatory framework.<sup>145</sup>

### ***Difficulties Doing their Jobs***

The informants expressed various reasons regarding what they experienced were the most difficult parts of their job. Petra stated that the job can be somewhat stressful, she mentioned this regarding the stress that occurs when a colleague resigns. According to Petra, it would be helpful if that colleague would have prepared a summary of the case. Lisa brought up that it is sometimes tough to have such a big impact on people's lives. Stephanie agreed with Lisa that the job is hard because they essentially have the asylum seekers lives in their hands. This puts a great pressure on the case- and executive officers. Every decision must be legally correct. Nevertheless, Stephanie felt that even though the job is challenging it is worth it, both on a personal and professional level. Street-level bureaucrats may influence people's lives considerably, the way they provide people with benefits and sanctions, structure and determine the limits of people's lives and prospects. This power to impact entails that they decide over an individual's eligibility for government benefits and sanctions and they supervise the service and treatment that the clients receive. In other words, the street-level bureaucrats facilitate and negotiate the relationship between the state and the welfare state clientele. In a way, they are the gatekeepers to obtaining citizenship, or in this situation, a residence permit.<sup>146</sup>

Lisa: Yes, not always, it is people we work with. And that may be tough sometimes, and that can make it somewhat difficult. Because when you assess a case, you want to do it right as well. In some cases, it feels a bit easier than others. I think that is probably the hardest.

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<sup>144</sup> Vinzant Denhardt & Crothers, p. 37.

<sup>145</sup> Lipsky, (2010), p. 13 ff.

<sup>146</sup> Lipsky, p. 4.

Stephanie: [...] It is a hard job, it would be wrong to say it is not difficult [...] We work with people who are vulnerable and that in itself is difficult [...] There are people who do not feel good, they have experienced difficult things [...] It is important decisions that we take. We practically have their lives in our hands [...] They come here wanting a life [...] The future is important to them. [...] We have great demands on us to do it right, [...] We must not make mistakes [...] That is also a pressure in itself [...] It is a hard job and challenging and totally worth it. You learn a lot on a professional level, but also on a personal level.

As both Lisa and Stephanie said, it is a hard work that they do. They meet people who have experienced difficult things and they feel as if they have their lives in their hands. The demand upon them to act and assess applications correctly is enormous. According to Lipsky, this is what defines the work of a street-level bureaucrat. They must deal with the clients' reaction when a decision has been made, however they might react and cope with the implications of the decision. Nonetheless, when a client is affected because of actions taken by the case officer, it is in principle a reaction towards the policy, although the reaction is in practice directed towards the case officer.<sup>147</sup>

Another difficulty the case- and executive officers experienced in their daily work was the quality of the interpreters who are brought in for the investigation. Some of them also brought up the public counsel and their role. Johanna told us that the public counsel sometimes interrupts the applicant. Regarding the interpreters, several of our informants have expressed that the overall quality of the interpreters is quite low. Sometimes, the investigations have even had to be cancelled and rescheduled. The problem with the interpreters is according to the informants that they have poor skills in the Swedish language and that it is hard to find an interpreter with higher education. Our informants see this issue as very problematic because it is so very important that asylum narratives are interpreted correctly.

Johanna: [...] Sometimes it can be difficult if you do not have the right interpreter. Then you cannot conduct the [...] investigations. It can also sometimes be difficult with the public counsel who is always present, they may interrupt the applicant when they talk [...]

Christina: [...] I would not say that interpreters are of the best quality. I would have liked to see that there was better quality on the interpreters, especially when it comes to people's asylum narratives [...] It is so important. Because the smallest mistakes can send a person to their death and I think there should be better interpreters.

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<sup>147</sup> Lipsky, p. 9.

Elin: [...] It is difficult to get authorized interpreters who have a higher education as an interpreter. Most interpreters have only completed a basic education. But usually we have the same interpreters who come here and stay here all day and eventually they get used to asylum investigations [...] But if an interpreter is not good, we write a complaint [...] You can notice, even though I am Swedish, and I do not speak other languages. But, I also notice when the applicant speaks for three minutes and then the interpreter says three words that something has been missed here [...]

All our informants said that they have interpreters present during the asylum investigations. According to Doornbos, most of the investigations are conducted with the assistance of an interpreter because the case officers and the applicants do not speak the same language. Thus, the interpreter becomes absolutely necessary in an asylum investigation. The interpreter's task is to help the communication between the two parties. It is also crucial that an interpreter does not interfere or give background information regarding the asylum seekers, their only job is to bridge the language gap between the asylum seeker and the case officer. Nevertheless, depending on how accurate the interpreter's translation is, Doornbos argue that the presence of a third party can also complicate the communication between the two.<sup>148</sup>

In the asylum units, a decision is never taken by only one person. The case officer works together with the executive officers and as a team they assess the case and decides. All the informants experienced the collaboration as positive. Besides from discussing the cases together, the case officers call the executive during the break of the investigation to get some thoughts on what they should ask the applicants about. Our informants expressed that this is beneficial for the investigation because when you are in the middle of an investigation you might get tired and stressed and forget to ask certain questions. Over all they felt it is good to get a "second opinion". Additionally, working as a team ensures a certain level of rule of law and objectivity. Since the case officers have an ongoing dialogue about the case with the executive officer they do not make the assessment by themselves. Anders tells us that when he started working as a case officer, he often let the executive officer assess the cases, because he did not have enough experience. Today, when he has gained more experience, they collaborate as equals and assess the cases together. Lisa said the following regarding the collaboration with the executive officer;

Lisa: You have your executive officer all the time [...] I think that is very good that you can talk to someone and exchange ideas [...] Basically get a second opinion [...] And you are always two people when taking a decision. You do not take a decision yourself, it is two

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<sup>148</sup> Doornbos, p. 107.

people who agree [...] I think that makes it a bit easier [...] It is good to have someone to talk to, someone who gives you input. If I talk about a case with an executive officer, then they can also ask me questions about the case. Has the applicant said this, have you thought about that? And if I am uncertain, I usually quickly realize that I have not thought of that. [...] So it makes it a bit easier, that you are always two.

Another topic was brought up by Elin when we discussed if they experienced difficulties. Elin expressed that a central education for new case officers at the Swedish Migration Agency is lacking. She argued that there is a need to educate new case officers before they are thrown into the work. Elin also stressed that it is important that the case officers are familiar with the Aliens Act and method of investigation before they start handling cases.

Elin: I think that in general, it is not a great introduction for new employees at the Swedish Migration Agency. You are thrown in to the work. And I think that you need to slow down a bit and have an introduction that everyone can attend. As it is now [...] it becomes insufficient. So, I would like to see a central education that everyone can attend and learn the Aliens Act and method of investigation [...] before they start working [...] To write decisions is something you can learn with time [...] But to be familiar with the basic sections we work with, everyone should learn these before being thrown into this.

The study conducted by UNHCR, also identified a need for more education and training for case officers in Swedish and international asylum law, practice of the European Court of Justice and the European Court of Human Rights, but also country information, interviewing techniques, and investigation techniques. The requirement of good knowledge of refugee rights necessitates both good introductory education and continuous training, as refugee law and routines are constantly evolving.<sup>149</sup>

## **The Asylum Investigation**

The asylum investigation is a conversation with the Migration Agency where a case officer will ask the asylum seeker what has happened to him or her in their home country and what would happen if s/he returned. The Migration Agency will also ask the applicant how s/he travelled to Sweden and examine his or her identity, for example their age and their family. The applicant is urged to bring documents such as their passport and other identification documents that show that what they tell them is true. One way for the authorities to ensure that the applicant receives an adequate decision is

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<sup>149</sup> Feijen & Frennmark, p. 31 ff.

to give the applicant the opportunity to present his or her case to the agency orally. The right to an oral hearing is stated in section 14 the Administrative Procedure Act; a part who wishes to provide information regarding her or his case orally to the agencies, shall be given the opportunity to do so. In asylum cases the applicants always present their case to the Migration Agency orally. The Swedish Migration Agency is also governed by the Aliens Act, which contains a special provision for oral hearings regarding cases where the applicant is an individual of foreign nationality and is applying for asylum in Sweden. In these cases, the Migration Agency cannot decide on rejection or expulsion without an oral hearing. The Aliens Act contains specific provisions on what should be included in the oral hearing. For example, an applicant's circumstances and background information that the agency needs to have clarified must be examined during the oral hearing. Moreover, the applicant must have the opportunity to state his or her asylum claims.<sup>150</sup>

We asked our informants to shortly describe how an investigation is conducted. Marcus stressed the importance of the first meeting with the applicant, trustee, public counsel and interpreter in the reception. What several of our informants mentioned is that one of the most important things is to create a safe environment and to never forget that it is the most important conversation in that person's life. To create a safe environment, many of them start the investigation with what they call easier questions after they have explained for the applicant how the investigation will be conducted. The case officer will also inform the applicant the repercussions that may follow if they do not answer truthfully or withhold information.

Petra: We begin by explaining how it works [...] And we also explain what happens if you lie or leave false information, or if you have withheld information and what consequences that would give. Most often, everyone replies that they understand [...] We usually start asking a little about age, they should be given the possibility to make their identity probable. And this is where my task comes in [...] duty of enquiry. That I must ask questions to give the person the opportunity to make it likely and the same applies for the asylum reasons. I must give them the opportunity to make their reasons for seeking asylum probable. If I have not done that then I have not fulfilled my duty of enquiry.

Petra explained that for her to fulfil her obligation to investigate, she must help the applicant make their reasons for asylum probable. She does this by asking the applicant many questions. Several of our informants brought up the importance of asking follow-up questions. According to Marcus, some case officers do not ask follow-up question because they worry that inconsistencies might arise in the applicant's narrative. Nonetheless, according to Marcus, if one does not ask the asylum seeker follow-

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<sup>150</sup> Wahren, p. 95.

up questions, one does the applicant a great disservice. Marcus stressed that by asking follow-up questions, statements that are considered as unreasonable, can become quite logical.

Marcus: [...] There are case officers who do not ask follow-up questions, because they may not want to unfold inconsistencies. But I think that if you dig more into it, there will almost always be a reasonable explanation. So, it is actually quite unkind not to dig in all circumstances [...] As an example, I have experienced that an applicant told me he had pushed away the prison wall and ran away. Which is completely unreasonable. But when it comes to how it happened, it was not at all unreasonable. Because it was huts, it was not a prison as we imagine it. It was thirty people who were pushing on a wall and eventually it fell [...] So, it is that kind of digging [...]

Anders stressed the importance of asking the basic questions. The basic questions include the applicant's identity, which is according to several of the informants a prerequisite to assess the reasons for seeking asylum.

Anders: [...] We have very different ways to do this [...] You have to ask all the basic questions on identity documents, place of residence, so that you simply clarify all of that [...] Then you go through the investigation. And based on the answers you get you either ask further questions, or you stop there. Then you have a break [...] And during that break you should present the case to an executive officer, to discuss what answers have you gotten, where we stand when it comes to identity [...] Which is a very important part of our job, to clarify the applicant's identity. Then you continue the investigation. And should circumstances come up during the investigation which we don't have time left for, we will book an additional oral hearing, if it is crucial information regarding the asylum reasons that we need to investigate more.

The investigation is booked by someone else than the case officers. The length of the investigations is predetermined; single adults are booked for two and a half hours. Unaccompanied minors have longer investigations, they are booked for three hours, and families get five hours. As Anders mentioned, the case officer can book an additional investigation if it is needed. Anders also mentioned that the case officer calls the executive officer during the break to discuss the case and how to continue the investigation. We asked Elin who is an executive officer how it feels to be the person on the other side of the line, to be the one the case officer calls during the break. Elin told us that some case officers need to practice more on focusing on the core parts of the investigation. She also mentioned that sometimes she does not have all the answers, and thus can sometimes only offer general advice.

Elin: It's a bit special because the breaks are not long. And they might want to bring up what they have been talking about for one and half hour. And here they have to practice,

knowing what the core of the case is really, what is important. And you can tell right from the beginning if they start reading from the record, and we do not have time for that [...] But it is a bit special, because I do not always have answers to their questions. It could be about a certain group of people in a country that I may not have heard of, so then you might just be able to come with general tips. [...] It could also be that they do not feel they have much time left and ask questions about what is of priority. Maybe it is possible to skip some parts, maybe it is not so important how they get out of their home country and how they came to Sweden. Maybe it is more important to ask what they risk facing upon a return and so, so it always is a counterbalance.

Stephanie stressed the importance of the applicant's identity for the Migration Agency, they need to establish who the person is. Although, she is the only one who said that social mapping is important. She wants to know more about the person to do her assessment. Stephanie also brought up that in asylum cases, many of the asylum seekers lack proper identity documents, which makes their job more difficult. She argued that the lack of identity document places a higher demand of the case officers to do a thorough investigation. However, Stephanie and several of our informants stressed that in the end it is an overall assessment.

Stephanie: [...] We give the applicant an opportunity to present the reason for why the person is here. [...] We usually start investigating the identity, because it is very important for the Migration Agency and for the asylum assessment. [...] We must know who the person is or at least have made his identity probable. [...] In addition to that, I think social mapping is important to do. Who is this person, how has the person lived, has the person attended school? To know, who is this person before me [...] Then we investigate the asylum reasons [...] so they can make it probable [...] It is common that there are no identity documents [...] Which places a higher demand on us to investigate [...] We also investigate the travel route and health. We want to know if the person suffers from life-threatening disease and how the applicant has travelled here because it also affects. You may become a refugee, or in need of protection during the travel [...] You may have been exposed to tragedies on the journey here, trafficking and others and then you need to be protected. Because it is all aspects that help us in our overall assessment [...]

Christina said that she wants to have many questions prepared before she conducts the asylum investigation. The reason she wants to have many questions prepared is because when she later writes the decision, she wants it to go fast, she wants everything to have been answered and that there should be no gaps in the asylum narrative.

Christina: You start by presenting everyone and welcome the people who are there, trying to set a good mood. So, that you inspire confidence, so that applicant feel comfortable talking to you. Then you give general information. After this, everyone does a little differently. But for my part, I always think about what I need for the decision. So, I always begin to investigate the applicant's identity and place of residence, to know who the applicant is and where the person comes from. A little about their travel route, investigate the asylum reasons [...]

Elin believed that the free asylum narrative is very important and that some case officer might ask too many questions too early in the investigation. The applicant should always be given the opportunity and time to talk freely about their reasons for seeking asylum in Sweden. Elin argued that this is something her team needs to work on.

Elin: [...] You investigate who they are, ask questions about identity, where they come from. And then the asylum reasons are important, but constitute a shortage, where they can talk freely about their asylum reasons. In principle, you should only say - why are you seeking asylum in Sweden? And they should be given the possibility to tell freely about their reasons for seeking asylum, without us and asking questions. The questions should come after.

Maria: How do you mean that it constitutes a shortage?

Elin: [...] That you do not let the applicant tell freely. That they start to say something in general and then we come in and start controlling it. Stopping them and say that we already know this [...] Tell us if you've been personally exposed. And then you lose the free story, so there's a lot to work with.

Something that was discussed at length during the interviews and by several of the informants was the time of the investigation. Their opinions varied on the subject, some of them thought that the predetermined time is not enough, while others disagree. Marcus argued that you could book a longer time, even though you might not need it with every case. He thought that every investigation should have five hours, which would minimise the number of additional investigations booked. Furthermore, Marcus said that he understands why there is a time pressure; because of the high influx of asylum seekers in Sweden during 2015. Although, he argued that the same has had a consequence for the asylum process. Oscar concurred with Marcus regarding the length of the investigations and the time pressure.

Marcus: [...] If you had a total of four or five hours [...] You do not need to use all the time, but you have the time. We will not have to call in as many additional hearings, and those cost a lot of money [...] Today we have two, three hours, three and a half for children, but



I think everyone should have about five hours [...] Especially given that there are so many public counsels today who do not have the knowledge to inform the applicants about how the regulations are, what they should talk about [...] Which puts a lot of pressure on the case officer. And if we had longer investigations, you would actually have time to investigate both circumstance, reliability, addressing country information, and have enough time to read the application thoroughly before the investigation [...] There is a basic time pressure that I understand. Because of how the refugee situation has been in recent years, but that really has a price, I would say.

Oscar: [...] Far too short really, would I say. There is always time pressure [...] If you were to make a perfect investigation, then you would need a lot more time, yes. Maybe the double at least, you must always prioritize.

Anders on the other hand expressed that if one is inexperienced, then the predetermined time is not enough. It is argued that with experience you learn what you should focus on and will be able to investigate the relevant parts. However, regarding the unaccompanied minors he felt that three hours is the minimum.

Anders: Not when you start as an asylum case officer [...] it does not. Because there is so much you should have knowledge about [...] But after one or two years, you get a feeling for what is in the periphery and will be able to lead the case forward and subsequently write the decision [...] Today we have three hours for unaccompanied minors, which I think is a minimum. There is a lot more to investigate when it comes to them.

Christina and Stephanie were quite satisfied with the time for the investigations, but ultimately it depends on what comes forth during the investigation.

Christina: Personally, I think that two and a half hours is fine. Although, it depends on what kind of case it is [...] Most of the time I experience that it is enough. But, it is different from case officer to case officer [...]

Stephanie: I think it might be enough, two and a half hours are good in fact. But, depending on the case, one and a half hours can also be enough [...] I argue for, investigate as much as you can, but actually you are supposed to investigate as much as it takes [...] And some cases are maybe somewhat easier, for example the Syrians. When so many came and most of them had documents, the identity part and place of residence took less time and also the part regarding asylum. Because we knew what was happening over there [...]

Oscar agreed with Christina and Stephanie and argued that more consideration to the circumstances of the case should be given when the time for the investigation is scheduled.

Oscar: [...] Too little consideration is taken on the varying degree of complexity in the different cases. Too little consideration is taken on the fact that an additional investigation takes a lot of time, also to prepare. Generally, I think that the investigations are underestimated in regard to the time it takes [...] It takes much more time than those three hours when you include the work you do before and after the investigation [...]

Elin: The times for investigations are decided from above [...] And I think that it is forgotten that every asylum seeker has very different reasons and background. So, the time for an investigation varies and there is a template for this, which is not easily changed. It is simply considered that a case is like this and then it takes this long time. I would like to see that the case officers get a little more influence over this, those who actually work on the floor, who knows.

Elin argued that the cases varies and thus needs more or less time. She also argued that the case officers should have some influence over how long time is scheduled for the investigations. In the quote, we witness an expression from Elin that she is not comfortable with how the investigations are booked. Her expression reveals that she wants to be able to change how something is done, and that she is tied down in this matter. All in all, our informants had different experiences regarding the time for the investigations. Some thought it was enough and others wanted more, and some would like to see that the case officer's themselves could influence how much time that is booked for different cases. Feijen and Frennmark argue that it is important that there is enough time for all relevant circumstances to be investigated. The applicant should be given the opportunity to report on asylum grounds in their own words and in their own time, which may be time consuming. It is also important that the case officer asks the questions in a friendly and patient manner and that the applicant is given the opportunity and time to tell, as freely as possible about his or her reasons for seeking asylum. Asylum investigations are intellectually and emotionally exhausting for all parties, but primarily for the asylum seeker. Pauses are therefore an important part of the asylum investigation and the investigator should initially inform the applicant about the layout and the possibility of breaks when needed. Feijen and Frennmark argue that often there is not enough time for trust to be established between the applicant and the investigator and for all circumstances to be clarified. UNHCR observed during their project that many investigations were short of time and case officers seemed stressed. This had a negative impact on the applicant's ability to tell about deeply personal and painful events. Feijen and Frennmark thus argue that it is crucial that the applicant feels that there is enough time to

tell about the events and that the case officers does not stress the applicant. If necessary, supplementary investigation should be carried out.<sup>151</sup>

### ***What is Most Important to Think About During the Asylum Investigation?***

When we asked our informants the above question, they all mentioned the same things, although some of them stressed some things more than other. Generally, they thought it is important to try to create a safe environment for the applicant as possible, act empathetically, remember that the applicants are in an exposed situation, listen attentively, all while keeping their role as public service agents intact and act professionally. As Feijen and Frennmark stress, most asylum seekers perceive the asylum investigation as a very stressful situation. Therefore, case officers must be aware of the impact of stress and power imbalance on the ability of the asylum seekers to express and explain the reasons for their asylum application. It is crucial that the case officer creates a confidence-inspiring and encouraging mood during the investigation to enable the applicant to put forth their asylum claims. A safe and comfortable investigation environment is a prerequisite for the asylum seeker to feel safe enough to tell about his or her reasons for seeking asylum.<sup>152</sup>

Lisa: Spontaneously, I think [...] that the person is in a very exposed situation and has been involved in things that he may not want to talk about. The person may feel bad about these things. Maybe it's the first time ever the person is talking about these things, so those parts can be a bit special. Because suddenly, that person has to sit there and open up to a person they have never talked to before, or met, and tell everything in detail, as detailed as possible.

Christina: To be empathetic [...] One must be professional, but at the same time be empathetic. Because it is people who will tell sensitive stories, and you must have an empathetic ability. With that said, you should not, well you should not hug the applicant, but control the situation professionally.

Anders: Show empathy, to listen to the person in front of me [...] To be present simply [...] But at the same time, we must keep our roles as civil servants. It does not look good if you sit and cry with an asylum seeker during an investigation, as simple as that. No matter what information that comes forward [...] You have a person in front of you who cries, you cannot just grind on with the next question. Instead you may have to take a short break and try to read the situation [...] It is few investigations [...] that has not included trauma [...] It

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<sup>151</sup> Feijen & Frennmark p. 87 ff.

<sup>152</sup> Feijen & Frennmark p. 87 ff.

is something you learn to handle. And with that said, it is not that you get colder as a person. Instead, you learn how to handle those situations [...]

Once again, we see a situation where the case officers use their discretion to adapt to certain situations, while s/he must also be aware of how s/he should act and behave as a civil servant. Anders argued that even though he must be aware of his roles as a civil servant, be impartial and not show signs of sympathy, he must also be empathetic and adapt to the situation at hand. If the applicant is emotional and cries, he might suggest that they take a break. Furthermore, Anders argue that this is something you learn through experiencing situations like these. In similarity with Lipsky's argument, a street-level bureaucrat cannot be pre-programmed on how to react to situations like these.<sup>153</sup> This is clearly a dilemma for the case officer, on how to handle their role as civil servants. Moreover, the case officer can here, with their discretion, handle the situation in different ways. Which testifies that they do have room for discretion in relation to the applicant, even though they might not label it as such. Oscar continues the discussion and talked about how a public service agent should act. Additionally, he argued that the goal with the investigation is to get the answers he needs to make a decision.

Oscar: It goes without saying that you should act like a public service agent is supposed to. You represent the state. You cannot say whatever you want to, you cannot behave however you want to. You have to act professional and show respect [...] It is important that you take the situation seriously, that you are good at what you do, or at least try to be. But in the case of the investigation itself, the most important thing is that you get answers to the questions that you need, in order to make a decision [...]

Both Marcus and Oscar also discussed their investigation techniques. Marcus tries to find little things to associate with the applicants to get them to relax, and when they are relaxed, he asks them questions. In a similar manner, Oscar argued that it is important to ask certain questions at a certain time during the investigation to get truthful answers.

Marcus: The most important is to create a safe environment. Undoubtedly, they are so nervous. I have had guys who have passed out just as they came into the room [...] It is important to be able to associate to things they say in the beginning. When they talk about their family for example and how worried they are. Then you can say, I have kids of my own, I understand exactly [...] Not only, like listening and ask the next question, but actually listen to what they are saying [...] This is also a technique for investigating. Because then you can already during the questions when they calm down and you realise that this is an easy topic to talk about, ok, when did you last talk to your parents? It was

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<sup>153</sup> Lipsky, (2010), p. 71.

yesterday, someone maybe says. And then it is hard for them to say that, no I do not have a network at home. Well, but you talked to your mother two days ago. And that is maybe in a way to fool someone. But either way it is important in an investigation to pose the questions at the right time, so it does not become obvious. Like, now we are going to talk about the threat upon a return, then they know exactly what to say. But if you pose the questions more sporadically and in a safe context, you usually get the correct answers.

Oscar: [...] It is hard to describe, you need to be strategic about how you pose certain questions in order to get honest answers. To get answers at all. Many have been exposed to violence and abuse and that might be something one does not like to talk about. You want to build a trust with the person you are talking to. So, you start with easy things, where do you come from, describe your hometown, describe your family, have you gone to school, and then talk about more serious things. I usually do that in the last half, you take a break and then you talk about the asylum reasons [...]

What Oscar and Marcus labels as their investigation technique, could also be explained in terms of discretion. Schierenbeck argue that street-level bureaucrats develop their own interpretation of established practices alongside with regulations that already are in place. Such an interpretation could entail that the street-level bureaucrat choses to not follow the existing regulations, it can also mean that the interpretation of established practices occurs within the frame of the room of discretion that is granted in connection to the regulations.<sup>154</sup> Oscar and Marcus have developed a certain way to get answers from the asylum seeker during the investigation. Marcus tries to create a safe environment by associating to things the applicant brings up. Oscar start with what he calls, easier questions, in order to build a trust, which could also be explained as creating a safe environment. These routines and ways to conduct and handle the investigation situation are not in conflict with the regulations or established practices. Instead, their routines fall within the frame of the discretion that is allowed in connection to the regulations. The street-level bureaucrat's discretion allows Oscar and Marcus to conduct their investigations in the way they feel is most efficient.

Given that the asylum seekers' statements play a central role, it is crucial that interviews conducted with applicants remain impartial and objective. Doornbos argue that case officers must be aware that asylum seekers are in a vulnerable situation when they are interviewed by case officers. The author refers to UNHCR, which acknowledges that due to their experiences in their country of origin, some asylum applicants might feel a hesitation towards immigration officials. The applicant could also feel inhibited, anxious and tired during the interview, thus affecting the interview process. Case officers

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<sup>154</sup> Schierenbeck, p. 32.

must have in mind that these conditions could lead to the applicant's statement being inconsistent and contradictory. Nevertheless, case officers must identify if an applicant has fabricated their personal background and history, or if they have been instructed by a third part, such as human traffickers, to withhold important information. Thus, case officers have the complicated task of finding out what happened.<sup>155</sup> As Oscar said, he feels that he needs to be strategic about how he asks certain questions in order to get honest answers, or to get answers at all. Markus stressed the importance of actually listening to what the applicant is saying, because he feels that would make the applicant feel safe and thus, more willing to talk about their reasons for seeking asylum.

Since this was one of the more open question we had prepared for the interviews, it was interesting to see what came to our informant's mind, and what they chose to talk about. Petra talked to us about the power the case officer has and how this is also apparent for her during, and after the investigation.

Petra: [...] The person can be under a lot of stress. They see the investigation as their only chance to explain themselves and to explain why they want to stay in Sweden. You have to have some understanding for that it is a very exposed situation. That the person who sits on the other side, who asks the questions, is able to determine that person's fate. [...] You must also understand that the person might lose their thread. Then you give them the opportunity to explain. Explain yourself, because you said something else before. You should not add more stress to the situation, but instead try to calm them down.

Petra pointed out that it is the person who asks the questions, the case officer, who has the power to determine the applicant's fate. Lipsky argues that even though the client may have some means to affect their relationship to the street-level bureaucrat, it is not a balanced one. The relationship between the two is characterised by unidirectional power, since only one of them has the power to make and carry out a decision regarding the request of the client. How the relationship will continue is often decided by the street-level bureaucrat, but the character and terms of it is primarily affected by the limits of the job.<sup>156</sup>

Elin argued that what is most important is to listen actively to the applicant, and that sometimes, experience and knowledge might not only be a positive thing. She said that it is important to remember to be open-minded and not to get stuck in certain patterns but instead keep digging and asking questions.

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<sup>155</sup> Doornbos, p. 103 f.

<sup>156</sup> Lipsky, p. 59.

Elin: To listen to what the applicant is saying [...] Even if you have had people from Syria, which it has been a lot of lately. They might only tell you that, I fled because it is a war. And it is common that one then thinks that okay, then you will get asylum based on the general situation. And then you don't do anything more. But then, you have to start asking more. How was it for you during the war? And then, it may suddenly come out that they are Christians and come from an area which ISIS controls. Thus, you have to dig a little deeper and really pay attention to what they are saying. So, that you don't miss anything and don't simply put someone in a category. Just because I have investigated someone who has converted before, I cannot ask the same questions again. You have to really listen and let it be quiet sometimes [...] That is what I think makes a good investigation. And it is important to think about that I am here for the applicant and not to grill anyone [...] You have to be very open to all different kinds of reasons for asylum and don't get stuck in some old conception.

In asylum cases, the evidentiary assessment often only consists of an oral statement by the applicant, which is not without its difficulties. According to Diesen, the case officer's must not only have knowledge of the matter, but also life experience, empathy and even some psychological competency to evaluate the information in an asylum hearing.<sup>157</sup> Which brings us to the question: how are case officers to decide the credibility of a statement? Zahle argues that credibility is often based on repetitive experiences, that similar situations involving the same individual have been repeated several times. Another yardstick that case officers may use is if the situation is familiar to them from previous cases, such as the applicants' situation, the threat they experience in their country of origin, their travel route and so on. If the case follows a certain pattern, this may affirm the applicants' credibility. However, if the case deviates from the case officers known pattern, this may raise suspicion. With this in mind, it is not surprising that many case officers concentrate on the statements of the applicant. It can also explain why contradictions in applicants' statements have attracted such a large interest in the practice of asylum and refugee law. This way of establishing credibility can, according to Zahle only be realised if the case officers have some familiarity and understanding with the components on which an assessment of credibility is based on.<sup>158</sup>

When we asked Christina what she thought is most important to think about during the investigation, she chose to talk about her role in the investigation room. She sees herself as the chairman in the room and that she must sometimes control and steer the situation. This includes both the applicant and the interpreter.

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<sup>157</sup> Diesen, p. 245.

<sup>158</sup> Zahle, p. 16 ff.

Christina: It is important to think about asking the right questions. But it is also important to keep in mind that you are the chairman of the room and you have to have the confidence to tell the translator if they do something that is not okay. If they for example ask follow-up questions to the applicant, then you have to tell them [...] you cannot ask follow-up questions, your task is to interpret and only to interpret. If the applicant talks to much, you have to tell them that they need tell you in detail but divide it into short sentences. Because I have to write down the questions and answers [...] And explain why it is important that the applicants answer the questions. So, you have to have the confidence to control the room, so to speak.

### ***Which Parts in the Investigation are the Most Relevant for the Case Officer?***

Regarding what the informants thought was the most important parts in the asylum investigation Anders argued that above all, the personal threat scenario is important to investigate. Oscar argued that it depends on what kind of case it is. But generally, he needs to know who the person is and where s/he comes from. Regarding the asylum cases, it is important to get answers to enough questions, for him to determine whether it is likely or not that the person needs protection based on what is invoked. Lisa said that she likes to think back to the definition of a refugee, but also that there are some parts that should always be covered during the investigation.

Lisa: We have some parts that should always be included. [...] Firstly, place of residence, where the person comes from, where he has lived, where does the person have a citizenship. You also go through family. If the person is a child for example, it is very important to know if they have family in their homeland [...] You also go through the identity [...] Then you go through the asylum reasons, of course, and that is a quite big part. And we also look at the route here [...] That can be relevant. Things may happen on the road and can affect them later [...] Often it is not the most relevant part. But it can also be good to know, has the applicant left legally or illegally, it can be connected to the asylum reasons [...] If we only think about the asylum reasons, then it is to know what has happened. Why the applicant left their homeland, what does the applicant risk upon return? And then, depending on what answers I get, I think back to the definition of a refugee, subsidiary and so on. And formulate my questions based on what I need to know about all these parts.

Petra told us that it is important to clarify the applicant's identity before starting to investigate the invoked reasons for seeking asylum.

Petra: [...] All parts are important. If the identity has not been made probable, if we do not believe in anything, we cannot assess the reasons for asylum [...] We must investigate



everything. [...] It is a lot of consideration, which is a difficult part of the job. How should I assess this? It is a lot of evaluation of evidence. They can in principle submit whatever they want to prove their identity, reasons for asylum, everything.

When the applicant has fulfilled his or her responsibility to state the basis for the application, the responsibility is transferred to the Swedish Migration Agency to obtain the required information to make a decision. Which means that if something has not been possible to investigate it cannot be used against the applicant. Feijen and Frennmark argue that it is important to keep in mind that an asylum applicant often cannot strengthen their claims with written evidence, or other forms of physical evidence. That an asylum applicant can substantiate all their claims is usually an exception, rather than a rule.<sup>159</sup> Feijen and Frennmark argue that the Migration Supreme Court places greater emphasis on the applicant's burden of proof, without mentioning the investigator's shared responsibility for disclosing the data. Feijen and Frennmark argue that UNHCR does not share this view but believes that the obligation to ensure that the case is sufficiently correct and that all relevant circumstances are investigated as far as possible, should be shared between the investigator and the applicant. The understanding of investigative responsibility and the respective burden of proof is fundamental to the asylum procedure and the interpretation of these concepts directly affects several aspects of the same.<sup>160</sup>

Christina and Marcus stressed the importance of getting to know what the applicants are at risk for upon an eventual return to their home country and what constitutes a threat for them today. This might also mean that the case officer must have their priorities set before entering the asylum investigation, since the time for the investigation is limited.

Christina: [...] There are so many different asylum stories. I want to know the core and [...] what does the person risk upon a return. Because one may have actually been exposed to something many years ago. But that does not actually constitute a threat today. I think a lot on return, what are you at risk for today, if you were going to return to your homeland [...] That is what I think is important. But everything is important [...] You need to know who the person is to start talking about the asylum reasons [...] In the end, we assess the grounds for protection and then we need to know, what does the person risk upon a return.

Marcus: The most important is the forward-looking threat. What do you risk when you return to your homeland? That is the number one [...] And the follow-up question, why do you risk that and how do you know that [...] I have had people that has gone through horrible

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<sup>159</sup> Feijen & Frennmark, p. 21.

<sup>160</sup> Feijen & Frennmark, p. 21 ff.

things, really, really, terrible things and tell the strangest things, but that is not relevant. [...] When you try to investigate the circumstances in a case, it is very important to try to understand what creates an eventual threat in the near future, and all the time try to insert that question, but why is this relevant today? [...] Many talks about things that happened thirty years ago. That is not unusual, because you want to tell your life story. But we do not have time for that, unfortunately. Which is tremendously disrespectful. But I also understand that it costs a lot to have an investigator who sits here, a trustee, an interpreter and public counsel. So, I also understand that we do not have unlimited time at our disposal. So, you have to prioritize.

The Swedish Migration Agency must assess if the applicant meets all the criteria in the refugee definition. What is central for the agency when assessing if an applicant should be granted refugee status, is to determine if there is a harmful risk for the applicant, should their refugee status be denied. The term is future-oriented, and there is no requirement that an individual must have experienced persecution in his or her country of origin. In order to determine if an asylum seeker has a well-founded fear, the executive officer should take in to account the applicant's subjective state of mind, and s/he should obtain objective information about the asylum seekers circumstances in their country of origin.<sup>161</sup>

### ***What do the Informants Believe Constitute a Successful Investigation?***

We asked the informants what they believe characterizes a good and bad investigation. They gave us some different examples. Lisa stated that an investigator should always keep calm. By staying calm the case officer can easier focus on what the asylum seekers says, it is also helpful when the investigator needs to follow up with additional questions. Feijen and Frennmark argue that a basic prerequisite for conducting a good asylum inquiry is that the case officer has good knowledge of the refugee definition and other grounds for international protection and good knowledge of international and national binding practices. Furthermore, in order for the case officer to conduct an adequate asylum investigation, it is required that the case officer has good knowledge of interviewing techniques, an ability to work with interpreters and that the investigators have an empathetic and professional approach.<sup>162</sup>

Lisa: A good investigation is, an investigator who tries to keep calm no matter what answers you get. But who also [...] use their brain during the investigation and really, think about

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<sup>161</sup> Lindholm & Seidlitz, p. 126.

<sup>162</sup> Feijen & Frennmark, p. 31 ff.

the answers you get. Because the answers you get, is also what you can use to pose additional questions that are needed. Or, in an effort to get clarity if you have gotten two different answers. So, you have to be attentive all the time. And not focus too much on what you yourself should say. But instead, on what answers you get, to be able to formulate the rest of the questions really.

Anders said that the key to a good investigation is to be prepared, because if you are prepared you know what questions you are going to ask and might also know what reasons for asylum the applicant will invoke. A well-prepared case officer is also, according to Anders, someone who is comfortable and does not get nervous.

Anders: A good investigation is when you get a flow. You know what questions to ask [...] You kind of know where it will land, and what reasons for asylum will be invoked. That also builds on that you have an applicant before you who understand the meaning of the questions. And, that we want an answer on the question we ask and not on everything around it. A not so good investigation is when you do not get a flow. You do not get any good answers. We have not been able to prepare us well. You have been thrown in on an investigation. That happens, that you need to fill in for someone else. In those scenarios you might only get fifteen minutes to prepare and that is not ideal [...] So, there are a lot of circumstances that can make an investigation become very bad [...] To be a comfortable case officer during an investigation, you have to be comfortable with the case. And if you are not well informed, you are not comfortable. And then, you can get nervous and that can simply become bad. So, preparations are important.

Christina and Johanna had similar opinions to how a good investigation is conducted. They both stated that a good investigation is when the case officer poses relevant questions, questions that are important to write a decision. Nevertheless, their opinions regarding what constitutes a good and bad investigation are somewhat different. Christina stated that one cannot say that an investigation was bad, because they are all good in their own way. As a case officer you should not be upset because you did not get the answers you wanted. Johanna on the other hand stated that a bad investigation is if the asylum seeker gets upset during the hearing and leaves the room.

Christina: A good investigation is when you pose relevant questions [...] Questions that we need answers to, to make a decision. [...] You must always think about the decisions. Depending on what the applicant says, you have to ask the right questions to be able to write a decision [...] If the person says, I risk being killed because of this or that, then you have to ask, but why are you at risk of being killed, by who and how do you know that? [...] The applicant must be given the opportunity to make it probable for the Migration Agency. So, a less good investigation I would say is when you miss the relevant follow-up questions,

that we need to assess a certain matter in a decision. [...] All investigations are good in their own way [...] I would not say that it was a bad investigation because I did not get the answers I wanted [...]

Johanna: A good investigation is when you get answers to the questions you have asked. And that you get all the answers needed to write a decision. A bad investigation is maybe if an applicant leaves the room and is sad or frustrated, I would say. It is not what our intentions are, that they should feel unsafe here.

Feijen and Frennmark stress that the oral statement, along with relevant country information, are the most important sources in the assessment of refugee status and other protection needs. The purpose of the oral investigation is that the asylum seeker should be given an opportunity to submit his or her asylum reasons and that the case officer should ask questions to obtain all relevant facts. Furthermore, the authors argue that the oral investigation shall be conducted in such a way as to determine all the relevant facts for the case in the most complete and reliable manner. This means that the oral investigation must establish all relevant facts for all prerequisites in the refugee definition, as well as for other protection reasons.<sup>163</sup> Stephanie talked about a balance regarding how deep the case officers should go with their investigation and that this balance constitutes a good or bad investigation. She also stressed that the case officer is only there to guide the applicant and to not take over. Furthermore, she argued that even though the investigator has knowledge and experience of similar cases, they should always treat every case as a new and unique case.

Stephanie: [...] I think the most important is to investigate as much as the case needs [...] One should not investigate too much. The balance between the two characterizes a good and bad investigation [...] But also in our roles as investigators, to not lead the case in a certain direction. We are only supposed to guide. We should guide and give the applicant an opportunity to tell us, we are not supposed to create and build the case [...] If I have had many investigations from Mongolia, then I might know a lot about that [...] and that may have an effect sometimes. So, you always have to see the case as an entirely new case [...] To find that balance, my knowledge about the case, about the countries and the situation, should not result in that I do not investigate the case enough because I think I know what is coming [...] It is the applicant and their personal circumstances that should steer [...] It is very easy to lose oneself in the case and the story [...] It is important to remember that I am here to do my job, my task [...] And it is important to keep that distance [...]

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<sup>163</sup> Feijen & Frennmark, p. 57.

According to Feijen and Frennmark the agency's investigative responsibility means that the agency is responsible for ensuring that the asylum investigation is as complete as the case requires, including circumstances that the asylum seeker has not invoked, but which may constitute grounds for protection. In asylum cases, the need for protection for the applicant must be weighed in, which means that the agency has a greater investigative responsibility than for other cases, a so-called expanded investigation responsibility.<sup>164</sup>

Oscar emphasized that a bad investigation is when you cannot make a decision based on the protocol from the investigation. It is important to have answers to the relevant questions and according to him this is what characterizes a good or bad investigation.

Oscar: [...] It is an investigation where there are not enough questions about important parts [...] to take a decision. You need to have answers to certain questions. And an investigation that does not answer these questions is yes, simply not good enough. A good investigation is an investigation that you can take a decision in. That is, you have answers to the important questions [...] But a good investigation might try to focus more on what you would risk facing in the country you would have to return to, in case of an expulsion [...]

Christina and Anders also brought up that an investigation can be affected by the quality of the interpreters. Christina mentioned that the interpreters know their native tongue well, but that they are not fluent in Swedish. She has also experienced that some interpreters try to take on the role as an investigator and ask follow-up questions on their own. According to Christina, it is the case officers job to stop the interpreter if they overstep during the investigation. Anders argued that the low quality regarding the interpreters might have something to do with the high influx of asylum seekers during 2015, which consequently have led to a higher demand for interpreters.

Christina [...] They know the native tongue, but the problems arise when they translate everything into Swedish. [...] It has occurred that they interfere and want to ask follow-up questions. Because they may get frustrated because they do not get any answers. But then, it is the investigator's role to say that this is not your task to control the investigation, you should just interpret.

Anders: [...] Unbelievably actually, the quality varies a lot in the interpreters. I have not had to cancel many investigations because of the interpreter. But I have had colleagues who have done that [...] Because the applicant has not understood the interpreter [...] Interpreters who perhaps skip important parts from the narrative or try to shorten, to make it go faster,

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<sup>164</sup> Feijen & Frennmark, p. 21.

I have not experienced this that much, but it happens [...] It is like everything else, the interpreters also differ. Depending on how many years they have been interpreters and what experiences they have [...] And of course, because of the great influx in 2015, it has put a lot of pressure on us to deliver interpreters. And I can imagine that because of this many of them have become interpreters quite quickly [...] And then you simply have to set up a new meeting. Because it is very important that the information is presented correctly and that applicants must be heard [...] If there are shortcomings [...] that the interpreter has misunderstood, then we simply report it.

Oscar argued that it is imperative that the interpreter has good knowledge of both the applicant's language and Swedish because it affects the case officer's credibility assessment. His experience with the interpreters is negative and, he said that he notices the low quality in interpreters when the applicant's Swedish is better than the interpreter's.

Oscar: Well that is the big challenge [...] I would say [...] Because it is so important that it is right, because of the credibility assessment. And in general, the interpreters are very bad [...] Either they cannot speak Swedish, or they are not educated interpreters. You can notice that they do not know, or they change translations, or they express their own views. [...] I usually do not understand the languages. But quite often, the applicants have been here for some time and know better Swedish themselves and they correct the interpreters. That is not a rare issue. So, I would say it is actually a big problem, a very big problem. And many times, you notice when the translator starts making their own statements. And then you must simply stop it. [...] But somehow, I have to assume that an interpreter does their job [...] And I always point out to the applicant that it is important that they say if something is odd. And then you hope it will be correct. [...] But one should also remember that the records are sent to the public council, they go through the protocol together with the asylum applicant. [...] And then the applicant has the opportunity to explain if needed. So, there is some kind of a control function.

The study conducted by Granhag et al. also showed that the use of interpreters may be problematic, especially in regard to assessing reliability. Because interpreters may misinterpret, misunderstand and lose information. Therefore, Granhag et al. stresses that interpreters work must be assessed on a regular basis, and the instructions given to them must be very precise.<sup>165</sup> According to Oscar, the interpreter is a big challenge for the case- and executive officers. Most of the informants argued that the quality of the interpreters varies a lot and that it is very important that the translations are done correctly during the asylum investigation. But how is it possible to know if the translation is correct,

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<sup>165</sup> Granhag, Strömwall & Hartwig, p. 46 – 48.

if you do not understand the language? We can see in Oscar's quote that the case officers must, either way rely on the interpreter's translation and hope that they are doing their job. This indicates that the process may be flawed in terms of legal certainty. This is because of the human factor. The parties involved in the asylum investigation are basically ordinary people, and every individual can make mistakes. Which in turn, may lead to an asylum process that does not result in legal certainty. Nevertheless, the organisation should provide qualified interpreters, that the officers can trust to interpret correctly.

## **The Credibility Assessment**

The evaluation of an applicant's statements is very difficult. But nonetheless an important part of the process to determine whether the applicant should be granted protection. It is especially important in asylum cases that it is done correctly since the applicant in most cases is not able to support their statement with documents or other physical evidence. How the interview is conducted is of vast importance for the evidentiary assessment. We asked our informants if they could describe what they think are the most important parts in an asylum investigation, with regards to the reliability and credibility assessment. Furthermore, we asked them; what is considered a credible statement? What should the asylum seeker do to be deemed credible? Do they experience any difficulties with assessing this important hearing?

When assessing the applicant's credibility, Oscar wants to create a timeline so that he can understand what has happened. Furthermore, he argued that if the applicant actually has experienced what they claim, they should be able to tell about it in detail. An asylum narrative with too few details is considered to be a reason for the case officer to not trust the applicant.

Oscar: My starting point is to try to understand what has happened. Getting a timeline from point one to point two, to point three, to point four. This is what has happened, this is when it happened, that there is no gap in the timeline. Then also, there may be different asylum reasons. But if you have been threatened by someone, you should be able to tell about it. If things are self-experienced, then one should actually be able to tell, in detail about what they have experienced. If the stories are too vague, it is hard to believe them.

When Johanna discussed how she assesses the applicant's reliability and credibility, she also said that the details are important. Moreover, she told us that the asylum narrative should not be contradictory to generally known facts. The key words in these guidelines Johanna said she and her colleagues base their assessments on are coherent, detailed and not contradictory.

Johanna: We have some guidelines regarding the reliability and credibility assessment. The information should be coherent. The narrative should have a red thread and that they provide detailed information, not vague information, and nothing should be contradictory. It should not be contrary to generally known facts. And that it does not contradict their timeline of how things have happened. These are the three concepts, or guidelines, on how to assess credibility and reliability.

The executive officer Elin stressed the importance of the free asylum narrative and that the investigators should not interrupt the applicant during this part of the investigation.

Elin: [...] It is the free narrative, that they get to talk about what has happened, without us interrupting them and asking follow-up questions. Because that is when we get the details, that is when we get a coherent story. Because you do not get a good timeline if we only have, questions, answers, questions and short answers. It is not easy to be detailed then. So, to be able to assess the reliability and credibility, you need a free narrative.

Marcus told us that he lets the applicant tell their asylum narrative freely and that he does not ask questions at first. A free narrative is according to Marcus more than stacking facts on top of each other. Marcus argued that it will give the story much higher credibility to the overall assessment when the applicant speaks freely and tells their story in length.

Marcus: It depends a lot on the investigator [...] So, I am usually very careful when we come to the part regarding their reasons for asylum. I tell them, you are now free to tell me what you have been through, what have made you search for protection in Sweden. And I want a free narrative. In the beginning, I will not ask any questions, please be as detailed as possible [...] This free narrative, which is more than, I went to Iran, I was sent to Syria to war, I went back to Iran [...] Everything comes forth in a free narrative, it gives much higher credibility [...]

Given the previous discussion regarding the time of the investigations and that several informants argued that they need to prioritise the most important questions, what Marcus argued for seems to be the ideal rather than what is possible within the timeframe of the investigation. Anders argued that the preparations are important for the credibility assessment. By reading the information that might be registered in the application, the case officer can get a sense of what the applicant will invoke as their reasons for seeking asylum. Thus, the case officer can prepare certain questions. What Anders calls the overall assessment includes also assessing whether the applicant is credible and reliable. If some information in the narrative is contradictory the case officer might also question other parts of the statement.



Anders: It is very abstract, it can be. But once again, I want to go back to preparing an investigation, that is the foundation for a good decision. Are there for example any contradictory information that was registered when they applied that becomes apparent at the asylum investigation. The applicant should be given the opportunity to explain and respond to this information [...] Have they said something else at the application interview, have they said something else to me today. Why is that? Why have they done that? So, you have to compare the information, and then we make an overall assessment. Is the reason for asylum credible, is it likely that this has happened, has the applicant experienced this? Together with country information. [...] So, of course, if there is conflicting information and the applicant cannot explain, and this is recurring during the whole process of the case, of course that is negative for the applicant. That is how it is [...] But, is it contradictory information, the applicant is not reliable, that leads to that the Migration Agency might question other parts of the investigation as well. Is this really true? So, it becomes a summary really. Where we pose different information against each other, and then we make a decision on it.

For the credibility and reliability assessment, the oral investigation is equally important as the written evidence. Stephanie stated that she does not do something specific but rather that the assessment is a part of the whole process. She mentioned that they do not have specific rules on how the assessment must be conducted but that they have certain guidelines that she follows. They are the same guidelines as Johanna mentioned previously, the statement must be coherent, detailed and must not be contradictory to the country information the Migration Agency has. Moreover, according to Stephanie, a case officer should also investigate properly and identify each case's core issues. She stressed the fact that a case officer can never use a contradictory oral statement in a decision if he or she has not brought this up to the applicants' attention. The applicant must always be given the opportunity to respond and explain what they mean with a certain statement or why it is contradictory.

Stephanie: For the credibility and reliability assessment, what we really do is, we evaluate evidence, we evaluate written evidence. But also, the oral statement is evidence. I do not do something specific, it is part of the whole process [...] So we have no rules on how to do it, we have some guidelines we follow. For example, the narrative should be coherent, detailed, it should not be contradictory to country information [...] And investigate properly, identify the core issues, identify the evidence and investigate them. [...] Whether I believe the person or not is because of the data [...] To provide information that is clearly not true, saying that in Zimbabwe this happened this date, but we know that it happened several days before because it was in the media, that is contradictory [...] In order for us to say that we do not believe the person, and that it is not likely, we must show why we do

not believe them. And most often, it is because the narrative has been changed [...] And it does not match with what they have said previously. It does not match the country information, it does not match with what we generally know about the country [...] And if we cannot explain it, then you cannot really say that you do not believe the person [...] It must always be motivated. And in the vast majority of decisions, where we do not believe the person, there are actual shortcomings in the narrative.

Granhag's et al. study showed that to a large extent most case officers did not have a thumb rule regarding how they determined if the asylum seeker was being truthful or not. Granhag et al. state that it could be both positive and negative; on one hand it could mean that case- and executive officers have an open mind and understand that asylum seekers come from different backgrounds and therefore there can be social differences between different applicants. However, Granhag et al. argue that case- and executive officers may just look at the data collected from the asylum seekers and search for (in) consistencies and contradictions.<sup>166</sup> In resemblance with the study conducted by Granhag et al. we have found that our informants do not have any rules on how to assess credibility. Instead, they have some guidelines to follow.

Billing and Seidlitz argue that in regard to the assessment of whether the applicant's fear is well-founded, the case officer must take into account the applicant's personal circumstances and overall situation in their country of origin. Thus, the officers must develop a detailed understanding of the asylum seeker's home country and experiences, and the applicant's background. Afterwards, the applicant's credibility and his or her fear must be assessed based on objective and reliable information regarding the situation in the applicant's country of origin. A case officer must regard the applicant's fear as justified if there is a reasonable possibility that the applicant would be in risk of harm if returning to their country of origin.<sup>167</sup>

During the conversation about how the case officer's conduct the credibility assessment, Christina brought up that the applicant has the burden to proof the reasons for asylum that they invoke. She pointed out that as a case officer, she is only there to guide the applicant and ask relevant questions, but that ultimately, it is up to the applicant to make her or himself credible before the Migration Agency. To do this, the applicant must give the investigator a detailed and coherent asylum narrative.

Christina: For an applicant to be credible, they have to give, you have to think about the fact that it is the applicant who has the burden of proof. We cannot force them to tell us. I am very clear about that in my investigations. That it is actually you, who have the burden

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<sup>166</sup> Granhag, Strömwall & Hartwig, p. 46.

<sup>167</sup> Billing & Seidlitz, p. 129.

of proof. I will help you by asking questions, but in the end, it is you who have to tell the Migration Agency. And for a person to be deemed credible, they have to give clear, detailed and coherent information. [...] It should not be vague and poorly detailed, those are the guidelines that we have. [...] But it is also important to think about that the applicant has the burden of proof to tell us. And it should not be vague and poorly detailed, but it should be coherent and detailed.

In line with Christina, Diesen argue that the burden of proof lies with the applicant, the asylum seekers have a duty to disclose, to the best of their ability, the circumstances that may be relevant in their case. It is the applicant's responsibility to submit any written evidence that supports their asylum claims. If the applicant cannot provide further evidence, s/he should be able to provide satisfactory explanations. Diesen highlight that, if the asylum seeker has fulfilled these obligations, s/he has then also fulfilled their part of the investigation. However, whether the applicant has fulfilled their burden of proof, depends on the value of the information that has been added to the case, and of the reliability and credibility of the applicant. Nonetheless, in a refugee situation, it can be hard for the asylum seeker to obtain evidence from their country of origin and fulfil their obligation of burden of proof. Diesen stresses that in these situations, it should be enough for the applicant to try to answer the case officer's questions as accurately as possible and make an effort to complement evidence to their case. If the applicant has provided all the information she or he has to the Migration Agency, the investigative responsibility is then transferred to the agency. In concrete terms, this means that what could not be investigated, should not be a burden for the applicant since a refugee cannot "prove" each of their claims. This is called benefit of the doubt; it is sufficient if the applicant claims are considered as probable.<sup>168</sup>

When we later asked Christina how she proceeds with a case if she is not convinced that an applicant is telling the truth she argued that she can only base her assessment on actual facts and not on her feelings. It became clear that it is important for the case officers to distinguish between their own subjective thoughts about a case and the facts.

Christina: Well, we can't base our assessments on subjective values [...] If I only have a feeling, but not anything that is based on facts, that goes against the country information or what the applicant has said, then I will not deport the person. Because what is it that says that my feeling is correct [...] It should be objective and impartial. [...] We cannot base an expulsion on our own feelings. That would have been very crazy and not legally certain.

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<sup>168</sup> Diesen, p. 207 ff.

There must be reason to why you think that the applicant is contradictory. I cannot write in a decision that my feeling is that you are contradictory [...]

Johanna followed up on the same topic and said that she might have a feeling regarding a case, and if she does, she goes back to her desk and reads through the protocol from the investigation to check if her feeling is based on what actually happened or not. If she sees in the protocol that she has not gotten an answer to her question, she checks if she has fulfilled her obligation to investigate. If an applicant has not answered, it is an indication for Johanna that the applicant is not reliable because s/he has not given her the information she needs.

Johanna: If I have the feeling that a person is not credible [...] I personally feel sometimes [...] that I have not gotten answers to the questions I have asked. But then when I get back to my desk and read through the record and the answers, then I can feel that I have actually gotten an answer [...] If he or she has not answered the questions, they have had the opportunity to answer, then that is an indication that they have not provided reliable or credible information. But maybe you do not see that when you are in the situation. You ask a lot of questions so that they get the chance to answer, but then the answers still do not make any sense.

Stephanie also brought up the investigators obligation to investigate during the hearing. She argued that sometimes you need to be tough and question the applicant if they do not believe what the applicant is saying. Sometimes the applicant has a reasonable explanation and therefore it is important that the investigator questions contradictions right away and give the applicant a chance to explain.

Stephanie: [...] It is necessary to be somewhat tough during an investigation situation and have the confidence to say [...] I do not believe what you are saying right now [...] So, it is important that you bring that up on the spot, if somethings seems strange [...] To clarify these uncertainties [...] is part of fulfilling our obligation to investigate [...] Because there may be a very reasonable explanation to why there are contradictions, and then we cannot say that we do not believe in it [...] It is difficult to do these assessments, and it is very hard to talk about them.

The demarcation between the applicant's burden of proof and the agency's obligation of investigation is often hard to draw in asylum cases according to Feijen and Frennmark. The burden to provide proof may shift due to several factors, in some cases it can be placed completely on the agency. According to the UNCHR's manual, the burden of proof should in principle be on the applicant and the burden

of investigation, the obligation to find out and evaluate all the relevant facts, should be shared between the applicant and the investigator.<sup>169</sup>

Oscar and Marcus also stressed the importance of giving the applicant a chance to respond and explain contradictions in the asylum narrative. Oscar also said that the investigator should point out to the applicant that the protocol will reflect that they have not answered the question.

Marcus: But in the end, it is about questioning everything that you can during the investigation. Because if you do not question everything, you really do the applicant a disservice. Because if you do not, then it becomes a vague and poorly detailed narrative. But if you have questioned everything and said that, this does not match with the country information [...] maybe they can explain that [...] You usually find the answers, if one just continues to ask question and bring up if they say contradictory and unreasonable things [...]

Oscar: If you ask a question, and many similar questions and do not get any answers, it may affect. But then, you are also careful to point out that it will appear in the record that you actually got the chance to answer this question three times, but you chose not to answer them, why is that? [...] They must get the chance to response if I will use it against them in a decision. That is why one tries to be clear and explain why it is important that they actually answer the questions.

Marcus argued that it is important to question everything. If one does not, he or she does the applicant a disservice. Nevertheless, the case- and executive officers do not have unlimited time for the investigations. As mentioned previously, some of the informants expressed that the time for the investigations are too short. In light of this, what Marcus argues for, to question everything, is the ideal. This is not always possible in real life, because the officers do not always have the time they wished they had for the investigations. The informants also argued that due to the time limits, they must prioritise which questions they should ask. Meaning that, it is not always possible for them to act in the way Marcus argues for.

According to Feijen and Frennmark there are many reasons why facts may be contradictory, which does not have to relate to whether the fact is correct. When contradictory information is provided, including information relating to country information, the applicant must have the opportunity to respond and explain such contradictions or vagueness in the statement. It is an absolute requirement that the investigator gives the asylum seeker an opportunity to comment on the information that is

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<sup>169</sup> Feijen & Frennmark, p. 20.

considered to be conflicting or unreasonable. This hearing must be done in a skilful way to prevent that the climate of trust is broken. What is perceived as contradictions may have simple explanations in terms of cultural differences, misinterpretations or misunderstandings.<sup>170</sup> Wahren highlight that the Aliens Act contains a provision that stipulates that an asylum case cannot be settled without the applicant being informed if new information has been added to the case by someone else other than the applicant. Moreover, the applicant must be given the opportunity to comment on this new information. Although, this rule only applies if the applicant is in Sweden.<sup>171</sup>

However, it is not only the oral statement that determines if an asylum seeker is credible. Both Petra and Elin argued that if an applicant has not made their identity probable it will affect the reliability and credibility assessment of the case. Petra highlighted that if an applicant has not made his or her identity credible then she rarely assesses the applicant's reasons for seeking asylum. Elin also discussed that not establishing an applicant's identity is problematic for the whole procedure. Other aspects that can hinder the asylum assessment are; if an asylum seeker has lied about their identity, if they have applied asylum in another country, or if they have been in Sweden for a long time and not applied for asylum earlier.

Petra: That also affects reliability and credibility. We are not sure of who is sitting in front of us [...] So, it affects to some extent [...] If the person cannot make their identity probable [...] the reasons for asylum are rarely assessed [...] They may not have been able to give detailed information about their place of residence [...] And we explain why we ask these questions [...] Some might say that we ask many strange questions, and questions that they might not be able to answer to, or has never even thought about. So, we must explain for them why we ask these questions [...] Try to remember everything possible, try to explain, tell me everything that comes to mind. Describe the buildings, describe everything. And that is because the person should have the opportunity to make it probable.

Elin: [...] With credibility assessment, there may also be other things that are not related to the narrative. It may be that they have lied about their identity. Maybe they have a citizenship in another country. Or that they came to Sweden and sought asylum eight months later. Then we start to question a little more. Why have you not made your need for protection known earlier if you really are an asylum seeker? So, such things may also affect. Things that did not come up during the investigation, but at a later stage.

During the interviews, several of our informants had difficulties expressing what the credibility and reliability assessment is and how one determines these two. Anders explained that even though it may

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<sup>170</sup> Feijen & Frennmark, p. 76 ff.

<sup>171</sup> Wahren, p. 95 f.

sound abstract, it all comes down to an overall assessment. Depending on what has been invoked, the asylum narrative and other information in the case, the case officer must then put everything together and make an overall assessment.

Anders: [...] I can imagine that this with reliability and credibility is quite abstract. And I understand that the answers I give are rather fuzzy about this and that is because it is quite hard to explain. That is why I tried to describe this with a box of material that you have, then you look at what you have and compare, and make an overall assessment. Because that is what it is all about, an overall assessment, all the time [...]

Lisa also said that she does an overall assessment and that it is important to let the applicant respond to any contradictions. Furthermore, she argued that the applicant should be able to, in detail, explain the reasons for asylum that has been invoked if she is going to believe him or her.

Lisa: You make an overall assessment, you look for contradictions. And therefore, it is also very important to be alert during the investigation. Because if there are any contradictions, you should ask the applicant to explain it. Sometimes, there are great explanations [...] Sometimes there are less good explanations. But what we are looking for is contradictions. It should be coherent. [...] There are very many different parts in the narrative you need to keep an eye on. Is the narrative poorly detailed? Or has the applicant been clear of what has happened? Do I have a complete picture? Are there any clarifications we have to make? If the applicant says they have been threatened by a certain person [...] and they risk facing death, then one might expect that the applicant knows something about this person. Who has threatened and why [...] You must somehow be able to talk about why you cannot return. And those parts become very important. Because people who invoke, for example, a threat image from the authorities, but cannot explain why and they have lived there all their lives without any problems, and then you must [...] let the applicant have the opportunity to explain and answer [...]

Diesen argues that credibility is the applicant's ability to stay consistent in their statements. This kind of assessment is subjective and builds on how the officers feel and if they experience the applicant as trustworthy, even though the information provided may be untrue. Reliability, however, is according to the author about testing the extent to which a statement is supported by other facts in the case. These other facts can consist of written evidence or other statements, to compare between the applicant's statement and other facts and to objectively assess the value of the statements. In general, the more support of controllable facts a statement has, the more solid it is. Diesen argued that all in all, this means, that reliability is more important than credibility. However, the problem in many asylum cases is that there are not enough good opportunities to assess reliability of a statement. Thus,

credibility becomes more important.<sup>172</sup> Given that the informants think it is difficult to describe how they assess credibility and reliability and that they only have some guidelines to follow, the quotes from them attest to the amount of discretion they use within their work. All of them do differently and most often they need to improvise and adapt to situations at hand.

### ***Does the Applicant's Body Language and Behaviour Affect the Assessment?***

During the interviews, we also asked our informants whether the applicants' behaviour and body language played a role in the credibility assessment. It is generally assumed that peoples' physical movement, eye contact and facial expression reveal peoples underlying motives for the conversation. However, Doornbos argues that these behaviours hold different meanings in different cultures. Thus, they can easily be misjudged in a cross-cultural interview setting. Even though the study Doornbos conducted focused on verbal communication, the results showed that the applicants' emotions do play a role in the officers' credibility assessment. An absence of emotions, for instance could be taken as a sign of the applicant's incredibility.<sup>173</sup>

Granhag et al. bring up that the results in their study showed that most case- and executive officers believed that deceptive statements by applicants are often planned, which means that withholding the truth requires more mental effort. If an asylum seeker took shorter pauses than 'truth-tellers' this could be an indicator that the applicant is withholding the truth, because the case officers believed that liars plan their verbal stories more than truth-tellers.<sup>174</sup> Petra made a point regarding the applicant's cultural background, which according to her makes it more difficult to read her or his body language. She argued that it is not something that the case officers bring up in their decision. In agreement with Petra, Anders stated that he only focuses his assessment on what has been said during the investigation and if it is credible.

Petra: The asylum seekers come from another culture and it is really difficult to read body language [...] They may be afraid, they may be stressed, they may be nervous, so that is nothing the decisions are based on [...] On a daily basis we meet, some might want to shake hand with you, then you have to respect that and try to make the person feel comfortable [...] Some might not want to have eye contact, then you can ask, so there is no misunderstandings.

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<sup>172</sup> Diesen, p. 245.

<sup>173</sup> Doornbos, p. 105 ff.

<sup>174</sup> Granhag, Strömwall & Hartwig, p. 46 – 48.



Anders: [...] I would probably not say that. It is only what is told, and if it is credible, so to speak. I mean, we also have an obligation to ask questions [...] If it during an asylum investigation arises information that we feel, okay, but this sounds a little strange, then we have to ask questions about it. The applicant must always be given the opportunity to respond to any uncertainties [...] As for other physical behaviours, I would say no, that does not affect us in our work. Or how we look at the case I would say, no.

Marcus, on the other hand, said that the applicant's physical behaviour can have an effect on him, but mostly in a positive way for the applicant. It is said that the applicants are often very concentrated during the investigation because they are nervous and stressed. Moreover, Marcus argued that physical behaviour might give him an indication of whether the applicant is telling the truth or not, even though the protocol from the investigation does not reflect more than what is said.

Marcus: Yes, it can. Mostly in a positive direction for the applicant. An applicant who tells us about their lives, are usually very concentrated [...] They can be very concentrated and then in the end of it all, collapse completely and start crying when the tension releases [...] Certain things are more sensitive for people to talk about than others and it can give a very clear feeling of whether this person is credible or not. Could this be correct? Such small emotional expressions become important somehow, even if it is not included in the record. It is still a feeling you have. However, not in the other way. That people are very nervous during the investigation, give short, bad answers in different ways, or are sweating, that does not mean they are lying. That means that they are terribly nervous [...] I understand that. [...] My opinion is that we are a neutral party [...] and yes, the applicant has a public counsel who represents them, but that does not mean that we are the prosecutor. But we do have an investigative responsibility, we will investigate all parts. We are supposed to find as legal a decision as possible, that is the goal [...]

Diesen argues that the reliability of a statement should not be judged based on credibility. An asylum case should not be assessed based on what impression the applicant's story has on the officer. However, the authenticity of a story depends largely on the references the officers have. Diesen states that there are cultural views of what characterize a true or false story. For example, if the applicant looks the officer in the eyes or not, if they are nervous or lack coordination between their words and body gestures. In short, the credibility assessment can be considered as a search for so-called false signals in the applicant's statements. This kind of assessment is very unreliable and Diesen argues that psychological experiments show that people's ability to distinguish lies from the truth is not greater than a random choice. It must also be considered that trying to make credibility assessment of

people from other cultures becomes even harder, thus intuitive references used to make an assessment may not be relevant at all.<sup>175</sup>

### ***Are there any Difficulties Assessing Credibility and Reliability?***

Anders brought up some difficulties that may occur in relation to the credibility and reliability assessment. For example, unaccompanied minors from Afghanistan who often lack identity documents. Although, Anders reflected on whether it is reasonable or not to expect that an applicant from Afghanistan should submit identity documents, due to the situation in Afghanistan. Because of circumstances like this, the Migration Agency may give the applicant alleviation of evidentiary burden.

Anders: Yes, of course it can be difficult. Somewhere we should make an assessment [...] The applicant can submit photographs, information about threats and other things. Then, everything, we could say, we put in a box, and then we will select what is essential, what we believe in, what is in line with current country information. And then, based on that information, we will make an overall assessment, if this is credible or not. And of course, that can be difficult [...] I've worked a lot with unaccompanied minors, especially from Afghanistan [...] There is often no identity documents, there is no evidence of what they have claimed. On the other hand, if we know what the situation is like in Afghanistan [...] is it then reasonable to ask the applicant to submit an identity document? So, it can be very tough and very difficult sometimes [...]

As the quote from Anders show, he feels that it is sometime difficult to assess credibility and reliability. Granhag's et al. research showed that the majority of the case- and executive officers believed that the most difficult part in the decision-making process was to assess truthfulness. The second most difficult part was if the applicant lacks knowledge about their home country. In third place was new political decisions from the government, which can hinder their work severely.<sup>176</sup> Moreover, most case- and executive officers believed that deceptive statements by applicants are often planned, which means that with holding the truth requires more mental effort. If an asylum seeker took shorter pauses than "truth-tellers" this could be an indicator that the applicant is lying, because the case officers believed that liars plan their verbal stories more than truth-tellers.<sup>177</sup>

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<sup>175</sup> Diesen, p. 248.

<sup>176</sup> Granhag, Strömwall & Hartwig, p. 40.

<sup>177</sup> Granhag, Strömwall & Hartwig, p. 42 – 48.

According to Billing and Seidlitz, there is no common accepted definition of the term ‘persecution’, thus the case officer’s must decide if the well-founded fear the asylum seeker feels, constitutes persecution. In this assessment, the case officer should also take in to account the applicant’s feelings and opinions, the applicant’s psychological state of mind and also the circumstances of the case. Thus, an overall assessment is therefore necessary.<sup>178</sup> Oscar argued that the credibility assessment most often is not difficult. He said that a rejection must be motivated, and if that is not possible, the Migration Agency cannot reject the application. And the key, according Oscar, is to ask enough questions during the investigation.

Oscar: Not really, of course some are difficult. Sometimes you ask, is this likely or not likely. And then we must be generous, we cannot reject something that we cannot motivate. You must all the time justify why you are rejecting something, [...] And then it is not that difficult, and if you cannot motivate, then it is not unlikely that it has happened either. So, no I do not think it is so hard. But the key [...] is that you have asked enough questions simply.

Johanna told us that, as an investigator one should encourage the applicant to talk about things that might be difficult for the asylum seeker to talk about. An applicant may be reluctant to talk about their escape from their home country because it may have been dramatic, and they might even have repressed some memories. Nonetheless, Johanna stressed that the case officer must continue to ask questions, to find out what has actually happened. Stephanie on the other hand felt that it is difficult for her to know if the applicant has repressed the memory of what happened, or it might not even have happened at all. She argued that this distinction is hard for the investigator to do and that they should only stick to what is being said.

Johanna: Some things can be difficult to talk about for the asylum seeker. So, one must encourage them to talk about it. One's escape can be very sensitive and something that might even be repressed, as well as forgotten some things. So, you encourage them to tell you anyway. Sometimes it may also be that the applicant distorts their narrative or says things that may not even happened. Then you must search for the truth as well, what has actually happened.

Stephanie: Either they may have repressed it or maybe it has not happened, it is difficult as an investigator to know if it is repressed or that it has not happened [...] We must stick to what is being said and based on that, I will ask my follow-up questions. So, I cannot really look so much behind what is being said and think that there might be something else that

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<sup>178</sup> Billing & Seidlitz, p. 128.

has not been said [...] Because we still have a case to handle and be objective about, there we maybe become a little more civil servant and can think, if nothing has been told about this situation or from this date to this date then there is nothing there to tell [...] I cannot write in a decision, stating that, probably the person has repressed it. It is not possible, we must stick to what is there [...] It is still the applicant who has the burden of proof [...] We cannot take a stand or take into account things that are not expressed. We still need to keep objective [...] it is difficult.

As Johannes stated, some things might be difficult to talk about for the asylum seekers. They might have repressed certain events or forgotten them. She also brought up that, some applicants distort their narrative or bring up things that have not happened. Johanna's quote indicates a mistrust towards the applicants, which can partly explain why some applicants withhold the truth. The investigator's task is according to Feijen and Frennmark among other things, to make sure that the applicant puts forth all the facts possible and that all evidence available is submitted. It is a general legal principle that the burden of proof lies with the person that invokes a certain circumstance. What the burden of proof entails for the applicant must be understood within the special context of asylum. UNHCR's manual says that first and foremost, the applicant has the responsibility to put forth the reasons for seeking asylum. One must, however remember that the applicant might have experienced traumatic events that may affect his or her ability to speak freely, remember events correctly and to reproduce details. Furthermore, it cannot be required of the asylum applicant to put forth evidence from the country of origin if it would pose risks for the applicants remaining family or relatives.<sup>179</sup>

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<sup>179</sup> Feijen & Frennmark, p. 20.

## Concluding Discussion

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Our starting point was that to understand how welfare politics is practiced, it is necessary to study the local practices, namely what occurs on the street-level, in the meeting between public service agents and the welfare state clients. Since the street-level bureaucracies is where the individual encounters the welfare-state, the street-level bureaucrats (public service agents) are those who negotiates welfare politics. Thus, our analytical focus was aimed at the organisation where politics are implemented and the individuals implementing them. Our aim with the study was to understand, from the case- and executive officers point of view, how it is to determine an asylum seeker's credibility and how they do it. Through our informant's descriptions of their daily work we have examined how they experience their work at the agency, how they managed their roles as public service agents, the asylum investigation and the credibility assessment. We also wanted to understand which factors that played a role for the quality of such an assessment. To fulfil our aims with the study we formulated the following research questions;

- How do the informants experience their role as asylum case- and executive officers at the Swedish Migration Agency?
- How is the oral investigation conducted and what experiences or thoughts do the informants have regarding the oral investigation?
- What routines are in place to assess credibility and reliability in the asylum statement and what experiences or thoughts do the informants have regarding the assessment?

To answer these research questions, we interviewed case- and executive officers at the Swedish Migration Agency. While formulating the themes and the question guide we thought of the why, what and how of the study as Kvale and Brinkmann argue is important to do before the first interview. Before conducting the interviews, we developed a question guide based on three themes; 1) to be a case officer at the Swedish Migration Agency; 2) the asylum investigation; 3) and the credibility assessment. During the interviews, a fourth and fifth theme was brought forth by our informants; 4) the readjustment of the Swedish Migration Agency; 5) and the role the interpreter plays in relation to the credibility assessment. Since these two themes were recurrent during the interviews, we decided to include them in the study and we chose to include these themes as sub-themes. As Langemar argues, it is important for researchers who work with empirical methods to be receptive and let the data guide the study and we have tried to follow this advice to the best of our ability. In the following text, we will discuss and develop the study's findings and conclusions.

## **To Be a Case Officer at the Swedish Migration Agency**

Even though our informants expressed that their work was challenging, and that they sometimes felt that a lot of the criticism directed towards them from the media was often unnecessary, they all expressed that they enjoyed their work at the Swedish Migration Agency. However, many of them expressed that they were disappointed at the agency regarding how they have handled the readjustment. Due to this, some expressed that the motivation has been somewhat low recently. Nevertheless, it became clear to us that all of them are passionate about questions regarding asylum in Sweden. In connection with our study, the Swedish Migration Agency underwent one of the agency's largest readjustments. Naturally, the topic of the readjustment came up during the interviews. Our informants told us that the readjustment of the agency did affect their work in the beginning. But after several months of negotiation and no new information, they accepted the situation for what it was, and focused on finishing their cases. Nonetheless, not all informants experienced that their colleagues had adapted to the situation, one of the informant argued the opposite and expressed that their colleagues had neglected their work tasks altogether. Interesting though is that only one of our informants stated that the readjustment could be a good thing for the Migration Agency, which was one of the informants that had worked a longer time at the agency in comparison with the others.

In our informants quotes we could clearly see some of the phases that Jacobsen and Thorsvik said are common when unexpected changes occurs in an organisation. In the mentioned phases, feelings play a big part. The informants expressed strong feelings about the readjustment and how the management handled the situation. Many were critical and thought that they could have done better; provide more information to the employees and support them. It can be hard to keep the motivation going when you do not know if you will have a job to go the next week. This was apparent in the study, some expressed that their colleagues had neglected their work tasks, but many of them felt an obligation towards the applicants. A common thing was that the case officers felt for the applicants because they had been waiting for a decision for a long time. One could argue that they are very service minded even though the outside world might not agree with this argument. Something that was frustrating for the case officers was the continuing focus on production during the readjustment. Many of them felt that if they worked hard, there would no longer be a need for them. Thus, it is not surprising that some of them had trouble with motivation.

The management decides which categories of applications that should be prioritized by the case- and executive officers. And if the management decides that for example, they should prioritize unaccompanied minors, the case officers cannot work with the other cases. This results in a lot of stress and frustration for some of the case officers. Nonetheless, some argued that the priorities are

simply a fact that they must accept. Why some informants felt more strongly about the priorities and were critical against them, and why some of them accepted that certain things are beyond their control we cannot say. Lipsky argues that public service agents have significant discretion attached to their mission. In spite of this, our informants have expressed that they do not have any substantial form of discretion, except that they can plan and structure their week. The reason why some of the informants reacted more regarding the priorities may have something to do with that they felt that the management further limited their room for discretion and was controlling how they should do their job. According to Lipsky, the street-level bureaucrat's work is too complex to be regulated in detail because it requires that they independently make decisions based on varying circumstances. Thus, regulating them in detail might inhibit them from doing their job.

When the informants talked about the applications, they talked about different categories of applications. In line with how Lipsky states that the street-level bureaucrat need to categorise the clients in order to do their job, we see that many of the informants' reasoned in a similar way. Categorising is a part of the case- and executive officers' daily routine and a strategy for them to provide the right service or correct actions. Although, the informants also expressed that even though the asylum seekers are put into different categories, they strived to remember the person behind the dossier number.

Many of the informants expressed that one of the difficulties with their work was the high staff turnover at the asylum units. Several of them told us that it was somewhat stressful when a colleague resigned, and they must take over someone else's case. To make a decision for a case that you yourself have not investigated from the beginning, you may not even have met the applicant, is said to be much harder. The informants also brought up the power they have over the applicant, and that this power comes with great responsibility which sometimes can be hard. Every case- and executive officer expressed that they know that they have this power and take it seriously. This is also why they stressed the importance of following the law and that every decision must be legally correct. To achieve high legal certainty, the case officers work together with executive officers. An asylum application is never decided on by only one person. All the informants experienced the collaboration as positive and that it is good to get a second opinion. They work together as a team which they all expressed ensures a certain level of rule of law and objectivity.

A difficulty that came up during the interviews was the role of the interpreters. Several informants stressed that the interpreters the Swedish Migration Agency use, are of low quality. According to the informants, the interpreters have poor skills in the Swedish language and many of them lack higher education. Our informants expressed that this is very problematic because the applicant's life might depend on that the translation of their narrative is accurate.

One of the executive officers we interviewed brought up that she wanted to see a central education for newly employed case officers and that this is missing at the agency. She was the only one who brought this up, but we feel that she had an important point. It is very important, in order to achieve a certain level of legal certainty, that the case officers are familiar with the Aliens Act and investigation methods before they start handling cases. The study conducted by UNHCR also identified that there is more need for more education and training for investigators. It is a fundamental prerequisite for the investigator to be able to conduct a good asylum investigation. The requirement of good knowledge of refugee rights necessitates both good introductory education and continuous training, as refugee law and routines are constantly evolving. Moreover, without the necessary knowledge, how can they assess an asylum seekers application for protection in Sweden?

## **The Asylum Investigation**

The process of assessing an asylum seeker's credibility and reliability, begins with a well conducted asylum investigation. Several of our informants argued that the most important thing during an asylum investigation is to create a safe environment and to never forget that it is the most important conversation in that person's life. In order to create this safe environment, they stated that they begin with so called easier questions, after having explained how the investigation will be conducted. Additionally, they must also inform the asylum seekers of the repercussions that will follow if they do not answer truthfully or withhold information.

The time of the investigation was a topic that was discussed at length by our informants during the interviews. As mentioned, the time for the investigations are predetermined and booked by someone else than the investigator. If the investigator feels that they need more time with the applicant after the investigation, they can book an additional meeting. Some of the informants argued that there was not enough time to conduct a thorough investigation within the time frame that they currently had, others argued the opposite and said that it was enough. One of the executive officers stated that for an inexperienced case officer, the time was not enough, but for an experienced case officer it is enough, although it depends on what comes forth during the investigation. As an experienced investigator, the informants argued that you learn what to focus on and will prioritize the time at hand to investigate only the relevant parts. It was also argued that more consideration should be taken into account when the investigations are booked on what kind of case it is. Furthermore, it was desired that the investigators themselves should have the possibility to influence how much time they need for an investigation.



Something that was recurring during the interviews was the case officer's obligation to investigate. In order to fulfil this obligation, one of our informants explained that she must help the applicant make his or her reasons for seeking asylum probable. The case officers are according to the informants a guide for the asylum seekers and must therefore ask a lot of questions. Several of our informants brought up the importance of asking follow-up questions. Some of them argued that it is important to ask relevant follow-up questions because it is their obligation to do so. While some meant that they want to know as much as possible in the time they have, so that when they write their decisions it will go as fast as possible. It became clear that the case officers believed that it is important to ask many questions, but for different reasons. According to another informant, he believed that they are doing the applicant a disservice if they do not ask follow-up questions. He argued that a statement that is considered as unreasonable can become quite logical if one asks more about it.

The informants chose to bring up different things when we discussed what is most important to think about during the asylum investigation. One of them talked about the power relation between themselves and the applicant, another informant described herself as the chairman during the investigation. As Lipsky argues, the clients of street-level bureaucracies, such as the Migration Agency, are not there voluntarily. The Migration Agency is the only organisation where you can apply for asylum therefore, the asylum seekers do not have any other option. Furthermore, the relationship between the asylum seekers and the case- and executive officers is not a balanced one. It is characterized by unidirectional power, since it is the investigating officer who determines whether the applicant will be granted asylum or not.

Most of the informants argued that what is most important during the investigation is to listen actively, be open-minded and keep asking questions. Although, combined with the stress and frustration that comes with an asylum investigation, this might prove to be difficult. Regarding what the most important parts during the investigation are, one informant brought up that it is to investigate the asylum seekers personal threat scenario. This was said to be important in order to be able to determine whether the person is in need of protection. It was also significant that the case officers assessed what the applicant might risk facing upon a return to their country of origin. Additionally, what constitutes a threat for them today. The investigator is thus not interested in what the applicant has been through previously if it is not relevant as a threat today. However, what many of the informants brought up as the most essential part of the investigation was the applicant's identity. Because if the asylum seekers cannot make their identity probable to the agency, the case- and executive officers will not investigate their reasons for seeking asylum.

As for what constitutes a good or bad investigation, the informants gave us different answers. Some argued that preparation is key, others said to pose relevant questions. If one does not ask the right

questions, one will not get the answers they need to write a decision. Some argued that no investigation is bad, and that they are all good in their own way. One informant argued that what constitutes a bad investigation is when you cannot make a decision afterwards.

## **The Credibility Assessment**

The credibility assessment of an asylum seeker's statement is difficult but is an essential part of the asylum process. Asylum seekers are most often not able to support their claims with physical evidence; thus, their statement becomes the basis for whether they are granted asylum. We asked our informants: what is considered a credible statement? What should the asylum seeker do to be deemed credible? Do they experience any difficulties with assessing this important hearing? The informants told us that they do not have any specific rules on how the investigator should assess whether the applicant is credible. However, they have guidelines and three keywords to follow; coherent, detailed and not contradictory. These three keywords are recurring through all of the interviews, although they each focused more or less on different aspects.

One informant argued that it is important to establish a timeline, so that one can understand what and when certain things have happened. The same informant stated that if an asylum seeker has claimed to have experienced a certain event, they should also be able to talk about that experience in detail. As mentioned, a narrative without enough details is according to our informants considered to be a non-credible statement. Additionally, if some information in the narrative is contradictory against known facts to the Agency, the investigator might also question other parts. It is said to be important for the investigator to identify the core issues of the case, and to focus on those parts. A few informants stressed the importance of letting the applicant speak freely without being interrupted. It was argued by these informants that when the investigator let the applicant speak freely and not interrupt them with more questions, their story became more detailed and coherent. In similarity with Granhag's et al. study, it became rather clear that case officers determine if the asylum seekers are truthful or not in different ways and do not have an established routine. According to Granhag et al. this could be both positive and negative. Our informants talked at length about inconsistencies and contradictions in the asylum seekers statement, but they also brought up the fact that the investigator must keep an open mind and understand that there might be social differences between them and the applicant. Whether this has a negative or positive impact is difficult to determine, one would have to do further research about this particular topic to find out more. Nevertheless, these factors may make it difficult for the investigator to establish a safe environment for the asylum seeker during the investigation and let the applicant explain inconsistencies and contradictions.

When the informants discussed contradictions in an asylum narrative, they often meant that what the applicant had said was contradictory against the country information that the Migration Agency has in its database. All informants stressed that they can never make a decision based on contradictions alone, the asylum seeker must always be given the opportunity to respond and explain such contradictions. If the applicant does not want to answer a question, the investigator must point out that the protocol will reflect that they have not answered the question. As Billing and Seidlitz argue, the case officers must take into account the applicant's situation in their country of origin if their fear for persecution is well-founded. The case officers do this by reading the country information that they have in their database, to know what the situation is in the applicant's country of origin. This is something that all informants stressed that they do when assessing an asylum seekers application for protection. Furthermore, the country information will also help the case officer determine whether the applicant would be in risk of harm if returning to their country of origin. The informants rely heavily on the authenticity of the mentioned information about different countries, which is provided by the agency's expert institution Lifos (country information).

In connection to the discussions on the credibility assessment, one of the informants brought up the applicant's burden of proof. She stressed that it is the applicant who has to make her- or himself credible before the Migration Agency. To do this, the applicant must give the investigator a detailed and coherent asylum narrative. The line is thin between demanding that the applicant does this, and to argue that the applicant should do this to the best of her or his ability. Diesen argues that the burden of proof lies with the person who has invoked certain reasons for seeking asylum to make them probable. However, how does one know how much one can demand from an asylum seeker, who is in an exposed situation and often have experienced traumatic events? One of the informants argued that they sometimes need to encourage the applicant to talk about things that might be difficult. It could be traumatic experiences such as their escape from their home country. Nonetheless, the case officer argued that they need to continue asking questions, because in the end they need to determine if the applicant is telling the truth. Another informant told us that it is difficult for her to determine if the applicant has repressed a traumatic memory, or if the events might not have happened at all. Therefore, she argued that as an investigator you should only base your decision on what has been said in the asylum narrative. They can only make a decision based on what the applicant tells them.

As Diesen states, in these situations where applicants cannot provide any more evidence to their case, it should be enough for the case officers that the applicants try to answer their questions to the best of their ability. If the applicants have provided all the information they can, the responsibility to investigate is transferred to the Migration Agency. What this means according to Diesen is that what cannot be investigated should not be used against the applicant. This is called benefit of the doubt; it

is sufficient if the applicant's claims are considered as probable. Moreover, Feijen and Frennmark argue that in principle, the burden of proof should be on the applicant and that the obligation to investigate should be shared between the applicant and the investigator. Diesen claims that the credibility assessment is subjective and builds on how the investigators feel and experience the applicant as trustworthy. Credibility is the applicant's ability to stay consistent in their asylum narrative. All our informants argued that they base their decisions on what has been said, and that they do not apply their personal feelings in the assessment. Reliability on the other hand is according to Diesen about testing the extent to which a statement is supported by other facts in the case, such as country information. In general, the more support of controllable facts a statement has, the more solid it is. All in all, reliability is according to Diesen more important than credibility. However, the problem in many asylum cases is that there are not enough good opportunities to assess reliability of a statement. Thus, credibility becomes more important.

Regarding whether the applicant's behaviour and body language played a role in the credibility assessment, the majority of the informants said that it did not. Even though it is generally assumed that people's physical way of behaving reveal underlying truths. Doornbos argue that physical behaviour and body language can easily be misinterpreted in a cross-cultural meeting. Moreover, Doornbos and Granhag et al. argue that the applicant's emotions could be a sign whether they are credible, and that case officers take into account the applicant's behaviour during the investigation. One informant pointed out that there is a cultural difference between the investigator and the applicant, therefore it can be hard to read the applicants body language. Nonetheless, this was not something that she reflected upon in regard to the credibility assessment. Most of the informants said that they base their credibility assessments only on what is being said during the investigation, and not on how the applicant behave while saying it. Only one informant argued that an applicant's physical behaviour can affect the case officer, but mostly in a positive way.

## **Final Remarks**

We cannot stress this enough; a decision on an asylum application, the whole asylum procedure, must be in compliance with the law. The decision the case- and executive officer takes, will have an immense impact on the applicant's life. Our informants fully agreed on this matter and stated several times that they must follow the law. Which they are very thankful for because of the pressure the outside world puts on the Migration Agency. We would not argue that the case- and executive officers we have interviewed for this study "hides" behind the law, but they are very careful that every action, or sanction they take is in compliance with the law. The case- and executive officers in our study are part of a complicated process, in which they must investigate the asylum reasons that are evoked and

assess if they are credible, reliable, and sufficient for a residence permit. Which places great pressure on the Migration Agency and its employees to process and assess if an asylum seeker should be granted protection. It is of great importance for both the case- and executive officers, and the public, that the decisions taken by the agency entails a trust.

By analysing how the case- and executive officers experience their work and the strategies that are developed at a local level, we have identified a tension. A tension which becomes visible only first when the practicing of politics on the street-level is studied. The case- and executive officers used their discretion mostly in ways to adapt to different, and sometimes conflicting demands that are placed on them as civil servants. They talked about demands of production, obligation to investigate, to be empathetic, objective and to follow the law. In relation to the difficulties they experience, they need to use their room for discretion to meet these demands. A good example of this is that the informants said that they must ask the applicant relevant questions, give the applicant time to speak freely. While at the same time, the time for the investigation is limited. Which means that they have to prioritize. Another example was how they handle their role as civil servants in the meeting with the applicant. They need to be both professionals and, at the same time empathic. Street-level bureaucrats often find themselves in a situation with the client that requires an empathic approach. Nonetheless, at the same time, their bureaucratic work demands of them that they stay impartial and objective. Furthermore, the informants brought up the problem with the interpreters. All of these mentioned problems are situations that the case- and executive officers need to adapt to, in order to do their job. These are ways that the informants used their discretion to conform to prevailing practices at the Swedish Migration Agency. Their work is arguably partly about developing strategies within a system that has its shortcomings, to ensure a higher level of legal certainty.

It is rather clear that discretion is something that may affect the outcome of implementing policy. It is the case officer, in collaboration with the executive officer who interprets the law and along with routines and established practices make choices during the asylum process. And ultimately, make a decision on an individual's application for asylum in Sweden. The law is supposed to be fixed and treat every asylum application equally. But we must never forget that the human factor plays a central role in this process. There are three parties relevant in the assessment of an asylum application; the applicant, the street-level bureaucrats and the law. In the case of assessing credibility in asylum applications, the human factor is apparent. Despite the responsibility that comes with this job, all our informants expressed that the job has meaning, that they are doing something good, they want to give people protection. Even in the event of a rejection, it is because the asylum seeker has not fulfilled the criteria set out in the Aliens Act.

To conclude this study, to assess if someone is credible is rather abstract, and it is done throughout the whole asylum process. Several of our informants had difficulties with expressing what they do to assess if someone is credible. One of our informants stated very clearly, what we also have learned during this study, that in the end, it all comes down to an overall assessment. Depending on what reasons for asylum that has been invoked, together with the asylum narrative and country information et cetera, the case officer must then put everything together and make an overall assessment.

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# Appendix 1

## *Information Letter*

Request to participate in a study on the work situation of the supervisor at the Swedish Migration Agency.

Hi!

We are two students from Linköping University who during this spring is writing our master thesis in the program Ethnic and Migration Studies. We have chosen to investigate how case officers within the asylum units experience their work.

The study will be conducted through interviews during the beginning of the spring in 2018. The interview will be about your work situation. Of particular interest to us is how the credibility assessment is conducted how this is experienced by you in your role as a case officer. The interview is estimated to last between 30 to 60 minutes

You can decide which day and time will be best suited for you to do the interview. You can also decide where the interview will be done, preferably in an environment where you feel comfortable. Those who participate in the study will be anonymized and the information you give us will be kept safe so that no one than we who have interviewed you, and our supervisor will take part of the material.

All recordings and printed texts will be deleted when the thesis is completed. Your participation in the study is voluntary and if you would like to participate, you will have the option to cancel whenever you want without giving a reason, it is also your right to refrain from answering any of our questions.

If you would like to participate, contact:

Sofie Ekberg E-post: [sofek278@student.liu.se](mailto:sofek278@student.liu.se)

Maria Habib Davidsson E-post: [marda601@student.liu.se](mailto:marda601@student.liu.se)

If you have other questions about the study, you can contact our supervisor:

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## Appendix 2

### Question Guide

Age, education, position

To be a case officer at the Swedish Migration Agency

- Do you enjoy your work?
- Do you experience any difficulties in performing your work?
- Do you experience you can influence how you do your job?
- Do you experience that you are free to act in different ways in your profession?

The meeting with the applicant/oral investigation

- Can you shortly describe how an oral investigation is conducted?
- How do you prepare?
- How would you describe what characterize a good/bad investigation?
- What is important to think about during an oral hearing with an asylum seeker?
- Do you have experience with talking to people who have been exposed to trauma?
  - If yes, how does it affect your investigation?

Credibility assessment

- What is most relevant in the asylum narrative for you as a case officer?
- Which criteria are most crucial for your investigation?
- How do you as a case officer assess if an asylum seeker is credible or not during or after the oral investigation?
  - Please give examples of concrete cases
- Do you experience any difficulties with determining an applicant's credibility?
  - What kind of support do you have if you feel uncertain, from whom?
- Which factors in an asylum investigation do you consider can affect the credibility assessment?
  - Please give examples of concrete cases
  -

Is there anything else you would like to add?

Is it alright to contact you if we have further questions?