# The Role of Social Media as Evidence in Asylum Procedures in Iceland


Nína Þorkelsdóttir

Keble College

University of Oxford

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**Abstract**

The role of technology in border control has grown steadily in recent years. While smart border technology has become commonplace in many states, the increasing popularity of social media amongst migrant populations offers immigration authorities unprecedented opportunities to access publicly available data on asylum applicants. Although this novel vetting technique has been criticised by human rights activists as invasive and unfair, little academic research exists on the extent to which social media content is exploited as a source of evidence in asylum procedures. The purpose of this study is to address this gap by examining how social media and open-source data shapes the evidentiary assessment in asylum cases in Iceland. Based on eight in-depth interviews with Icelandic immigration officials and legal representatives of asylum applicants, I examine the extent to which social media analyses are carried out and their relevance compared to other sources of evidence. The findings of the study suggest that while social media analysis is used on a regular basis in asylum procedures in Iceland, caseworkers face various structural, personal and bureaucratic hurdles in practice. It is argued herein that due to personal experiences and attitudes towards social media, caseworkers generally consider the evidentiary value of social media too weak to be routinely turned into direct evidence.

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**Abbrevations**

| | |
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| COI | Country of Origin Information |
| KNÚ | The Immigration and Asylum Appeals Board |
| UDHR | The Universal Declaration of Human Rights |
| UNHCR | The United Nations High Commissioner for Refugees |
| ÚTL | The Directorate of Immigration |

## Introduction

During the height of the European refugee crisis in 2015, photos of Syrian refugees with smartphones in their hands started circulating the internet. While cynics castigated refugees for owning a device worth hundreds of dollars whilst fleeing poverty and war, journalists and academics were compelled to take a closer look at the role of smartphones in migration (Alarcon et al., 2019). In recent years, study after study has confirmed that owning a smartphone can benefit asylum migrants in multiple ways. They use social media and other online platforms to plan migration routes, seek information online regarding access to different countries in Europe and to validate rumours about potential smugglers (Dekker et al., 2018; Gough & Gough, 2019). Smartphones and other internet-enabling devices are also used by refugees in camps to verify rumours or dispute information that could be wrong or even harmful (Wall et al., 2015). In short, the smartphone has become a lifeline for modern refugees during their journey.

However, digital technology is a mixed blessing for refugees. While asylum migrants are becoming "smarter" due to technical assets, so are national borders. In recent years, technology has steadily been taking on a larger role in border control, sparking multiple ethical and legal questions (Molnar, 2020). As an example, the EU has funded the development of an AI-powered technology designed to evaluate the credibility of asylum seekers' testimonies. The project resembles a lie-detection system that records testimonies and analyses the micro-gestures of travellers at the border to evaluate their honesty. The system is currently being tested in several countries, including the UK (European Commission, 2018). Drone surveillance over asylum migrants crossing the Mediterranean Sea is another tactic currently on the European Union's drawing table (Ahmed, 2020).

Similarly, social-media monitoring is becoming more mainstream in border control. In several European countries (such as Germany, Denmark, and the United Kingdom),

immigration authorities can legally seize mobile phones of asylum seekers. Data extracted from the phones is then used in asylum procedures, for instance to verify or falsify testimonies given by the asylum seekers (Molnar, 2020). In other jurisdictions, immigration officials use open-source information, such as Facebook profiles, Twitter accounts and Instagram profiles as a potential source of information on individual asylum seekers. These websites usually contain publicly available information on users, enabling immigration authorities to access valuable data without confiscating personal devices. Although the practice is legal in most countries, it is far from being undisputed. In the past few years, activists from various countries have criticised social media monitoring for being invasive and unfair (see e.g. Bogle, 2020; Meaker, 2018). The practice may also have affected the digital behaviour of asylum seekers who, according to anecdotal evidence, have started to discard their mobile phones prior to encountering immigration authorities to avoid screening (Meaker, 2018).

Recent implementations of technological innovations in asylum procedures are arguably a result of increased border control and tighter refugee policies in the Global North. It is rationalised as a possible solution to one the principal problems of asylum procedures, namely the issue of credibility. Since documentary evidence is usually sparse and normative guidance limited, outcomes in asylum cases tend to hinge upon the evaluation of the truthfulness of an applicant's testimony instead of legal problems. Thus, one of the most important tasks faced by immigration officials in their daily work is to determine whether a story is credible or not after having listened to an asylum seeker give an intimate account of their tragic situation. According to academic research from multiple fields, credibility assessment in asylum procedures is commonly affected by human biases and fallacies, most of which impair the applicant's chances of obtaining refugee status (see e.g. Blommaert,

2001; Cohen, 2001; Herlihy et al., 2010; Vogl, 2013). Whether technology mitigates these biases or adds to them remains a fundamental question.

Although increased social media monitoring in asylum procedures has sparked a wave of criticism among human rights activists, little is still known about its implications for evidentiary assessment. In recent years, the topic has received some journalistic attention but academic research is still limited. At present, two academic papers on social media monitoring in asylum procedures have been published. The first one (Bolhuis & van Wijk, 2020) compared the practice of social media monitoring in five European countries, based on interviews with immigration officials. The second one (Andreassen, 2021) is based on case analysis and confined to one jurisdiction.

The purpose of this study is to research the role of social media as evidence in asylum procedures in Iceland. The main focus will be on the 'insider' perspective and specifically, the ways in which decision-makers adopt strategies to navigate through social media content and determine its evidentiary value. One of the study's most significant questions regards the experience and attitudes of caseworkers towards social media monitoring and whether they affect a) to what extent social media monitoring is carried out and b) social media's significance as evidence in the overall assessment. This research favours a qualitative approach and is based on eight in-depth interviews with immigration officials and legal representatives of asylum applicants in Iceland.

The academic debate regarding the use of social media as evidence in asylum procedures is still at in its infancy so more research is clearly needed. At present, there is no academic literature on the assessment of social media evidence presented by asylum applicants. In addition, there is very limited research on the technique immigration officials use to find and evaluate social media information. This present study seeks to provide insights into the thought process behind the evidentiary assessment of social media in

asylum procedures and will in that way add to the scarce body of literature on the topic. Moreover, the findings of this study may inform policy or guidelines regarding social media monitoring in asylum procedures.

In chapter 1, the main scholarly debates regarding evidentiary assessment in asylum procedures will be presented and the existing literature on the use of social media in legal cases will be discussed. Problems concerning credibility assessment in principle and practice will be outlined with a particular focus on the evaluation of diverse types of evidence. In chapter 2, I will give a brief overview of the asylum system in Iceland and the political and public attitudes towards immigrants and refugees in the country. I will illustrate how Iceland's refugee policy compares to other European countries and discuss to what extent the public and political sentiments towards refugees in Iceland influence decision-making in asylum procedures. In chapter 3, I will discuss my methodology and some challenges faced during the data collection process.

The findings of the study will be presented in chapter 4. In the first section, I discuss the various hurdles respondents claim they face during social media monitoring, arguing that they are a result of the current regulatory and organisational structure. In the second section, I will take a closer look at the caseworkers' perceptions of social media as evidence. In the third section, I will discuss how certain norms, taboos and sentiments that have emerged at the workplace influence social media monitoring. The final section will focus on the value of social media as evidence and the ways in which its usage is rationalised. The conclusion to the thesis will be presented in chapter 5.

# Chapter 1: Evidentiary assessment in asylum procedures

## 1.1 Refugeehood in principle and practice

All judicial decision-making requires knowledge of the relevant legal rules as well as an adequate understanding of the facts of the case. When the facts of a case have been compiled and established, they form a "reality against which the law is projected" (Staffans, 2012, p. 35). Assessing evidence is one of the most important tasks that judicial decision-makers engage in to grasp these realities in administrative, criminal and civil cases alike. However, evidentiary assessment is problematic as these realities differ between cases and are usually fragmented and dependent upon individual perception (Staffans, 2012).

Different fields of law deal with different realities. In criminal cases, the most obvious fact of a case is the crime itself. The aim of evidentiary assessment in criminal cases is to construct a reality around this fact until a perception of certainty is established. In other words, the judicial decision-maker distinguishes fact from fiction based on fragments of information gathered by both parties of the case (or the judge themselves in inquisitorial legal systems). Those fragments can consist of oral or written statements, physical objects, various documents, expert witness statements, digital data, and more. In refugee cases, decision-makers need to grasp a very different kind of reality. To qualify as a refugee, an applicant needs to demonstrate that they are in dire need of protection due to their personal circumstances, which are inextricably linked with the economic, political, cultural and human rights situation in their country of origin. Since nobody is in a better position to explain these circumstances than the asylum applicant themselves, the applicant's testimony is a key evidence in refugee cases. By assessing the credibility of the testimony and other relevant evidence, immigration authorities construct an understanding of the 'reality' in which the appropriate legal standards are projected against, which eventually allows them to determine the outcome.

As this chapter will illustrate, grasping the 'reality' of refugee cases is a complicated task. In the following sections, the particularities and complexities of evidentiary assessment in refugee cases will be explored through law and academic literature.

### 1.1.1 Who is a refugee? Definitions of refugeehood and subsidiary protection

Before discussing evidentiary assessment in asylum cases, it is vital to outline the universal definitions of refugeehood in order to establish an understanding of *what* is being proved in these procedures. The Convention Relating to the Status of Refugees, also known as the 1951 Refugee Convention, is grounded in Article 14 of the Universal Declaration of Human Rights, which was accepted by the United Nations General Assembly in 1948 (Convention and Protocol Relating to the Status of Refugees, 1951, p. 2). Article 1A of the 1951 Refugee Convention defines a refugee as a person who is:

> a third country national who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (p. 14).

This key definition of refugeehood entails four basic requirements. Firstly, the individual needs to demonstrate that they have a well-founded fear of being persecuted in the country of origin. Secondly, the person needs to illustrate that they hold certain views or ideologies or bear certain characteristics, that bring forth or increase the risk of persecution. Scholars have termed this *risk-group affiliation* (Zahle, 2005, p. 21). Thirdly, the fear of persecution must be a consequence of being affiliated with a risk-group. Finally, a prospective refugee needs to demonstrate that they cannot rely on the government in the country of origin to offer effective protection against persecution. It is worth noting that the refugee definition has been debated for decades. Some of the legal concepts embedded in the definition are vague and hard to define, such as the concept of 'well-founded fear'. Other criteria, such as

who constitutes a minority or 'risk-group' and whether the situation in the country of origin is stable enough for it to protect its citizens, are seldom clear-cut. Since it is up to each member state to incorporate the Refugee Convention into domestic law, interpretative traditions vary from country to country. Moreover, asylum procedures are generally discretion-heavy, as will be further discussed in the following sections, which results in asymmetrical interpretations even on the domestic level.

Due to the rigidity in which the refugee definition is commonly interpreted in national law, some member states of the European Union have implemented so-called *subsidiary protection schemes* (Staffans, 2012, p. 25). This form of protection does not presuppose well-founded fear of persecution as grounds for protection. Instead, individuals who plausibly demonstrate that they face substantial risk to being subjected to serious harm or torture if they return to their country of origin, for instance due to war or conflict, may be granted protection by the host country despite not qualifying as refugees (Gil-Bazo, 2006, p. 10).

The minimum standards for qualifying for subsidiary protection status are defined in European law. According to Article 15 of Directive 2004/83/EC (2004), serious harm consists of (a) death penalty or execution, (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin or (c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict. Hence, the scope of subsidiary protection is broader than the refugee definition and is therefore often the primary national form of international protection in terms of numbers (Staffans, 2012).

Applying for asylum on the grounds of subsidiary protection is not a separate process from applying for asylum on the grounds of refugeehood – both are reached through a common administrative procedure based on the same evidence presented to substantiate a

claim for asylum. Furthermore, subsidiary protection schemes provide persons with the same rights as refugees (Staffans, 2012). Despite similarities in both process and outcome, it is important to keep in mind the different set of standards each form of protection entails. These nuances can influence what kind of evidence is presented in refugee cases and how it is assessed by immigration authorities.

### 1.1.2 Who presents evidence in asylum cases? Burden of proof and the duty to forward information

The burden of proof rests on the person submitting an asylum claim. This means that the relevant facts of the case are furnished by the asylum seeker themselves (UNHCR, 2019, Principle 196). However, it is important to note that although the burden of proof, in other words *who* is required to prove the claim, rests on the applicant in principle, the applicant and the interviewer share the duty to ascertain and evaluate all the relevant facts. Furthermore, the applicant is not required to 'prove' every fact alleged in a refugee claim in the same sense as in other areas of law, such as criminal law. This flexible approach to the burden of proof in refugee cases stems on the one hand from the fact that an erroneous negative decision can be extremely serious for refugees and on the other hand from an unavailability or inaccessibility of objective evidence in many refugee situations (Interviewing Applicants for Refugee Status, 1995). In other words, the standard of proof in asylum cases – at least in principle – is relatively low and the duty to evaluate the facts of the case is shared between the asylum applicant and the interviewer.

Contrary to most other fields of law, asylum applicants are in principle not required to prove their statement with documental or physical evidence in order to be granted refugee status despite carrying the burden of proof. A credible statement from the applicant is considered sufficient proof, if the statement is not disproved by immigration authorities in the host country (Zahle, 2005, p. 18). In national practice, authorities shoulder their duty to

assist in the decision-making in asylum cases by forwarding information that is possibly relevant to the case. An important difference between the evidence presented by the applicants and by the authorities is that, while evidence presented by applicants is intended to support the claim, the purpose of evidence gathered by the authorities is to gain a further insight into the case regardless of whether it corroborates the applicant's statements or refutes them (Zahle, 2005, p. 20). However, some scholars doubt that such non-partisan position can be achieved, as will be further illustrated in later discussions on credibility assessment in asylum procedures.

### 1.1.3 Problems in practice: Power asymmetries and the politicisation of truth

For decades, scholars from different academic fields have commented on the uneven position of asylum seekers *vis-à-vis* immigration authorities in the host countries (see e.g. Noll, 2005). The UNHCR has highlighted the difficulties arising from this uneven position in its Handbook: "[The asylum applicant] finds himself in an alien environment and may experience serious difficulties, technical and psychological, in submitting his case to the authorities of a foreign country, often in a language not his own" (UNHCR, 2019, para. 190).

As noted in the Handbook, the vulnerability of asylum applicants is often further exacerbated by language difficulties. The fact is that communication between the applicant and immigration officials is usually facilitated by an intermediary, namely a translator. Although the quality of translators varies individually and between jurisdictions, studies have found that translators in asylum hearings may lack the necessary training (Kletečka-Pulker, 2019), they can make translation errors (Blommaert, 2001) and sometimes their translations are partial or even selective (Doornbos, 2005). Naturally, such communication problems influence how the narrative of the asylum applicant is perceived. Finally, the cultural disparity between immigration authorities in the host country and the applicant can be a source of diverse problems (see e.g. Kälin, 1986).

The politicised nature of refugee issues and a lack of normative guidance that characterises decision-making in asylum procedures brings further problems. In practice, the most important aspect of decision-making in asylum procedures is to determine whether the account of the asylum applicant is truthful, or in other words, assessing the credibility of the applicant. As the dramatic variance in acceptance rate of asylum seekers across countries of Europe illustrates, the determination of 'truth' in asylum procedures hinges no less upon policy goals than individual assessment. In the past decades, immigration policies in Europe have become increasingly restrictive as a response to the increased influx of refugees to the continent, resulting in tougher selection processes and a growing hostility towards asylum seekers (Fassin, 2005). This trend has given rise to what scholars have termed a 'culture of disbelief', which describes a tendency among immigration authorities to suspect and distrust asylum seekers by default, that is, a collective mindset that can jeopardise the important principle of granting asylum seekers the benefit of the doubt (Gibson, 2012). When reviewing the literature on credibility assessment in asylum procedures in recent times, it is vital to keep in mind that the 'culture of disbelief' is the backdrop against which the topic is often explored. The production of boundaries (Fassin, 2011), and the construction of the 'illegal immigrant' (see e.g. Dauvergne, 2012) are at the heart of the recent academic debates in anthropology and sociology, highlighting the positionality of asylum seekers as outsiders and illustrating the distinction frequently drawn in Western discourse between 'bogus refugees' and 'deserving refugees'.

Although the literature reviewed in this chapter stems from various academic fields, these themes are very prevalent. For instance, the literature most focused on, which pivots on the role of testimony and self-narrative in the credibility assessment, describes how the notion of a 'plausible testimony' is produced through the expectations and preconceptions

of decision-makers, facilitated by a lack of a unified standard of evidentiary assessment in asylum law.

However, it is crucial to note that the strand of academic literature on asylum procedures that pertains to credibility assessment tends, somewhat understandably, to highlight the vulnerable position of asylum applicants while occasionally overlooking the nuanced attitudes and ways of thinking applied by decision-makers in asylum procedures. Moreover, refugee scholars have, over the past decades, been very consistent in pointing out the problematic aspects regarding asylum procedures without addressing how these issues are dealt with by immigration officials. Although scholars have in recent years started focussing increasingly on bottom-up approaches in refugee status determination research (see e.g. Dahlvik, 2017; Eckert, 2020; Liodden, 2020; Schittenhelm & Schneider, 2017), multiple gaps in the literature remain. It should be emphasised that in this paper, the perceptions and attitudes of decision-makers will be put under the microscope. As a result, the focus will be more on their views and techniques regarding social media monitoring, rather than how it affects the position of asylum applicants – although that aspect will be explored up to a certain extent.

## 1.2 Sources of evidence in asylum procedures

The aim of evidence in refugee cases is to provide necessary insight into the two major aspects of the case; firstly the circumstances of the individual applicant, including their motives of flight, and secondly the situation in their country of origin. These two aspects, the personal and the general, call for different types of evidence that stem from different sources. In the following sections, I will explore these sources. First, I will look at evidence traditionally presented by the applicant and outline the strategies immigration authorities have adopted, consciously or unconsciously, to assess the credibility of the applicant's statement and make sense of their story. Secondly, I will focus on sources and evaluation of

information forwarded by immigration authorities, with a particular focus on country of origin information (herein COI).

### 1.2.1 The applicant's testimony

The expression *statement of the applicant* refers to the sum of reports, explanations and interviews presented by an asylum applicant (Zahle, 2005, p. 14). At the heart of the statement of the applicant is the testimony, which is generally considered to be the single most important piece of evidence in refugee cases.

During an interview or a hearing, an asylum seeker is required to recount relevant autobiographical facts (such as life events, participation in religious or political activities and personal characteristics) and situate them within the context of their home country. Hence, the most important facts of the case are generally communicated orally by the applicant. However, immigration authorities direct the interview by posing questions that *they* find appropriate, and in that way co-produce the testimony with the applicant. This means that the testimony is not a monologue performed without interruptions, but a dialogue that reflects the shared burden of proof between the applicant and the authorities. Looking at the applicant's statement from this point of view, we will now delve deeper into the characteristics of the communication between the asylum seeker and immigration authorities, and how they influence the assessment of the applicant's credibility.

#### 1.2.1.1 How is the credibility of a testimony assessed?

One of the most problematic characteristics of asylum law is that the outcome of a significant number of cases is determined on the grounds of evidentiary assessment instead of legal issues (Noll, 2005, p. 1). The credibility assessment of the testimony is an aspect of asylum cases that is carried out with fragmented normative guidance, but at the same time it is often a decisive factor in the outcome of a case. It is therefore very pressing to identify the ways

in which credibility is established and rationalised. As Noll (2005) has pointed out, asylum procedures are marked by both "paucity and richness at the same time" (p. 4). By paucity, he refers to the widespread lack of documentary evidence unique to asylum cases. The richness, however, is embedded in the testimony itself – the foreign context, the political and cultural ambiguities and the complex realities of the asylum seekers themselves. How do decision-makers in asylum cases make sense of these incredibly rich narratives? According to Noll, adjudicators attempt to reduce this richness and complexity "by resorting to stereotyping, presumptions, eventually reducing the monstrosity of the account" (p. 4). Drawing on literature from multiple fields, we will now explore some presumptive indicators of credibility, namely *consistency*, *accuracy*, *standardised narrative*, and *expected norms*.

### *Consistency*

It is widely accepted that consistency is one of the principal indicators of credibility in asylum procedures (Zahle, 2005). The UNHCR defines consistency as "a lack of discrepancies, contradictions, and variations in the material facts asserted by the applicant" (UNHCR, 2013, p. 149). Based on this definition, inconsistency can be viewed as the opposite – an account fraught with discrepancies, contradictions and alterations. According to refugee scholars, the fact that asylum seekers may have to repeat their testimony during the procedure, sometimes multiple times, creates opportunities for the authorities to identify inconsistencies (Cohen, 2001; Thomas, 2006; Vogl, 2013).

Academics, most notably from the field of medicine and psychology, have pointed out that the human memory is not infallible – inconsistencies are common even in truthful oral testimonies, especially if a long time passes since it was first told (Cohen, 2001). They believe that the distinct nature of asylum cases poses further challenges. Trauma, concussion, malnutrition, stress, chronic pain, and disease are factors that can impact an

asylum seeker's ability to accurately reproduce a testimony (Cohen, 2001). As they point out, refugees are individuals who have escaped persecution, war, unrest or even torture. Therefore, their past may shape their ability to meet the decision-makers' demands for a fixed, detail-oriented testimony.

### *Accuracy*

Scholars, most notably from the fields of psychology and linguistics, believe that decision-makers tend to view a lack of detailed descriptions in a testimony as an indicator of dishonesty (Blommaert, 2001; Herlihy et al., 2010). For instance, linguist Marco Jacquemet (2015) has observed that immigration officials place an immense importance on the accuracy of denotational signs, such as proper names and place names, in the asylum testimony. He notes that in Western institutions, a link between credibility and memory is presupposed. As a result, gaps or inaccuracies undermine the plausibility of the testimony. Jacquemet concludes that a failure to recount an accurate name of a place or a person is not necessarily an indicator of dishonesty, on the contrary, it is often a result of miscommunication stemming from cultural and/or linguistic differences between asylum seekers and immigration officials. Furthermore, he argues that immigration officials tend to overestimate the comprehensiveness of people's general knowledge of place names in their hometowns or near surroundings (Jacquemet, 2015).

### *Standardised narratives*

One trend that refugee scholars have observed in the credibility assessment of oral testimonies in asylum procedures regards common preconceptions amongst decision-makers about what a plausible testimony 'sounds like'. A plausible narrative in adjudicative spaces, Vogl (2013) states, tends to correspond with what Brooks (2005, p. 415 quoted in Vogl) calls 'stock stories'. 'Stock stories' are culturally accepted stories about how and why

things function in the world. Whether a narrative can be classified as 'stock story' or not is dependent upon the context each time (Vogl, 2013, p. 68). Moreover, a 'successful' narrative conforms to a distinct form, consisting of "first, some form of selective appropriation of past events and characters; second, a temporal ordering of the events within the narrative; and third, that characters and events are related to one another and to some over-arching structure" (Ewick & Silbey 1995, quoted in Vogl). Hence, Vogl believes that a plausible narrative in asylum cases is an ideal constructed by normative cultural expectations and a demand for a 'logical' sequence of events and a coherent 'story'.

Furthermore, Blommaert (2001) notes that linguistic and cultural differences can prevent asylum seekers from giving a testimony that conforms to the immigration officials' preconceived ideas of a plausible narrative. In his analysis of testimonies in asylum interviews in Belgium, Blommaert identified structural elements in the asylum seekers' narratives at odds with an expected narrative that presumes a pattern of sequential events. For instance, he noticed that many asylum applicants tended to lengthily describe circumstances and state of affairs in the home country, in order to contextualise the remainder of the narrative. These sub-narratives, which Blommaert calls "home narratives", can disrupt the chronological order of events anticipated in a 'plausible narrative' and give rise to further scrutiny (p. 428).

Vogl (2013) also observes that unlikely events and scenarios do not fit into standardized beliefs of what constitutes a plausible story. She recapitulates Macklin's (1998) critique of the tendency of the law to render testimonies that involve improbable events implausible. Macklin had come across a case in Canada where an asylum seeker claimed she had entered the country by jumping ship in Halifax – a four storeys high drop in freezing conditions. This highly unlikely scene would have undermined the credibility of the asylum

seeker if it weren't for the fact that a local newspaper had managed to capture photographs of the event (Macklin p. 138 in Vogl p. 81-82).[1]

***Expected Norms***

Refugee scholars from diverse fields argue that underlying assumptions on human behaviour can influence the credibility assessment in asylum cases. Herlihy et al. (2010) believe that what decision-makers deem a 'plausible' action is shaped by norms which are ultimately based on their own experience and ideas about the world. In an extensive analysis of judgments made by immigration judges in the UK, they identified a set of expected norms. They conclude that if actions or behaviour accounted for in testimonies were not in accordance with these norms, the credibility of the asylum applicant suffered. Rationality, consistent behaviour and a linear narrative were among the norms expected from a truthful asylum seeker, according to Herlihy et al. For instance, when asylum seekers stated that they had continued to live in the same place for a period of time after they had been persecuted, judges viewed such (in)action as irrational and thus, implausible. The authors point out that the set of assumptions that underpin the judges' 'common sense' may not be in line with empirical research findings (Herlihy et al., 2010).

Scholars have also noted that stereotypes can play a large role in cases where asylum seekers must 'prove' their identity or certain individual characteristics crucial to their eligibility as a refugee. For instance, those seeking asylum on the grounds of sexual orientation may have to demonstrate their sexual preferences, and those seeking asylum on grounds of religion may have to prove their conversion. In such cases, judges may seek guidance in stereotypes. For example, in one of the judgments Herlihy et al. (2010) analysed, a judge stated that by observing an asylum applicant´s demeanour in court, he could tell that

[1] This case is very interesting when it comes to the interplay between evidence in asylum cases and the implicit demands for a 'stock narrative'. Since pictures of the event existed, the immigration officials' preconceived ideas of credibility were challenged.

he was in fact a homosexual. The judge´s ideas about homosexuality are, however, highly subjective as they are grounded in his own experience and cultural context (p. 262).

In a similar manner, academic research has illustrated that decision-makers tend to possess fixed expectations of the degree of emotionality displayed by applicants during a hearing. In his analysis of stereotyping in Dutch asylum procedures, Spijkerboer (2005) observed that immigration officials found it suspicious when a female applicant showed 'too little' emotion when discussing traumatic personal events. However, when another female applicant showed 'too much' emotion during the hearing, she was accused of putting on an act. In Spijkerboer's view the two women became trapped in a stereotype which simultaneously ascribes emotion and passivity to females, rendering both their behaviours implausible.

In conclusion, the literature on the credibility assessment in asylum cases seeks to demonstrate how, due to a lack of evidence and a strong emphasis on oral testimony, decision-makers look at certain elements of the testimony as markers of honesty. Although this strand of literature succeeds in revealing some of the techniques used by decision-makers when they assess the oral testimony, it generally does not seek to demonstrate individual/jurisdictional differences in the application of the credibility assessment.

Moreover, little is known about the extent to which decision-makers are aware of their own fallacies and whether they have adopted strategies to avoid the pitfalls of assessing credibility on the grounds of unsound indicators. Clearly, a tilt in the academic approach is required to successfully explore these nuanced practices in further detail, and that is what I intend to do in my research, albeit through the narrow lens of social media as evidence. In what follows, we will look at the different sources of documentary evidence, its role and evaluation in asylum procedures.

### 1.2.2 Documentary and physical evidence presented by the applicant

If an asylum seeker can provide documentary evidence, decision-makers should assess such documents in relation to their testimony (Interviewing Applicants for Refugee Status, 1995). Typical documents in asylum cases are identification papers, government reports, newspaper articles and statements from experts, employers or educational institutions. Less conventional documentary evidence includes witness statements, video recordings or photos (European Asylum Support Office, 2018, p. 49).

Decision-making in asylum cases typically involves evaluating facts regarding the circumstances of an individual asylum seeker as well as establishing facts about the current situation in the country of origin. Hence within the spectrum of evidence presented by an asylum seeker lie personal, and often intimate facts as well as general and specific information about the country of origin. As an example, an asylum seeker might assert he was being persecuted by his brother-in-law, who is also a government official, because of a family feud and could not rely on protection in his country of origin due to the persecutor's affiliation with the authorities. To substantiate his claim, he might present immigration authorities with news articles that contain photos and the name of a certain high-ranking official. He would then present photos from his family album, showing that the official is his brother-in-law. Finally, the asylum seeker could present threatening letters from the person, or even scars or medical reports demonstrating injuries caused by him (Fassin & D'Halluin, 2005).

Traditionally, refugee cases are characterised by a lack of documentary evidence. As previously mentioned, asylum applicants are not required to furnish their claim with documentary evidence and due to their precarious situation, it is often very hard for them to do so. In cases where documentary evidence is presented by asylum applicants, it is seldom case-specific and due to the extra-communal nature of asylum law, it is often difficult to

authenticate this type of evidence (Noll, 2005, p. 4). In fact, decision-makers frequently doubt the authenticity of documents. They are routinely sent forensic testing or simply dismissed as forged or futile documents (Macklin, 1998).

Despite the relatively low standard of proof distinctive of asylum cases, there are signs that asylum seekers are increasingly feeling pressured to establish 'hard' proof to support their testimony. Considering the increased influx of refugees to Western countries over the past few years and more restrictive immigration policies, this is hardly surprising. For instance, Lewis (2014) has pointed out that due to a deep-rooted culture of disbelief in the UK asylum system, it has become commonplace for LGBTQ+ asylum applicants to submit videos of themselves performing sexual acts as a proof of their sexuality. The reluctance of immigration authorities in the UK to accept the account of a homosexual asylum seeker as sufficient proof, Lewis points out, can result in a heightened burden of proof which in turn creates credibility problems for future refugees.

Underlying this increase in documentary evidence is an assumption that the chances of being granted protection are enhanced if such evidence is presented. But does a larger load of documentary evidence in asylum cases necessarily allow decision-makers to reach a speedier or a better-informed conclusion? The answer to that question is neither straightforward nor well recorded in the literature. Recalling Noll's assertion that the inherent richness of the asylum testimony prompts decision-makers to assess credibility on the basis of presumptions and simplifications (Noll, 2005), it is tempting to conclude that an increased amount of documentary evidence does not make decision-making any easier. In fact, recent findings of Teresa Büchsel's DPhil dissertation decision-making in asylum hearings in Germany suggest that asylum judges feel somewhat overwhelmed by the sheer amount of information at hand in some cases. According to the judges, being able to access

large amounts information does not make it easier for them to identify direct evidence. Instead, it just muddies the waters even more (Büchsel, 2020).

### 1.2.3 Information forwarded by immigration authorities

Immigration authorities have a duty to forward information that might throw light on an asylum applicant's case (Zahle, 2005). However, their position as decision-makers requires them to seek information from somewhat different sources than the applicants themselves. In the following section, we will explore the main source of evidence used by decision-makers.

#### *Country of origin information*

To qualify as a refugee, an asylum applicant needs to demonstrate that they belong to or is affiliated with a group subject to persecution in the home country. Moreover, the UNHCR's refugee definition stipulates that the authorities in an asylum seeker's country of origin are unfit or unwilling to offer them sufficient protection from such persecution. Owing to these standards, it is vital for decision-makers to establish a firm understanding of the circumstances in the countries of origin. Hence, COI is a key source of evidence in asylum cases.

In short, COI is a compilation of reports, documents and bulletins intended to describe the "political, legal, cultural, economic, social and human rights conditions in countries generating asylum seekers and refugees" (Collier, 2007, p. 4). COI stems from various sources and consists of official reports written by governments or non-profit organisations as well as informal sources, such as news articles, journals and other publications (Aggarwal & Floridi, 2020). Some reports are written and compiled specifically for use in asylum cases, and those are primarily produced by non-profit organisations and

government agencies that operate either on a national or international level (Aggarwal & Floridi, 2020).

Ideally, COI reports should supply detailed and objective information about the conditions in the home countries of prospective refugees. They should serve as reliable information for immigration officials that are required to familiarise themselves with the conditions in the countries in which asylum seekers originate, in order to put their narratives into context. However, refugee scholars have identified various problems concerning the production and use of COI reports. A particularly salient critique is that due to a lack of consistent standards on COI application, immigration authorities can 'cherry-pick' information that suits their point of view (see e.g. Aggarwal & Floridi, 2020; Gibb & Good, 2013). This is made possible by the comprehensiveness of COI: it is a body of rich and textured information that can easily be subject to conflicting interpretations. Another concern regards a potential cultural bias embedded in COI reports. Scholars have pointed out that material presented as COI evidence often stems from Western sources, even in cases where examining local sources would have been a logical choice (Gibb & Good 2013). Academics have warned that the lack of non-Western sources in the COI bundle can result in orientalist presumptions (Good, 2009, p. 42-3), although little empirical research exists on that presumed causality.

Information gathered by immigration authorities through their own independent research can be considered a part of the COI. To date, the academic debate on COI revolves around the politics, controversies and the alleged non-partisan applications of COI-reports and other official documents (see e.g. Gibb & Good, 2013; Rosset & Liodden, 2015; Vogelar, 2018). However, recent studies have revealed that asylum judges sometimes introduce non-official sources to the existing COI, especially if important data points are

missing. These non-official sources include news outlets, Wikipedia, GoogleMaps and search engine results (Büchsel, 2020, p. 183–184).

In this section, credibility assessment in asylum procedures has been discussed. It is clear that despite an increased tendency amongst asylum applicants to furnish their claims with documentary evidence, the oral testimony remains the primary evidence in asylum procedures. Accordingly, scholars have focussed their attention on the problematic task faced by decision-makers who are forced to determine the credibility of an asylum applicant's testimony without much normative guidance. This diverse literature states that decision-makers tend to establish various indicators of credibility to facilitate that task, although these indicators may not necessarily be consistent with empirical findings about truthful testimonies. Less is known about the strategies adopted by decision-makers to avoid such pitfalls. Furthermore, there are signs that documentary evidence is becoming more widespread in asylum procedures. However, little is still known about whether the increased load of documentary evidence facilitates decision-making, or to what extent documentary evidence is overlooked or questioned by decision-makers. In the following section, a closer look will be taken at social media in diverse legal cases while addressing the interpretive challenges unique to this new source of legal evidence.

## 1.3 Social media evidence in legal cases

Social media has revolutionised the judicial environment. At present, social media is widely used as evidence in court cases, investigations and criminal proceedings (Browning, 2010; Mateescu et al., 2015). While data from Instagram, Facebook and LinkedIn are frequently presented as evidence in court cases, clues from the same social networking sites can be an important tool for law enforcement officials investigating criminal cases (Brunty & Helenek, 2013). Although this is true for many other fields of law, the academic literature tends to

focus mostly on criminal trials and investigations, most likely due the heavy evidence-load characteristic of these cases. Currently, little academic research exists on the use of social media in civil cases, including asylum procedures. Therefore, the focus of this chapter will mainly be on social media as evidence in criminal procedures, with the hope of being able to draw useful parallels regarding the logic of its assessment.

### 1.3.1 The use of social media in police investigations

Most scholarly work on the use of social media as evidence in court cases, or in criminal investigations, is instrumental in nature – it is authored by lawyers, addressing issues such as the right to privacy, authentication, admissibility, ethics (see e.g. Browning, 2010; Brunty & Helenek, 2013; Grimm et al., 2013; Murphy & Fontecilla, 2013) and fairness (McPeak, 2013). More often than not, it is aimed at lawyers eager to find out how to successfully use social media in court cases and how to deal with the evidentiary issues they give rise to (see e.g. Grimm et al., 2013). The legal literature tends to describe social media as a goldmine of evidence that can be used to shed light on various facts of court cases such as communication between parties of the case, online documentation of criminal activity or information that contradicts the claims of either party (Diss, 2013, p. 1844).

The literature on social media as evidence mostly addresses its use in criminal cases, both at court and investigative level. During investigations, law enforcement agencies can be granted access to information on social media that is normally unavailable to the public. With a government subpoena or a search warrant, authorities can order social media companies to hand over private data about the person(s) in questions, including the user's profile: wall posts, photos uploaded by the user, photos in which the user has been tagged, an exhaustive list of the user's friends and a table of login and IP data (Murphy & Fontecilla, 2013, p. 4). Such private data can help investigators locate suspects in criminal cases or trace their travels on the day when the offence occurred, to name a couple of examples. However,

criminal investigators also take advantage of publicly available social media information during the course of the investigation. This information is much easier to obtain since no warrant or subpoena is needed. This kind of social media 'mining' is becoming routine practice in many countries. There are indications that monitoring social media can be an effective way to obtain clues about criminal activity, or even catch criminals in the act, so to speak[2] (Murphy & Fontecilla, 2013, p. 5). Social media monitoring can also be used as a predictive policing tool, that is, to look for signs of terrorism or criminal activity before it is actualised (Mateescu et al., 2015).

One of the challenges regarding social media screening as a policing tool regards the interpretation of social media data. As Mateescu and others (2015) point out, the original meaning of social media information can easily be lost when the social context is missing – for instance, a photo on Facebook depicting a group of teenagers flashing a gang sign may not be an indicator of their criminal behaviour, but "a way to joke with friends, proclaim solidarity or neighbourhood affiliation, or harmless posturing" (Mateescu et al., 2015, p. 6). However, law enforcement officials cannot always grasp the social and cultural backdrop of these kinds of statements and might therefore see them as evidence of criminal activity. Tracing social media information to its real author can also be problematic, particularly since shared and fake accounts widely exist in the online sphere (Fuchs, 2012, p. 200, quoted in Mateescu et al.).

### 1.3.2 Evaluating social media evidence: The perspective of judges

Although the use of social media as evidence in the courtroom has become fairly widespread, literature on the evaluation of such evidence is still scarce. However, there are pressing

[2] For example, in a case in Kentucky, investigators stumbled upon a Facebook page where the defendant had posted a picture of himself siphoning a gas from a police car. He was convicted and jailed for the offence (Murphy & Fontecilla, 2013).

questions concerning this kind of evidence, particularly regarding its admissibility, authenticity and interpretation. Grimm et al. (2013) have noted that case law in the United States is somewhat inconsistent when it comes to evaluating the authenticity of social media evidence. Since judges understand that social media content can theoretically be created by anyone, questions of authorship loom large in these cases. However, Grimm argues that judges approach the problem in different ways. While some judges admit social media as evidence, partially or impartially, without much scrutiny, others identify means to properly authenticate evidence from social media sites. In the case of *Griffin v. State*, the court stated that printouts from social media would not be admissible unless first authenticated by:

> (1) asking the purported creator if she indeed created the profile and also if she added the posting in question
>
> (2) searching the computer of the person who allegedly created the profile and posting and examine the computer's internet history and hard drive to determine whether that computer was used to originate the social networking profile and posting in question; and
>
> (3) obtaining information directly from the social networking website that links the establishment of the profile to the person who allegedly created it and also links the posting sought to be introduced to the person who initiated it (Grimm et al., 2013, p. 444).

Although these means of authentication emerged in the setting of criminal law in the United States, which seems far away from evidentiary assessment in asylum procedures, they do reflect a certain logic applied by judges in order to trace the real source of digital evidence. In the first norm, which states that the purported creator should be asked about the authorship of the content, a link is forged between the evidentiary assessment and oral testimony which allows judicial decision-makers to independently assess the credibility of the explanations given by the alleged creator. The other two means of authentication involve getting closer to the source by technical examination, namely to either search the computer of the purported creator or to obtain information from social media companies. Is a similar logic applied by decision-makers in asylum procedures when they doubt the authenticity of evidence

stemming from social media? Do they dismiss it if they are unsuccessful in their attempts to get to the source, or do they include it in the evidentiary assessment? These questions are yet to be addressed in the academic literature and point to a gap in which my research attempts to fill.

### 1.3.3 The use of social media in asylum and immigration cases

The role of social media in asylum procedures is constantly getting larger. Like the rest of us, asylum migrants use social media for a variety of tasks, private and professional (see e.g. Dekker et al., 2018; Gough & Gough 2019; Kutscher & Kreß, 2016). The digital footprint of asylum migrants is an asset to immigration officials who are routinely forced to make decisions that are at times based solely on the oral testimony of the asylum seeker. It is no secret that in some countries in the Global North, immigration authorities actively investigate asylum seekers with the help of search engines and social media (see e.g. Bogle, 2020; Meaker, 2018). In some jurisdictions, immigration officials confiscate smartphones or require asylum seekers to disclose log-in credentials for their social media accounts (Bolhuis & van Wijk, 2020). This allows immigration officials to access private data, such as messages and GPS location.

In other countries, such as Iceland, immigration officials must make do with publicly available social media information. Some people are very active on social media and leave behind a plethora of data that anyone can access. A public Facebook profile, for instance, can contain information about the age, marriage status, nationality, occupation and education of an individual. Photos can reflect relationships and past events, status updates can reveal individual opinions and the list of 'Facebook-friends' exposes a person's social network.

Although social media monitoring in asylum procedures is a recent phenomenon, it has already sparked some controversy. Activists have voiced their concerns about potential breaches of privacy of asylum seekers who apply for protection and the accuracy of the

information extracted by authorities in the host countries: "They're holding the phone to be a stronger testament to their history than what the person is ready to disclose […] that's unprecedented," an executive director of the non-governmental organisation Privacy International told *Wired* in an interview (Meaker, 2018). Moreover, a lack of structure regarding the practice has been a cause for concern. A media report published in 2020 by *ABC News Australia* revealed that immigration authorities in Australia routinely use social media content to challenge the testimony of asylum applicants, albeit without any clear guidance on how to collect and evaluate it. A refugee law scholar told the reporters that he feared that social media screening could negatively impact procedural fairness, particularly when caseworkers had no guidelines to rely on (Bogle, 2020).

In recent years, there has been an ongoing discussion about privacy in the digital world and the moral legitimacy of mass surveillance via social media is frequently put into question. At the same time, refugee scholars, activists and NGOs are voicing their concerns about the adoption of various technological innovations designed to enhance the surveillance of asylum seekers and other migrants at national borders (see e.g. Molnar, 2020). With this backdrop in mind, it is perhaps not surprising that social media screening tends to be viewed as 'yet another strategy' created by the authorities to harm the prospects of asylum seekers. However, it is hard to tell whether this is the reality. So far, systematic analyses of the value of social media screening have been very limited (Bolhuis & van Wijk, 2020) and guidelines concerning the practice are usually not publicly available. Moreover, academics have not shown interest in the topic until very recently.

The first academic paper on social media screening by immigration authorities was published in 2020 (Bolhuis & van Wijk, 2020). It is based on 43 in-depth interviews with immigration officials in five European countries: Belgium, the Netherlands, Norway, Sweden and Germany. The study focussed on the ways in which individual caseworkers in

asylum procedures exploit social media content generated by asylum applicants (for instance status updates, photographs and other activity) to verify the identity of asylum seekers and look for indicators of engagement in serious crimes, which would subject the applicant to a so-called 1F exclusion[3].

The findings of the study suggest that the significance of the social media data provided were highly case-specific and dependent upon the individual assessment of each caseworker. Moreover, the information gathered from social media was infrequently treated as proof, but rather as indirect evidence or a clue. This was particularly apparent when caseworkers considered the content vague or difficult to interpret. For example, a participant in the study who represented the Norwegian immigration service noted that a photo on social media depicting an asylum applicant holding an ISIS flag would probably not be a strong enough indicator of illegal activity. He stated that if such data were to have a decisive impact on the outcome of a case, it would need to be more specific about the individual's role in the criminal activity. This dilemma of grasping the 'real meaning' of social media content, which is often obscured by social cues, figurative speech and offline dynamics, is well recorded in the academic literature on social media use in law enforcement (see e.g. Mateescu et al., 2015). For immigration officials in Europe, which are culturally and geographically far away from their subjects of investigation, this might be an even harder task. However, Bolhuis & van Wijks' study is comparative and mostly looks at the practice in terms of breadth, not depth. Moreover, it does not address how immigration officials evaluate social media evidence produced by the applicants themselves. This points to a gap in the literature that my research seeks to address.

[3] "1F exclusion" refers to Article 1F of the Refugee Convention, which states that asylum seekers who have committed crimes against peace, war crimes, crimes against humanity or other serious crimes may be excluded from being granted international protection, even if they would otherwise qualify for refugee status.

In the second academic paper on social media screening in asylum cases, published in early 2021, a different methodological approach was adopted. The paper is based on an analysis of verdicts by the Refugee Appeals Board in Denmark from 2015–2019 and is confined to social media as evidence in LGBTQ+ asylum cases. Contrary to the previously mentioned study by Bolhuis and van Wijk, Andreassen argues that immigration officials regularly turn information from social media into direct evidence, which is rationalised by their rigid interpretation of the content in question. She asserts that the authorities often fail to recognise that queer asylum seekers may have various reasons to present themselves as heterosexuals on social media and choose instead to view such statements as proofs of dishonesty. Furthermore, Andreassen states that immigration authorities expect a certain kind of online behaviour from queer asylum seekers, based on their own (stereotypical) ideas about sexuality. The tendency she describes is consistent with the notion discussed in section 1.2.1.1, namely that immigration authorities seek guidance in stereotypes when they assess the integrity of an oral testimony (see e.g. Noll, 2005; Spijkboer, 2005). Interestingly, Andreassen's findings indicate that judging credibility on the basis of stereotypes is not confined to the oral testimony, but applies too when assessing other evidence, such as social media content.

Although Bolhuis and van Wijk's study did not focus specifically on queer asylum seekers, they did not observe the same rigidity in the interpretation of online data as Andreassen. On the contrary, immigration officials claimed they would often decide to ignore information they discovered on social media because they considered it vague or non-specific. The inconsistency between the findings is a clear indicator that more research on the practice of social media monitoring in asylum procedures is needed.

To conclude, the academic literature on social media in legal cases is still scarce and largely confined to criminal cases. However, some useful parallels can be drawn between criminal law and refugee law. For instance, law enforcement officials actively search for clues on social media during their investigation and consequently face various challenges concerning the interpretation of the data that is discovered. Similarly, decision-makers in asylum procedures are responsible for establishing the facts of the case by searching for evidence in various places, including the internet. Although the process is in some ways similar, it is crucial to note that due to the inherent differences between criminal and asylum cases (particularly concerning the burden of proof), the interpretive challenges faced by decision-makers might be different. As the contrasting findings of the research by Bolhuis & van Wijk and Andreassen indicate, much is still to be discovered about the evaluation of social media evidence in asylum procedures.

## 1.4 Conclusion

In this chapter, evidentiary assessment in asylum procedures has been discussed with an emphasis on problems in practice. Since decisions in asylum procedures often hinge upon the perceived plausibility of the oral account of an asylum applicant, scholars on decision-making in refugee cases have largely directed their attention on the credibility assessment rather than the evaluation of documentary evidence. Although this body of literature is academically diverse, it tends to highlight the vulnerability of asylum applicants and neglect the insider perspective, that is, the views and strategies adopted by decision-makers. Conversely, this present study attempts to explore the logic of assessment from 'within', albeit with a focus on the use of social media as evidence.

Documentary evidence in asylum cases has traditionally been scarce and so is scholarly research on the topic. However, there are signs that the documentary load in asylum procedures is increasing, possibly resulting in a growing pressure on asylum

applicants to submit documents to supplement their application. As social media has become more mainstream around the world, it has become a common source of documentary evidence in asylum procedures in the last years. While asylum applicants may furnish their claims with printouts, i.e. from private messaging apps or their own social media profiles, immigration officials use social media to unearth relevant data. Although activists and scholars have voiced their opposition regarding the practice, little is still known about the actual impact of social media analysis in asylum procedures. In the next chapter, the asylum procedure in Iceland will be outlined, followed by a discussion on public sentiments and discourse on immigrants and refugees.

# Chapter 2: Iceland as a destination for refugees

As Iceland is the chosen field site for this study, I will outline and discuss the asylum system in the country in this following chapter. First, I will discuss how Iceland has responded to an increased influx of refugees, and how its policy compares with neighbouring countries. After briefly addressing the characteristics of refugees in Iceland, I will turn to exploring public sentiments and discourse on refugees and immigrants in the country. Finally, the question whether public attitudes influence decision-making in asylum procedures will be addressed, albeit in the context of Iceland.

## 2.1. Influx and acceptance rate

In the first decades after Iceland acceded to the 1951 Convention relating to the Status of Refugees in 1955, remarkably few asylum seekers were granted protection in the country. From the 1960s and onwards, the government prioritised the resettlement of quota refugees – groups of pre-selected individuals from war-torn countries – over granting asylum to refugees who entered the country on their own accord. Even in the first decade of the new millennium the country, which consists of roughly 350,000 inhabitants, received just over 200 asylum applications and accepted only a handful of them (Parliamentary Document 605, 2010–2011).

Iceland saw a slight increase of asylum applications in the years after 2010. In that year changes in the immigration legislation were introduced, allowing asylum seekers who were not eligible as refugees to be granted other forms of protection (Directorate of Immigration, 2010, p. 20). However it wasn't until in 2016, a year after the migration crisis reached its peak in Europe, when the numbers started surging. In that year, asylum applications submitted in the country exceeded 1,000 for the first time. The average annual

number of applications has not decreased significantly since then.[4] According to Eurostat, the average rate of asylum applications annually in Iceland is 237 per 100,000 inhabitants. This is similar to the rate in Sweden but significantly higher than in other Nordic countries.[5] (Thorhallsson, 2020).

**Table 1**

| Year | Protection | Subsidiary protection | Residence permit on humanitarian grounds | Dublin cases | Protection in another country | Other | Rejections | Total number of asylum decisions |
|---|---|---|---|---|---|---|---|---|
| **2020** | 121 | 338 | 69 | 52 | 88 | 79 | 157 | 904 |
| **2019** | 105 | 248 | 23 | 173 | 182 | 141 | 251 | 1123 |
| **2018** | 109 | 40 | 11 | 152 | 70 | 162 | 246 | 790 |
| **2017** | 84 | 37 | 14 | 235 | 38 | 563 | 322 | 1293 |
| **2016** | 58 | 39 | 14 | 224 | 46 | 159 | 437 | 977 |
| **2015** | 47 | 19 | 16 | 50 | 32 | 47 | 112 | 323 |

Table 1 illustrates the numbers of asylum decisions reached annually by the Directorate of Immigration in Iceland (herein ÚTL) since 2015.[6] As the table demonstrates, the annual acceptance rate at first instance is 20.4% on average from 2015 to 2019.[7] It is worth noting that Iceland receives an unusually high number of applications from individuals who have already been granted protection in other European countries and applicants originating from

[4] It is worth noting that the COVID-19 pandemic has restricted mobility worldwide since it hit in early 2020. This has resulted in a significant decrease in asylum applications in Iceland and beyond.
[5] The rate is 82 in Finland, 47 in Denmark and 43 in Norway.
[6] The table is based on data recorded by ÚTL, see: https://utl.is/index.php/um-utlendingastofnun/toelfraedhi/toelfraedhi-verndarsvidhs#veitingar.
[7] The acceptance rate has been significantly higher in 2020, or 79%. This is in my view mainly due to two factors: firstly, a large number of Venezuelans applied for asylum last year and due to the situation in their home country, they are likely eligible for a refugee status. Secondly, shortly after the COVID-19 pandemic hit, ÚTL relaxed the requirements for applications to be subject to substantial examination, which might result in a higher number of accepted applications.

countries regarded as safe by the authorities (Hálfdánardóttir, 2016). The high number of such applications, which are usually subject to a speedy procedure, lowers the average acceptance rate significantly. If they are omitted, the annual acceptance rate would be closer to 40%.

## 2.2 Legal framework and the asylum procedure

### 2.2.1. International human rights instruments and domestic law

Like most countries in Europe, Iceland is a State Party to the 1951 Refugee Convention. Some of the most important principles of the Convention are enshrined in domestic asylum and immigration law, such as the refugee definition and the principle of *non-refoulement*. Furthermore Iceland has ratified human rights instruments relevant to asylum law, namely the European Convention on Human Rights (ECHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the United Nations Convention against Torture (UNCAT). Iceland has been a member of the Dublin co-operation since 2001.

The Foreign Nationals Act No. 80/2016 is the principal domestic legislation regarding asylum procedures in Iceland. Since the asylum procedure is mainly operated at the administrative level, some provisions of the Administrative Procedures Act (1993) also come into play. In addition to the refugee status, there are two provisions in the Foreign Nationals Act that provide grounds for protection besides the refugee status. The former one, *subsidiary protection* (Article 3, para. 27) can be granted to those who are not eligible for refugee status but face a risk of death penalty, torture or other inhumane or degrading treatment or punishment, or other serious forms of violence in the home country. The second form of protection, *residence on humanitarian grounds* (Article 74) may be granted to asylum seekers able to demonstrate a strong need for protection without fulfilling the

conditions for protection or subsidiary protection. Residence on humanitarian grounds is typically granted to individuals who struggle with serious health issues or difficult social circumstances. The legal effect of subsidiary protection is equal to that of refugee status, that is, permanent residency in the country. Residence on humanitarian grounds is a temporary protection for one year (The Directorate of Immigration, n.d.-d).

### 2.2.2 The procedure

Most asylum applications in Iceland are processed entirely at the administrative level. ÚTL acts as a first instance authority, thereby receiving and processing all applications submitted in the country. Rejections can be appealed to the Immigration Appeals Board (herein KNÚ), an independent court-like administrative committee responsible for reviewing ÚTL's decisions (Foreign Nationals Act, 2016). At this stage, the appellant may submit additional documents or provide further arguments to support their claim (Immigration and Appeals Board, n.d.). If a decision made by KNÚ turns out to be unfavourable, the appellant can enter into proceedings at a court of law.

#### *Arrival in Iceland*

The point of arrival for nearly all asylum seekers in Iceland is Keflavík International Airport. In practice, most asylum applications are submitted through law enforcement officials immediately at the airport. When an asylum applicant has made clear their intention to apply for asylum in the country, the police collect basic personal information such as identification, fingerprints, motivation for migrating to Iceland, travel routes, the situation in the country of origin, and whether the asylum seeker has outstanding applications in other countries. At this point, the asylum applicant is appointed a *pro bono* legal representative who safeguards their rights throughout the procedure (The Directorate of Immigration, n.d.-b). Subsequently, the application is forwarded to ÚTL for assessment (Red Cross, 2020).

The main purpose of the initial assessment is to determine whether the case will be processed on merits or according to the Dublin regulation.

***Case procedure on the merits***

Given that the applicant has no outstanding applications in other member states of the Dublin Regulation and the application is not manifestly unfounded, the case is processed on the merits. Early in this process, a preliminary interview with the applicant is arranged. This brief interview is mainly an opportunity for immigration officials to meet the applicant face to face and collect essential personal information. A few weeks after the preliminary interview, the asylum seeker is called to a substantive interview, colloquially referred to as a *protection interview*. During the protection interview, the applicant is granted an opportunity to thoroughly explain their situation, or in other words to argue their eligibility as a refugee. A legal representative from the Red Cross is present during the entire interview, given that the asylum seeker has accepted to be instructed by one. Officials from the ÚTL conduct the interview (Directorate of Immigration, n.d.-a).

The main objective of the protection interview is to allow the asylum seeker to shed further light on their situation, their reasons for emigration and why Iceland was their country of choice. Caseworkers at ÚTL evaluate the testimony, as well as the relevant documentary evidence, and determine the applicant's eligibility for protection. If an asylum applicant fails to meet the relevant legal criteria, or if the testimony is considered implausible, the application is simply rejected.

Unfavourable decisions can be appealed to KNÚ and to Municipal Courts, respectively. In Iceland, a substantial number of first-instance decisions are appealed to KNÚ. Since 2015, KNÚ has reached decisions in 1,307 cases concerning asylum seekers (Decisions by the Immigration and Asylum Appeals Board, n.d.), which is almost one third of the total applications filed in that period. However, court cases are relatively infrequent,

presumably because applicants would need to self-fund the litigation or rely on *pro bono* legal services. If the applicant chooses not to start legal proceedings, or when all legal remedies have been exhausted and the outcome is still negative, they must leave the country on their own accord or else face deportation.

Case procedure on the merits generally calls for a lengthier and more thorough examination than procedures where the provisions of the Dublin Regulation apply. The authorities must assess all relevant evidence in the case, including the testimony of the applicant and country of origin information. The actual processing time depends on various factors, such as the country of origin and the circumstances of the applicant. However, the goal is to conclude cases within ninety days on each level of governance (Ministry of Justice and Human Rights, 2014).

***Case procedure on the grounds of the Dublin Regulation***

Iceland has participated in the Dublin Regime since 2001 and is therefore bound to adhere to the Dublin Regulation. Thus, the Icelandic government is not responsible for the examination of an application if the asylum seeker has outstanding asylum applications in other member states of the Dublin Regulation. On the grounds of the provisions of the Dublin Regulation, ÚTL can reject the asylum application and return the applicant to the country where his or her asylum application is being processed (Foreign Nationals Act, 2016).

Asylum applicants may claim that the Icelandic Government has a duty to process their case on the merit, regardless of whether they have an outstanding asylum application in other member states. A common argument asserts that conditions are poor for refugees in other member states of the Dublin Regime, such as Italy and Greece. If Icelandic immigration authorities agree, the case is accepted for substantial examination and follows the same procedure as cases processed on the merit.

***The role of technology in asylum decision-making in Iceland***

Immigration authorities in Iceland use various technological innovations in their daily operations. Iceland participates in Eurodac, a biometric system commissioned by the European Union, where the fingerprints of asylum seekers entering Member States, as well as Iceland and Norway, are stored (On the establishment of 'Eurodac', Regulation 603/2013). The database facilitates immigration authorities to examine whether a person has entered the EU via another member state before arriving in the host country, which would then be responsible for the substantial examination of the asylum application according to the Dublin Regulation (European Commission, n.d.). There is no existing data on the extent to which Eurodac is used by Icelandic immigration authorities. Presumably, it is used in cases where the Dublin Regulation applies, which constitute a large share of the total applications processed by immigration authorities in the country.

Immigration authorities have also used dental age assessment to determine the age of asylum applicants. The practice had been deemed unscientific and unreliable by critics for years when it was finally discontinued in March 2020 (Háskólinn hættir tanngreiningum, 2020). Finally, immigration authorities in Iceland may ask asylum applicants to undergo a genetic test to verify their origins. This cannot be done without a written consent from the asylum applicant (Regulation on Foreigners, 2017).

In this section, the fundamentals of the Icelandic refugee system have been discussed following an outline of the asylum application process in the country. As the application rates illustrate, Iceland has been impacted by the 'refugee crisis' in a similar manner to its neighbouring countries and is currently among the two Nordic countries who receive the largest number of asylum applications annually (*per capita*). In Iceland, a centralised first-instance administrative body, ÚTL, processes every asylum application. Unfavourable decisions can be appealed to KNÚ. Both administrative bodies adhere to an inquisitorial

tradition, which entails an active investigation of the case in combination with an assessment of evidence furnished by the applicant. In what follows, the demographic make-up of migrants applying for asylum in Iceland will be explored with an emphasis on education and access to technology.

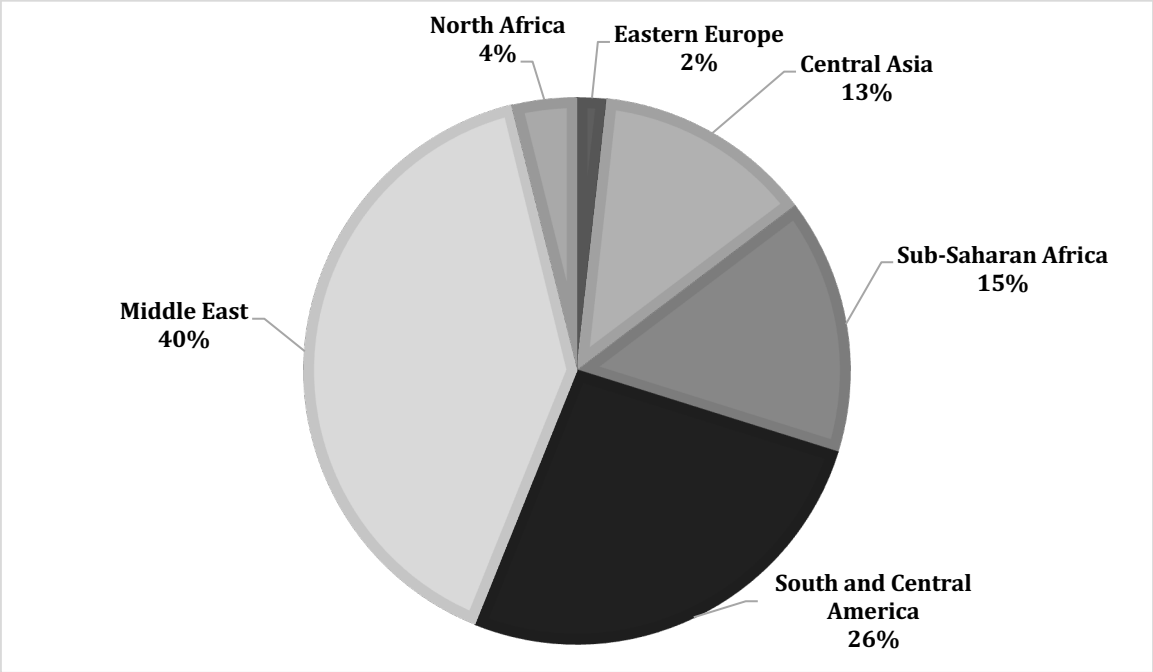
## 2.3 The background and nationalities of refugees in Iceland

Political instability increased in many countries in the Middle East and North Africa in the aftermath of the Arab Spring in 2011. The situation was – and still is – particularly grave in Syria, where protests and riots escalated into a full-scale civil war in that same year. Consequently, millions of people were forced to flee their homes and seek asylum in neighbouring countries or in Europe. Armed conflict in other countries, namely in Afghanistan, Iraq, South Sudan and Somalia, as well as a turbulent political situation in many countries in the region, also drove an increase in global displacement. In 2015, more than half of first-time asylum seekers arriving in EU Member States came from just three countries: Syria, Afghanistan and Iraq (Eurostat, 2016). Syrians and Afghans are still among the most common nationalities of refugees in the world (Refugee Council, n.d.).

The geographical composition of refugees arriving in Iceland is largely consistent with these trends. In the years between 2015 and 2018, most asylum seekers arriving in Iceland originated from Syria, Afghanistan and Iraq (Directorate of Immigration, n.d.-c). However, the sites of political hardship in the word are constantly changing, thereby altering the geographical composition of asylum migrants. The rapidly growing number of Venezuelan refugees in Iceland, which can be traced to the ongoing political crisis in the country, is a case in point.

Figure 1 demonstrates the different regions in which refugees in Iceland originate from. It draws on data from ÚTL from 2015 to 2020.

**Figure 1**




It should be observed that the data do not reflect the nationalities of the total number of asylum seekers arriving in Iceland. They only depict the nationalities of asylum seekers whose applications for protection proved to be successful. In recent years, asylum applications from nationals of countries regarded safe by immigration authorities have been growing in number. These are predominantly European countries outside of the EU, such as Albania, Moldova, and Georgia (Hálfdánardóttir, 2016). Asylum seekers from these countries have slim chances of obtaining refugee status and their applications are generally subject to a speedy procedure which does not involve a thorough investigation of their case.

### 2.3.1 Demographics and background

Around 70% of asylum applicants in Iceland are male. Out of the total number of applicants over the past five years, roughly 20% are minors – i.e. 18 years of age or younger (Directorate of Immigration, n.d.-c). Other demographic information about asylum applicants and refugees in Iceland, such as religion and educational background is not recorded by the authorities. However, the Red Cross in Reykjavik has collected data on the

education levels of some groups of refugees. According to their most recent report, 50% of respondents had a university degree while 29% were reported to have completed secondary education. A large part of the respondents expressed a desire to advance their studies further in Iceland (Westra & Egilsdottir, 2019). The survey did not reveal the nationalities of the respondents, making it hard to estimate whether there is a significant difference in educational levels and/or fields of education across different nationalities.

### 2.3.2 Access to technology

Academic research suggests that internet-abled devices, particularly smartphones, have been an important asset for asylum-migrants in recent years (see e.g. Göransson et al., 2020). Although access to the internet and other information and communication technologies may vary between different countries of origin, recent research has demonstrated that 83% of asylum seekers in refugee hot spots, i.e. Lesvos in Greece and Lampedusa in Italy, could access the internet and use social media to some extent (Merisalo & Jauhiainen, 2021). Most refugees tend to rely on mainstream applications, such as WhatsApp and Facebook (Culbertson et al., 2019, p. 10). Figures on internet access and social media behaviour of asylum migrants in Iceland are unavailable, but there is no reason to believe that it deviates greatly from the trends described here.

To summarise, the geographical background of asylum seekers in Iceland is largely consistent with trends observed in Continental Europe in the past decade. The majority of those granted refugee status in Iceland originate from the Middle East and, more recently, from Venezuela. Around half of refugees in Iceland have completed a university degree and most wish to advance their studies. Lastly, it can be estimated that most refugees in Iceland have easy access to technology and tend to use mainstream applications. In the following section, the attitude towards refugees and immigrants will be discussed.

## 2.4 The public sentiment towards immigrants and refugees

Due to its remote location, Iceland used to be one of the most ethnically and culturally homogenous countries in Europe. This began to change after the country joined the EEA agreement in the early 1990s, thereby opening its borders to European migrants seeking secure jobs and economic stability. At present, roughly 20% of the population are foreign-born or have a foreign-born parent (Statistics Iceland, 2020).

The growing migrant population attracted more attention from academic researchers at the turn of the millennium. One of the topics that researchers were keen to explore at the time was the nation's attitude towards the newcomers. Interestingly, some of the first academic studies on the topic demonstrate that hostility towards refugees and immigrants was not widespread in Iceland in the first decade of the millennium compared to other European countries (Jónsson, 2003; Onnudóttir, 2009), even despite the sudden influx of immigrants. Survey-results from the past five years indicate that Icelanders' disposition towards refugees and immigrants has largely remained favourable (Icelandic section of Amnesty International, 2016; Hauksson, 2021).

However, sentiments towards refugees cannot be adequately described in the binary terms of 'pro-refugees' versus 'anti-refugees'. In fact, recent studies suggest that the public sentiment towards migrants in Iceland is nuanced, often pivoting on factors such as the religious, racial and cultural background of those who settle in the country (Loftsdóttir & Tryggvadóttir, 2019). Unsurprisingly, Icelanders are generally more accepting of immigrants and refugees that share the same racial and cultural background as much of the population (Onnudóttir, 2009). Moreover, Icelanders are more likely to view Muslims as a national threat, rather than those who belong to other religious groups (Valdimarsdóttir & Jónsdóttir, 2020). These findings are compatible with trends scholars have observed in other European countries (Bansak et al., 2016).

### 2.4.1 Policy and media discourses around refugees and asylum seekers in Iceland

An increased influx of refugees has given rise to nationalism and anti-immigration sentiments in many countries in Europe. These emotions have contributed to the growth of populist anti-immigration movements, some of which have had a considerable impact on the political landscape in many European countries.

There is currently no explicitly xenophobic political party in the Icelandic parliament, such as the Danish People's Party in Denmark and the Progress Party in Norway. This is not to say that Icelandic politics are entirely rid of racism or anti-immigration sentiments. In 2016, a populist anti-immigration party called The Icelandic National Alliance was established. Although the party has a few vocal supporters, it has not enjoyed any electoral success so far. Another party, the Centre Party, is frequently accused of expressing racist views, despite not admitting to an explicit anti-immigration policy (Jónsdóttir, 2021). The Centre Party currently has several representatives in Parliament, but it has never been a part of the coalition and can be described as somewhat of a misfit in contemporary Icelandic politics. Although the existence of the two parties reflects anti-immigration attitudes in some groups of the population, their poor performance indicates that a culture of hostility toward refugees and immigrants in Icelandic society is not widespread. Hence, societal pressure on politicians to tighten national borders is relatively low.

Media discourse simultaneously reflects and shapes attitudes towards immigration (Rustenbach, 2010). Icelandic scholars have noted that anti-immigration sentiments are frequently manifested in media discourse in the country, with xenophobic remarks stemming from authoritative figures and members of the general public alike (Loftsdóttir & Tryggvadóttir, 2019). In a comprehensive analysis of the online comments sections in media reports on refugees and asylum seekers in Iceland from 2009 to early 2017, Loftsdóttir & Tryggvadóttir (2019) identified an increase in negative remarks about this group of people.

The negative discourse could be divided into a few different strands, namely criticism on multiculturalism, anti-Muslim and anti-Black sentiments, and support for pro-assimilation policies. However, the same study confirmed that asylum seekers in Iceland generally do not experience racism to the same degree as in other countries in Europe. The asylum seekers interviewed in the study asserted that racist encounters occasionally occurred, but the racism they experienced from the public in Iceland was usually subtle and implicit (Loftsdóttir & Tryggvadóttir, 2019).

Despite unsympathetic remarks about asylum seekers in the media and other platforms being quite frequent, it would be inaccurate to describe the refugee discourse in Iceland as largely negative. As previously discussed, the attitudes of Icelanders towards asylum seekers are generally favourable and this is also reflected in the public discourse. Pro-refugee activism is prominent in the country, arguably taking the form of a powerful counter-narrative against the negative attitudes towards refugees and asylum seekers sometimes expressed in the media and on other platforms. The pro-refugee discourse becomes particularly salient whenever controversial decisions by the immigration authorities reach the media. During these bursts of criticism against immigration authorities, demonstrations take place and petitions are signed. As an example, earlier this year the authorities halted the deportation of a Senegalese family who had lived in Iceland for almost seven years without a visa after 20,000 people signed a petition to protest the deportation (Jóhannsdóttir, 2021).

Pro-refugee activists tend to direct their criticism towards ÚTL, rather than the judicial courts or the government. ÚTL is commonly blamed for unduly deporting refugees on the basis of arbitrary decisions and violating the rights of refugee children. Protesters regularly show up in front of ÚTL's offices and it is not uncommon to see graffiti expressing

negative sentiments towards the agency. Moreover, the youth movement of one of Iceland's biggest political parties has proposed that ÚTL be shut down.

The question remains whether public opinion influences decision-making in asylum procedures in the country. In the absence of empirical data on the situation in Iceland, it will be impossible to provide a satisfactory answer to that question. In democratic countries, it is apparent that the public can influence policy by casting their votes according to their opinions. Whether public opinion influences judicial decision-making is another question. An effort has been made to examine this notion but findings from various research have not resulted in a clear-cut answer (Epstein & Martin, 2010). Can the same be said about other fields of legal decision-making, such as asylum procedures? In the aftermath of a much talked-about case regarding an Egyptian family of refugees, Icelandic human rights lawyer Magnús Norðdahl said in an interview that pressure from the Icelandic public might have influenced the eventual outcome of the case (Valsson, 2020). The family had not succeeded in its endeavours to obtain refugee status and had been denied residence permit. After weeks of protests and petitions, the decision was overturned. A recent study supports Norðdahl's impression. In his research on the influence of public opinion on decision-making in asylum procedures, Fujibayashi (2020) concludes that mounting criticism against Japan's restrictive policy towards Kurdish asylum seekers in the mid 2000s resulted in a shift in the government's tactics, which eventually started to favour a more generous approach. An active dialogue between the people and the authorities is a prominent characteristic of the political landscape in Iceland and therefore, some degree of interplay between public opinion and government action is expected.

In this section, public attitudes towards immigrants and asylum seekers have been explored. Although the disposition towards these groups of people have largely remained favourable

in the past decades, recent studies show that Icelanders are more likely to view Muslims as a national threat. Another study demonstrated that although racist views are occasionally expressed in the public discourse, asylum seekers experience less racism in Iceland than in most other countries. Moreover, populism has not gained traction in Iceland and political parties in power are mostly rid of xenophobic tendencies. Hence, public pressure towards a more stringent immigration policy is low.

## 2.5 Conclusion

In this chapter, I have outlined the asylum system and the application process in Iceland. Iceland received unprecedented numbers of asylum applications shortly after the peak of the European refugee crisis in 2015. The application rates are still among the highest (*per capita*) in Northern Europe. As most Nordic countries, the asylum procedure in Iceland takes place at the administrative level. The first-instance administrative body, ÚTL, is responsible for processing all applications. KNÚ reviews appealed decisions. Overall, the asylum policy and the way in which applications are processed is very similar to the neighbouring countries. However, the public sentiment towards immigrants and refugees is more favourable in Iceland than in, for instance, Denmark and Norway. There are no anti-immigration political parties powerful enough to significantly influence immigration policy and although racism exists, it is experienced to a lesser degree by asylum seekers in Iceland compared to other European countries.

# Chapter 3: Methodology and method

In this study, a qualitative research method was favoured. In the following chapter, my preferred methodology and method will be outlined and discussed. First, I will talk about the sample with a particular focus on its size. I will then turn to discussing challenges with access, ethical issues and the unique problems that can arise from planning and conducting interviews during a pandemic. Lastly, I will address the topic of positionality and explain my personal standpoint towards the subject matter and the participants of the research.

### *Sample and field site*

The data presented in this dissertation are based on eight in-depth interviews conducted in January and February 2021. I interviewed four legal representatives employed by the Red Cross in Iceland, three immigration officials working at ÚTL, and one immigration official representing KNÚ. My research topic called for an exploration into how decision-makers in asylum procedures approach social media as evidence and an investigative tool, and therefore it was an obvious choice to involve individuals from ÚTL and KNÚ. However, I was also interested in how lawyers, who are very involved in asylum procedures, viewed the usage of social media as evidence. In Iceland, all asylum seekers are eligible for free legal aid, which is provided by legal representatives employed at the Red Cross. It was clear that my research would benefit from their insights and experience and therefore I decided to include them in my sample.

All participants had more than one year's work experience and were currently employed at their organisations. The interviews were conducted in Icelandic, as I and all the participants are native speakers. Direct quotes were translated from the original Icelandic by me. Two respondents wished not to be quoted directly. Any quotes on the paper come from the remaining six interviews.

Although the sample is not large, I argue that its size is sufficient for the purpose of the study. Researchers have pointed out that there is indeed no 'magic number' when it comes to sample size in qualitative research (Baker & Edwards, 2012). Instead, the adequate number of interviews for qualitative studies is relative and depends upon multiple factors, such as theoretical saturation (Glaser & Strauss, 1967), the variability within the sample, and the breadth of the research questions (Bryman, 2012, p. 18). In this regard, it should be mentioned that the entire field of immigration workers in Iceland is extremely small. The total number of individuals working as decision-makers in asylum cases at the administrative level in Iceland is around thirty. Therefore, I believe my sample serves as sufficient representation of the field.

Studies with a narrow research focus tend to reach theoretical saturation at an earlier point than studies with a wider focus. This current study does have a narrow research focus, since it is bound to a very particular aspect of decision-making asylum procedures and the target group is limited to decision-makers and legal representatives of asylum seekers. Moreover, theoretical saturation tends to be reached in studies where the population from which the sample is drawn is relatively homogeneous (Bryman, 2012, p. 18). Due to the narrow research focus of this study, and the similarities between the research subjects (they are all lawyers, working in the field of immigration), I believe that eight interviews is sufficient to yield telling and informative findings. Moreover, the data analysis suggested that the responses were not lacking in consistency, indicating that a point of saturation had been reached. However, it should be acknowledged that in order to achieve a more definite results, a larger sample would have been desirable.

Iceland was chosen as a field site for two main reasons. As a native of Iceland, I am familiar with the legal environment and the general context of asylum procedures in the country. Given the limited timeframe of my study, I believed it would be sensible to limit

the research to a site I am familiar with. Secondly, anecdotal evidence suggests that individuals who seek asylum in Iceland are generally well prepared and technically adequate, which are characteristics that this research topic requires.

***Access and ethical issues***

I contacted prospective participants in two different ways. In the case of the legal representatives, I decided to reach out to an acquaintance who works at the Red Cross. By introducing me to potential study candidates and connecting me to the project manager, she acted as a gatekeeper during the initial stages of communication.

I had suspected that getting access to the immigration authorities would be a greater challenge, so I felt compelled to adopt a different strategy when I contacted them for the first time. I was advised to introduce myself and the research to the directors of the administrative bodies in question rather than to contact individual employees directly, so that is what I did. In early January, I called the director of KNÚ to enquire about potential participants for the study. Unfortunately, he stated that organisation would not be interested in taking part in the research and that he would not allow board members to be interviewed. After some negotiation, we agreed that I could interview one board member on the condition that the interview would not be recorded.

Due to my somewhat unsuccessful attempt to access KNÚ, I sent an introduction e-mail to ÚTL rather than calling without any prior contact. I addressed the e-mail to the director, but the reply I received was from the chief lawyer of the department of international protection. She informed me that ÚTL was willing to take part, on the condition that I would enable her to read and review the transcripts of the interviews. I realised that I could not accept the condition she proposed as it would seriously breach of the confidentiality of my respondents. Therefore, I replied to her and told her I could not accept this term. After consulting my supervisor on how to find a solution that would be satisfactory to both parties,

I suggested that I would send them a chapter summarising my findings at a later stage. The chief lawyer agreed and sent me a list of potential participants for the study, which I then contacted via e-mail.

Before I began the data collection, I received clearance from the Central University Research Ethics Committee. As is the case for all research that deals with human subjects, there were some ethical issues that had to be addressed. In my study, the most pressing ethical issue regarded the anonymity of my research subjects. All the participants are employed at small workplaces and belong to a relatively close-knit community of lawyers in Reykjavík. To ensure that the participants could not be identified, I cited them under a pseudonym and did not reveal their gender, age or other characteristics that could unwittingly disclose their identity.

The privacy of the asylum seekers who would be the subjects of our interviews was another ethical issue I needed to be mindful of. At the beginning of each interview, I asked my respondents to refrain from using the real names of individual asylum seekers. My respondents did not have problems with that and respected their privacy throughout the interviews.

***Remote interviews: challenges and unexpected advantages***

Due to the COVID-19 pandemic, three of the interviews were conducted via an online communication platform, Microsoft Teams. The remaining interviews were conducted at the organisations‘ offices in Reykjavik. Due to the risk proposed by the pandemic, in-person interviews were socially distanced and face coverings were worn.[8]

[8] When I approached the respondents for the first time, I offered each of them an online interview. Only those who spontaneously responded that they preferred a face-to-face meeting were interviewed in person. This arrangement was fully compliant with the government regulations in force in Iceland at the time. It was also consistent with Iceland's risk assessment; on the relevant dates the incidence of the COVID-19 pandemic was negligible.

The online interviews were not entirely without challenges. In one of the interviews, the respondent's web camera was not working which prevented me from seeing her face during the interview. Not being able to observe my respondent's facial expressions during our conversation was challenging but I tried to compensate for it in other ways, for instance by asking follow-up questions if I was confused about the emotional context. However, conducting interviews remotely had its perks too. For me, the biggest advantage was being able to carry out the interview from a relaxed setting, in my case from home. This may have had a calming effect on my respondents as well.

***Data analysis***

Seven of the interviews were recorded and transcribed verbatim. Since one respondent did not consent to recording, notes were taken during the interview and typed into a text-document afterwards. Before I began my data analysis, I consulted my supervisor on the best methods to systematically analyse the research data. I eventually decided to analyse my data manually (i.e. without the use of a software program) since the dataset was relatively small. During the course of the analysis, overarching themes, ideas and patterns emerged. As I went back and forth between writing up my findings and analysing the data, the most prominent themes gradually took shape.

***A few words on positionality***

In qualitative research, the positionality of the researcher influences the research process from the outset to the final stages (Cochlan & Brydon-Miller, 2014). It is therefore vital to address the stance of the researcher in relation to the community and the context in which the research is conducted. I do share some important characteristics with the participants of my study. Like all of them, I am Icelandic and therefore we share a common language and a similar cultural and educational background. Furthermore, I have a law degree from the University of Iceland like most of the respondents, and most of us were in our late

twenties/early thirties. However I do not consider myself a total insider, but rather a partial insider, since I have never worked as a lawyer and do not have any work experience in refugee-related fields.

Having a quasi-insider status as a researcher brings both benefits and challenges. In retrospect, I believe that my background in law allowed me to establish rapport very quickly with my respondents. Our conversations routinely started with some small talk about friends we had in common, or about our years as law students at the University of Iceland. I believe that this informal chat eased the flow of the conversations that followed, which were more topical in nature. I also believe that in a way, my educational background influenced how my respondents framed their answers. For instance, they used legal concepts without feeling compelled to explain them and I could likewise speak about legal issues more confidently than a layperson could.

However, I tried to be mindful about potential biases or complications that can arise from being a partial insider in qualitative research. For instance, I may have had certain preconceptions about my respondents, informed by my background in law and my network with laywers and law students. Moreover, immigration authorities in Iceland are heavily criticed in the public discourse, which may have tainted my views of those who work there. Although I sincerely feel that my preconceptions diminished when each interview begun, I believe it is important to be honest about my standpoint prior to the data collection.

# Chapter 4: Searching for the missing piece – how is social media content unearthed and turned into evidence?

In the following chapter, the findings of the study will be introduced. In the first section, the regulatory framework of the practice will be discussed, following a section on the multiple challenges faced by caseworkers in the absence of regulatory structure. The challenges in question are unique to social media as a source of evidence and regard both the process of searching for relevant information online and evaluating its significance as evidence. From then on, norms and taboos regarding the practice, which have started to develop at the workplace, will be discussed. Lastly, the perceived benefits of social media monitoring will be considered through actual cases.

## 4.1 Monitoring social media in an unregulated environment

The interviews revealed that social media monitoring has been a part of the evidentiary assessment in asylum procedures in Iceland for roughly five years. This applied to both ÚTL and KNÚ. According to most participants of the study, the role of social media has become larger in the past few years. The absence of media coverage on the practice in Iceland suggests that it has escaped journalistic and public attention so far. Moreover, the findings indicate that legal representatives of asylum applicants possess little knowledge as to how the practice is carried out, and to what extent, by immigration authorities.

### 4.1.1 "At first it struck me": The sentiments of legal representatives

In recent years, NGOs and activists have regularly addressed scepticism towards the adoption of technological innovations in asylum procedures and social media analysis is no exception (see e.g. Molnar, 2020). However, the attitudes of the legal representatives that participated in the study towards the practice were not entirely negative. Eva, a participant who had worked for the Red Cross for several years described mixed feelings about the

practice: “At first it struck me a little bit, but now I am not sure whether I feel that it is inherently a good thing or a bad thing. In some cases, I think it is completely understandable that they do this.”

Despite that, all legal representatives that were interviewed claimed they knew very little about how immigration authorities used social media for vetting purposes. They said that the authorities were usually discreet about their practices in general, including social media analysis. One respondent stated that ÚTL’s written decisions were usually very brief and did not contain detailed descriptions about how the credibility of an applicant was established. In these decisions, mentions of social media use were very uncommon and therefore it was hard for the legal representatives to estimate on what occasions and to what extent the tool was used by the immigration authorities. This also made it harder for them to challenge their decisions.

However, some of the legal representatives had heard rumours that immigration authorities routinely examined the digital trace of asylum applicants and did it “quite meticulously”. Hence, they suspected that the practice was rather commonplace. Some representatives, like Kamilla, sensed that social media vetting was mainly used by immigration authorities to confirm their own suspicion or preconceptions:

> You know, I do not know when immigration authorities look at an applicant’s Instagram account or Facebook profile, or whether it is done in every single case. I have no idea about it. But possibly, if the authorities doubt the credibility [of the testimony] and there are no credible documents in the case […] they might start digging for something.

Kamilla also speculated that in instances where immigration officials had a “bad taste in their mouth”, perhaps in cases where an applicant had presented documents considered forged by the authorities or if something else seemed amiss, they would look at social media to obtain a clearer picture.

All legal representatives argued that credibility assessment in asylum cases in Iceland has gradually become more stringent in recent years. Eva added that immigration

authorities in Iceland look to neighbouring countries, where the systems are more rigid. She said: “I don’t necessarily think we should adopt these models. But at the same time, it is clearly a positive thing if [immigration authorities in Iceland] would implement clearer guidelines on how credibility is assessed. Because credibility assessment is not a simple matter.”

According to these remarks, legal representatives felt like the lack of communication on the behalf of immigration authorities kept them in the dark about their use of social media monitoring. Yet, they had their reservations. Some of them believed that immigration authorities mainly used the tool to search for inconsistencies, in other words to undermine the testimony of applicants. However, they did not view this perceived tendency as unique to the immigration authorities in Iceland, but rather as a part of a larger global trend – namely, an increasingly restrictive credibility assessment in asylum procedures in many Western countries.

### 4.1.2 The dilemmas of using private accounts for social media analysis

Immigration officials at ÚTL and KNÚ confirmed that there are currently no internal guidelines in place regarding the use of social media and open-source information in the investigative process. My findings revealed that social media analysis is performed on an *ad-hoc* basis, leaving it up to each caseworker to evaluate the relevance of inspecting such information in a given case. Furthermore, the direction and scope of a social media investigation in a case depends largely on the independent evaluation of the immigration official assigned to the case.

When inquired about the lack of internal guidelines, most caseworkers agreed that a clearer strategy would make social media analysis in asylum cases in Iceland safer and more effective. Ísak, a caseworker at ÚTL, stated that it was “unfortunate” that internal guidelines were not in place. He added that ÚTL was constantly seeking to improve their work

procedures and establishing some structure around social media analysis was "something that the agency was currently aiming for."

A recent study on social media analysis by immigration authorities in five European countries revealed that caseworkers had typically received some instructions and training on how to conduct the analysis. Moreover, guidelines regarding the practice were in place in the four countries where social media analysis was commonplace in asylum procedures. Although guidelines and training methods varied between countries, a frequent ground rule concerning social media analysis stated that caseworkers should not use their private accounts or private computers to conduct the analysis (Bolhuis & van Wijk, 2020). Interviews with Icelandic caseworkers conducted for this study suggested that while KNÚ has created a mock Facebook-profile for board members to use for social media vetting purposes, ÚTL has not. Participants employed at ÚTL generally viewed this as problematic. Some admitted they currently felt uneasy about using their private social media accounts for work purposes and would prefer using a designated fake account.

One of them, a young female caseworker called Ragna, described a chance encounter she had with an asylum applicant who had been the subject of her social media analysis. They had not met in person before, but the caseworker could sense that he recognised her. She said: "We have used our personal accounts, but I have become more reluctant to do so. You know, I've been spotted in the grocery store [by an asylum seeker] and I guess he recognised me because I appeared in 'suggested friends' on his Facebook profile." Ragna added that the incident had dissuaded her from conducting social media analysis in cases where the asylum seeker in question was potentially dangerous. This response illustrates a concern for personal safety during social media monitoring which is directly linked to the lack of sufficient tools available to carry out the investigation. Consequently, those who feel uncomfortable using their own profiles to monitor social media might be less likely to use

this tool during the investigation, while others perceive it as less of a hurdle. In other words, using private social media accounts could contribute to an uneven use of social media monitoring amongst caseworkers.

Using a private profile for social media analysis could also have repercussions for the safety and privacy of the subjects of the analysis – the asylum applicants. One caseworker interviewed by Bolhuis and van Wijk (2020), in their study of social media analysis in asylum procedures, warned that search engines could record the address of the computer in which the analysis is conducted. This may facilitate third parties, such as the government in an applicant's country of origin, to establish information on where the applicant is currently seeking asylum. Thus, incautious and *ad-hoc* use of search engines and social media as a tool for analysis in asylum cases could potentially have serious consequences for asylum migrants (Bolhuis & van Wijk, 2020).

There was a consensus amongst caseworkers at ÚTL that they would feel more confident about social media analysis if they were able to use a profile designated for this purpose, instead of their private accounts. As Ragna stated:

> It would be such an improvement if we had [an account designated for social media vetting] and you could carry out your social-media investigation without deliberation. Especially when the investigation goes beyond looking at the asylum seeker's social media profile.

While this remark clearly implicates a critique on the current structure, it simultaneously demonstrates a belief in social media monitoring as a tool of investigation. In this respect, the reluctance to use the tool to the fullest described by some respondents stems from the current structure instead of a lack of personal motivation or general scepticism towards the practice.

### 4.1.3 "Just some poor lawyers": Concerns regarding resources and expertise

Some caseworkers mentioned that they suspected that immigration authorities in other Nordic countries had better means to exploit social media as a source of evidence due to

greater manpower and, in some cases, a different legal framework. Ísak stressed that although immigration officials in Iceland usually possess basic computer skills, they generally lack specialised training in information technology. Conversely, the other Nordic and Northern-European countries employ several IT-experts to oversee social media monitoring in asylum cases, as he pointed out:

> I have heard from Sweden for example, that they have a team that does a great deal of social media analysis. And they have experts there that know many languages and have superb computer skills, and they even have some education in [computer studies]. Naturally, this makes it easier for them to find information. We are just some poor lawyers here! And not exactly tech-savvy [laughs].

Again, this remark demonstrates a belief in social media monitoring as an investigative strategy so long as there is adequate structure in place surrounding the practice. The caseworker specifically identifies two potential hurdles that impact his social media screening: firstly, that immigration authorities in Iceland do not have the capacity to employ specialists in information technology and secondly, his own lack of technological expertise. Interestingly, when the conversation with Ísak unfolded, it became clear that his computer skills were rather impressive. As a young lawyer in his late twenties, he may have taken for granted his own abilities in using search engines and social media to effectively discover relevant evidence. His self-doubt is rooted in the fact that he has not received any official training or qualifications in technology. At the same time, the computer skills he had acquired by himself do not seem to fit into his perceived identity as a lawyer. The real barrier here is therefore not necessarily the caseworker's lack of individual technological skills, but his notion that expertise is tied to a certain profession and cannot be acquired by experience alone.

Ragna stated that social media monitoring would be more useful if immigration authorities in Iceland could acquire private data from asylum seekers' devices in a simpler manner. At present, ÚTL seldom requests such information from applicants. Moreover, the

legal framework in Iceland does not allow for confiscation of personal devices without consent. While discussing the usefulness of social media monitoring in Iceland, Ragna concluded that the most valuable information caseworkers search for could usually not be obtained by examining open-source information alone. 'I know what kind of data can be obtained, even in cases where [applicants] only have a smartphone. Travel routes, whereabouts and all kinds of information that I do not possess and [applicants] do not hand over. It would be very helpful [to have access to these devices].' Again, the respondent describes a desire for a change in the legal/regulatory environment which would allow for a more effective social media investigation. At the same time, it is implied that the most important facts that can emerge from social media monitoring remain hidden and beyond reach – they reside in the applicants' private devices that cannot be obtained legally. Although this very respondent had previously expressed a relatively positive attitude towards social media monitoring, this remark describes some degree of scepticism regarding its efficacy. In her view, there is less value in information that can be found on open-source media platforms than in privately stored data.

Despite acknowledging their lack of expertise in comparison to technical 'experts' working for immigration authorities outside Iceland, the confidence of caseworkers, both in the method itself and their own skills of conducting the analysis, varied between individuals. While some participants stressed their lack of expertise, others demonstrated impressive technical abilities and creative approaches to social media analysis throughout the interviews. It was evident that the current regulatory environment allowed confident caseworkers to conduct a more in-depth analysis than those who doubted their own abilities. Naturally, individual methods may vary for many reasons but it nevertheless raises questions of fairness if some decision-makers meticulously search for inconsistencies on social media while others opt for a more cautious approach. This has been pointed out by refugee law

scholar Daniel Ghezelbash, who has argued that clear guidelines regarding social media analysis in asylum cases would enhance procedural fairness (Bogle, 2020).

The frequency of using the method was also highly varied between individual caseworkers. While some participants implied that a brief social media 'check' was usually a part of the investigation, others claimed it was not standard procedure. In a sense, these contrasting accounts highlight the lack of a coordinated attitude towards the practice. However, caseworkers agreed that social media analysis had become a larger part of their duties in the past few years, which corresponds with reports of similar trends in other European countries (European Migration Network, 2017).

These accounts illustrate that most caseworkers tended to view the current regulatory environment, and the inherent lack of guidelines, as a source of barriers to a safe and effective social media analysis. The hurdles most frequently mentioned concerned the respondents' personal safety, as well as their perception of individual and organisational/structural inferiority compared to neighbouring countries. Although most caseworkers used social media monitoring to some extent, they felt unequally restrained by the current regulatory environment and a general lack of structure. However, despite these different individual approaches, the interviews also revealed a collective sentiment regarding the challenges social media analysis gives rise to, as well as the techniques they favoured to find and evaluate data. In the following sections, these sentiments will be explored in further detail.

## 4.2. Questions of reliability and authenticity: How do caseworkers perceive social media evidence?

Throughout the interviews, caseworkers highlighted the importance of approaching information on social media with caution. They stressed that social media content, as

opposed to official documents, is user-generated and can thus be manipulated to suit a variety of purposes. These concerns echo those of decision-makers in other fields of law (Grimm et al., 2013; Mateescu et al., 2015), where questions of the reliability and authenticity of social media evidence loom large.

### 4.2.1 Caseworkers' perceptions on the reliability of social media evidence

In asylum procedures in Iceland, evidence is either produced by the asylum applicants themselves or unearthed by the authority responsible for investigating the case. Social media evidence can therefore stem from both parties. While some asylum applicants would present printouts of private correspondence on social media, photographs or other relevant material, the immigration authorities look for pertinent information on their own accord by screening the most common social media sites, such as Facebook, Twitter and Instagram. My findings revealed that scepticism regarding the authenticity of social media evidence was more prominent when asylum applicants had presented the evidence themselves, as opposed to evidence discovered by the authorities. Baldur, an experienced caseworker, even stated that he could hardly remember a case in which social media evidence produced by the applicant had had a positive impact on the outcome.

Throughout the interviews respondents frequently questioned the authorship of evidence presented by applicants. Ísak described a case in which an applicant claimed to be a well-known political activist in his country of origin. To support his claim, he had presented news material about himself to the immigration authorities. But Ísak was sceptical:

> During the interview, he cited multiple news articles online and sent us links […]. There was also a Wikipedia page about him. But naturally, you do not know who wrote it, he could just as well have authored it himself.

As this response illustrates, the evidentiary value of the information is undermined by an uncertainty about its authorship.

According to my respondents, the means to verify the authenticity of social media evidence presented by applicants were usually limited. Ísak mentioned a tool called Google Reverse Image Search, which can trace the original source of photos posted online. However, this tool seemed to be most useful when doubt arose about the authenticity of photos and would therefore be used to debunk information, rather than to verify it. In cases where there were few means of verifying authenticity, evidence stemming from the applicant tended to be viewed in close relation to the oral testimony instead of it being viewed independently.

Interestingly, the caseworkers also tended to question the reliability of information discovered during their own social media analysis, albeit to a somewhat lesser extent. This was evident even in cases where the information contradicted the applicant's testimony. Some mentioned that social media was far from being an accurate reflection of reality and therefore they tried to remind themselves not to read too much into data points extracted from such content. Others stressed that asylum seekers, just like everyone else, could have incentives to hide their true identities on social media. Two caseworkers, Baldur and Ísak, mentioned this in the context of LGBTQ+ asylum seekers. Ísak stated that he had come across a Facebook-profile belonging to an asylum seeker who had fled his home country due to harassment on grounds of his sexual orientation. Nothing on his Facebook-profile indicated that he was homosexual. Conversely, the 'info' section on his page stated that he was 'interested in women'. When asked about what that meant for the credibility assessment, Ísak responded that such a statement was of no significance:

> It is completely natural. He probably has friends and family from his country following him on Facebook, and it is not very acceptable to be gay in [the country in question]. Homosexuals are routinely harassed there, so it is very normal that he claimed to be 'interested in women' on his Facebook page.

The literature on credibility assessment in LBGTQ+ asylum procedures states that immigration authorities tend to assert substantial weight on the applicant's 'demeanour', or

in other words how they present themselves as LBGTQ+ individuals (Herlihy et al., 2010, p. 262; McDonald, 2014, p. 37). Moreover, the mode of self-presentation that is expected from queer asylum seekers is commonly based on the immigration officials' own culturally inspired ideas about queerness, which may be disharmonious with ideas about queerness in other contexts (Middelkoop, 2013, p. 161–162). Recent studies have illustrated a tendency of immigration authorities to view sexuality as a fixed identity which should be presented as such by asylum seekers who claim to be queer (see e.g. Andreassen, 2021). Accordingly, presentations of queerness as fluctuating, performative and context-specific – such as presenting oneself as straight on social media despite being queer in reality – would presumably be viewed as inconsistencies that would undermine the asylum applicant's testimony.

However, the remarks of my respondents demonstrate an attitude very different to the one described in the academic literature. An explanation might lie in a belief, described by my respondents throughout the interviews, that there is a discrepancy between an individual and their performative social media 'persona'. Therefore, the caseworkers did not automatically equate an asylum applicant's behaviour on social media with their demeanour during the testimony. Instead, they usually arranged an interview where the asylum seeker was granted an opportunity to explain why they chose to present themselves as straight on social media. If the explanation was plausible, the inconsistent information on social media was usually ignored.

### 4.2.2 Cultural differences in social media self-presentation

The manifestations of cultural differences in asylum testimonies are well documented in the academic literature (see e.g. Kälin, 1986). Some of my respondents stated that they had observed cultural differences between asylum applicants' self-expressions on social media, while others did not. However, the legal representatives were the only ones to express

concerns that these cultural differences might be overlooked or unduly interpreted as inconsistencies by the authorities.

The legal representatives stressed that an applicant's narrative on social media could be somewhat at odds with the testimony for many reasons, some of which are related to the unique position of asylum seekers. For instance, Eva said she could imagine that asylum seekers, who often find themselves in precarious circumstances, might feel compelled to paint a rosier picture of their lives on social media than is the case:

> When people live somewhere, like in refugee camps or even on the streets, in an apartment or however they might live…you know in the host country […] and they might be presenting a 'good life', perhaps in Greece or elsewhere, but their life isn't great at all. You are just in some kind of a survivor mode. And you don't want your family at home to realise how horrible your situation really is.

Furthermore, a legal representative called Filippa mentioned that she had observed cultural differences in her clients' representation on social media and expressed concerns about whether such nuances were ignored by immigration authorities in Iceland. She stressed that terminology used to describe kinship, family ties and friendship can differ from one culture to another, which could strike immigration authorities as confusing or contradictory. She went on to illustrate her point: "Like many of [my clients] would say 'my sister' but it isn't her sister, you know. It is really her female friend." Filippa stated that she knew of at least one case where an asylum seeker had used non-Western kinship terms during her testimony, consequentially causing some confusion when immigration authorities went through family photos on her Facebook account. The participant added that she believed that the authorities' failure to account for cultural differences had undermined the overall credibility of the asylum seeker.

Here, we see a combination of a well-documented tendency among immigration authorities to view accuracy of denotational signs, such as names and kinship terms, as an indicator of credibility (Jaqcuemet, 2015) and a disregard for cultural differences in

expression and narrative traditions (Blommaert, 2001). However, when the immigration officials were asked about whether cultural differences interfered in any way with their social media screening, the answer was mainly negative. One official, Baldur, claimed he could observe some differences between asylum applicants from different countries but he did not believe it affected the evaluation of the evidence. Even if the discrepancies between the viewpoints of the legal representatives and the immigration officials could simply be explained by their different procedural positions, it is possible that different cultural narrative traditions may be a barrier to social media analysis yet to be identified by the immigration authorities.

### 4.2.3 The internet as a 'deluge' of information: Searching for the needle in the haystack

When discussing their sentiments towards social media analysis, caseworkers would frequently describe situations where they had felt intimidated by the mere quantity of online sources that could be exploited for the purpose of the investigation. Agnes and Ragna mentioned that they could not possibly know all the different social media that currently exist and would therefore stick to the platforms they knew from their own experience, namely Facebook, Instagram and Twitter. Apart from social media, participants reported using Google as a starting point of their analysis.

However, typing an applicant's name into either Facebook or Google often proved to mark the beginning of a chaotic and often non-linear process. In fact, some participants stated that typing a name into the 'Facebook search box' could yield dozens, if not hundreds of profiles belonging to different people. As Agnes confessed, going through these profiles one by one was an irksome task that did not necessarily lead to any important findings. Moreover, some caseworkers mentioned that they found it particularly difficult to find

information about applicants whose names are particularly generic. Ragna pointed out that in some cultures, naming traditions are characterised by homogeneity:

> Ragna: If you type in 'Mohammed X', you know? You can imagine how many hits you would get.
> Interviewer: Yes. It is easy to imagine that many individuals carry the same names.
> Ragna: Yes, exactly. It is very common and depends a bit on the country. Some countries have strong naming traditions where almost anyone has the same three names, albeit in different combinations. You know, that is sometimes the case, for instance in some of the countries in East Africa.

Language barriers could also contribute to the complexity of finding information on open-source platforms. Since none of the caseworkers that participated in the study were trained in reading non-Latin scripts, they reported using Google Translate to obtain a rudimentary understanding of textual content on social media. When they identified information potentially pertinent to the case, the text was sent to a certified translator to verify the translation. Moreover, some caseworkers mentioned that due to different alphabets and language traditions, names of applicants could have alternate spellings, which problematised the verification of an applicant's identity.

Due to the vastness and disorganisation of the digital realm, caseworkers occasionally had a hard time coming across relevant information about the applicant. Not being able to find *any* information was in fact a frequent source of frustration for participants. Some caseworkers mentioned that Facebook profiles are sometimes set to 'private', i.e. only available to people that the person has befriended on Facebook. Similarly, not all asylum seekers have profiles on mainstream social media in the West, such as Facebook and Instagram. For instance, WhatsApp, Viper and Telegram are social media apps that are widespread in many corners of the world although they have not gained traction in Iceland.

Moreover, participants claimed that in some cases, they managed to identify an applicant's social media account, but the information it contained was of little importance. Baldur stated that most of the time, Facebook profiles and other publicly available data only

contained what he called ‘neutral’ facts, that is, information that neither supported nor undermined an applicant’s testimony. Another caseworker, Agnes, asserted that in most cases, information on social media accounts was fragmented and incomplete. She said that usually, information about the date of birth, birthplace, nationality and so on was not specified on the social media profiles of applicants.

These accounts illustrate a disappointment with the nature of the information discovered on social media, which often turned out to be incomplete or irrelevant. Not only did the caseworkers describe a difficulty to come across data, but when it had finally been unearthed, its value for the case was often limited. Considering how much the literature on credibility assessment has focussed on problems regarding the consistent lack of documentary evidence in asylum procedures (see e.g. Noll, 2005), it is interesting to witness how additional information, in this case social media evidence, did not simplify the decision-making process for the Icelandic immigration officials. Instead, what Gregor Noll (2005, p. 4) has described as “the monstrosity of the asylum seeker’s account”, that is, the complexity that is inherent in asylum procedures, seemed to be exacerbated with the discovery of social media evidence. In other words, social media monitoring tended to increase the information load of the case without necessarily bringing to the fore a large amount of helpful data points.

The strategies caseworkers used to overcome these challenges varied between individuals. Ragna stated that she often found it hard to find anything at all at first, but after discovering an ‘initial clue’, the ball started rolling. “When you have found that ‘something’, you start muddling through more. That is the hardest, to spot the individual in this ‘information deluge’ which the Internet really is.” Another participant, Agnes, asserted that she always asked herself at the early stages of social media analysis whether it would really be worth her time to carry it on. If she thought it was improbable that she would find something of any relevance, and no significant pieces were missing in the case, she would

discontinue her search and turn to other things instead. As this remark demonstrates, deciding whether to continue or halt the investigation depended on the individual assessment of each caseworker, which at times was informed by an intuitive cost-benefit analysis of the situation.

Although the participants held nuanced views of the practice, the interviews made apparent that perceptions of chaos, complexity and unreliability were common. Moreover, caseworkers tended to question the authenticity of social media evidence almost by default, which in turn required them to figure out strategies to verify the data. This was particularly evident when social media evidence presented by applicants was evaluated. Moments of doubt and frustration also arose during the search for information. Caseworkers described feeling overwhelmed by the amount of data available online and identified language as well as fragmented information as a frequent barrier. As a result, the process of social media analysis was often non-linear and unpredictable, its trajectory often depending on various factors, such as language, names of applicants and intuitive decisions of caseworkers. Perhaps most importantly, the increased amount of documentary information unearthed during social media monitoring did not seem to simplify the decision-making process. In some cases, it tended to have the opposite effect. In light of this, it is apt to take a closer look at how techniques to overcome these challenges are formed during social media vetting practices, both individually and collectively. In the following section, individual strategies and emerging collective norms regarding the practice will be outlined and discussed.

## 4.3. Norms and collective strategies

The interviews gave rise to many occasions where caseworkers reflected on their social media analysis techniques. Moreover, they would sometimes describe a particular mindset that they adopted during the practice, either knowingly or unknowingly. The interviews

revealed that these techniques and mindsets were constantly being formed and reinforced, occasionally shifting between the individual and the collective. In this section, emerging norms regarding the practice will be discussed. Following that discussion, we will take a closer look at the techniques, strategies and reasoning that inform decision-making when seeking guidance in norms is unattainable.

### 4.3.1 The emergence of norms and taboos

Although participants did not speak directly about being guided by norms or standard practices during social media analysis, the findings suggest that when it came to evaluating social media evidence, caseworkers often acted in unison. For instance, all participants asserted that when contradictory information emerged during social media analysis, the next steps involved scheduling another interview where the applicant would be given a chance to explain the discrepancy, as Ísak's remark illustrates: "If something is spotted on social media, another interview with the asylum seeker is arranged." It is noticeable that Ísak does not use the first person to describe the course of action. Instead, he refers to how something *is* done. A similar tendency was observed during other interviews when this matter was discussed. This manner of speaking about the issue, and the fact that every participant approached the problem in a near identical way, strongly suggests the emergence of a norm.

Likewise, the interviews revealed common patterns regarding how some frequent issues that arose during social media analysis were addressed. For instance, when participants were asked whether it could benefit an asylum seeker, who was fleeing persecution on grounds of sexual orientation or political activism, to be very active about their opinions or sexual orientation on social media, most participants replied that in such cases it would be crucial to look at the point in time when the activity on social media started. They agreed that if the first signs of such activity appeared after arrival in Iceland, or even after applying for asylum, it would be very unlikely that it would support the case. As Zahle

(2005) has pointed out, making assumptions from similar cases in the past is one of the recurrent elements of credibility assessment in asylum procedures, despite most other aspects of it being concrete and individualised. He writes:

> The situation (threat, travel route, type of fear etc.) is well known to me [the immigration official] – not personally, but from many former cases. The case at hand follows the pattern of other cases and may affirm credibility, or it deviates from a known pattern and creates suspicion (p. 16).

Here, the caseworkers demonstrated a harmonised attitude towards certain recurring motives they observed in different cases. In this case, the attitude was reflected as a consensus not to view statements of 'queerness' on social media as a proof of homosexuality if they were posted after arrival in Iceland. However, contrary to what Zahle observes, it was the pattern that sparked suspicion and not the deviations from it.

Most of the workplace norms identified were manifested as a shared idea about a course of action. However, the findings suggest a consensus about a prohibition of certain moves during social media analysis, although there were no explicit rules or guidelines against them. These were in other words, *taboos*. The clearest example of a taboo was the implicit rule that immigration officials considered it to be off limits to 'befriend' asylum applicants on social media or contact them directly through such platforms.

### 4.3.2 A culture of caution and suspicion

It was common among participants to convey sentiments of caution and suspicion regarding information that emerged during social media analysis. These attitudes were either expressed directly, or implied when describing the process. Generally, participants would address their reservations about taking information from social media or other open sources online at face value, especially when presented by the asylum applicant.

One of the most common evidence from social media presented by asylum seekers are screenshots of threats or harassment from alleged persecutors, often received via messaging apps. According to the legal representatives who were interviewed for the

purpose of this study, many of their clients were eager to gather such evidence in the hope that presenting it to the immigration authorities would strengthen their case. However, evidence of this kind was subject to scrutiny by immigration authorities. One caseworker implied that it was vital to view such evidence with a pinch of salt. According to him, the reason was simple – these kinds of documents could easily be faked, and dishonest asylum applicants have an incentive to do so.

As a result, evidence from social media provided by the applicants themselves, tended to be examined very carefully or simply dismissed in cases where it was clear that it could not be verified. During a discussion about photographic content on social media as evidence in asylum cases, Ragna implied that although photos were commonly regarded as strong evidence, it would be naïve for caseworkers to take them at face value. During the interview, we talked about a hypothetical situation in which an asylum seeker, claiming to be affiliated with activists in his home country, would present immigration authorities with a photo of himself in the company of a high-profile political activist. When asked whether such a photo would in any way support the testimony, Ragna replied:

> You naturally do not know whether that individual just went straight up to this influential man, perhaps at a protest or something, and simply snapped a picture [of them together], just for the moment. Without any connection being between them.

Two other caseworkers replied to this hypothetical question in an almost identical manner. On another occasion, Ísak recounted a case where an asylum applicant had presented a physical copy of a local newspaper containing an article about a feud that had escalated between the applicant and his in-laws. Ísak described the copy of the newspaper as ‘authentic looking’, but he nevertheless decided to verify whether an online version of the newspaper existed. After some research on the internet, he found the newspaper’s Facebook account where several volumes of the paper had been uploaded:

> When I found the same issue on the Facebook page, it was identical in every way, except that this very article was missing. So I guess that he, or someone he knows, had placed this

> article in the newspaper. And other things had been tampered with too, such as the publication dates.

This suspicious mentality was also reflected in the technical solutions that immigration authorities used to verify the authenticity of social media evidence. One immigration official, Baldur, stated that applicants who presented the authorities with screenshots of social media content were usually asked for a link. At ÚTL, caseworkers used a tool called Google Reverse Image Search to verify photographic evidence presented by applicants by tracing the original source of the photo. This is how Ragna described using it:

> This tool can be very useful if [applicants] have presented photographs of, for instance, their alleged homes. And then when you investigate it, it turns out that the photo is just some news photo that has absolutely nothing to do with this particular case.

These remarks demonstrate a shared notion that social media evidence ought to be viewed critically and means to verify its authenticity should be sought out if possible. Similar reluctance to take evidence produced by the asylum applicant at face value has also been observed in cases where physical marks, such as scars or injuries, are presented as evidence of torture (Fassin, 2013). As Fassin (2013) has pointed out, immigration officials in France tend not to consider physical evidence as proof of torture since they cannot rule out that the injuries were caused by an accident or violence unrelated to the alleged persecution and torture. As one asylum judge in Fassin's study put it: "he could simply have fallen off his bicycle" (p. 24). The tendency described here is to dismiss evidence rather than to risk granting asylum to someone who is not telling the truth. The Icelandic caseworkers, however, tended to approach all social media content sceptically, including evidence unearthed by themselves.

Although caseworkers shared a similar attitude towards social media evidence, their verification strategies differed. While some demonstrated aptitude and willingness to use technological methods to verify social media evidence, others were less keen. However,

individual caseworkers would sometimes share successful strategies they had discovered with other officials. Some respondents stated that learning from each other was an important part of the workplace culture which was not confined to social media analysis. A tendency to share knowledge with colleagues was also observed when individual caseworkers had travelled abroad to attend workshops on specialised issues regarding asylum procedures.

### 4.3.3 Individual choices during social media analysis

When caseworkers could not seek guidance in norms that had emerged, or follow the culturally predetermined line of thought, they would inevitably need to make their own judgments. Decisions on whether to continue a social media investigation, where to browse next, and how much value should be placed on information discovered during the investigation were mostly made on an individual level.

When asked about what informed reasoning during social media analysis and evaluation, most respondents downplayed the role of intuition or common sense in the decision-making process and claimed instead to be guided by logic or 'legal expertise'. In fact, Agnes was the only respondent who asserted she would sometimes get a "feeling" about something which, in conjunction with more concrete evidence, would guide her in her investigation. Hence, her reasoning was informed by a combination of a gut feeling and something she described as "concrete knowledge". Another participant, Ragna, briefly mentioned common sense during a discussion on how she would react if she found contradictory information on an asylum applicant's social media account:

> If [information on social media contradicts the testimony], then I would schedule another interview. And if I had made sure that the [information] is of any use, I would present it to him and ask for explanations. Then I would evaluate the explanation and whether they make sense or whether it's a *post hoc* explanation that doesn't hold water.

Ragna's remarks clearly demonstrate that her use of common sense is grounded in her experience on the job and could therefore be described as informed intuition, rather than gut

feeling. However, most participants firmly denied being guided by intuition in the decision-making process. Baldur even claimed that using common sense to inform decision-making in asylum cases was simply a bad idea. Participants that denied being guided by intuition or common sense implied that instead, they let facts and logic guide their decisions. Although they did not explicitly describe the specificities of that process, they demonstrated a belief throughout the interviews that their ability to establish the logic of a case derived from their experience and training. It mainly involved critical thinking and an ability to construct a holistic picture out of legal norms, evidence and other facts of the case. However, the boundaries between intuition and logic are often blurred during legal decision-making, particularly since the former concept is often a precursor to the latter. Nevertheless, it seemed like some participants viewed intuition as a taboo, as they believed their professionalism would be compromised should they adopt it.

To summarise, the findings suggest that social media analysis is frequently informed by norms which have emerged in the workplace since the practice became commonplace. Caseworkers would seek guidance in norms on various occasions – for example when deciding what to do after social media evidence had been discovered and when they assessed the credibility of a case that followed an established pattern. Moreover, taboos kept caseworkers away from making moves during social media analysis that were deemed inappropriate. While immigration officials shared an attitude towards social media evidence that was characterised by caution and doubt, their methods varied between individuals. Occasionally, these individual strategies found their ways into the collective 'toolbox', that is, when they were shared with other caseworkers.

## 4.4 A proof or a clue? How do caseworkers assess the value of social media evidence?

The use of social media in asylum procedures is not without challenges, as previous sections have illustrated. Caseworkers grapple with 'information overload', internal guidelines are not in place, and the reliability of information is routinely questioned. Considering this, it is fair to ask whether social media analysis, a practice that has recently been introduced to asylum cases, is worth the cost? Bolhuis and van Wijk (2020) note that the benefits of social media analysis are relatively uncharted and based mostly on anecdotal evidence. Therefore, weighing the potential benefits of social media analysis against the presumed costs would be highly problematic, if not impossible (p.16). Similarly, a cost-benefit analysis of social media investigations in asylum procedures in Iceland is not only beyond the scope of this study, but unattainable for the same reasons. However, interviews with immigration officials provided some evidence on how the value of social media analysis is generally perceived. Moreover, some participants provided concrete examples of cases in which social media analysis had a notable impact on the outcome.

In the following section, the value of social media evidence in asylum cases will be considered. Firstly, the focus will be on participants' experiences and perceptions of the usefulness of social media analysis as a tool in the credibility assessment. Following that, we will take a closer look at the benefit of information discovered on social media or other open sources and illustrate the nuanced, and context-specific, value of evidence by discussing concrete cases.

### 4.4.1 "Sometimes it helps": How do caseworkers assess the value of social media analysis?

According to the caseworkers, three different outcomes can be expected from social media analysis, the first one simply being "no luck" with finding information. The second one entails finding information on the asylum seeker that is irrelevant to the case, or "completely

neutral", as one participant described it. The third possible outcome is to discover information on social media that is pertinent to the case. According to the caseworkers, such events were in fact not very common. However, they agreed that in some cases they discovered information that could influence the direction of the investigation or even have a decisive impact on the outcome of the case. Although attitudes towards the usefulness of social media analysis differed between individual caseworkers, all participants stated that they had experienced moments where they felt it "really paid off". In such cases, participants spoke about coming across information online that could either provide them with a more holistic vision of the case or guide the direction of the investigation.

Participants frequently compared discovering relevant information on social media to finding "another missing piece in the jigsaw". In that context, Baldur mentioned that he sometimes found it difficult to grasp the whole picture from the testimony alone. He said that for instance, some applicants were reluctant to talk about certain matters such as participation in illegal activity due to a fear that authorities in their country of origin might get wind of their actions. Baldur claimed that sometimes he could sense that applicants kept silent about important facts during their testimony. In such cases, he found it helpful to look at their social media profiles. Another participant, Ísak, described how he had used Google Maps and Facebook to verify some features of an applicant's testimony:

> This case regarded a male asylum seeker from a country in South America, who claimed to be bisexual. He said he was afraid of gangs, or drug cartels, that operate in the country. He said he had lived in a particular address in a small and thinly populated village. And luckily, in this country in question, you can access 'Street View' on Google Maps […]. So I dropped the [little yellow] man by the address and could see the house he said he had lived in. Then I found his Facebook page and found some pictures of this very house. So this, in addition to other things, helped us verify that he did in fact come from this village.

As this account illustrates, using Google Maps and Facebook helped the caseworker get a better sense of the overall credibility of the applicant's testimony, which in this case was in

favour of the applicant. The information he discovered did not, however, establish any crucial facts of the case.

When asked about the value of social media information as evidence, caseworkers would often describe it as supporting evidence that should be viewed in parallel with other facts of the case. Most participants agreed that the testimony, official documents, and COI had more significance in the credibility assessment than social media evidence. In other words, my respondents implied that a hierarchy of evidence was in place, in which social media had a rather low position.

However, when my respondents discussed cases they had worked on, it became apparent that social media analysis occasionally provided them with clues that could not have been obtained from other sources. Moreover, these clues granted caseworkers opportunities to schedule further interviews with applicants and ask them questions informed by their analysis. When applicants failed to credibly account for controversial information found social media, their testimony suffered. Ragna, for instance, described a case in which an asylum seeker claimed he had inherited large sums of money some time ago and subsequently had become a successful businessman in his home country. He claimed having been the CEO of several firms and a powerful actor in his community. His success allegedly sparked a family feud which eventually prompted him to flee the country. Ragna described how her co-workers discovered information on Facebook that was inconsistent with the applicant's testimony:

> By unbelievable chance, we came across a marketplace on Facebook where [the asylum seeker] had been selling used cell phones. He was doing a lot of business there […] and this makes you wonder, based on the timing of the posts – why should this influential businessman be pottering about selling used phones online?

Consequently, an interview was scheduled with the asylum seeker where he was asked to explain why a wealthy CEO such as himself had been doing business with used cellular phones. Likewise, this finding encouraged the caseworkers to gather further documents that

could shed light on the matter. In this case, the information discovered on the Facebook page was not viewed as proof of the applicant's dishonesty. Rather, it was seen as a 'red flag' – a warning signal that prompted the immigration officials to take further action.

Ísak was involved in an investigation of another case where significant clues were discovered on social media. The applicants were a married couple from a Muslim country in South Asia who had lived in a country in the Middle East for the past few years where they had met and gotten married, allegedly against their families' wishes. They told immigration authorities they had received multiple violent threats from the wife's father and brothers and would therefore be in great danger should they return to their home country. As their visas in their country of residence were about to expire, they were compelled to travel to Europe to apply for international protection. According to Ísak, the testimony of the young couple had been very plausible. However, a quick glance at the couple's Facebook accounts revealed some extremely important information:

> Then I found their Facebook pages and the accounts of their parents and all of their siblings. It turned out, from looking at the photos there, that both of their parents were present at the wedding ceremony as well as their siblings […]. They were all smiling in the photos.

Ísak added that in addition to the photos, interactions via Facebook between the couple and their families, such as 'likes' and comments, were friendly and positive, which further indicated that the couple was on good terms with both families. Ísak went on: "I called them to an interview and confronted them with the photos […] I just showed them the pictures. Then they completely reversed their testimony and told us that they [were being threatened] by different people. And that was deemed wholly implausible." It should be added here that according to the participant, it was extremely uncommon to come across information on social media that would lead to such dramatic shift in the credibility assessment, as was the case here.

These accounts demonstrate that clues that emerge from social media analysis can be subtle, as illustrated in the former case, or they can be telling, as in the latter. In both cases however, the information as such was not considered as proof but instead as indirect evidence which prompted further investigation. In both cases, the following investigation took the form of an additional interview with the applicant. Hence, the immediate impact of the social media evidence on the case was an expansion and re-evaluation of the testimony. This illustrates the position of the testimony as the primary source of evidence in asylum cases and highlights a well-known tendency of immigration authorities to focus on the "coherence of the narrative and the person" instead of how facts, stories and realities correspond with each other (Fassin, 2013, p. 21).

Despite a persistent emphasis on the oral testimony, it is evident that the trajectory of these two cases would have been different if social media analysis had not been carried out. Moreover, it is unlikely that the clues obtained from social media in the cases in question could have been discovered elsewhere. Naturally, immigration authorities do not have the means to interview friends or family of the applicant in their home country. However, in these two cases, social media exposed their network of family and business associates and in that way brought the foreign context closer to the immigration officials. Although it seemed to be uncommon for social media evidence to have dramatic impact, the exceptional cases revealed its potential, which rationalised the continuation of the practice.

## 4.5 Conclusion

In this chapter, the main findings of the research have been outlined and discussed. They suggest that although social media monitoring is frequently carried out as part of everyday operations at both governmental bodies, caseworkers face multiple hurdles. A lack of in-house rules and training resulted in low confidence and safety concerns. Structural and institutional inferiority was also mentioned as a common barrier to safe and effective social media analysis. Although the practice has been commonplace for several years, Red Cross legal representatives were unaware about the extent to which social media analysis was carried out. Although some voiced their concerns about the practice, their sentiments were not entirely negative.

The findings strongly suggest that caseworkers do not view social media as a primary source of evidence. They tended to disregard social media evidence produced by applicants due to authentication problems. Caseworkers assigned little value to controversial information discovered online due to an overall scepticism regarding the authenticity of self-expression on social media. This was particularly apparent in the case of LGBTQ+ asylum seekers. Interestingly, respondents did not mention legal principles such as the benefit of the doubt while discussing the evidentiary value of vague information discovered online but expressed scepticism towards the medium itself instead. In turn, these attitudes influenced their perceptions of the authenticity and reliability of the data as evidence.

The caseworkers' perceptions of social media, and the internet more broadly, also affected their search for relevant information. Respondents compared the internet to a 'deluge' of information and described feeling overwhelmed by the large amounts of data they had to navigate during social media analysis. These feelings were exacerbated by cultural and linguistic barriers. As a result, the process of social media analysis was commonly non-linear and unpredictable. Often, it yielded no relevant results. I argue that,

somewhat counterintuitively, exposure to this large source of information did not simplify the decision-making process.

As a result of a lack of regulatory structure, norms and taboos regarding social media analysis had started to form at the workplace. They were both reflected in synchronised courses of action and a common mentality towards the evidentiary value of social media content. These norms influenced social media analysis up to a certain extent, in that respect making up for the absence of formal in-house guidelines.

# Chapter 5: Conclusion

This study has sought to understand the role of social media in the evidentiary assessment in asylum procedures in Iceland through in-depth interviews with decision-makers. It has attempted to identify the thought processes behind the evaluation of social media evidence or, in other words, to understand how individual and collective reasoning impact the significance of social media information in the evidentiary assessment overall.

In recent years, the load of documentary evidence in asylum procedures has increased. Before the European refugee crisis in 2015 and onwards, asylum seekers would traditionally arrive in the host country with few official papers and were therefore evaluated on the basis of little other than their oral testimony. Many countries in Europe have responded to the increased influx of refugees with tighter policies resulting in a stricter credibility assessment and in turn, lower acceptance rates (Fassin, 2005). One of the strategies refugees have come up with to increase their chances of getting through the excruciatingly tough credibility assessment is to furnish their claims with documents such as photos, certificates, witness statements and printouts from social media. In turn, the load of documentary evidence in asylum procedures is gradually getting higher, albeit without any clear indications that these documents are being taken seriously by its assessors.

At the same time, technology is shaping global asylum migration in multiple ways. While smartphones enable asylum seekers to plan a safer journey, many countries are developing technologies to facilitate decision-making in asylum procedures – an endeavour that has been harshly criticised by human rights activists. With these shifts in mind, this present study set out to explore how immigration officials evaluate social media data collected by themselves or presented by asylum applicants eager to strengthen their case with something more tangible than the spoken word.

Given the overall increase in documentary evidence in asylum procedures, a fundamental question was raised concerning the weight of social media evidence in comparison to other facts of the case, such as the oral testimony. My findings suggest that immigration officials in Iceland tend to regard the evidentiary value of social media information as weak. This was due to multiple factors, but the most important one concerned interpretative issues unique to social media. Most respondents described feeling sceptical about the authorship of social media evidence, particularly when it was produced by the applicant.

Language and cultural context also exacerbated interpretative problems as expressions on social media are often hard to grasp without the cultural and social context. Moreover, individuals living under oppressive regimes may need to adjust their social media behaviour according to the norms of their society, which can further distort the meaning of their self-expression. The findings of the study indicate that immigration officials were usually aware of these problems and accordingly, the evidentiary value of social media data was frequently undermined. This is consistent with research on social media as an investigative tool in criminal proceedings (Mateescu et al., 2015), where interpretative difficulties faced by criminal investigators when evaluating social media evidence have been documented. However, in this present study, immigration officials asserted that in cases where doubt arose regarding the meaning of social media evidence, they tended to omit it from the full evidentiary assessment. This is similar to what Bolhuis and van Wijk (2020) observed in their comparative analysis on social media monitoring in five European countries. However, these findings conflict with Andreassen's (2021) findings in her study on the assessment of social media evidence in LGBTQ+ asylum procedures in Denmark.

My findings indicate that social media monitoring was used on a regular basis by every respondent, although some used it to a greater extent than others. In practice, social

media monitoring often turned out to be futile, either because the search yielded no results or because the information was irrelevant or too vague to be considered significant. Evidently, the practice seemed to increase the information load faced by immigration officials without necessarily resulting in a more confident decision-making. Recalling Noll's assertion (2005, p. 4) that asylum procedures are marked by "paucity and richness at the same time" (by richness he refers to the rich narrative and foreign context that characterises asylum procedures), it can be argued that social media monitoring adds to the richness inherent in asylum procedures instead of reducing it. Noll points out that this richness is one of the main reasons why immigration officials tend to resort to stereotypes and preconceptions in their decision-making. However, my data does not suggest that the immigration officials responded to an increased information load by seeking guidance in stereotypes. Instead, they tended to overlook information perceived as incomplete or irrelevant and turn to other facts of the case instead.

As is often the case with qualitative studies, unexpected but important aspects of the topic surfaced during the data collection. At the outset of this project, I did not know whether internal guidelines on social media monitoring were in place at the immigration authorities in Iceland. When I began the data collection, I soon discovered that caseworkers conducted their social media search and evaluation without regulatory guidance. This knowledge prompted me to examine whether social norms at the workplace had emerged, and if so, whether they informed the practice. As Affolter et al. (2019) have pointed out, cultural norms commonly develop at asylum offices and they can have a large impact on acceptance rates in individual cases, that is, a culturally determined line of thinking influences the credibility assessment. My findings suggest that some workplace norms and values had become established, some of which influenced the evaluation of social media evidence. Moreover, the interviews revealed that scepticism, doubt and suspicion were sentiments shared by all

respondents. This was reflected in their suspicious approach to social media evidence, which resonates with a global trend referred to as a 'culture of disbelief'.

Although the purpose of this study was not to analyse the costs and benefits of social media monitoring, some of its findings do have practical applications. For instance, my interviews revealed that respondents were concerned about their own lack of training in social media analysis and consequently, they underestimated their own skill and capability. Some respondents claimed it affected the frequency and efficacy of the practice. This problem could doubtlessly be remedied with better training regimes.

Furthermore, my findings indicate that performing social media monitoring without proper guidance has its perils. Since joint social media profiles designated for social media monitoring were not available, some respondents worried about their personal safety. Moreover, the lack of structure allowed confident caseworkers to invest a fair amount of time to carry out an in-depth search for social media evidence, while others remained reluctant. In turn, the levels of how thoroughly the investigations are carried out can vary dramatically, which has implications for procedural fairness. Knowing about the main challenges involved in social media monitoring, and the evaluation of social media evidence presented by asylum applicants, can be of benefit for policymakers. As this study has revealed, respondents grappled with a broad spectrum of challenges, some of which could be resolved with proper arrangements.

The study has contributed to understanding how an unregulated environment affects the execution of social media monitoring. Without normative guidance, the respondents frequently found themselves in a difficult position, often grappling with an overload of information that they failed to make sense of due to structural challenges and low confidence. The emergence of norms and collective thinking observed in this study can be viewed as a strategy to combat the insecurities of having to take decisions on one's own

without any in-house rules or legal norms to fall back on. It can be argued that some of the norms that had emerged helped individual caseworkers to make more confident decisions and avoid certain pitfalls by knowing they were considered 'taboo' around the office. These patterns may not be unique to decision-making regarding the search and evaluation of social media evidence but could equally have developed in a somewhat different setting.

A final question concerns the significance of social media evidence in asylum procedures and the ways in which it is assessed. This study suggests that the importance of social media as a source of evidence is overstated in the media and the human rights discourse. Due to the immigration officials' perceptions of social media as an unreliable and chaotic source of evidence, it was usually treated as a secondary source of evidence rather than proof or direct evidence. Hence, information that emerges from social media monitoring generally does not have a significant impact on the outcome of a case. According to the findings of this present study, social media has not shifted the position of the oral testimony, which remains the primary source of evidence in asylum procedures. Although social media analysis often proved to be futile due the reasons outlined in this chapter, and its evidentiary value was generally considered to be negligible, the occasional emergence of strong evidence justified the continuation of the practice.

What has not been fully explained in this research is the precise extent to which social media monitoring in asylum procedures has tangible consequences. Respondents tended to diminish the role of social media in their investigation and could not account for many cases where social media evidence dramatically impacted the outcome. Whether such events are so infrequent in reality is hard to interpret due to the relatively small dataset. In fact, the small sample of participants is one of the study's most significant limitations. This problem was explained in the methodology chapter earlier in the dissertation. However, it

should be emphasised that due to the limited number of participants, the findings are intended to be informative, not definitive.

Given that social media recently took on a role in asylum procedures, there is plenty of room for further research. At present, there is much debate about the use of social media as evidence in asylum procedures, but academic research lags behind. Although the gaps regarding this topic are abundant, I believe that further research on the reasoning behind social media monitoring is particularly urgent. Firstly, I believe that an emphasis on different methodologies, particularly participant observation, could help in gaining a more thorough understanding of how social media information is exploited and evaluated in asylum procedures over time. Moreover, a long-term participant observation study could demonstrate the actual usage of this tool, specifically: the frequency, scope and the ways in which challenges are resolved on a daily basis. Shadowing is another research method that could serve a similar purpose. By observing the practice instead of relying solely on interviews, the possible inconsistency between what respondents *do* versus what they *say they do*, could be remedied.

Lastly, social media as evidence produced by the asylum applicants themselves has been neglected completely, in both public and academic debates. It is often forgotten that while immigration authorities screen information about individual asylum seekers on social media, asylum applicants are increasingly exploiting this abundant source of data to support their cases. However, very little is still known about the extent to which asylum seekers use these strategies and whether they are successful. I believe that these legal strategies could be explored in further detail by including asylum applicants as research participants, which has not been done in social media analysis research to date. Such studies could also explore the potential counterstrategies formulated by asylum seekers as a response to social media monitoring carried out by immigration authorities.

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