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The “Inner Belief” of French Asylum Judges

Carolina Kobelinsky

Introduction

‘I was shocked to see to what extent we don’t practice law here. From the legal point of view, the questions raised here are very poor.’ With these words a judge expresses his initial malaise when he was appointed to the French Court of Asylum after many years working on taxation. He then develops his reasoning:

[T]here are few technical aspects involved in decision-making. In fact, there are some thorny questions but we do not raise them, for instance, concerning the notion of nationality or of residence; but most of our decisions completely rely on the *intime conviction*.

Like many of his colleagues, he argues that the court case law is not consistent and that the domestic law—which incorporates the Geneva Convention—provides a vague and loose definition of who is a refugee. The judge highlights the *intime conviction* as the key element involved in asylum adjudication. However, this notion, which could be translated as inner or deep-seated belief, does not exist in any asylum regulation or law. It just appears in the French Code of Criminal Procedure as the unique standard

C. Kobelinsky (✉)
CNRS-LESC, Nanterre, France
e-mail: carolina.kobelinsky@cnrs.fr

for ascertaining judicial truth but it is not clearly defined. Its article 353, which is read to the jurors when they leave the Assizes court to deliberate, states that:

The law does not ask the judges and the jurors composing the Assize court to account for the means by which they convinced themselves; it does not charge them with any rule from which they shall specifically derive the fullness and adequacy of evidence. It requires them to question themselves in silence and contemplation and to seek in the sincerity of their conscience what impression has been made on their reason by the evidence brought against the accused and the arguments of his defence. The law asks them but this single question, which encloses the full scope of their duties: have you an inner belief?¹

Inspired by the idea of ‘moral proof’ (Leclerc 1995), this fragment comes from the French Revolution; it was written by a lawyer and deputy at the Parliament who contributed to the Criminal Code of Brumaire year IV (Inchauspé 2015: 604). The Anglo-Saxon tradition does not base its criminal procedure on this notion of inner belief but on reasonable doubt. Evidence that is ‘beyond a reasonable doubt’ is the standard required to validate a criminal conviction. As with *intime conviction*, reasonable doubt is never clearly defined in British law. The US Supreme Court provides some elements of definition in a 1994 ruling:

It is not a mere possible doubt; because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge. (Victor v. Nebraska, 511 U.S. 1, 1994)

The ambition of adjudication in common law is respect for freedom, whereas in the French tradition it is the search for truth (Inchauspé 2015). However, in both cases the goal is to reach a moral certainty based on evidence provided before the court. This paper seeks to examine the ways in which this moral certainty is reached by asylum judges who, as the chair quoted earlier, understand their task through the notion of inner belief.

The use and implications of the *intime conviction* in criminal courts has been examined by scholars from a legal perspective (Leclerc 1995; Inchauspé

¹Art. 353, *Code de procédure pénale*.

2015), and more recently by psychological approaches, based among others on psychoanalysis (Ducousso-Lacaze and Grihom 2012; Jacob Alby 2015), cognitive-experiential self-theory (Esnard et al. 2013), and forensic psychology (Pham and Reveillère 2015). The present paper does not intend to engage in a debate with these different analyses but rather to provide an ethnographic approach to *intime conviction*, grounded in the way court actors bring the notion into play during their daily practices of justice. Furthermore, the argument builds on a central element relating all the literature regarding this topic: the existence of emotions at the basis of the inner belief of the adjudicator.

Drawing on data collected between 2009 and 2011, covering 14 months of ethnographic fieldwork at the French Court of Asylum,² in charge of examining the cases of asylum seekers rejected by the French Office for the Protection of Refugees and Stateless Persons (OFPRA), I will explore in this chapter how this *intime conviction* that the court’s actors talk about so frequently (see Greslier 2007; Belorgey 2003; Valluy 2004) is fabricated, and the way it impacts on asylum decision-making. I argue that the court’s actors use this notion as a way of pointing out the “subjective” elements of adjudication, such as their affects, moral values and political orientations, and thus legitimise their decisions when the legal elements seem to be lacking. I will also contend that judges’ *intime conviction* cannot escape from the current suspicion economy surrounding asylum seekers and refugees.

The suspicion at work in the adjudication process, understood as a systematic attitude of distrust or disbelief towards asylum requests, is constructed in response to the political discourse and at the same time participates in its construction (Fassin and Kobelinsky 2012). Contemporary representations and practices regarding asylum are undermined by suspicion (Daniel and Knudsen 1995; Bohmer and Shuman 2008; D’Halluin 2012; Valluy 2009). Asylum, and more generally, migration, have become highly politically contested in France and elsewhere in Europe. Although many scholars have argued that the distinction between political and economic causes of exile is difficult to sustain (Castles and Miller 1993; Schuster 2003; Zolberg 1983), public discourse associates asylum seekers with “bogus refugees” who come not for political reasons but for purely economic motives.

²The material was collected from observations of public hearings, hearings behind closed doors, in-camera deliberations, and the everyday activities of rapporteurs, in charge of the in-depth examination of the cases. I also conducted interviews and had many informal conversations with judges, rapporteurs, lawyers and interpreters. The data was completed by examining a corpus of 60 rulings focused on a particular case law related to cases motivated by the sexual orientation of claimants (see Kobelinsky 2015a).

However, this distinction and the suspicion it triggers have not always been at the core of asylum policies and representations. For nearly 30 years following the establishment of the bureaucracy of asylum in 1952, most foreigners who sought the protection of France as refugees received it. Since then, the situation has reversed, and most claimants see their applications successively rejected by the OFPRA and the remedy body. By the time of my field research, in 2009, the OFPRA acceptance rate was 14.3%, and the Court's 26.6%. In 2010, it went down to 13.5 and 22.1% and in 2011, the tendency continued as the OFPRA granted protection in 11% of cases and the Court in 17.7% of appeals (CNDA 2009, 2010, 2011).

The chapter is organised as follows: in the first section, I briefly describe the different steps and actors involved in decision-making at the court. I then focus on the hearing as a crucial moment in which adjudicators scrutinise the asylum seeker trying to build their inner belief. The third section examines the emotions at play during the encounter with the claimant and its weight in decision-making. The fourth section moves from the affects to the values at the core of asylum adjudication. Eventually, I come back to the notion of *intime conviction* and its intimate connection to the moral economy of asylum.

The Appeal's Path

Decision-making in this court nowadays involves three moments or steps. When an appeal is recorded by the registry and the case file is requested from the OFPRA, the court first of all evaluates whether or not it is admissible. The court can give a direct ruling to reject certain cases due to foreclosure (i.e. when the deadline for appeal has expired). Since 2004, it can also reject cases after an initial evaluation of the well-founded-ness of the claim (i.e. when applications for re-examination do not present any new facts). During the period covered by my fieldwork, around 20% of the cases were rejected after this initial examination.³ The other cases continued along the path to further evaluation.

The next step implies an in-depth examination of the case carried out by a rapporteur. By the time of my fieldwork the court employed approximately

³In 2009, 14.6% of the cases were rejected by *ordonnance*, direct ruling after this initial evaluation (CNDA 2009). In 2010, the percentage climbed up to 20.2% (CNDA 2010) and in 2011, the percentage of cases rejected was 22 (CNDA 2011). The tendency, in terms of cases rejected by direct ruling, still remains around 20%.

120 rapporteurs, half of whom were civil servants, the other half of whom were working on a contractual basis. Most rapporteurs are young, between the ages of 25 and 40, and a large proportion of them are women. For some this is their first professional job. Among rapporteurs, many have a law or a political science degree. To ensure good performance, in 2010 the Court set the number of cases each rapporteur must handle every year to 403. Without counting the time that it takes to draft the decisions—which is also part of the everyday activities of the rapporteurs—and the time spent at hearings, this leaves them on average a little more than half a day to prepare each report. In 2012, after a series of collective protests, the number of cases to be handled each year was reduced to 387.

The main activity of the rapporteur consists in the study of the narrative, that is the story of persecution generally co-constructed by the applicant and their legal representatives or advocate. They also examine the synopsis of the interview the claimant had at the OFPRA, and other documents provided to support the story, in order to be able to give a recommendation to the judges. Either he or she thinks protection should be granted or, on the contrary, that the appeal should be dismissed. Sometimes the rapporteur may reserve his or her judgment and does not provide any clear recommendation, based on the possibility that unclear evidence in the case might be clarified by explanations given at the hearing.

Rapporteurs consider five major elements when examining the cases: (1) its legal content, that is, the application of the Geneva Convention, Subsidiary protection,⁴ and specific case law; (2) what they call the “coherence” of the narrative, which stems from its internal logic as well as from possible discrepancies between the initial story and the answers provided during the interview with OFPRA; (3) the plausibility of the story in the light of the geopolitical situation in the country of origin, which is usually called the “external logic”; (4) the accuracy of the answers, the perception of spontaneity having a significant positive value; and (5) the examination of the supplementary documents in the file (such as medical certificates, press articles, etc.). Although rapporteurs combine these elements in different ways (some of them considering the “external logic” or the “coherence” of the narrative as the most important aspect, others preferring to focus on the supplementary evidence), the recommendations they produce are all very

⁴The 2003 Reform of the Immigration Law introduced subsidiary protection as a protection regime which can be granted—by the OFPRA and the Court—to those who are subject to serious threats in their country. More precarious than conventional asylum, subsidiary protection requires an annually renewable residency permit.

similar both in the expressions used and the meaning of their findings. This technical expertise almost systematically leads to casting doubt on the applications, which rarely present all the elements expected by the rapporteurs. Most recommendations are then in favour of rejecting applications based on the vagueness of the story and the lack of supporting evidence.

The five elements mentioned above create a form of distance and detachment (see Schneider's chapter, this volume, for a discussion of detachment), giving an aura of "objectivity", highlighted by all the rapporteurs I interviewed, as the most important aspect of their examination. However, some of them acknowledge they do also form their recommendations on the basis of their inner belief. While discussing the evolution of the institution with reference to the introduction of permanent chair judges who work fulltime in the court—which, as I will explain more fully later, is not the case for most judges—a rapporteur with three years of experience stresses the importance of building her own personal *intime conviction*:

The profession of rapporteur is very hybrid in its skills and tasks. And with the arrival of the permanent chairs we have to be careful not to become the secretary of chairs saying, 'do some research on this Congolese political party, on this Sri Lankan case law' [...]. We have to be able to think by ourselves and to write the report based on our inquiries and our own *intime conviction*. (Interview, rapporteur, 3 November 2009)

A rapporteur with many years of experience in the Court also admits that ultimately his recommendations are based on his *intime conviction*:

I analyse carefully the legal elements, the geopolitical components and the evidence supporting the narrative to be the most objective I can. But, then, there is also a more general thing, I make up my mind, I try to think as if I were the person and build my inner belief. (Conversation, rapporteur, 27 November 2009)

In this excerpt, the inner belief is related to a sort of empathy of the rapporteur who "tries" to imagine what it would be like to be in the asylum seeker's situation. Although he does not put it clearly, he seems to make a distinction between the technical elements helping to provide objectivity and a more general impression, based on empathy—and in all likelihood associated with feelings and emotions—which form his *intime conviction*. Another rapporteur makes a more explicit connection between this notion and the "subjectivity" of adjudicators when she comments on the judges' way of proceeding:

There is a very subjective part in decision-making, the *intime conviction* lies in the judges' belief in the narrative and the applicant. We [rapporteurs] tend to reduce this through our technical examination but we cannot deny there is something else at play. (Conversation, rapporteur, 19 January 2010)

The rapporteur suggests that their in-depth examination is mainly based on the technical elements mentioned above rather than on a more subjective component, thus coinciding with the rapporteurs' general discourse on their way of studying the cases, as opposed to the judges' approach to the cases.

After the presentation by the rapporteur—whatever the recommendation is—a board of three judges examines the case during a public hearing in which they confront the asylum seeker, who can be provided with an interpreter on oath, and with the advice of a legal representative.⁵ The board of judges is composed of three members: a chair who is usually a magistrate from civil or criminal justice or a former member of the *Conseil d'État*; an assessor who is either a law scholar or a former officer of the United Nations High Commissioner for Refugees (UNHCR) in the field; and another assessor who is usually a mid-level bureaucrat, a former ambassador or teacher appointed by the vice president of the *Conseil d'État* at the suggestion of OFPRA's Board of Directors.⁶ Until 2009, the 160 judges were all temporary appointees who convened only a few times each month. The reform enacted by the law of 20th November 2007, served to reduce the number of temporary magistrates and to recruit ten permanent judges who would be responsible for about 40% of the caseload. The goal was to address the inadequate coordination among the decision-making bodies and to work towards the standardisation of case law, specifically to thereby reduce the disparities in decisions because, according to unofficial data circulating in the institution, the admission rate varied between one in every 20 cases and one in every two depending on the chair.

During the hearing—which will be analysed in detail in the next section—the rapporteur summarises the facts pointed out by the claimant and the

⁵With effect from December 1, 2008, every claimant has access to a lawyer who is paid for by the state, whereas prior to that date only claimants who had entered France with a legal permit had access to legal aid.

⁶Exceptionally, three boards of judges can come together in order to evaluate cases that are referred by the chair of the court or by a panel of judges, and they will introduce a new line of judicial precedent. The issues at stake are substantial insofar as the decisions made are intended to crystallise the position of the court not only on judicial elements, but also, more generally, on political issues, whether in relation to the situation in certain countries or regarding how to deal with a set of claims with the same characteristics. These rulings are supposed to become the court's case law.

decision made by the OFPRA, presents the supporting documents and provides a recommendation. The board of judges then listens to the claimant's legal representative and asks questions to the asylum seeker. Decisions are then made during in-camera deliberations⁷ after the hearing, which normally do not take more than 30 minutes for the whole set of cases (between six and 13). The rulings are posted three weeks later in the entrance hall of the court. The board of judges either overturns the OFPRA decision and grants protection, or upholds the negative evaluation in which case the dismissed person is asked to leave France within 30 days. In the case of rejection, the dismissed person has one final opportunity to request that the case be re-opened. This procedure entails applying to the Préfecture, which verifies the existence of new evidence. In this case, the OFPRA provides a certificate for re-examination and the Préfecture has to extend the residency permit. The case then passes via the OFPRA and finally back to the court, where the claimant is given a new public hearing. If this is not successful, the rejection of the application is final. The person then has 30 days in which to leave the country before the Préfecture issues an '*Obligation to Leave France*', which, after the 30 days, is a binding measure of removal and can be enforced.

Seeing or Not Seeing the Refugee

The hearing is when the board of judges meets with the asylum seeker and, for most of them, the moment in which they learn about the case. For every judge I spoke with, the encounter with the asylum seeker is considered crucial. As in any other legal proceeding, the asylum courtroom is a codified and ritualised setting, where everyone takes on a role and pursues an objective. Applicants are expected to play a role consistent with their condition—suffering victims, seasoned activists, etc. The manner in which they talk, look, and move are all very important to the way in which the adjudicators regard them and consider their claim. As Gibb establishes (this volume) even the physical space of the hearing can influence how applicants are “seen” by officials. For all of them the encounter is the very moment in which the inner belief is built. Legal aspects, documentary evidence, arrangements of objects, the ‘bodily hexis’ (Bourdieu 1977) of the applicant, the language skills, the knowledge (or the misreading) of the political and social situation

⁷In-camera means, in legal terms, that the deliberation takes place behind closed doors with only the three members of the board and the rapporteur present.

in the country of origin will merge over the course of the hearing to provide the judges with an understanding of the case and the claimant.

In asylum procedures, as historian Gérard Noiriel (1991) wrote in the early 1990s, the official's task is based on the principle that the individual is an *applicant*, that it is their job to prove their identity and legitimate right to asylum (see Craig and Zwaan, this volume, who set out how the burden of proof is laid upon the asylum seeker in European law), but that the public authorities must establish the nature and quantity of evidence needed. A policy of proof is thus established, and it has become vital to provide a body of evidence in support of an account, but it is rarely sufficient because in most cases the documents provided are inconclusive or contested and the asylum application is rejected. If the hearing appears to be a crucial moment—in which a rapporteur's recommendation of rejection could potentially be reversed—its importance reaches its peak when it comes to evaluating applications grounded on persecution related to the sexual orientation of the asylum seeker.

The specificity of these cases, as I have argued elsewhere (Kobelinsky 2015a), lies in the fact that instead of concentrating their evaluation on the evidence of persecution, the judges focus on the veracity of the claimant's homosexuality. Once this has been established, persecution no longer has to be proven. It is therefore the ascertainment of homosexuality that paves the way to the refugee status. And this seems to happen during the encounter. The judges seek to question the claimant on what they consider to be evidence of their sexuality. For instance, some judges try to test the asylum seeker's 'gay knowledge', to use the expression of one rapporteur, asking questions about gay meeting places in France. Other court actors believe it is possible to 'see' an applicant's homosexuality during the hearing, based on their appearance and attitude. 'To be honest, he didn't look gay at all', commented a rapporteur, standing in front of the coffee machine during a break between two hearings. Minutes earlier we had been listening to a young man from Pakistan who was seeking refugee status on the grounds of his persecution as a homosexual in his country of origin. Clearly, he had failed to convince them, and they suspected him—as one of the judges later told me—of not being a 'true' homosexual. Other adjudicators seem more modest about their ability to 'recognise' homosexuals during the hearing: 'It is true that sometimes their behaviour cannot be differentiated', one of them confided. 'Differentiating' and 'looking' are both terms that presume there to be obvious homosexual attributes.⁸ Many judges expected at the hearings

⁸'Recognising' or 'seeing' the homosexuality would mean seeing the feminine side to a man or the masculine side to a woman, which refers more to issues of gender than of sexuality.

to see before them the images conveyed by the media of white, well-off, feminine men (see Morgan 2006). The young Pakistani who ‘didn’t look gay at all’ was clearly not effeminate enough.

Claims made on the grounds of sexual orientation implicitly demonstrate the difficulties in providing evidence to support the narrative that ultimately lies in all asylum claims. They also illustrate the shift that has occurred in the test of truth, from examining the truthfulness of an account towards assessing an applicant’s sincerity during the hearing. As such, it is no longer facts but people that are subject to judgment, with applicants whose claims are grounded in persecution related to their sexual orientation expected to correspond to the stereotype of a homosexual, at least during the face-to-face encounter with the judges.

Emotional Judges

In most of the observed hearings, the judges seem to show no emotion or feeling. Comments such as ‘we know this story’ or ‘it is the tenth time we hear the same thing’, are openly expressed by judges during hearings or in the deliberations, showing a sort of frustration with requests which ‘are always the same’. The repetitive nature of the cases, together with the routinisation of the process of decision-making, lead to an erosion of emotions (Fassin 2001) and a form of indifference (Herzfeld 1992). However, the asylum court is an emotional bureaucracy (see Graham 2002) and sometimes the encounter with the claimant may stir up affects, which will be considered as a component of the judges’ *intime conviction*. Let us consider the case of a young asylum seeker coming from the Republic of Congo:

The clerk calls the next case and a young, rather slender woman dressed in jeans and a long black sweater, her long hair straightened and pulled back with a headband, sits trembling on a bench in front of the board of three male judges and next to her legal representative. She confirms in a feeble and almost inaudible voice to the rapporteur, who raised the question, that she does not need an interpreter. The chair asks the rapporteur to start his reading. According to the report, the brother of this 19-year-old claimant belonged to the paramilitary group known as the Ninjas and an enemy group called the Cobras wanted to exact their revenge on her. She had been repeatedly threatened and assaulted before leaving the country. Her remarks were vague and not very developed. In support of her application, the woman produced a medical certificate from a physician. In his conclusions, the rapporteur invited the asylum seeker to revisit the attacks she had endured and to explain what fears she had should she return, but he proposed that the appeal be rejected for

unsubstantiated facts. The chair then invites the lawyer to make the statement. He emphasises the paramilitary activities of the claimant’s brother and violence in the village where she resided; he stresses ‘her physical and psychological fragility’. After thanking the legal representative, the chair turns to the woman and says softly: ‘We will not ask you many questions’. He then asks the other magistrates if they have any questions. The judge for the UNHCR asks her about her fears in the event that she should return to her country. The applicant replies that she is afraid of being raped and killed. This is the only question. The chair concludes the hearing, which lasts just 22 minutes. [Two and a half hours later, during the deliberations behind closed doors, the case is discussed:] The chair asks his colleagues: ‘What is your belief (*conviction*), what do you think?’ And quickly adds ‘I couldn’t bear to let this girl...’ [he stops as if the rest of the sentence was obvious to everyone] ... ‘but how to draft the decision?’ The judges all agree that the case should be overturned: ‘She looks confused, helpless,’ says the older assessor. ‘No one will probably ever know what she went through’, adds the assessor appointed by the UNHCR. All nod, including the rapporteur. ‘I’ll find something [to be the basis of the decision] and show it to you’, says the rapporteur to the chair. (Fieldnotes during the hearing and the deliberations, June 2011)

In this case, the attitude of the asylum seeker seemed fundamental when it came time to form an inner belief and make a decision. She was perceived as a fragile young woman, devastated by events that, in the words of one of the judges, ‘no one will probably ever know’, implying that something even more dramatic might have happened—perhaps sexual assault—which she did not share in her written account. Her body language became an indicator, if not of the sincerity of her remarks, then at least of the truth of her suffering. Her young age and the lost look on her face seemed to arouse a form of empathy and a feeling of compassion in the chair as well as in the other judges, who were both used to sitting with him. The emotion felt and their desire to help this young woman allowed them to overlook the weakness of the case as noted in the report.

As in many cases I observed, in which sentiments such as admiration, compassion or esteem are at work (Kobelinsky 2015b), this one shows that the inner belief of the judges is formed, at least in part, by the perceptions and feelings produced during the hearing. Affective reactions of course depend on the dispositions of the judges towards emotion, rooted in their personal backgrounds and their distinctive social characteristics. By virtue of their history, their political ideas, and their various identities—social, sexual, gendered, etc.—judges’ sensitivities may diverge. But these reactions also depend in part on the ability of applicants to elicit emotion. Those who have the support of NGOs, the lawyers who frequently argue in the court,

and the individuals familiar with the bureaucratic world of asylum all know that during the hearing, as one applicant told me, ‘you have to be convincing’, which also implied ‘moving’. This suggests that applicants sometimes implement strategies to elicit emotional responses that predispose those who experience them to support the cause being defended (Traïni 2010). This premium placed on emotion penalises less demonstrative applicants whose stories are commented on as unconvincing during deliberations.

Although they are rare, these emotions also reinforce the distinction between those who are regarded as real refugees and those who are believed to exploit the system, as the affective reactions of the judges become an indicator of the sincerity of the applicants. And because these expressions remain infrequent, it can be said that the majority of the latter—those who do not provoke particular emotions—are not real refugees just as is the case for those who do not ‘look’ gay when applying on the grounds of persecution based upon sexual orientation.

Asylum as a Value

As we have seen, judges attach a great importance to the hearing as they compare the file to the individual, the analysis of documents provided to the impressions produced when listening and seeing the claimant; impressions which will inform the inner belief of asylum adjudicators. But this *intime conviction* also rests on the judges’—and more broadly all the court actors—conception of asylum. For all the judges and rapporteurs I had the chance to observe and discuss with, asylum is an institution to be protected. As a permanent chair put it:

I set up strategies to try to find the truth and form my [inner] belief. We cannot debase political asylum, we have to be cautious and study the evidence and what comes from the hearing, we cannot grant the refugee status to anyone. (Interview, chair judge, 14 October 2010)

The judge is putting forward the need to preserve the institution of asylum from any kind of abuse. In the same vein, another judge, with a background in the civil domain and sitting in the court for many years, asserted during an interview:

I take time to ask questions, to try to understand, of course I do make mistakes, it is not easy. People make stuff up, and we try to find out what lies closest to reality in order to help the people who really need it. We need to help those who have been persecuted, and we must also uphold the Geneva

Convention [...] Asylum is a precious instrument of protection. (Interview, chair judge, 23 November 2009)

Asylum is shaped as a valuable institution, which protects people and which in turn needs to be protected. Another judge commented during an informal conversation: 'We must guarantee this possibility to receive people who cannot live in peace in their country because they chose a different lifestyle or because they defend a different ideology. It is our duty to protect this right'. Most of the adjudicators I discussed with use almost the same words to account for their willingness to assist refugees as well as to protect the right of asylum. This was also evident in the comments made by a rapporteur who declared in an interview: 'We have a long tradition in France of protecting the persecuted, it is something very important, and our job is to contribute to that'. The emphasis on the protective dimension of the court's actions is often propounded by judges and rapporteurs whenever they explain the way in which they conceive their work. In their discourse, it also usually appears a reference to a tradition of refugee protection which they must continue. A chair admitted at the end of one hearing in which no case had been overturned: 'You can't flout the principles of asylum, you can't grant the status to just anyone, you must respect these principles handed down to us from after the war'. In every case, asylum is presented as endowed with a powerful moral burden and value which must be defended. It then seems that these demanding criteria for granting protection leads to the disqualification of most of those who apply because the more asylum becomes an idealised entity, the harder it is to establish connections among actual stories, real individuals, and this abstract institution.

The Moral Certainty of Defending Asylum

In criminal courts, you may not make the right decision but you always base your rulings in facts, concrete data. In the asylum domain, we confront something else, we confront a narrative and you have to evaluate its credibility, and we confront a moving reality, we examine the sincerity of the applicant [...]. Asylum decision-making is not exact science, there is a portion of chance, of personality, of rigour or humanism, of affects, there is a portion of unknown [...] and from it, we wonder about the truth of the case, we form our belief. (Interview, chair judge, 23 June 2010)

With these words, a chair judge sitting in the French Asylum Court for five years, and with more than two decades of experience in criminal courts, summarises the complexity of asylum adjudication. As he points out, during the hearing, judges examine, aside from a few legal and geopolitical points,

the ‘sincerity’ of the applicant’s narrative of persecution as well as his or her attitude and reactions. ‘Do you believe that?’ or ‘What is your belief?’ are the questions often asked by the chair to the two other judges during the in-camera deliberations. This is also the question rapporteurs ask themselves when they finish reading a file. Decision-making then relies on the inner belief that the asylum seeker is telling the truth: the truth about his sexual orientation, which did not seem to be the case for the young Pakistani mentioned earlier; the truth about her suffering in the case of the young Congolese woman. More broadly, the inner belief about the claimants’ *refugeeness*.

The judge also introduces, in the extract above, the affective component of decision-making. As we have seen, whether by their occasional presence or by their frequent absence, emotions are part of asylum adjudication. Moreover, emotions and cognitions are interdependent in this process (Pham and Reveillère 2015). A chair judge, with a long experience in criminal courts—where the notion of *intime conviction* comes from, as already mentioned—clearly understands and accepts this interconnection:

I am an emotional [person] but you cannot be taken by your emotions, you have to understand them and relate them to the evidence and the situation in the country of origin [...] and there is your inner belief. But we have to be cautious, I have already said it but it is very important, we cannot grant the refugee status to anyone. (Interview, chair judge, 14 October 2010)

In this excerpt, the judge acknowledges the importance of his emotions in decision-making and asserts the need to connect them to other elements—such as the evidence provided by the claimant and what he knows about the geopolitical context in which the story takes place—in order to form his *intime conviction*. And at the same time, he also couples this notion with the value he ascribes to the refugee status when he insists on showing caution because, as he had mentioned earlier in the interview—and as quoted in the previous section—asylum cannot be ‘debased’. This understanding of asylum, which as we have seen is shared by the court’s actors, is intimately linked to the suspicion economy surrounding asylum seekers and refugees. In order to win the day, shape a positive belief, and be granted asylum, it is necessary to correspond to the ‘archetype of a refugee’ (Akoka 2011), this ideal construct of a valuable institution which needs to be protected from abuse. Adjudicators consider asylum to be not only a right or a political institution, but also a moral principle to which they must attest. The ‘moral certainty’ on which the judges’ *intime conviction* rests is thus, above all, that of protecting refugee status from asylum seekers.

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