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**Original Article**

# *Hiatus irrationalis* in assessing adolescent converts' asylum claims in Swedish migration courts

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## Abstract

This article critically examines the judgments issued by the Migration Court in Stockholm, particularly focusing on cases involving adolescent asylum applicants converted from Islam to Christianity. Drawing upon Max Weber's conceptualization of substantive rationality and substantial irrationality, this research explores the interplay between these elements within the court's decision-making process and the substantive rationality of asylum seekers, particularly how each party navigates complex value systems in the context of asylum claims. In the context of assessing credibility in conversion-based asylum claims in migration courts, substantive rationality entails applying general criteria consistently to evaluate asylum applicants' credibility based on objective evidence, while also acknowledging that individuals may prioritize their values over their legal conformity, as seen in the case of asylum applicant converts. The Court's credibility assessments, while intended to determine the trustworthiness of asylum claims, can lead to substantively irrational outcomes due to subjective judgment and overemphasis on written evidence. Politically appointed lay judges further complicate the decision-making process, often resulting in dissenting opinions from professional judges. In conclusion, while the court's decision-making process may appear rationalized through administrative procedures, it often embodies substantial irrationality in its disregard for the challenges faced by asylum applicant converts and the subjective biases of decision-makers.

## 1. Introduction

Migration Courts serve as arenas where the sole influence of asylum applicants resides in the articulation of their personal stories, pitted against the formidable authority of a nation to which they do not belong. In this unequal power dynamic, the state holds the capability to either accept or deny the appeal for safeguarding one's life and liberty. In 2015, Sweden recorded the highest number of asylum applicants classified as 'unaccompanied minors', with nearly 35,300 cases,

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constituting approximately 40% of all such registrations across the EU Member States (Eurostat 2016). This article, through a critical examination of the judgments issued by the Migration Court in Stockholm, specifically explores the cases involving adolescents who arrived in Sweden between 2015 and 2021 without a legal guardian and converted from Islam to Christianity at various points—be it before, during, or after the asylum application process. Many of these minors reach the age of 18 during the proceedings, transitioning into adulthood before their cases are resolved. The study specifically addresses converts who, initially without legal guardians, come of age and inevitably assuming guardianship of their own lives and asylum applications (Öztürk 2022). I argue that the analysis of these cases reveals significant tensions between substantive rationality and irrationality in the court's decision-making, where credibility assessments are shaped by subjective biases, political influences, and a reliance on written evidence, which ultimately undermines the fairness and consistency of judgments.

## 2. Conceptual framework

### 2.1 Exploring the intersection of legal thought, power, and religion in credibility assessments

In this section, I outline a conceptual framework that informs the understanding of credibility assessments in asylum cases, particularly those involving religious conversion. This framework draws upon interdisciplinary perspectives from legal theory, sociology, and the study of religion, aiming to explore how legal thought, power dynamics, and religious beliefs intersect to shape the process of evaluating asylum claims.

Legal systems are often viewed through various disciplinary lenses, and each perspective provides a unique understanding of how law functions within society. Social scientists, especially sociologists, frequently interpret law as a manifestation of power, social control, and societal norms, or as a set of structures that are shaped by temporal and spatial considerations (Liu 2015). From a sociological standpoint, law is not just a set of abstract rules; it is a social process influenced by historical, political, and cultural forces. This is particularly relevant when examining the credibility of religious conversion claims, where legal decisions are often influenced by subjective factors, societal biases, and cultural misunderstandings.

The sociology of law diverges from juristic concerns in specifying the concept of law. In this discussion, Cotterrell (1983) proposes a distinction between normative legal theory, which is central to jurisprudence, and empirical legal theory, which is central to the sociology of law, due to the broad scope and varied approaches in legal analysis. Normative legal theory explains the character of law solely through conceptual legal doctrine, focusing on relationships between rules, principles, and values within, while empirical legal theory views the character of law in terms of historical and social conditions, explaining doctrinal and institutional characteristics in relation to their social origins (Cotterrell 1983: 242). It often centers on what is valid as law and how legal outcomes are determined, typically neglecting the social origins and effects of law. Sociological approaches to legal analysis view law 'from the outside' (Cotterrell 1983: 242) observing legal institutions, doctrines, and behavior. These approaches aim to address the inadequacies of traditional doctrinal analyses by examining law's social consequences, environments, and causes. While normative theory treats defining law as an end, sociological studies see it as a precursor to empirical research, though they require engagement with jurists' perspectives to analyze legal ideas effectively.

The intersection of law and religion adds another layer of complexity to credibility assessments. Religion, as Durkheim (1915) emphasizes, functions as a social institution that unites individuals into moral communities, providing a framework for understanding identity, belonging, and social order. This dynamic becomes even more complex when law and religion intersect, raising crucial questions about the nature of modern legal systems, the adjudication process, and the rights of individuals (Berger 2012). These interactions reveal deeper insights into issues of identity, belonging, and power—core elements of sociological theory. To fully understand the

complexities at this nexus, it is essential to draw from interdisciplinary perspectives, moving beyond the confines of traditional academic boundaries.

Law and society scholars, through empirical analysis, consistently emphasized the inefficacy of law, revealing a persistent gap between the legal framework and its practical application (Silbey 2005). Law transitioned from a central role in constituting society to a peripheral position as a technical instrument of the modern state. The focus shifted from what law tells us about society to what the law does to society, emphasizing the processes of creating and enforcing formal rules rather than the societal implications of law (Silbey 2005: 334). In elucidating this gap, socio-legal research illustrated the instantiation of power in diverse legal relationships, highlighting the importance of social organization and explaining its impact on legal outcomes. Thus, the research not only documented the disparity but also critiqued the potential for justice through legal means, emphasizing how social organization and legal processes perpetuated structured inequalities rather than ensuring equal treatment. Critical Legal Studies (CLS) posits that the law is intricately linked to social issues, contending that it inherently embodies social biases, and it upholds the interests of its creators, perpetuating a power dynamic that favors historically privileged groups while disadvantaging those who have been historically underprivileged (Trubek 1984; Hunt 1986; Neacsu 2000). According to CLS scholars, the affluent and powerful employ the law as a means of oppression to preserve their positions in the societal hierarchy, so dismantling the hierarchical structures of contemporary society requires concentrating on utilizing the law as a tool to achieve this objective (Trubek 1984; Hunt 1986; Neacsu 2000).

After reviewing the existing research surrounding credibility assessments in asylum claims of adolescents, particularly those involving religious conversion, I will explore the theoretical framework, specifically focusing on Max Weber's legal thought, which provides a critical lens for understanding the dynamics of substantive rationality and irrationality within the judicial process. Following this, I will outline the methods and materials employed in this study, detailing the qualitative legal text analysis used to analyze the data and the specific cases considered. This methodological rigor will ensure a comprehensive understanding of the findings. Finally, I will present the results and engage in a thorough discussion linking the empirical findings back to the theoretical framework and existing literature.

## 2.2 Existing literature on credibility assessments in asylum claims based on religious conversion

The existing literature on credibility assessments in asylum claims involving religious conversion reveals the complexity inherent in this process shaped by the intersection of legal frameworks, societal attitudes, and individual perceptions. These interconnected factors create significant barriers for asylum seekers, complicating the assessment of religious conversion claims. One significant theme revolves around the ambiguity surrounding the legal definition of 'religion', which is often influenced by cultural biases and societal attitudes (Gunn 2003). This ambiguity complicates the assessment of religious conversion claims, sometimes leading to processes resembling religious trials (Kagan 2021). The assessment of religious credibility is further complicated by the subjective values of adjudicators (Hedlund and Cederborg 2015), potentially influenced by political legacies and the construction of impartiality (Johannesson 2023). Moreover, verifying the authenticity of asylum seekers' religious beliefs presents significant challenges, a concern highlighted by Samahon (2000) in relation to the 'religious imposter problem'. In some cases, the court's disbelief and lack of understanding regarding the backgrounds of asylum seekers leads to a legal discourse that constructs them as 'knowable' through normatively constructed narratives and stereotypes about refugees (Öztürk 2024). Additionally, Morgan (2024) discusses the perception that some conversions may be motivated by a desire to gain advantages, a concept encapsulated in the 'asylum capital hypothesis'. These factors complicate the assessment process, as claims of belonging to Europe's historical religion and its cultural background increasingly raise concerns and suspicions among the media, the public, and academics (Rose 2024).

Montgomery (2002), while examining the relationship between sociological and juridical concepts of 'status' focuses on unaccompanied minor asylum applicants and elaborates on Weber's approach to status, which involves belonging within the '*Rechtsgemeinscha*' (Weber et al. 1978) or community of rights, encompassing both social and juridical dimensions. The sociological aspect emphasizes how belonging defines inclusion and exclusion, often marginalizing asylum applicants as 'Others' with 'lesser rights'. Juridically, immigration categories create a hierarchy where citizens enjoy the most rights, while asylum applicants face significant barriers to essential services due to their lack of regularized status. This dynamic is especially crucial for unaccompanied minors, who face vulnerabilities stemming from both their immigration status and age. Their limited access to resources positions them as outsiders within the community of rights, and these status barriers illustrate a logic that upholds the sovereignty of the nation-state, where privileges are distributed according to an individual's status within the community (Montgomery 2002). Hedlund and Cederborg (2015), while exploring how individual legislators perceive unaccompanied minors seeking asylum in Sweden, suggest that chronological age is a crucial factor influencing their understanding of the needs and best interests of these children. Additionally, many legislators view the asylum system in Sweden as primarily guided by rational decision-making and expert knowledge. However, their perceptions may vary based on personal values, attitudes toward unaccompanied children seeking asylum, and their interpretations of what constitutes 'expert knowledge'. This ambivalence can result in legislative frameworks that perpetuate differential treatment between Swedish children and unaccompanied minors, raising questions about the universality of rights, including the right to belonging and citizenship (Hedlund and Cederborg 2015). Furthermore, certain subjective perceptions among legislators—such as viewing unaccompanied minors solely as 'individuals seeking a better life' or as 'adventurous tourists'—may shape migration policies and influence the credibility assessments for minor religious converts seeking asylum.

In summary, the existing literature highlights the multifaceted nature of credibility assessments in religious conversion asylum cases, emphasizing the interplay of legal, cultural, and political dynamics. The challenges posed by definitional ambiguities, evidentiary hurdles, and subjective assessments emphasize the need for nuanced approaches to ensure fair and just outcomes for asylum seekers.

## 3. Theoretical framework

### 3.1 Understanding Weber's legal thought: navigating substantive rationality and irrationality

Building on the conceptual framework introduced earlier, this section focuses specifically on Max Weber's concepts of substantive rationality and irrationality, which serve as the core theoretical lens for understanding the judicial decision-making process in asylum credibility assessments. My focus on substantive rationality and irrationality in migration court decisions is significant for several reasons. By linking substantive rationality to legal frameworks, this work not only addresses the complexities inherent in these assessments but also encourages further exploration of its implications within judicial contexts. The specific focus on adolescent asylum applicants who convert from Islam to Christianity highlights an often-overlooked demographic, emphasizing the need to consider individual narratives within broader legal structures. Moreover, by contrasting substantively rational approaches with irrational outcomes, I aim to uncover the risks of arbitrary decisions that are shaped by personal biases. This analysis invites a critical examination of how such biases can distort judicial processes, prompting further inquiry into how these biases can be mitigated within legal systems. By grounding my analysis in Max Weber's theoretical framework, I aim to deepen the discussion around asylum processes, offering a lens through which to understand both the rational and irrational aspects of judicial decision-making in this context.

Weber distinguishes between rational and irrational approaches to legal thought, emphasizing the importance of both formal and substantive dimensions in legal analysis (Weber et al. 1978: 656–657). Weber's conception of rational action is multifaceted and not easily defined (Brubaker 2017: 4) as he aims to highlight the complexity of the concept rather than provide a definitive explanation. Kalberg (1980) contends that Weber, rather than employing 'rationality' and 'rationalization' in a broad sense to explain the overall advancement of civilizations, discerns specific processes of rationalization that advance autonomously across diverse sociocultural levels. These levels encompass various spheres of life, including the 'external organization of the world', such as law, politics, economics, domination (*herrschaft*), and knowledge, as well as the 'internal' domains of religion and ethics. What may be deemed rational within one sphere of life, such as the economic domain, might be regarded as irrational within another sphere, such as the aesthetic realm (Langer 2022). According to Weber, life-spheres advocating for their values as 'rational' label those of other life-spheres as 'irrational'. As he puts it, something is not inherently 'irrational', but instead assumes this characterization when viewed from a specific—allegedly—'rational' perspective. This perspective leads to a scenario where, for instance, individuals holding religious beliefs are considered 'irrational' by those without such beliefs, as highlighted by Weber [1930 in (Karlberg 1980): 1156]. Weber in Protestant ethic and the spirit of capitalism posits that 'a thing is never irrational in itself, but only from a particular … point of view. For the unbeliever every religious way of life is irrational, for the hedonist every ascetic standard' (Weber et al. 1974: 194).

Moreover, variability within each sphere is possible (Kalberg 1980). Despite this diversity, Weber identified four ideal-typical types of rationality that could elucidate life spheres, shape consistent attitudes, and guide social action. These types encompass theoretical, practical, formal, and substantive rationality. While this paper primarily examines the substantive rationality and substantive irrationality within migration court, it offers a brief overview of rationality for context.

Weber delineated two main categories of rationality: those directly shaping social action and those exerting an indirect influence. Practical, formal, and substantive rationalities fall into the former group, whereas theoretical rationality, owing to its cognitive essence, is categorized as an indirect influencer (Kalberg 1980).

Substantive rationality refers to the human ability to act in alignment with deeply held values and beliefs, extending beyond pragmatic calculations. Unlike formal rationality, which focuses on efficiency and standardization, substantive rationality emphasizes individual agency and context, reminding us of the importance of personal principles within bureaucratic systems. It involves decisions grounded in ethical convictions, often prioritizing fairness and justice over procedural efficiency. In the context of asylum credibility assessments, a substantively rational approach would consistently apply legal standards to evaluate applicants based on objective evidence, such as documented threats or persecution, while maintaining impartiality. Substantive rationality is also linked to values—individuals may act according to their sense of justice or morality, even when it contradicts their self-interest or legal norms. This is evident in cases where asylum seekers, particularly religious converts, remain committed to their beliefs despite the risk of persecution or legal consequences, demonstrating the primacy of their values over personal safety or legal conformity.

Conversely, a substantively irrational approach may manifest in the form of inconsistent or arbitrary decision-making in credibility assessments. This could involve reliance on external factors, such as biases or prejudices, rather than objective evidence, to evaluate an asylum seeker's credibility. In the context of migration court cases in Stockholm, substantively irrational assessments might occur if decisions are heavily influenced by subjective perceptions of an asylum applicant's credibility based on factors like religion, ethnicity, or personal beliefs, rather than legal standards.

The central dichotomy, rationality versus irrationality, pertains to the presence or absence of overarching principles in the decision-making process (Sterling and Moore 1987). As it has been already mentioned, substantively irrational decision-making manifests through context-specific considerations, drawing upon 'concrete ethical, emotional, political, or practical criteria' (Sterling and Moore 1987: 3). While these decisions may be comprehensible in retrospect, they do not yield overarching principles for subsequent decision-making. Within contemporary legal frameworks, substantively irrational forms are exemplified by juries, where the decision-making process relies heavily on the discretion of those involved. This discretion, though humane, can render decisions seemingly arbitrary to individuals in similar circumstances.

The lay judge system within the Swedish judicial system may be an example of substantive irrationality. In the adjudication of numerous asylum cases[1] in the Migration Court of Stockholm, the board comprises one professional judge and three lay judges. These lay judges, lacking professional legal training, are appointed by political parties in proportion to the votes received for the county council, serving a tenure of 4 years. Eligibility extends to any Swedish citizen above the age of 18. The incorporation of lay judges into the Swedish administrative court system seeks to integrate citizens' direct representation into judicial deliberations within administrative courts. Lay judges are expected to be impartial to enhance court transparency and public confidence, but the existing research shows that political affiliations of lay judges in Sweden significantly impact case outcomes, with far-right members in the lay judge triplet notably affecting convictions, especially in cases Arabic-named defendants (Anwar et al. 2019) and 30%–60% of lay judges are influenced by their party's ideology (Martén 2015).

## 4. Methods and material

The research questions were addressed using textual data from the Migration Court in Stockholm, encompassing around 35,000 asylum application judgments spanning from 2015 to 2021. Since the grounds of asylum applications are not registered, I conducted a keyword-based search within the textual data focusing on cases that explicitly mentioned Christianity as conversion could pertain to any religion. Special attention was given to cases involving conversion from Islam to Christianity. Among 1,305 such cases, 97 involved individuals under the age of 18 who had undergone a religious conversion. The final data set consisted of approximately 97 cases. The examples provided in the analysis are not exceptional cases but are highly representative of the broader dataset. All cases included in the dataset share similar characteristics to those presented as examples ensuring consistency in the patterns observed. The selection of specific cases for analysis was purposefully made to highlight key patterns within the dataset and they were chosen because they reflect the broader issues and similar decisions found across the entire dataset. As such, the findings discussed in this article are applicable to the dataset as a whole, and the cases presented are indicative of the broader trends observed without exception.

Mitchell (2023) delineates two key strands in legal scholarship: 'doctrinal' and 'non-doctrinal' research. The former centers on analyzing the law itself, while the latter investigates its broader societal implications. A qualitative approach, diverging from positivist methods, considers the socially constructed nature of power relations and challenges the notion of absolute truth in law. Although legal scholarship often explores law's doctrinal aspects, there is limited examination of legal text regarding religious conversion cases. Therefore, I aim to employ qualitative legal text analysis to explore these Migration Court judgments, expanding scholarly discourse on conversion cases.

[1] Sweden's asylum system is governed by national law and international agreements, such as the 1951 Refugee Convention. Asylum seekers first apply to the Swedish Migration Agency, which conducts interviews and decides whether to grant refugee status or other forms of protection. If rejected, applicants can appeal to a Migration Court, composed of both professional judges and lay judges. The courts assess the credibility of the applicant's claims, including the risk of persecution and the genuineness of any religious conversion. Migration Court decisions can be appealed to the Migration Court of Appeal on legal grounds.

As a qualitative researcher engaging with the judgments, my aim was not to uncover the law as doctrinal legal scholars do, but to examine how reality is constructed through law (Mitchell 2023). As Leavy (2020: 4) notes, 'the truth is not absolute and ready to be "discovered" … but rather is contingent, contextual, and multiple'. Thus, I see my goal as a qualitative researcher to examine how reality is constructed through law, emphasizing the contingency and contestability of those meanings.

Legal judgments hold significant power and have the capacity to shape legal principles. By scrutinizing these judgments, researchers can gain valuable insights into the underlying power dynamics and constructions of truth and credibility within the legal framework. Mitchell (2023) emphasizes three essential aspects for qualitative researchers analyzing legal texts: their performative nature, rhetorical character, and institutional authorship.

The performative nature of legal texts is particularly noteworthy as these texts have the power to construct realities. For instance, the act of designating asylum applicants as 'minors' or 'credible' through assessment processes effectively creates those identities through judicial pronouncement. Additionally, the rhetorical character of the judgments plays a crucial role in the analysis. Written judgments articulate the court's decisions and provide reasoning for their validity. As a researcher, it is essential to examine not only what decisions were made but also how these decisions were justified and explained (Mitchell 2023: 109). Lastly, it is important to recognize that judgments do not merely reflect the views of the court; they embody the voice of collective interactions and represent the institution as a whole. This multifaceted understanding of legal judgments allows for a deeper exploration of the complexities involved in legal decision-making processes.

Using Mitchell's (2023) framework, I employed qualitative legal text analysis to explore the judgments. My aim was to explore the intersection of substantive rationality and substantive irrationality to gain insights into the dynamics influencing adolescent converts' asylum determinations. To achieve this, I employed a systematic coding process to analyze the data. Initially, I conducted a round of open coding, which allowed me to identify recurring patterns and themes within the judgments. Based on this analysis, I developed specific categories such as 'medical age assessment' and 'credibility assessment'. These categories provided a structured framework for understanding the various elements at play in the decision-making process. To gain a more profound understanding of the interplay between substantive rationality and substantive irrationality, it became essential to examine how the court's decision-making might be influenced by the political motivations of lay judges. Recognizing this influence as a critical factor, I established it as an additional category within my analysis. This dual focus on both legal assessments and the potential biases introduced by political motivations enables a comprehensive examination of the factors affecting asylum determinations for adolescent converts. Ultimately, this approach enriches the analysis and highlights the complexities inherent in the judicial decision-making process.

Existing literature on conversion lacks a qualitative sociological perspective on legal judgments. By adopting such an approach, I aim to challenge the dominance of doctrinal legal research and illuminate the juridical consequences faced by converts in a novel manner.

The judgments I study are publicly available from the Migration Court of Stockholm, which ensures transparency and accessibility in the legal process. By utilizing these publicly accessible documents, I uphold ethical research practices that respect the rights of individuals involved while contributing to the broader discourse on asylum law. It is important to note that the subjects of the study—adolescent converts who are both minors and asylum seekers—represent a particularly vulnerable population. Their asylum applications are grounded in religious conversion, which further complicates their circumstances and exposes them to additional risks. Studying these judgments in a public context encourages a more informed discussion on the complexities of asylum determinations, particularly for this vulnerable demographic.

# 5. Results and discussion

## 5.1 The central dichotomy of rationality versus irrationality: presence or absence of overarching principles

In this section, I will discuss the findings from the analysis of legal judgments within the Migration Court of Stockholm, specifically focusing on the 'presence or absence of overarching principles in decision-making' (Sterling and Moore 1987: 72). Initially, I will explore the intersection of substantive rationality (a.k.a reasonableness) and substantive irrationality to gain insight into the dynamics influencing adolescent converts' asylum determinations. Through this analysis, I aim to highlight how the discretionary nature of decision-making can result in arbitrary outcomes for individuals facing similar circumstances.

The concept of 'credibility' is not explicitly delineated within either the refugee definition or the definition of subsidiary protection, neither legally nor conventionally (Meyerson 2023). An individual's refugee status or eligibility for subsidiary protection is not contingent upon the demonstration of credibility or the presentation of a credible narrative. The incorporation of credibility within asylum law originates from the UNHCR Handbook, with its subsequent adoption mirrored in the EU Qualification Directive [Article 4(5)(e)]. Despite not being a mandatory legal requirement, considerable attention has been directed toward the concept of credibility in both international and EU asylum discourse regarding the narrative of asylum seekers in recent years.

Religion-based asylum applications pose intricate challenges due to the elusive nature of defining religion, as scholars have pointed out the absence of definitive definitions in legal frameworks both nationally and internationally (Good 2009). Guidance documents strive to delineate the concept of 'religion'; however, the task of defining 'religion' and evaluating conversions remains contentious within the context of religion-based asylum claims. The UNHCR's Guidelines on Religion-Based Refugee Claims (UNHCR 2004) emphasize the importance of credibility assessments by highlighting the significance of the claimant's narrative and their understanding of their religion within the complex process of evaluating religious claims. However, while the rigor of these requirements varies depending on individual circumstances, it also varies in accordance with the courts' interpretation of such individual circumstances.

In procedures for determining refugee status, the burden falls on the applicant to establish the truthfulness of their claims and the accuracy of the facts underlying the refugee claim. This burden entails establishing various factors, including identity, residence, age, the genuineness of religious conversion, and the potential risks upon their return to their country of origin. While certain asylum applicants bear one or some of the mentioned burdens, adolescent asylum applicants undergoing conversion must substantiate all the enumerated factors.

## 5.2 Intersecting assessments: age, religious maturity, and the credibility of conversion claims in migration courts

The classification of asylum applicants as minors or adults is pivotal in determining their legal status and the protections available to them. This classification also plays a crucial role in assessing the credibility of conversion claims in asylum cases. The Swedish regulatory framework links age with specific rights and privileges, such as the right to education, healthcare, and special housing for minors (Malmqvist et al. 2018). However, the intersection of age assessment and the evaluation of religious conversion in migration cases create an additional layer of complexity. The redefinition of the refugee issue gradually in post-1951 Convention period, by both states and experts, within the context of refugees alleged attempts to access and profit from welfare state privileges and sovereign States' duty of immigration control not only makes refugee status seem unattainable but also excludes those deemed 'unworthy' claimants, fostering mistrust. This necessitates an exaggerated emphasis on the value of asylum to justify suspicion (Fassin 2013: 10).

The presentation of substantive rationality by asylum seeker converts, which includes providing documentation and coherent narratives about their conversion, is prevalent. However, the court's emphasis on evidence in credibility assessment cases overlooks the challenges asylum

applicants face in obtaining documentation. Typical examples of such situations involve cases concerning medical age assessment. It is important to recognize that the assessment of age and the credibility of conversion in adolescent asylum cases occurs concurrently and is crucial for several reasons. First, determining an asylum seeker's age significantly impacts their legal status and the protections available to them, particularly since minors are granted additional rights under international law. Concurrently, assessing the credibility of a conversion involves evaluating the authenticity of an individual's religious beliefs, which is often met with skepticism in Migration Courts. These two assessments can intersect, as an adolescent's age may shape perceptions of their capacity to make independent religious choices, influencing the perceived religious maturity and, consequently, the credibility of their conversion claim. Legal decision-makers may inadvertently conflate age-related assumptions with judgments about religious authenticity, leading to flawed conclusions. Thus, in all judgments, the court assesses the age of the applicant before evaluating the credibility of asylum seekers.

For instance, in the case of J.I.,[2] a minor, the court requested identity documents to confirm his age but ultimately concluded that he was over 18 based on a medical assessment. The assessment of J.I.'s chronological age indicated he was 18.3 years old, with a 16 per cent chance of being under 16. The relevant X-ray examination took place over a year and 4 months prior. Despite the interpretation favoring J.I. and acknowledging the uncertainty of the result, it suggested that he was likely over 18 at the time the court reviewed the matter.

In another case, despite the applicant's[3] efforts to establish his claimed age—including challenging the age assessments conducted by the National Board of Forensic Medicine (NBFM)—the court ultimately concluded that he had not sufficiently proven his identity or his status as a minor. This led to the assumption that he was an adult for the purposes of continued examination. The applicant, A,[4] provided several statements supporting his claimed age, including those from his legal guardian, teachers, and psychologist J.T., who assessed him as having barely entered puberty. However, according to the Court, this assessment was based solely on A's self-reported information, which weakened its reliability. In contrast, the NBFM determined that A was 18 years or older based on their examinations. The court found this medical assessment to carry more evidentiary weight than the other documents provided. As a result, the Migration Court concluded that A had not sufficiently proven his identity or his status as a minor.

In another case,[5] an applicant, A, has asserted his status as a minor and contested the accuracy of medical age assessments conducted by the NBFM. He cited a second opinion document regarding the maturity of his femur and wisdom teeth. However, the court noted that while the second opinion documents may have had relevance at the time of the initial NBFM assessment, they are deemed insufficient to substantiate A's[6] claim of being a minor in the current examination of the residence permit question. The medical images were taken in July 2017, approximately 7 months prior. Although the second opinion could be considered in relation to the NBFM's assessment from 20 September 2017, it did not support A's claim under the current circumstances. Consequently, the Court concluded that a new medical age assessment by the NBFM was unlikely to alter the previous determination regarding A's status, leading to the dismissal of the request for referral.

In conducting credibility assessments, courts typically rely on their own subjective judgment to determine the trustworthiness of a case. However, this approach can sometimes lead to inconsistencies and a lack of objectivity. While conducting credibility assessments, the court typically relies on its own subjective judgment to determine the trustworthiness of the case.

[2] UM 715-16. All case numbers with details are listed in Appendix.
[3] UM 151-18.
[4] The Migration Court (as commonly applied in religious conversion-related asylum applicants issues) decides to maintain confidentiality for information in Annex 1 of this judgment and in the Swedish Migration Agency's decision (Annex 2), including personal details and other information that could reveal identity, as well as for data presented during closed-door oral hearings not included in the judgment.
[5] UM 15094-17.
[6] UM 15094-17.

For example, in evaluating the genuineness of J.I.'s[7] conversion, the court acknowledges that the certificates submitted by church employees, his former legal guardian, and his foster family can only be seen as supplementary to J.I.'s own narrative. While documentation can certainly support asylum seekers' claims by promoting objectivity and verifiability, overemphasizing written evidence—without accounting for the challenges asylum applicants face in obtaining such documentation—can lead to substantively irrational outcomes.[8] Moreover, the court's refusal to consider documents provided by national institutions, on the grounds that they stem from information supplied by the asylum applicant, further underscores a problem. This rationale appears to dismiss the inherent nature of the asylum process, where personal testimony and documentation often originate from the applicant themselves. Such a refusal can be seen as substantively irrational and may reflect emotional, personal, or political biases, rather than a purely objective assessment. In addition, the process of age assessment, particularly for adolescent asylum seekers, often leads to the objectification of their bodies. This assessment reinforces the power imbalance between authorities and asylum applicants, where the subjective determination of age and identity by authorities overrides the lived experiences and testimonies of the individuals involved. While these procedures are ostensibly rationalized through administrative processes, they inherently embody irrationality by disregarding the autonomy, agency, and personal dignity of asylum seekers. This raises concerns about the fairness and humanity of the overall assessment process, which often silences the voices of those most affected.

## 5.3 Inconsistencies in assessing conversion claims' genuineness

The assessment of conversion claims' genuineness and credibility in asylum cases often involves evaluating various aspects of the applicant's religious commitment. In the case of A,[9] the Migration Court questions his conversion to Christianity on several grounds, including a presumed vague and general oral testimony, a lack of knowledge about fundamental aspects of Christianity (such as the inability to name the holy scripture or cite key Bible verses), and the court's doubt about whether A would live as a Christian convert if he were to return to Afghanistan. Consequently, the court concludes that A has not demonstrated a genuine religious conviction.

In contrast, in another case,[10] the Migration Court conducts a comprehensive evaluation of B's conversion, considering several types of evidence, including baptism certificates, photos, social media posts, and testimony. B's active participation in church activities in Sweden and his detailed account of his conversion lead the court to conclude that his conversion is genuine. The court also finds that B would face persecution in Iran if returned, granting him refugee status and permanent residence. Here, the court places considerable weight on the fact that B's conversion is not a pretext to avoid deportation but rather a true expression of his religious belief.

Despite these two cases, both involving claims of conversion, there appears to be a noticeable inconsistency in how the Court assesses the genuineness of the conversions. In A's case, the court places significant emphasis on the applicant's theological knowledge, such as the ability to recite Bible verses and demonstrate a deep understanding of Christianity. This contrasts with B's case, where the court accepts evidence such as baptism certificates, social media posts, and testimonies as sufficient proof of a genuine conversion, without demanding the same level of theological knowledge. While B's active involvement in church activities and his professed faith are deemed sufficient, A's similar church participation and professed Christianity are dismissed as insufficient due to his lack of theological understanding. This raises questions about the criteria required to demonstrate a genuine conversion. The discrepancy between the cases may create perplexity about what constitutes a credible conversion, particularly when the court places varying levels of importance on theological details, despite both applicants showing commitment to their faith in ways that could be considered sincere.

[7] UM 715-16.
[8] UM 715-16.
[9] UM 15094-17.
[10] UM 4770–15.

## 5.4 The role of social media: a critical discrepancy

The following cases highlight another significant inconsistency in the application of criteria for assessing the genuineness of religious conversions and the associated risk of persecution. Both cases involve the role of social media visibility in evaluating conversion claims, but the courts approach them in vastly different ways. In case UM 107-17, the court imposes a stringent requirement for theological knowledge as a standard for establishing a genuine conversion. A's Instagram activity, despite containing Christian imagery, was deemed insufficient to demonstrate authentic religious belief. The court emphasized the lack of evidence linking the account to A in Afghanistan and noted that his Instagram name did not match his legal name. As a result, the court concluded that A did not face a risk of persecution based on his religious beliefs. In contrast, case UM 6576-16 takes a different approach. In this case, A is not a minor, but her daughter B, whose case is considered alongside A's due to their shared social media presence, is. Both A and B's participation in a televised program and active engagement on platforms like A's blog and Facebook played a central role in the court's decision to grant refugee status. Despite a similar lack of theological depth or personal engagement with Christian practices, the court accepted the risk of persecution based on her public visibility and online presence. The fact that her conversion was visible in the public domain was deemed significant, suggesting that social media exposure can lead to tangible security threats, particularly in countries like Iran. This contrast reveals an inconsistency in how the courts evaluate the role of social media in religious conversion cases. In case UM 107-17, social media activity is deemed insufficient to substantiate a claim of genuine belief, while in case UM 6576-16, the same factor is pivotal in assessing the risk of persecution.

The discrepancy raises questions about the rationality of the criteria applied in these rulings. Case UM 6576-16 seems to prioritize the perceived risk of exposure over the actual authenticity of the conversion, giving more weight to public visibility than to the depth of religious conviction. Conversely, case UM 107-17 places disproportionate emphasis on theological knowledge and personal religious practice, dismissing personal or experiential faith as irrelevant. This shift in criteria appears irrational, as it suggests that the visibility of one's conversion through media is considered more significant than the individual's genuine religious commitment or understanding. Ultimately, these cases illustrate the arbitrariness in the assessment of religious conversions, highlighting a lack of consistency in the standards applied to asylum claims based on religious belief.

## 5.5 Political influences and the role of lay judges

For a more profound comprehension of intersection of substantive rationality and substantive irrationality, it is essential to concurrently examine how the court's decision-making process is affected by the potential impact of political motivations among lay judges.

The Migration Courts in Sweden are part of the Administrative Courts, with locations in four cities: Malmö, Stockholm, Luleå, and Gothenburg. Therefore, the Migration Court in Stockholm operates within the framework of administrative law (Förvaltningslag (2017:900) n.d.) governing court procedures. The decision is reached through a simple majority vote within the court, which consists of three lay judges and one professional judge. Each vote carries equal weight unless there is a tie, in which case the professional judge has the casting vote (Förvaltningslag (2017:900) n.d.: 29).

The system of lay participation is designed to integrate societal influences while maintaining the integrity of the rule of law, thereby enhancing the practical legitimacy of existing legal frameworks. However, instances (Cantwell 2021) arise where the rule of law is compromised by lay judges, leading to dissenting opinions from professional judges who find themselves in the minority position. Lay judges, lacking legal expertise, often rely on personal opinions and interpretations of legal sources during court proceedings. Furthermore, they are not bound by societal sentiments or norms in their arguments, instead basing their assessments on subjective

assumptions of normativity. According to Diesen (2001: 315) 30 per cent of lay judges view their participation in court as a political role.

In Migration Courts judges (lay or professional) who dissent from the final verdict are mandated to articulate their reasons for disagreement in the subsequent court case document, known as a 'dissenting opinion' (*skiljaktig mening*) (Rättegångsbalk [The Code of Judicial Procedure] (SFS 1942:740). n.d.: Chapter 6 section 2 part 2). While the frequency of dissent is higher among lay judges (16%) compared to the jurist judge (5%) (Meyerson 2023: 50), there are instances, as it is mentioned earlier, where the dissenting opinion comes from the jurist judge.

For instance, in A's[11] case, The Migration Court affirms A's consistent account of her conversion to Christianity, supported by her baptism, active participation in teachings and congregation, and explanation of her affinity for Christianity. According to the Court, there is strong evidence of genuine religious conviction, and based on this evidence, the Court opted to overturn the Migration Agency's ruling and approve A's application. The dissenting professional judge, in contrast to this, highlighted that A's baptismal certificate and religious activity documents alone do not establish the genuineness of her faith or her need for international protection. Concerns, according to the professional judge, arise regarding the credibility of her asylum story, especially considering her conversion in Sweden after her removal order. Despite the significant life change, A has not deeply reflected on her decision to leave Islam or compared the two faiths. Her vague explanations cast doubt on the sincerity of her conversion. Overall, A has not convincingly shown that her conversion is genuine or that she would face persecution in Iran. Additionally, the judge noted that expulsion does not violate Article 8 of the European Convention, leading to her recommendation for dismissal.

In another case, while the Court finds that the applicant, A,[12] holds a genuine Christian conviction, a dissenting layperson from the Christian Democrats (K.D.) expresses doubt regarding the credibility of the complainant's conversion from Islam to Christianity: A, stands by his earlier statement and adds that he has undergone baptism, signifying his formal conversion to Christianity. To support his conversion claim, he presents evidence including a baptism certificate, a certificate from a discipleship school, and a letter from a congregation leader. During the oral hearing, knowledge of the Bible and Christian holidays was demonstrated by the appellant, despite being new to Christianity, as indicated by the Court. Though somewhat vague, according to the Court, about its impact on his daily life, a genuine conversion is suggested by his detailed description of his baptism. Despite ambiguities in his experiences related to Afghanistan, his overall credibility or the plausibility of his conversion story is not undermined. Consequently, it is deemed likely by the Court that he holds a genuine Christian conviction and would face persecution if returned to Afghanistan. Given the general risk for converts in Afghanistan and the lack of protection, internal flight is deemed unfeasible. Thus, a permanent residence permit and refugee status are granted to the appellant. On the other hand, a dissenting layperson has argued that she has not convincingly demonstrated the genuineness of his conversion or the need for protection due to Taliban threats. Additionally, she contended that the situation in his hometown is not severe enough to warrant protection amidst the ongoing armed conflict.

Despite guidelines (UNHCR 2019) stating that asylum applicants may not necessarily be able to list religious doctrines verbatim ('the individual may not be able to list the Ten Commandments or name the Twelve Imams, but may be able to indicate an understanding of the religion's basic tenets more generally'), but rather demonstrate a general understanding of the religion's basic principles, many applications from converts are rejected due to their perceived lack of knowledge. For instance, in one rejected case,[13] despite a dissenting opinion from a lay judge affiliated with the Christian Democrats (K.D.), the Court determined that the applicant struggled to answer questions about Christian holidays, failed to provide examples of common prayers, and could not name the Ten Commandments. Similarly, in other

[11] UM 6569-16.
[12] UM 5449-16.
[13] UM 10216-16.

cases (e.g. UM 7504-18, UM 224-18, UM 13179-17), it has been mentioned that the applicants faced difficulties in explaining Christian holidays, their timing, and significance. During oral hearings in court, applicants may mention important Christian holidays like Easter and Christmas, but if they reference non-religious traditions, such as Lucia celebrations, as Christian holidays or exhibit limited knowledge of the differences between Church of Sweden and the Free Churches (*frikyrkor*), this can be a motivation for rejection, too. Furthermore, despite applicants demonstrating some knowledge of Christian holidays or doctrines, their applications are still rejected. In one instance, despite the applicant being able to recount biblical stories and name more apostles than initially documented, they still faced rejection due to their inability to chronologically outline their religious conversion process.[14] In a distinct case,[15] divergent from previous deliberations, the court deems that 'while familiarity with Christianity and the Bible holds significance, it should not carry excessive weight in determining the authenticity of a religious belief'.

## 5.6 Substantive rationality and irrationality in judicial decision-making

In the analysis of asylum cases involving age assessment and credibility evaluation, we observe a complex interplay between substantive rationality and irrationality, shaped by ethical considerations, procedural adherence, and institutional biases.

The courts aim to demonstrate substantive rationality by upholding established standards of evidence and procedural fairness. However, instances of substantive irrationality emerge, particularly in arbitrary decision-making and bias in evidence evaluation. Rigid adherence to initial assessments, dismissal of contextual evidence, and overemphasis on institutional authority reveal systemic biases that compromise fairness and objectivity. While subjective judgment in credibility assessments aims for holistic understanding, there is a risk of bias and objectification, especially when disregarding contextual evidence. Emphasizing documentation for objectivity is reasonable, yet neglecting the challenges faced by asylum applicants reveals an oversight in recognizing their realities.

In addition to that examining the intersection of substantive rationality and irrationality in Migration Courts necessitates an exploration of how political motivations among lay judges influence the decision-making process. While the courts operate within the framework of administrative law, the presence of lay judges introduces societal influences that can sometimes compromise the rule of law. The system of lay participation aims to integrate societal perspectives while upholding legal integrity; however, lay judges, lacking legal expertise, may rely on subjective opinions and interpretations, occasionally viewing their role as political. This introduces a potential for bias and inconsistency in decision-making related to religious converts' asylum case.

In cases where asylum applicants claim religious conversion, the courts grapple with assessing the genuineness of faith. Dissenting opinions highlight discrepancies in evaluating conversion claims, with some judges questioning the sincerity of applicants' religious beliefs and the need for international protection.

The courts opt for the expedient approach in evaluating religious conversion claims, particularly when applicants demonstrate limited knowledge of religious doctrines or traditions. Despite guidelines acknowledging that applicants may not possess detailed religious knowledge, rejections often occur based on perceived deficiencies in applicants' understanding of Christianity. While familiarity with Christianity is considered significant, the courts caution against overemphasizing knowledge as the sole determinant of authenticity. In conclusion, the examination of Migration Court decisions highlights the intricate relationship between substantive rationality and irrationality. Political motivations among lay judges, challenges in assessing religious conversion claims, and the emphasis on knowledge criteria emphasize the need for a balanced and nuanced approach to decision-making.

[14] UM 14471-17.
[15] UM 17166-17 (lay judges' parti affiliation were S, M, KD).

## 6. Conclusion

The analysis of asylum applicant converts' cases in Migration Court of Stockholm unveils a complex interplay between substantive rationality and irrationality within the court's decision-making process. As Kagan (2021) suggests, the asylum adjudicators find themselves navigating a process akin to a religious trial, where questions about religious beliefs often lead to rejection if answers do not align with expected norms. This is particularly evident in cases where asylum applicants demonstrate limited knowledge of Christian traditions, leading to skepticism from politically motivated decision-makers within the court. Bohmer and Schuman (2018) discuss the paradoxical nature of credibility assessments, where legitimate asylum seekers are deemed not credible while fraudulent applicants sometimes pass as credible. This highlights the inherent tension between substantive rationality, which demands coherent narratives and documentation, and substantive irrationality, which manifests in subjective biases and arbitrary judgments.

The court's heavy reliance on written evidence, such as X-ray examinations conducted by medical authorities, stresses the challenges faced by asylum seekers in obtaining documentation to support their claims. Despite efforts by applicants to challenge initial assessments, the court often dismisses alternative evidence, perpetuating substantive irrationality in its decision-making process. Moreover, subjective judgment and political motivations among lay judges further complicate the decision-making process, leading to dissenting opinions from professional judges. Lay judges, lacking legal expertise, rely on personal opinions, contributing to arbitrary outcomes and inconsistencies in judicial decisions. While dissenting opinions contribute to transparency, the higher prevalence of dissent among lay judges suggests underlying biases or deficiencies in legal expertise.

In conclusion, while the court's decision-making process may appear rationalized through administrative procedures, it often embodies substantial irrationality in its disregard for the challenges faced by asylum applicants and the subjective biases of decision-makers. In examining the complicated interaction between substantial rationality and irrationality in assessing adolescent asylum claims, we encounter a significant disconnect—akin to the 'hiatus irrationalis' described by Weber (1975). While legal frameworks provide general concepts for evaluation, they often fail to accommodate the nuanced realities faced by individual applicants. This gap highlights the 'irrationality of reality' that resists strict legal categorization.

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## Appendix

**Referred case numbers, court decision dates, and the country of presumed origin for asylum claim evaluation**:

- UM 715-16 (31 March 2016) Iran
- UM 151-18 (16 October 2018) Afghanistan
- UM 15094-17 (14 March 2018) Afghanistan
- UM 4770-15 (17 November 2015) Iran
- UM 107-17 (27 April 2017) Afghanistan
- UM 6576-16 (3 November 2016) Iran
- UM 6569-16 (16 November 2016) Iran
- UM 5449-16 (21 September 2016) Afghanistan
- UM 10216-16 (30 December 2016) Iran
- UM 7504-18 (21 February 2019) Afghanistan
- UM 224-18 (19 April 2018) Afghanistan

- UM 13179-17 (20 March 2018) Afghanistan
- UM 14471-17 (9 April 2018) Afghanistan
- UM 17166-17 (14 May 2018) Afghanistan

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