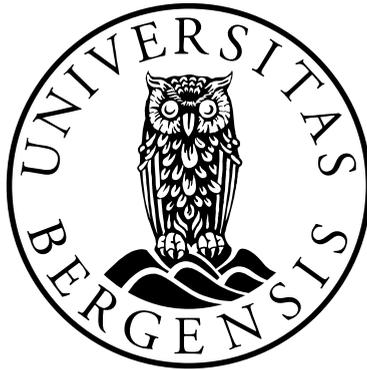


# The Regulation of Marriage Migration to Norway

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## **Abstract**

This thesis investigates the regulation of family migration to Norway. This topical issue is explored from the perspectives of politicians, bureaucrats and applicants and their families in three articles, respectively. I argue that the regulation of marriage migration is marked by contradictory developments in different fields of policy: While the regulations and norms concerning intimate relations are characterised by increased liberalization, immigration regulations and public debates on migration focus on restriction and control. These contradictory developments create dilemmas, tensions and paradoxes for politicians and bureaucrats, as well as for applicants and their families.

The regulation of marriage migration is explored through interviews, observations and documents. Due to the complexity of the empirical material, it has been necessary to engage with a broad spectre of theoretical perspectives. The three articles discuss the regulation of marriage migration drawing on welfare state theory, and on theoretical perspectives on the transformation of intimacy, bureaucracy and emotions, respectively. Marriage migration is a phenomenon that cuts across the public and the private spheres, as well as the inside and the outside of the nation state. The public/private distinction and the boundary between the inside and the outside of the nation state are discussed and problematised within citizenship theories. These theories serve as an overall theoretical framework for the thesis as a whole because they facilitate an understanding of the dilemmas, tensions and paradoxes that characterize the regulation of marriage migration to Norway.

## List of publications

- Eggebø H (2010): The Problem of Dependency: Immigration, Gender and the Welfare State, *Social Politics: International Studies in Gender, State & Society*. 17(3): 295-322.
- Eggebø H (2012) 'With a Heavy Heart': Ethics, Emotions and Rationality in Norwegian Immigration Administration. *Sociology* published online before print 23 July 2012  
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- Eggebø, H (2013): 'A Real Marriage? Applying for Marriage Migration to Norway'. *Journal of Ethnic and Migration Studies* published online before print 17 January 2013  
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# 1. Introduction

The regulation of marriage migration is marked by a central paradox. Here, contradicting developments in family norms and regulations on one hand, and immigration regulations on the other, clash. The regulation of intimate relationships through, for instance, the marriage act and other civil law measures, is characterised by increasing liberalisation. Norms and public debates about intimacy reflect the same tendency: marriage and intimate life are increasingly regarded as private matters in which individuals are free to decide for themselves what choices they make and how they organise and live their intimate lives (Giddens, 1992; Plummer, 2003; Weeks, 2007). The regulation of immigration however, is characterised by increased regulation and control.<sup>1</sup> The regulation of borders is an issue of public and political concern, rather than a matter of individual choice. As I will show in this thesis, these contradicting developments create numerous tensions, dilemmas and paradoxes with regard to the regulation of marriage migration. The thesis inquires into what happens when a non-citizen enters into a union with a citizen, and the national border is ‘drawn down the middle of the marital bed’.

The aim of this study is to investigate the regulation of marriage migration to Norway in order to analyse and understand the legal and symbolic borders of the nation state created by this type of regulation, as well as the central norms, values and dilemmas at the heart of contemporary Norwegian societies. The overall research question is: What are the ethical, legal and practical dilemmas of regulating marriage migration to Norway for applicants, bureaucrats and politicians? This broad question is explored through a subset of questions specified and discussed in three different articles (Eggebo, 2010; Eggebo, 2012; Eggebo, 2013). Marriage migration represents a strategic site for analysing the intersection of private matters and public concerns. Here, national political concerns about controlling the borders of the nation state penetrate intimate relations. In this thesis introduction, therefore, I pose an additional

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<sup>1</sup> This is true for the regulation of immigration by third-country nationals. Intra-European Union (EU) migration is subject to decreased regulation and governed by an individual right to freedom of movement.

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question: How are the borders between the public and the private and the inside and the outside of the nation state constructed and contested through the regulation of marriage migration?

From 1990 to 2008, marriage migration constituted 26 per cent of all migration to Norway (Henriksen, 2010), and globally, marriage migration is a central route to migration. Throughout past decades, marriage migration and other forms of family migration have received considerable interest by policy-makers and in public debates. Marriage migration has increasingly been regarded as a problem by national governments and policy makers. Issues such as forced marriage, marriages of convenience and concerns about the economic costs of family migration for host societies, have figured as central issues in public debates. At the same time, however, national media also frequently write empathetically about spouses and families separated by strict immigration regulations and bureaucratic procedures, threatening people's right to self-determination with regard to intimate relations. The aim of this PhD-thesis is to produce systematic, research-based knowledge on this topical issue.

The thesis consists of three articles: 'The Problem of Dependency: Immigration, Gender, and the Welfare State' (Eggebø, 2010 – article one), 'A Real Marriage? Applying for Marriage Migration to Norway' (Eggebø, 2013 – article two) and "'With a heavy heart". Ethics, Emotions and Rationality in Norwegian Immigration Administration (Eggebø, 2012 – article three). These articles are products of an inductive research strategy: the choice of theoretical perspectives grew from the process of analysis. The complexity of the empirical material made it necessary to draw on a wide range of theoretical perspectives ranging from feminist welfare state theory, to theories on intimacy and modernity, and sociological theories about bureaucracy and emotions. In article one, I use welfare state theory and argue for a combined focus on welfare state policies, immigration policies and gender equality policies. In article two, I argue that sociological theory on intimacy is relevant for understanding marriage migration, and that the case of marriage migration may contribute to our understanding of contemporary intimate life. In article three, I aim to

contribute to sociological debate about emotions, ethics and bureaucracy by analysing the Norwegian immigration administration.

In order to analyse and discuss the overall findings of the thesis, I draw on the interdisciplinary scholarship on citizenship. Throughout the last two decades, citizenship theories have gained increased interest in the academic scholarship on migration, as well as in academic debate more generally. The citizenship literature includes discussions about the relationship between the citizen and the state as well as relationships between citizens (Siim, 2000). The application processes for marriage migration represent a particular meeting between state authorities and a married couple, where one spouse is a citizen and one spouse is a non-citizen. I am concerned with how the transition from non-citizen to citizen by becoming the spouse of a citizen, is formally regulated through laws and regulations, as well as informally through assessment procedures and societal norms.

Scholars of gender and sexuality have questioned the public/private distinction embedded in traditional conceptualisations of citizenship. As a result of their critique, citizenship has become a relevant analytical concept for issues regarded as ‘private’ matters: for instance family, intimate relationships and sexuality. Moreover, many scholars have critically examined the relationship between citizenship rights and the nation state and highlighted citizenship’s double face: seen from inside the borders of the nation state, it is an inclusive principle of equality, but from the outside, it institutionalises exclusion and inequality (Bosniak, 2006; Lister 2003). In order to analyse the dynamics of international migration, both the inside and the outside dimensions of citizenship have to be taken into account. Interestingly, however, the critiques of the public/private distinction and the problematisation of the inside/outside dimensions of citizenship have not yet been properly integrated. Drawing on empirical analyses of the Norwegian case, I argue that the insights from these two streams of citizenship literature should be merged in order to fully capture the dynamics and paradoxes of marriage migration. With this thesis, I aim to contribute greater nuance to citizenship theory, and to take a more unified view of some of its seemingly diverging

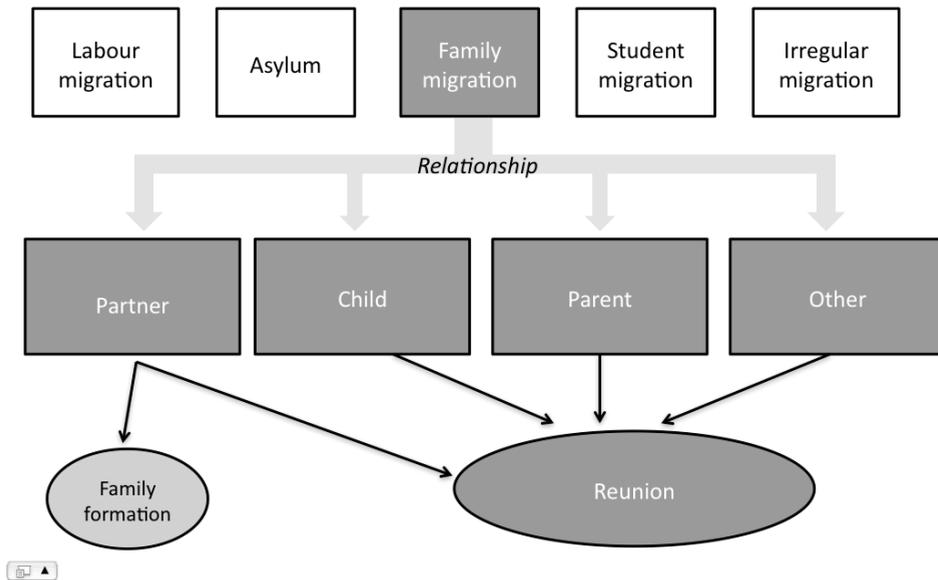
components, through empirical analyses of the regulation of marriage migration to Norway.

The regulation of marriage migration brings about quite different concerns, dilemmas, challenges and consequences for policy-makers than for applicants. While policy-makers have the power to pass laws and regulations, applicants are subject to legal regulations that they, as non-citizens, do not have the political right to influence through elections. In order to account for diverging perspectives and positions, the project design includes the voices of politicians, civil servants as well as applicants and their partners. The research design includes three main data sources: 1) legal documents, law proposals and parliamentary debates 2) qualitative interviews with applicants and/or their partners and 3) data from a short-term field work at the Norwegian Directorate of Immigration. A wide range of data sources, illuminating the perspectives and experiences of the various relevant actors, has been essential in order to capture the tensions, dilemmas and paradoxes resulting from the social processes through which the borders between the public and the private and between 'Norwegian' and 'alien' are constructed.

## 1.1 Central Concepts

'Marriage migration' is a key concept in this thesis and it is used to denote partners, including spouses, cohabitants and registered partners, migrating across national borders under family immigration regulations. 'Family migration' is another central concept. It is an administrative category referring to people granted residence permits on the basis of a familial relationship. Family migration is also known as 'family-related migration' (Kofman, 2004), 'family reunification' (European Migration Network, 2008; Fonseca and Ormond, 2008; Luibhéid, 2002; Myrdahl, 2010b; Staver, 2010) and 'family reunion' (Lister, 2003; Ramirez et al. 2007; Svašek and Skrbiš 2007). In Norway, spouses, children or siblings under 18 years of age and the parents of a Norwegian child have the right to family migration. In some cases, family migration may also be permitted for other family members, for example children above 18 years of age or older parents of grown up children. In both research and legal

texts, ‘sponsor’ is the established English term for the person that an applicant for family migration seek to unite with. In Norwegian law however, ‘reference person’ is the common term for the sponsor. In this thesis, the terms ‘marriage migrant’ or ‘applicant’ will be used to denote the foreign partner and the term ‘sponsor’ denotes the partner settled in Norway.



*Figure 1. Administrative categorisation of immigration.*

The above figure illustrates the most central administrative categories of immigration: labour migration, asylum, family migration, student migration and irregular migration. Migrants are categorised according to the grounds on which they have been granted a residence permit. Migrants without a legal residence permit are categorised as irregular migrants. It is important to note that the administrative categorisation of migrants does not necessarily correspond to people’s motives for migrating. For example, some people migrating in order to live with their partner may find it most convenient to apply for labour migration rather than family migration. For others, irregular migration may be the only option for migrating in order to live with their family members. While

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people often have multiple motives for migrating, residence permits are based on one ground only.

As we see from the above figure, family migration is permitted on the basis of conjugal relationships, parent-child relationships and other family relationships. This thesis focuses on conjugal relationships, and this is what I call marriage migration. In the international literature as well as in Norwegian law and statistics, the administrative category of family migration is sub-divided into ‘family reunion’ (or family reunification) and ‘family formation’ (or family establishment). Family formation is primarily used to denote couples who are settled in two different countries at the time of marriage.<sup>2</sup> If a Norwegian woman marries a Kenyan man, for instance, and he applies for family migration in order to be able to live with her in Norway, this would be classified as family formation. Family reunion on the other hand, refers to family migration on the basis of already established familial relationships. If a Polish woman (or child) applies for family migration with her Polish husband (or father) who has been living and working in Norway over the past year, this would be classified as family reunion. While family reunification has been the most common term used in Norway for all kinds of family migration, the new Immigration Act established family migration as the official category, and family reunion and family formation as sub-categories. In principle, family reunions are granted stronger legal protection than family formations. The actual regulations however, are mostly identical for both groups (Arbeids- og inkluderingsdepartementet (AID), 2007: 184-5).<sup>3</sup> As the category of family formation usually refers to marriages, I view family formation as more meaningfully a sub-category of marriage migration, rather than a sub-category of family migration.

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<sup>2</sup> Under Norwegian law, the term family formation (or family establishment) and its subsequent regulations may also cover children conceived after the reference person migrated to Norway (Arbeidsdepartementet 2009: 7.2.2.2); in the vast majority of cases, however, family formation concerns married spouses.

<sup>3</sup> There are two family immigration regulations applicable in cases of family formation only. First, the immigration administration may reject an application for family immigration if there is a considerable risk that a migrant woman or her children will be abused by the sponsor. Second, the recent ‘four-year-rule’ is only applicable in cases of family formation and not family reunion. This rule states that people who have migrated to Norway for other purposes than labour are required to work or study in Norway for four years before they can sponsor a marriage migrant. Furthermore, the Ministry of Justice and Public Security has recently proposed an increase of the subsistence requirement to 261 700 NOK (approximately 36.000 Euros) in cases of family formation, almost 30.000 NOK (4.000 Euros) more than for family reunion (Justis- og beredskapsdepartementet 2012a).

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The marriages, co-habitations or partnerships investigated in thesis are called ‘cross-border marriages’ (Constable, 2005; Williams, 2010). In the literature, a wide range of different concepts are used to describe such marriages. Other terms used are ‘transnational marriages’ (Beck-Gernsheim, 2007; Charsley, 2006; Henriksen, 2010; Lidén, 2005; Schmidt, 2011b), ‘mixed marriages’ (Breger, 1998; García, 2006; Gõrny and Kepinska, 2004) and ‘cross-cultural marriages’ (Breger and Hill, 1998). Migration researcher Lucy Williams argues that terms such as ‘mixed marriages’ and ‘cross-cultural marriages’ are narrow, because they exclude marriages between two members of the same ethnic or cultural community, for instance family reunion between a refugee and his/her spouse from the same country of origin. More problematically, such terms can be culturally essentialist because they assume that ethno-cultural difference is the most important difference (Williams, 2010). I support these arguments and prefer the term cross-border marriage. This term is wide enough to encompass all marriages subject to family immigration regulations, regardless of the applicants’ and sponsors’ ethnic or national background.

## 1.2 The Public Debate about Immigration to Norway

The current Norwegian population of approximately five million people includes 547.000 migrants originating from 219 different countries (Statistisk sentralbyrå (SSB), 2012). As in other European countries, immigration control and the integration of migrants and their children are central issues on the public agenda, much discussed among policy makers and in the media (Koopmans, 2005; Grillo, 2008; Van Walsum, 2008; Lithman, 2010; Wray, 2011). Compared to many other European countries, particularly the former colonial powers of Western Europe such as France, the Netherlands and the UK, Norway has had a relatively homogenous population with low levels of immigration. However, immigration to Norway is not a new phenomenon and ethnic diversity has been an existing reality for centuries (Fuglerud, 2001; Kjeldstadli, 2003). Indigenous populations and national minorities such as the Sami, the Roma, Tatars, the Kven and the Jews have long histories in Norway, but have systematically been left out of the myths of Norwegian homogeneity (Kennedy-

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macfoy, forthcoming 2012: footnote 7). Moreover, Norway's current immigration and integration regime is characterised by both continuity and change compared to previous measures of immigration control and assimilation (Fuglerud, 2001; Kjeldstadli, 2003).

Until the late 1960s, migration was subject to little regulation and politicisation (Brochmann et al., 2010: 38). From then on, labour migration from outside Europe increased (Brochmann et al., 2010: 223-6) and was soon followed by restrictions on immigration. The so-called 'immigration stop' introduced in 1975, represented an important shift in Norwegian immigration policy. However, rather than putting an end to immigration, this regulation established restrictions on unskilled labour migration (Brochmann, 1997, 2003, 2010; Hagelund, 2003: 23-4). Eileen Muller Myrdahl (2010a) has analysed the politicisation of immigration and integration that led to the immigration stop. She argues that the anxiety related to migration, which developed in Norway after 1968 was related to the perceived difference of labour migrants from Asia, Africa and Southern Europe, rather than any dramatic increase in the number of labour migrants. Migrants from these regions were seen as unassimilable due to what was seen to be their inherent and excessive difference from the Norwegian majority population. This perceived difference was marked primarily by phenotype and the immigration stop was a tool for managing and preventing the immigration of people from Asia, Africa and Southern Europe (Myrdahl, 2010a: 74).

As labour migration was heavily restricted from 1975 and onwards, family migration and asylum became the two central routes of immigration to Norway (Hagelund, 2003: 79). During the mid 1980s, the number of people applying for asylum in Norway rose dramatically from a few hundred annually to 8613 in 1987. As a response to this increase, the Norwegian Directorate of Immigration was established the following year in order to assess applications for immigration (Utlendingsdirektoratet, 2008). In 1987, immigration became a central issue in the election campaign for the first time, and the Progress Party, a populist anti-immigration party, achieved its best election result up to that date (Hagelund, 2003: 24, 8-30). While immigration has not always been a central issue in subsequent elections, immigration in general, and asylum in particular, have

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been central issues on the Norwegian political agenda ever since (Brochmann et al., 2010: 240-7; Hagelund, 2003). Sociologist Anniken Hagelund (2003) has studied the Norwegian political discourse on immigration, and argues that the notion of ‘decency’ has been central. Decency implies a moral responsibility to aid people in need and this notion is closely related to a national self-image as a nation governed by humanitarian principles. At the same time, there has been a broad political consensus about the need to control and manage immigration. Consequently, the political rationale for asylum and refugee policies has been to offer asylum only to groups identified as truly in need and, at the same time, uphold a strict control regime (Hagelund, 2003).

While asylum seekers have been subject to massive public attention, family migration remained absent from the public debate about immigration until more recently. During the last decade, however, family migration has become the subject of considerable attention from policy-makers and the media (Gudbrandsen, 2011; Hagelund, 2008). Public debates and policy changes with regard to family immigration regulations are closely related to a growing problematisation of migrant families within public discourse. Issues such as forced marriage, arranged marriage, female genital mutilation, patriarchal family relations, violence against women and children, and second generation migrations marrying a person from their parents’ country of origin, figure as central concerns in the public debate about immigration and integration. These issues are often perceived as evidence of the failed integration of migrants, and have led to a general politisation and problematisation of ‘the migrant family’ (Hagelund, 2008).

The family immigration regulations that receive by far the most media coverage in Norway are means those aimed at preventing forced marriages (Gudbrandsen, 2011: 9). In 2006, when a proposal to introduce an age limit for marriage migration to prevent forced marriage opened to a public hearing, the media coverage on family migration reached its peak (Gudbrandsen, 2011: 9). In fact, the regulation of family migration, and in particular the means to prevent forced marriages, has received more public attention than almost any other legislative discussions (Myrdahl, 2010b: 104). The proposed age limit for marriage migration was eventually withdrawn after

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massive criticism and controversy. Other European countries, however, for example, Denmark, the UK and the Netherlands, have introduced such policies with reference to the prevention of forced marriages. While a proposed age limit was withdrawn in Norway, measures to prevent forced marriages still figured as a central concern in the proposal for a new Norwegian Immigration Act presented in 2006 (AID, 2007).

However, family migration has also been discussed more broadly in newspaper articles. Political scientist Frøy Gudbrandsen (2011; forthcoming 2012) has studied the media coverage of family migration in Norway and Sweden. According to Gudbrandsen, most Norwegian newspaper articles on the issue, in particular during the 1990s, portray an individual applicant as victimised by restrictive immigration policies. In these stories, the Norwegian Directorate of Immigration or some responsible politician is presented as the villain of the story. Implicitly or explicitly, stories about families victimised by the Immigration administration and strict family immigration regulations represent a liberal criticism in favour of less restrictive policies. Criticism of the assessment practices of the Norwegian Directorate of Immigration also frequently occur in these newspaper articles (Gudbrandsen, 2011). Other stories may be read as advocacy for more restrictive policies. These typically uncover instances where applicants are presented as criminals circumventing immigration regulations, for example, through marriages of convenience (Gudbrandsen, 2011).

The public debate about, and the regulation of, family migration share similarities with, but also diverges from, that of asylum and labour migration. While labour migration is usually discussed as a question of the needs of the Norwegian economy, family migration and asylum cannot be reduced to a question about economic cost and needs (Hagelund, 2003). As Hagelund (2003) has shown, the notion of decency implies a moral duty to aid the truly needy, and this rhetoric has structured the regulation of asylum. Humanitarian principles are weighted against concerns about uncontrolled immigration, integration challenges and burdens on welfare budgets. In a similar way, family migration is caught between human rights on one hand, and the principle of sovereign border control on the other. Human rights conventions establish

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the right to family life and the principle of the unity of the family, but national policy-makers may effectively restrict these rights through family immigration policies. Concerns about welfare burdens and forced marriages have been central to recent restrictions (Eggebo, 2010). Moreover, as Myrdahl has pointed out, the phenotype and citizenship of migrants may be more central to immigration regulations and debates than actual numbers. As in the political debates about labour migration during the 1970s, public debates about family immigration regulations often seem to focus on the perceived difference and the presumed inassimilability of migrants originating from Asia and Africa (Myrdahl, 2010a). For example, cross-border marriages between a Norwegian citizen with migrant parents and a person coming from the parents' country of origin are often presented as involving a great risk of forced marriage and being a hurdle to integration. Such marriages have been widely discussed in public debates, despite the fact that they constitute no more than three percent of the total number of cross-border marriages (Daugstad, 2008: 60-5).

### 1.3 Patterns of Marriage Migration to Norway

Williams has reviewed statistics on marriage migration and concludes that it is difficult to quantify the global significance of this category of migration (Williams 2010: 60-3). Firstly, official data rarely separate marriage migration from other forms of migration. Secondly, data collected by national agencies are not comparable across borders. Finally, statistics are shaped by local concerns and preoccupations about how to control migration: 'the sometimes controversial and always debated nature of cross-border marriage affects both the data collected and the analysis of the data local context, in terms of culture, politics and history as well as family and marriage practice, informs how marriages seen as "aberrant" or problematic are reported and measured' (Williams, 2010: 60-1).

This critique also seems to be somewhat relevant for the Norwegian statistical data. Most statistical publications about family migration are organised according to the distinction between family reunion and family formation (Daugstad, 2006, 2008). As a consequence, numbers on marriage migration have been difficult to subtract.

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Moreover, the distinction between family reunion and family formation may also be seen as a politicised categorisation; problems such as marriages of convenience, forced marriages and abuse of migrant women and children are related to the category of family formation. According to the law proposal for a new Immigration Act, family reunions are seen as less problematic and more legitimate than family formations (AID, 2007).

A substantial amount of statistics is available on family and marriage migration to Norway, primarily through the publications of Statistics Norway (SSB) and the Norwegian Directorate of Immigration. Moreover, the registers of the Directorate contain large amounts of data yet to be analysed and published. Between 1990 and 2008, marriage migration constituted 26 per cent of all immigration into Norway; almost 100.000 persons in total, out of which 75 percent were women and 25 percent were men (Henriksen, 2010).<sup>4</sup> During the early 2000s, most marriage migrants originated from Thailand, Russia, Pakistan, Turkey and the USA (Daugstad, 2006: 43) and since 2004, a large number of family migrants, including marriage migrants, has originated from Poland, Iraq and Somalia and Eritrea (Henriksen, 2010: 13; Utlendingsdirektoratet (UDI), 2012b). Norwegian citizens as well as non-citizens residing in Norway may sponsor family migrants. While most sponsors are Norwegian citizens (60 percent), a substantial are migrants (40 percent) (Daugstad, 2006: 41).<sup>5</sup>

The patterns of marriage migration to Norway are shaped by gender and national background. The vast majority of marriage migrants from Thailand, Russia and the Philippines are women married to male Norwegian citizens. The largest groups of migrants married to female Norwegian citizens come from the USA, UK and Turkey (Daugstad, 2008: 40-4). Most Polish family migrants are women applying for family reunion with their Polish husbands working in Norway (UDI, 2008:9). Somali family

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<sup>4</sup> The number and share of marriage migrants is estimated on the basis of the categories family formations (63.105) and family reunions with persons over 18 (35.929) (Henriksen, 2010: 32). The total number of immigrants in this period was 377.000 persons (Henriksen, 2010: 9). Daugstad also finds that marriage migration constituted 26 per cent of all migration to Norway between 1990 and 2006 (Daugstad, 2008: 73).

<sup>5</sup> The category 'Norwegian citizens' used here includes both citizens with a non-migrant background, constituting 57 percent of sponsors, and Norwegian citizens with immigrant parents, constituting 3 percent of sponsors.

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migrants are predominantly spouses or children under 18 years applying for family migration with a Somali citizen settled in Norway (Henriksen, 2010: 18-9), and Pakistani marriage migrants are usually married to immigrants from Pakistan or Norwegian citizens of Pakistani parents (Daugstad, 2006: 44-5).

The number of marriage migrants to Norway has increased considerably over the last twenty years. In 1991, 1700 persons received a residence permit on this basis (Daugstad, 2006: 40), and in 2008 the annual number of permits reached 8014.<sup>6</sup> In 2010 however, the number of family immigration permits authorised, and, therefore, also the number of marriage migrants, decreased considerably. There are two main reasons for this recent reduction. Firstly, European Union (EU) and European Economic Area (EEA) nationals and their family no longer have to apply for family immigration, consequently, this group is no longer present in these statistics. Secondly, a stricter subsistence requirement for family migration has led to a significantly higher rejection rate (Utlendingsdirektoratet, 2011: 28-9).

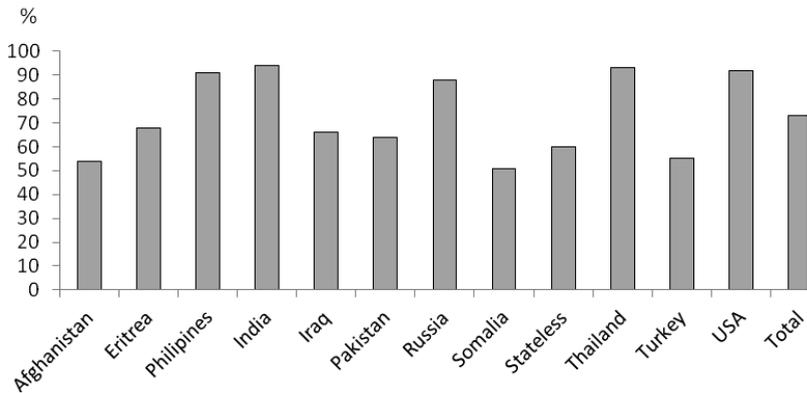
Statistics from the Norwegian Directorate of Immigration show that rejection rates vary considerably depending on gender and national background. For citizens from India, the US, the Philippines and Thailand, more than 90 percent of all applications for family migration were approved. For citizens from Somalia, Afghanistan and Turkey, however, almost 50 percent of all applications are rejected.<sup>7</sup> There is no research systematically investigating and explaining these patterns, but the Directorate reports that the subsistence requirement is the main reason for high rejection rates, and that this affects applicants from different countries disproportionately (UDI, 2012b). Most family migrants from Somalia and Afghanistan have a sponsor from the same country of origin (Daugstad, 2006, 2008), and these groups have weaker ties to the labour market than the majority population (Nerland, 2008). Consequently, it could be

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<sup>6</sup> Statistical table from the Norwegian Directorate of Immigration including cohabitants, spouses and registered partners. Unpublished.

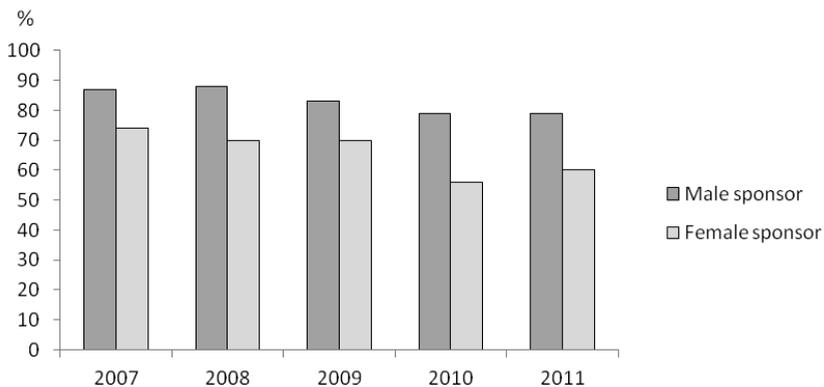
<sup>7</sup> Total: N = 17747. Afghanistan: N = 710. Eritrea: N=1279. Philippines: N= 1076. India: N= 565. Iraq: N = 834. Pakistan: N= 639. Russia: N= 691. Somalia: N= 2626. Stateless: N= 405. Thailand: N= 1271. Turkey: N= 367. USA: N= 507.

expected that these sponsors would be unable to fulfil the subsistence requirement more often than other groups of sponsors.



*Figure 2. Rates of approval in 2011, according to the applicants' citizenship. Source of data: The Norwegian Directorate of Immigration.*

In 2011, 73 percent of all applications for marriage migration were approved and 27 percent were rejected. Rejection rates vary depending on the sponsor's gender; rejection rates are higher when the sponsor is female rather than male:<sup>8</sup>



*Figure 3. Columns illustrate rates of approval according to the sponsors' gender. Source of data: The Norwegian Directorate of Immigration.*

<sup>8</sup> 2007: Male sponsor N=5689. Female sponsor N=1925. 2008: Male sponsor N= 5962. Female sponsor N= 2057. 2009: Male sponsor N= 6612. Female sponsor N= 2457. 2010: Male sponsor N= 5670. Female sponsor N= 2062. 2011: Male sponsor N= 7136. Female sponsor N= 2661.

As we see from the above table, male applicants, married to a female sponsor, have a higher risk of having their application rejected than female applicants married to a male sponsor. Even though the mechanisms explaining these variations have yet to be investigated, it seems likely that this variation could be explained, at least partly, by the increased subsistence requirement introduced in 2010. As the average salary is considerably lower for women than men, income requirements are likely to affect men and women disproportionately.

## 1.4 The Legal Regulation of Marriage Migration

### 1.4.1 Regulations and Application Processes

If one is married to a person living in Norway, one has a legal right to family immigration (The Immigration Act 2008 § 40). There are two different set of rules for family immigration: the general rules (The Immigration Act 2008 chapter 6) and the rules according to the European Economic Area agreement (EEA agreement). The EEA-rules are applicable to EEA citizens exercising their freedom of movement, and their family members (The Immigration Act 2008 chapter 13). In this thesis, I focus on the general rules.

The legal right to family immigration requires certain conditions to be fulfilled. Firstly, there are conditions that concern the marriage: it must be formally legal, the spouses must live together and the marriage must be ‘real’. A formally legal marriage is voluntary, none of the spouses are already married, they are not closely related and both partners were present and above the age of 18 when the marriage was contracted. A formally valid relationship will, however, not give the right to marriage migration if it is ‘without reality’ and entered into with the main purpose of circumventing immigration laws (NOU, 2004: 20: 226-30; The Immigration Act, 2008: § 40). This requirement is meant to prevent immigration on the basis of so-called marriages of convenience and it is discussed thoroughly in ‘A Real Marriage? Applying for Marriage Migration to Norway’ (Eggebø, 2013). Same-sex registered partners have the right to family immigration on the same terms as married couples, and from 2009, the

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Norwegian Marriage Act allows for same-sex marriage. Cohabitation qualifies for marriage migration when the partners have children together or can document that they have lived together for a minimum of two years.<sup>9</sup>

Secondly, there are demands that the sponsor has to meet.<sup>10</sup> Most importantly, all sponsors have to fulfil the requirement of adequate housing and means of subsistence. This means that the sponsor have to document an income of a minimum of 242.440 NOK, which is approximately 33.000 Euros. This regulation is discussed in detail in ‘The Problem of Dependency: Immigration, Gender, and the Welfare State’ (Eggebø, 2010).<sup>11</sup> Some people are required to work or study in Norway for four years before they can sponsor a marriage migrant. This requirement is applicable for family formation in cases where the sponsor has immigrated to Norway for other purposes than labour.

As a general rule, applicants for marriage migration are required to hand in the application to the Norwegian embassy in their country of origin.<sup>12</sup> Applicants with a residence permit in Norway for at least nine months, or applicants with citizenship that does not need to be accompanied by visa to enter Norway, may hand in the application to the local police in Norway. While one can apply electronically on the internet, it is necessary to go to the embassy or to the police station in person to deliver a hard copy of the required documentation. The specific documentation required depends on the applicant’s country of origin, but all applicants have to provide valid identification papers (passport, national ID-card and birth certificate), a marriage license, papers

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<sup>9</sup> Fiancées may apply for a six month temporary residence permits in Norway (fiancée permit), as long as they have the intention of marrying within this period. After the wedding, the migrant may apply for marriage migration.

<sup>10</sup> Foreign citizens can sponsor marriage migrants as long as they have a permanent residence permit or a temporary permit which may qualify for a permanent permit. This may apply to refugees, labour migrants or persons with a residence permit on humanitarian grounds. People with a time limited residence permit in Norway may also bring their family to live with them during their stay. This could be applicable, for example, to students, researchers or victims of trafficking.

<sup>11</sup> Recently, however, there have been some additional changes in the subsistence requirement (Justis- og beredskapsdepartementet, 2012b). These were issued by the Ministry of Justice and Public Security on July 6, 2012 and are naturally not discussed in the 2010 publication. An analysis and discussion of these most recent changes is outside the scope of this thesis.

<sup>12</sup> Applicants are not allowed to enter Norway while the application is being assessed. In certain exceptional cases, it is possible to receive a D-visa, which gives the applicant the right to enter Norway to apply for family immigration and stay there during the time of assessment.

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documenting that the housing and subsistence requirement is fulfilled, and a copy of the sponsor's passport. In addition, marriage migrants are asked to fill in a questionnaire concerning the marital relationship. The questionnaire includes questions about where and when the spouses met, how many times they have met altogether, whether either of the partners has been married before or has children, when they decided to marry, and where, how and by whom they were wed.<sup>13</sup> All official documents have to be authorised and translated into Norwegian or English by a certified translator (UDI 2012a).

As a part of the application process, embassy personnel in the migrant's country of origin, and the local police in Norway interview applicants and sponsors, respectively.<sup>14</sup> These interviews are undertaken in order to ensure that immigration is not permitted if the immigration authorities find that it is a forced marriage or a marriage of convenience. Applications are assessed by the Norwegian Directorate of Immigration.<sup>15</sup> The assessment process usually takes between three and twelve months depending on the applicant's country of origin. Rejected applications may be appealed. Appeals are, after a reassessment by the Norwegian Directorate of Immigration, handled by the Norwegian Immigration Appeals Board. If the application is approved, the nearest Norwegian embassy issues an entry visa. Family immigration permits are temporary and normally have to be renewed annually until a permanent residence permit is granted.

In order to obtain a permanent residence permit, a migrant must have held a temporary permit for a minimum of three years, and completed 600 hours of language and social studies classes (The Introduction Law § 17, The Immigration Act § 62).<sup>16</sup> According to the main rules of the Norwegian Citizenship Act, migrants must have been settled in

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<sup>13</sup> Questionnaires and a check-list of the necessary documents can be found at The Directorate of Immigration's webpage (see UDI, 2012a).

<sup>14</sup> Applicants from non-visa countries are usually not interviewed.

<sup>15</sup> Applications where there is no doubt about the outcome are assessed by the police. Most applications are, however, forwarded to the Directorate of Immigration (Barwin, 2011).

<sup>16</sup> For permits granted before January 1 2012, the requirement is 300 hours.

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Norway for seven years in order to apply for citizenship (§ 7). For marriage migrants married to a Norwegian citizens, however, three years of residence with a legal residence permit is sufficient for citizenship, required that the number of years married plus the number of year living in Norway equals minimum seven years (§ 12). This means that if a couple has been married for four years and living together in Norway for three years, the marriage migrant may apply for Norwegian citizenship.

#### **1.4.2 EEA-rules – Freedom of Movement or Loophole?**

The European Economic Agreement has had major consequences for Norwegian immigration policies. While Norway is not a member of the European Union (EU), it is part of the European Economic Area (EEA) and has implemented most of the EU regulations on immigration, freedom of movement and border control. Consequently, citizens of the EEA and their family members are subject to a different set of immigration regulations in Norway. According to the EEA regulations, EEA citizens have the right to freedom of movement, which encompasses the right to live and work anywhere within the EEA. With the enlargement of the EU in 2004, the right to freedom of movement was extended to include EU citizens from Central Europe. This led to a massive increase in the number of labour migrants from that region, in particular from Poland (Dølvik and Friberg, 2008). As many labour migrants have been accompanied by their family, the EU enlargement also led to an increasing number of family migrants to Norway.<sup>17</sup>

The family members of EEA citizens are subject to EEA-regulations, regardless of their own citizenship status. This means that third country nationals, that is, citizens from outside the EEA, may be subject to a different set of regulations depending on the sponsor's citizenship: while a Filipino migrant married to a Norwegian citizen is subject to the general regulations, a Filipino migrant married to a German citizen residing in Norway (or a Norwegian citizen who has been living in an EU country and returned to Norway) is subject to the EEA-regulations. This makes immigration

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<sup>17</sup> According to current Norwegian legislation, EEA citizens and their family no longer have to apply for a residence permit; all they need to do is to register in order to receive a residence card. This change in the administrative procedures led to a significant decrease in the number residence permits granted in 2010 (Utlendingsdirektoratet, 2011).

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regulations more favourable for EU-citizens than for Norwegian citizens. For example, there is no need to apply from the country of origin for family migrants under these regulations and there is no interviewing of sponsors and applicants. Furthermore, there is no need to document adequate housing and means of subsistence (Eggebø, 2010). Migration scholars have named this phenomenon the problem of 'reverse discrimination' (De Hart, 2007: 153; Kraler, 2010: 38).

Research on marriage migration has documented that some couples move, for example from Copenhagen in Denmark to Malmö in Sweden, in order to be able to take advantage of the EU regulations, rather than the general national regulations on family migration (Schmidt et al., 2009). Returning to the sponsor's country of origin after exercising freedom of movement, the marriage migrant will be under EU law (De Hart, 2007: 154; Schmidt et al., 2009: 26). Research suggests that an increasing number of cross-border marriage migrations make use of this route to migration (Kraler, 2010).

### **1.4.3 Norwegian Law from a Comparative Perspective**

The Nordic model of marriage, as it has developed since the early twentieth century, is usually regarded as secular and progressive compared to the family laws of other European countries. This is due, for example, to the principle of equality between man and wife and the liberal divorce regulations (Lando, 2004; 2006; Melby et al., 2000). According to Norwegian civil law, marriage is first and foremost a formal contract concerning the form and legal effects of the union, and not the substance of the relationship. There are no criteria for cohabitation, consummation of the marriage or any other requirements concerning practices, motives or emotions for a marriage to be formally legal. In principle, spouses are free to decide their motives for marrying and how to live their marital life. In many other European countries, however, family law specifies certain intentions and practices as essential for a marriage. For example, in the UK and Portugal, consummation is legally required, while in Germany and France cohabitation is required for spouses, and in the Netherlands and Portugal fidelity, care,

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support and cohabitation are defined as marital duties (Crowhurst, 2008: 290-1; Lando, 2004: 55, 85-6; Santos, 2008: 202-4).

The Norwegian regulations on marriage migration through the immigration act differ from the regulation of marriage through civil law in some important ways. According to immigration regulations, spouses are required to live together. Moreover, these regulations also distinguish between legitimate and illegitimate motives for marrying, stating that a formally legal marriage will not grant the right to family migration if it is 'without reality' and entered into with the primary purpose of circumventing immigration laws (Eggebø, 2013). While the actual regulations do not mention love or any other emotions as foundational for marriage, it has been argued that love is an underlying criterion for marriage migration to Norway (Myrdahl, 2010b). In effect, cross-border marriages are potentially subject to a different set of rules, which are more detailed and specific, than marriages between Norwegian citizens.

Recent developments in European family immigration regulations are characterised by two major trends: restriction and harmonisation. Based on a historical comparative analysis of family immigration policies in nine European countries,<sup>18</sup> Albert Kraler (2010) argues that since the 1990s, family migration has become more strictly regulated and increasingly problematised. In addition, national regulations are increasingly harmonised through the establishment of common standards, as well as 'horizontal policy diffusion'; that is, when one country follows the example of another by adopting similar legislation or policies. Recent policy changes have focused on three issues in particular: marriages of convenience, forced and arranged marriages, and integration (Kraler, 2010: 39-40).

With reference to the prevention of forced marriages, Denmark, Germany, the Netherlands and the UK have increased the age limit for marriage migration.<sup>19</sup> Austria, Denmark, France, Germany and the UK have introduced mandatory language and integration courses for newly arrived migrants, and the Netherlands has also introduced

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<sup>18</sup> Austria, Czech Republic, Denmark, France, Germany, Italy, The Netherlands, Spain and the UK.

<sup>19</sup> After a Supreme Court ruling, the UK recently abolished the 21 year rule.

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pre-entry integration tests (Kraler, 2010: 41-2). These requirements are justified as being integration measures. Through the regulation of marriages of convenience, immigration authorities have considerable discretionary powers to investigate the private life of marriage migrants (De Hart, 2006; Kraler, 2010). All EU countries also require evidence of material support in the form of adequate accommodation, sufficient income or health insurance (Eggebø, 2010: 298; European Migration Network, 2008: 22-3).

Existing comparative reports on family immigration regulations do not include Norway (European Migration Network, 2008; Kraler, 2010; SOPEMI, 2000). However, as the literature makes clear, in many ways, Norwegian regulations are similar to those of other European countries, and policy proposal as well as policy debates cross borders. In line with other European countries, Norway has an income requirement for sponsors of family migrants (Econ Pöyry, 2010: 51-2; Eggebø, 2010; Staver, 2010). Also, marriage migrants have the right and duty to participate in language and social studies tuition. Even though the regulations on marriages of convenience are largely harmonised, Norway had a broad definition and a comprehensive set of sanctions, and this indicates somewhat stricter regulations than in other countries (Econ Pöyry, 2010). However, as mentioned previously, Norway has not increased the age limit for marriage migration, as has Denmark (Fair, 2010; Schmidt, 2011a; Siim and Skjeie, 2008). Neither has any pre-entry integration tests for marriage migrants been introduced, as they have been in the Netherlands (Vonk and Van Walsum, 2012).

There is a current lack of comparative analysis of Norwegian family immigration regulations. However, an on-going PhD-project by Anne Staver compares family immigration regulation in Norway and Canada, and a recent publication from the European Migration Network includes data on Norway. Furthermore, Grete Brochmann et al. (2010) have compared the overall immigration policies in Norway, Sweden and Denmark, and argue that these three countries, all famously known as examples of social-democratic welfare states, have three different immigration regimes. According to this study, Denmark has a restrictive immigration regime,

Sweden has a liberal regime and Norway is somewhere in the middle (see also Gudbrandsen, forthcoming 2012: 12). The question is whether this conclusion holds true if family migration policies were to be analysed separately. Another on-going study of migration flows and regulations, which includes a comparative study of family migration in Norway and Denmark, may give insight into this question.<sup>20</sup>

## 1.5 Thesis Overview

The thesis proceeds as follows: firstly, I present the abstracts from the three articles, in order to give the reader an overview of the articles included in this thesis. Secondly, I discuss theoretical perspectives on citizenship. My contribution to citizenship theory is to combine the critique of the public/private distinction with the problematisation of the inside/outside distinction of citizenship. Thirdly, I present the methods and the methodology applied in this thesis. A central strength of this research project lies in the combination of different data and the inclusion of different actors' perspectives. In the methodology chapter I put emphasis on describing the different data and how and why it has been combined. Finally, I discuss the overall findings of the thesis. Drawing on different data and a broad range of theoretical perspectives, I have identified some central tensions, dilemmas and paradoxes that characterise the regulation of marriage migration. Copies of the three articles as well as interview guides are printed in the appendix.

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<sup>20</sup> The project is run by The Institute for Social Research, see <http://www.samfunnsforskning.no/ISF/Prosjekter/Paagaende-prosjekter/Migration-to-Norway-Flows-and-Regulation>

## 2. Article Abstracts

*The Problem of Dependency: Immigration, Gender, and the Welfare State* (Eggebø, 2010)

This article discusses the regulation of marriage migration to Norway through an analysis of the subsistence requirement rule, which entails that a person who wants to bring a spouse to Norway must achieve a certain level of income. Policy-makers present two main arguments for this regulation. Firstly, the subsistence requirement is a means to prevent forced marriage. Second, its aim is to prevent family immigrants from becoming a burden on welfare budgets. The major concern of both these arguments is that of dependency, either on the family or on the welfare state. The article investigates the representations of the ‘problems’ underpinning this specific policy proposal, and argues that the rule in question, and immigration policy more generally, needs to be analysed with reference to the broader concerns and aims of welfare state policy and gender equality policy.

*A Real Marriage? Applying for Marriage Migration to Norway* (Eggebø, 2013).

Marriages of convenience have become a central concern in political debates about immigration policy. According to Norwegian regulations, the right to marriage migration only applies to ‘real’ relationships. The notion of a real or genuine marriage, as opposed to a marriage of convenience, raises the question of what characterises a legitimate intimate relationship. This article investigates how marriage migrants and their partners perceive the application process for family immigration to Norway, and how they are affected by the idea of marriages of convenience. This article argues that the scholarly literature on contemporary intimate relationships is relevant to studies of migration, and provides important insights into the narratives of marriage migrants and their partners. On one hand, ‘the pure relationship’ (Giddens 1992) seems to be one standard which cross-border marriages are sometimes judged against. On the other hand, the ideal of the pure relationship is also used by marriage migrants and their partners to question immigration regulations. The pure relationship is one, but far from

the only, normative ideal present in the narratives of the interviewees. Interviewees draw on several different, and sometimes contradictory, norms, ideals and narratives of intimacy when they talk about and justify their own relationships, after being confronted with the immigration regulation's requirement for a real marriage.

*'With a heavy heart': Ethics, emotions and rationality in immigration administration* (Eggebo, 2012).

This article analyses decision-making processes concerning applications for family immigration to Norway by giving an account of the dilemmas and challenges faced by the employees of the Norwegian immigration administration. I argue that these civil servants negotiate two somewhat different ethical principles in which the foundation for ethical conduct is either emotion or rationality. The article investigates the ethical potential of bureaucracy and aims to contribute to sociological debates about ethics, emotion and rationality.

### 3. Theoretical Perspectives

This thesis investigates the regulation of marriage migration to Norway. Throughout the research process, my attention has repeatedly been drawn towards the concept of ‘citizenship’. In its most straight forward sense, citizenship means state membership. A passport, the very symbol of citizenship status, is a crucial prerequisite for legally crossing the borders of nation states. And when people marry across national borders, the marital couple may be physically separated by the different colour of their passports. This thesis investigates what happens when a non-citizen enters into a union with a citizen, and the national border is drawn, quite literally, down the middle of the marital bed.

In academic literature, and also in the everyday use of some languages (see Nyhagen Predelli et al., 2012), the concept of ‘citizenship’ denotes a whole lot more than state membership. For example, citizenship is used to denote rights and duties, belonging, participation, inclusion and equality (Kennedy-Macfoy, 2007). ‘Citizenship’ has been developed as a descriptive and analytical concept, and as a theoretical tradition (Lister, 2003). The citizenship literature is diverse; many different topics, interests and disciplines gather under the umbrella of citizenship. The concept is used to analyse many different issues, for example democracy and political participation, gender equality, diversity and migration (for example Ackers, 2004; Benhabib and Resnik, 2009; Dagger, 2002; Fortier, 2008; Kofman, 2005; Lee, 2010; Rubenstein, 2003; Siim, 2000; Young, 1989). Also, some scholars and activists, for example feminists and anti-racists, use citizenship as a political concept to advocate equality and justice.

The citizenship literature includes discussions about the relationship between the citizen and the state as well as relationships between citizens. The regulation of marriage migration very much concerns people’s private life as well as public interest. As such, marriage migration is situated at the intersection of the public and the private. Moreover, marriage migration is also situated at the borderline between the inside and the outside of the nation state: one spouse formally belongs to the nation-state and the other does not, the married couple simultaneously belongs and does not belong to the

nation-state. Consequently, marriage migration simultaneously marks the distinction between the private and the public and the border between the inside and the outside of the nation state. In this study on marriage migration, I need an overall theoretical framework for analysing how the borders of the nation state are drawn, and with what implications. Moreover, I also need theoretical perspectives that can capture the fundamental paradoxes of cross-national marital unions. These are both utterly private and intimate, but at the same time extremely politicised, because they concern national borders and immigration politics. The citizenship literature is potentially useful for analysing this paradoxical situation. One limitation with the current scholarship of citizenship, however, is that the critique of the public/private distinction and the problematisation of the inside/outside dimension of citizenship are discussed separately. In order to properly analyse marriage migration, a phenomena which clearly encompass the public and the private as well as the inside and the outside of the state, I argue that the insights from these two discussions have to be combined.

This theory chapter proceeds as follows: firstly, I present some previous research on marriage and family migration and discuss the empirical focus and the theoretical perspectives dominating this research. Next, I present sociologist T.H. Marshall's perspectives on citizenship. His historical account of the development of citizenship rights in England has become a point of departure in much citizenship literature. Secondly, I review some literature about citizenship and gender, sexuality and ethnicity (including Kymlicka, 1995; Lister, 2003; Plummer, 2003). While these contributions are inspired by Marshall's emphasis on the relationship between citizenship and social inequality, they expand the scope of analysis to include other social groups and other dimensions of citizenship. Importantly, this stream of literature has developed a critique of the public/private distinction embedded in the concept of citizenship. Thirdly, I present some perspectives on citizenship and the nation state (including Bosniak, 2006; Hammar, 1990; Yuval-Davis, 2007). This stream of literature focuses on the inside/outside distinction embedded in citizenship, and analyses the problematic connection between citizenship rights and the nation state. I

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conclude this chapter by discussing how citizenship can provide a useful theoretical framework for an analysis of marriage migration.

### 3.1 Previous Research on Marriage and Family Migration

In a 2004 article, migration researcher Eleonor Kofman argued that family migration has been neglected in European migration research (Kofman, 2004). In the subsequent years, however, a substantial body of research on family migration to Europe has emerged. Some studies focus on the marriage patterns and practices of different ethnic minorities in Europe (Beck-Gernsheim, 2007; Bredal, 2004; Charsley, 2005, 2006; Grillo, 2008; Liversage, forthcoming; Timmerman, 2006; Timmerman and Wets, 2011). Other studies investigate marriages between people from different ethnic, racialised or national groups, so-called ‘mixed marriages’ or ‘cross-cultural marriages’ (Breger and Hill, 1998; Fleicher, 2011; Flemmen and Lotherington, 2009; García, 2006; Górný and Kepinska, 2004; Panitee, 2011; Riaño, 2011). Finally, migration scholars analyse family migration legislation in different European countries and according to European Union law (De Hart, 2006, 2007; Hagelund, 2008; Kraler, 2010; Myrdahl, 2010b; Van Walsum, 2008; Wray, 2008). Some of these studies also include ethnographic data on how migrants themselves are affected by, and respond to, regulations (Breger, 1998; Fair, 2010; Kraler, 2010; Schmidt, 2011a; Strasser et al., 2009).

Social inequality is the most central issue in the emerging scholarship on family and marriage migration. While gender has been a pivotal dimension of social inequality in many contributions (Constable, 2005; Kraler, 2010; Williams, 2010), other dimensions of inequality, in particular race and ethnicity, but also sexuality and class have gained empirical as well as theoretical interest (Luibhéid, 2002; Mühleisen et al., 2012; Myrdahl, 2010b; Van Walsum, 2008; Wray, 2011). Scholars have investigated how cross-border marriage migration is shaped by, and may undermine as well as reinforce, existing patterns of social inequality. Immigration regulations and their implementation are also related to patterns of social inequality. For example, gendered

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and racialised stereotypes may inform immigration policy and administration in ways that create subtle or more overt forms of discrimination.

Marriage migration and social inequality have been investigated through different theoretical lenses. In the recent book *Global Marriage. Cross-Border Marriage Migration in Global Context*, migration scholar Lucy Williams draws on sociological perspectives on structure and agency in order to theorise gendered patterns of marriage migration (2010: 34-51). A recent project on family immigration regulations in Europe employs the concept ‘civic stratification’ in order to investigate the hierarchies of stratified rights created by immigration regulations (Kraler, 2010). Others have analysed the inclusionary and exclusionary processes of immigration regulations by drawing on post-colonial theories, critical race theory, and Michel Foucault’s theorising of sexuality (Lan, 2008; Luibhéid, 2002, 2010a; Myrdahl, 2010b; Van Walsum, 2008). Gender, sexuality and family norms function as central markers of ‘otherness’, and family immigration policies are deeply embedded in the construction of national identities and belonging (Bonjour and De Hart, forthcoming 2012; Myrdahl, 2010b; Schmidt, 2011a).

Dependency is another central issue highlighted by several scholars of marriage migration (Breger, 1998; Kraler, 2010; Strasser et al., 2009; Tyldum, 2008; Williams, 2010). The regulation of marriage and family migration has traditionally been based on the assumption that family migrants consist of dependent women and children (Van Walsum, 2008; Van Walsum and Spijkerboer 2007). In the publication of the European Migration Network for example, ‘dependants’ family is the term used to describe family migrants (European Migration Network, 2008: 12). Moreover, regulations may also enforce dependency. Importantly, most European countries have probationary periods, ranging from one to five years, before marriage migrants can achieve a permanent residence permit independent of the marriage. During the probationary period, the residence permit depends on the marriage, and a separation or divorce would normally mean that the marriage migrant is forced to leave the country (European Migration Network, 2008; Systeme d’Observation Permanente sur les Migrations (SOPEMI), 2000). These regulations make marriage migrants’ legal status

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totally dependent on their partner, and this situation of dependency makes marriage migrants particularly vulnerable to domestic violence and abuse (Kraler, 2010; Lidén, 2005; Madsen et al., 2005; Patel, 2002; Tyldum, 2008; Williams, 2010).<sup>21</sup> In addition to legal dependency, marriage migrants may also find themselves to be socially and economically dependent on their partner, due to a lack of job opportunities, language skills and social network (Kraler, 2010; Tyldum, 2008; Williams, 2010). Some research on marriage migration to Europe reports that economic dependency may be experienced as particularly problematic for male marriage migrants because it contradicts traditional gender roles expecting men to be the family provider (Kraler, 2010: 57).

Globalisation, risk, individualisation and the transformation of intimacy are core issues in contemporary theoretical perspectives on modernity (Bauman, 2000, 2003; Beck, 1992, 1995; Giddens, 1992, 2000). These theoretical perspectives have also influenced studies of family migration to some extent. For example, Katharine Charsley has analysed the migration strategies of British Pakistanis drawing on theories of risk and risk management (Charsley, 2006). With this work, she shows how a case study of marriage migration may contribute substantially to the broader theoretical debate about risk management as a central feature of modernity. A theoretical interest in globalisation and transnational space has also informed several studies of family and migration (Schmidt, 2011c; Walsh, 2009; Williams, 2010; Wray, 2011: 10-3). Transnationalism challenges the nation-state as a frame of analysis, and investigates the ways in which social relations reach beyond national borders (Wimmer and Glick Schiller, 2002). Cross-national marriages are often the key to creating and sustaining transnational social relations and networks, consequently, marriage migration provides a key site for investigating transnationalism and transnational space (Williams, 2010: 204).

The family, intimate relations and emotions are subject to increasing scholarly interest among migration scholars. A growing interest in family and marriage migration might

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<sup>21</sup> Many countries, including Norway, have introduced regulations that allow divorced marriage migrants to stay in cases of domestic violence (see for example Eggebo, 2007; Madsen et al., 2005).

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be seen as a part of this trend. Nevertheless, the more general theoretical debates about emotions and intimacy in modern societies (Bauman, 2003; Beck and Beck-Gernsheim, 1995; Giddens, 1992; Jamieson, 1998; Roseneil and Budgeon, 2004; Weeks, 2007) are not as central to the current scholarship on marriage migration as one might expect. One exception, however, is Jennifer Patico's (2009) study of the Russian-American matchmaking industry. Drawing on theoretical perspectives on marriage and intimacy, she uses the case of cross-border marriage to contribute to theoretical understanding of love, intimacy and emotions in modern societies. In the recent book *Gender, Generations and the Family in International Migration*, Albert Kraler et al., (2011) argue that 'considerable benefit would be derived from bringing closer together the insights of family sociology and migration studies' (Kraler et al., 2011: 43). A similar argument is presented by Cecilia Menjivar (2010: 9) in the article 'Immigrants, Immigration, and Sociology: Reflecting on the State of the Discipline'.

Citizenship is not a very central theoretical concept in existing studies of marriage migration. However, some scholars propose that this might be a fruitful direction for theoretical development. Sociologist Bryan S. Turner for instance, uses the case of marriage migration as a point of departure for a theoretical discussion of citizenship, reproduction and the family. Since citizenship is usually transferred from parents to their children, regulating reproduction and family relations is a central part of citizenship policies. However, this has not been fully recognised within citizenship theory (Turner, 2008). Turner suggests that the case of international marriage is suited to challenge current understandings of citizenship because cross-national unions complicate the inheritance of citizenship status (Turner, 2008). A similar point is made by Linda K. Kerber who shows how some children of cross-national unions are left in a situation of statelessness, due to national citizenship policies (Kerber, 2009). In a recent book about marriage migration to the UK, legal scholar Helena Wray argues that the study of marriage migration might benefit from a radical reframing. Rather than conceptualising marriage migration as migration, it should be seen as a question about fulfilling citizenship rights (Wray, 2011: 238).

Several migration scholars have argued that the current scholarship on family and marriage migration is, despite being a strategic site for capturing contemporary processes of social change, theoretically and methodologically under-developed (Kofman, 2004; Kraler et al., 2011; Williams, 2010). With the three articles that comprise this thesis, I have aimed to contribute to theoretical developments in the scholarship on marriage migration by drawing on theoretical perspectives on 1) welfare state policy, 2) norms of intimacy, and 3) bureaucracy and emotions. These theoretical perspectives have been fruitful for empirical analyses of the regulation of marriage migration and point to the potential for further theoretical developments. The diverse scholarship on citizenship encompasses several of the issues and perspectives central to this thesis as well as other research on marriage migration, for instance social inequality, the nation state, intimacy, welfare state policies and migration. Consequently, I propose that the scholarship on citizenship theory can contribute to further theoretical developments in the field of family and marriage migration. Moreover, studies of marriage migration are suited to the development of citizenship theory.

### 3.2 Citizenship according to T.H. Marshall

According to sociologist T. H. Marshall, a citizen is a person who can claim a set of rights and duties vis-à-vis the state, and can be accepted as a full member of society (Marshall, 1992). According to this definition, citizenship has three central characteristics: first, it is a legal status. Second, it is a set of rights and duties. Third, it is about belonging to a community. Moreover, Marshall argues that citizenship is essentially a principle of equality; citizens are equal in status and have, in principle, the same rights and duties and the same claim to be accepted as full members of society (Marshall, 1992: 18-20).

In his famous essay ‘Citizenship and Social Class’ (1992), Marshall’s concern is to analyse the potential tensions between social inequality and the equality implicit in the concept of citizenship (Marshall, 1992: 17). While the development of civil rights and political rights guaranteed a status equality between citizens, such formal rights did

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little to change existing patterns of social inequality. Throughout the 19<sup>th</sup> century, however, there was a gradual recognition that the realisation of a principle of equality required more than equal status and formal rights, and measures were taken to remove barriers to the enjoyment of equal rights (Marshall, 1992: 20-7). The development of social rights, for instance welfare services such as education and unemployment benefits, more radically undermined social class differences. Marshall argued that the expansion of citizenship, from civil to political and social rights, has made the preservation of economic inequalities more difficult. ‘There is less room for them, and there is more and more likelihood of them being challenged’ (Marshall, 1992: 45).

Marshall traced the historical development of citizenship in England and acknowledged that the specific rights and duties of citizenship are historically and contextually contingent: ‘There is no universal principle that determines what those rights and duties shall be’ (Marshall 1992: 18). Nevertheless, he seemed to believe that the principle of equality implicit in the concept of citizenship could and should be developed and extended further to include more groups and more substantial rights: ‘The urge forward along the path thus plotted is an urge towards a fuller measure of equality, an enrichment of the stuff of which the status is made and an increase in the number of those on whom the status is bestowed’ (Marshall, 1992: 18). To Marshall, citizenship is a language with which to articulate a vision for a more equal and inclusive society. However, Marshall’s analysis of citizenship and social inequality has some ‘blind spots’ that may limit his vision of a more equal and inclusive society. First of all, the only dimension of social inequality he analyses is social class. While he seems to be aware that gender represents another relevant dimension (Marshall, 1992: 12), gender is, nevertheless, absent from his analysis.<sup>22</sup> Other dimensions of social inequality, for instance ethnicity and sexuality are not even mentioned. These ‘blind spots’ have been highlighted by scholars of citizenship who investigate the potential tensions between citizenship and various dimensions of social inequality, such as gender (Lister, 2003), ethnicity (Kymlicka, 1995, 2010) and sexual orientation

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<sup>22</sup>Discussing the development of citizenship rights, Marshall briefly mentions that ‘Perhaps one should say to all male members, since the status of women, or at least of married women, was in some important respects peculiar’ (Marshall, 1992: 12).

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(Plummer, 2003; Richardson, 2000). Secondly, it is important to note that the citizenship described by Marshall is a principle of equality confined to the nation-state: ‘the citizenship whose history I wish to trace is, by definition, national’ (Marshall, 1992: 9). The national boundedness of the concept largely goes unproblematised in Marshall’s essay. He does not question the fact that non-citizens are, by definition, excluded from the national community to which status, rights, duties and belonging are confined. In the current academic literature on citizenship, however, the connection between rights and the nation-state is increasingly questioned (see Bauböck and Guiraudon, 2009; Benhabib and Resnik, 2009; Bosniak, 2006; Brodie, 2004; Nash, 2009; Sassen, 2002; Soysal, 1994).

T. H. Marshall’s essay on citizenship and social class undoubtedly deserves its status as a classical text on citizenship. The ‘blind spots’ identified by later scholars, with regard to the concept’s implicit male norm and confinement to the nation state, are understandable given that the essay was first published in 1948. At that point in time, the women’s movement and the civil rights movements of the late 1960s and 1970s were yet to come. These movements have played an important role for the feminist and anti-racist academic critiques of citizenship. Moreover, the nation-state was perhaps a more self-evident frame of analysis during the mid twentieth century than it is today. Consequently, the limitations of Marshall’s analysis should be understood in light of the political context in which he was writing. Despite the fact that Marshall’s own analysis of citizenship and social inequality is limited to focusing on class inequalities, his conceptualisation of citizenship as status, rights and belonging, and the distinction between civil, political and social rights has proved to be a useful tool for empirical investigations of citizenship and other dimensions of social inequality.

### 3.3 Citizenship and Social Inequality

#### 3.3.1 Gender, Sexuality, Intimacy and Emotions

In this section, I present some contributions on citizenship and gender, sexuality, intimacy and emotions. Authors such as Ruth Lister (2003), Ken Plummer (2003) and

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Diane Richardson (1998) have contributed substantially to the current academic interest in the concept of citizenship by expanding it to include previously excluded groups and issues. Most importantly, for my argument here, these scholars have advanced a critique of the private/public distinction embedded in the concept of citizenship. This critique is inspired by the famous feminist movement slogan ‘the personal is political’ (Hanisch, 1970).

Scholars of gender and sexuality have criticised the scholarship on citizenship for being solely focused on the public sphere: ‘Citizenship nearly always refers to the social, civic, public world, not to individual, intimate, or private worlds (Plummer, 2003: 15). This focus on the public sphere has limited citizenship in two ways. Firstly, some groups, for instance women and sexual minorities, have historically and contemporarily been denied access to many citizenship rights. Secondly, some issues, such as family life, reproduction, sexuality and emotions has been largely absent from the citizenship discourse. This is because citizenship rights, including the right to vote and to be involved in politics, are public rights, whereas women’s role in family life and in society, and questions of sexuality, were traditionally viewed as belonging to the domestic (private) realm. Based on a critique of the public/private distinction, scholars have suggested adding new dimensions, usually associated with the private sphere, into the analytical framework of citizenship. Concepts such as ‘gendered citizenship’, ‘bodily citizenship’, ‘reproductive citizenship’, ‘sexual citizenship’, ‘intimate citizenship’ and ‘affective citizenship’ (Johnson, 2010; Lister, 2003; Plummer, 2001; Richardson, 1998; Richardson and Turner, 2001; Turner, 2008) have been proposed as a way to include excluded issues and groups.

Feminist scholars have engaged with the citizenship literature and investigated the relationship between citizenship and gender (Benhabib and Resnik, 2009; Bosniak, 2009; Halsaa et al., 2011; Lister, 2003; Siim, 2000; Young, 1989). They have pointed to the fact that women have been denied many citizenship rights, for example the political right to franchise (Lister, 2003: 69) or the right to keep and pass on citizenship to one’s children after marriage to a foreign citizen (Kerber, 2009; Van Walsum 2008; Wray, 2008). Across various welfare state regimes, social rights have,

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to a large extent, been contingent on labour market participation, and women's paid and unpaid labour within the private sphere has not guaranteed access to welfare rights such as unemployment benefits (Hagemann, 2006). The gendered division of labour, designating women to the private sphere and men to the public, has favoured the male citizen worker and excluded large groups of women from many civil, political and social rights (Siim, 2000: 15). In order to allow for a gender-sensitive analysis of citizenship, the public and the personal have to be understood as fundamentally entangled, and the concept of citizenship should include both rights and duties, as well as well as practices and identities (Lister 2003).

While sexual minorities and sexual rights have escaped analysis in much citizenship literature (Richardson, 1998), some scholars have critically analysed the relationship between sexuality and citizenship (Halsaa et al., 2011: 47-55; Lister, 2002; Plummer, 2001, 2003; Richardson, 1998, 2000). These scholars have shown how people are excluded from citizenship rights on the grounds of sexuality: for example, gay and lesbians are denied access to important civil, political and social rights through legal frameworks and social practices (Richardson, 1998: 88-9). It has also been argued that sexual and reproductive health and rights are central dimensions of citizenship, and different groups of citizens may have different access to such rights (Plummer, 2003; Richardson, 2000; Turner, 2008). Scholars of sexuality, like scholars of gender, question the exclusion of the private sphere from most conceptualisations of citizenship with this argument.

In the book *Intimate Citizenship. Private Decisions and Public Dialogues* sociologist Ken Plummer (2003) draws on insights from scholars of gender and sexuality, and sociological theory on the transformation of intimacy. He proposes 'intimate citizenship' as a sensitising concept that can capture the links between the private and the public spheres (Plummer, 2003: 15). Sociologist Sasha Roseneil has worked extensively with the concept 'intimate citizenship' and according to her definition, it is 'concerned with the processes, practices and discourses that regulate and shape the exercise of agency in intimate life' (Roseneil et al., 2012: 42). Her definition of intimate citizenship is concise, yet expansive enough to take into account both formal

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aspects of citizenship, such as laws and policy, and the more informal aspects of citizenship constructed through social and cultural practices (Roseneil et al., 2012: 41). Moreover, her work on intimate citizenship clearly illustrates the necessity for understanding the private and the personal as fundamentally interrelated aspects of citizenship (Roseneil et al., 2012).

With the concept ‘affective citizenship’ some scholars have sought to put the literature on citizenship in dialogue with the recent theoretical interest in emotions and affect (Fortier, 2010; Johnson, 2010). Carol Johnson uses the concept to ‘explore (a) which intimate emotional relationships between citizens are endorsed and recognised by governments in personal life and (b) how citizens are also encouraged to feel about others and themselves in broader, more public domains’ (Johnson, 2010: 496). What the concepts ‘intimate citizenship’ and ‘affective citizenship’ have in common, is an interest in the production and reproduction of social inequality between groups and individuals. Moreover, both concepts represent an effort to expand the citizenship literature by connecting it to other central theoretical perspectives, such as those on emotions and intimacy, thereby, expanding the concept of citizenship to include a focus on what is usually associated with the private or personal sphere.

### **3.3.2 Ethnicity and Culture**

Another strand of the citizenship literature has been preoccupied with the relationship between citizenship and racialised, ethnic, cultural and religious differences (Castles, 1994; Fortier, 2008; Joppke, 2007; Kymlicka, 1995, 2010; Young, 1989; Yuval-Davis, 2002).<sup>23</sup> In line with Marshall (1992), these scholars stress that equal citizen status does not guarantee equality of respect, resources, opportunities or welfare; social inequality continues to exist despite formal equality (Castles, 1994: 16; Kymlicka, 2010: 100). Unlike Marshall, however, they are preoccupied with ethnic and racialised hierarchies, in contexts where people from diverse cultures and ethnicities live together in the same spaces and places. These authors have a dual focus. On one hand,

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<sup>23</sup> The feminist scholarship on citizenship partly overlaps with the literature on multiculturalism and citizenship. Several feminist scholars have argued for analyses of citizenship combining different dimensions of social difference (e.g. Benhabib and Resnik, 2009; Lister, 2009; Siim and Skjeie, 2008; Williams, 1995; 2008; Yuval-Davis, 2007).

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they focus on the inclusion of ethnic and racialised minorities in the citizenship framework of analysis. On the other hand, they present normative political arguments in favour of minority rights.

Stephen Castles (1994) and Will Kymlicka (1995, 2010) describe the different types of minority rights, or multicultural policies, that have been introduced in liberal democracies, to promote equal access to citizenship for ethnic and racialised minorities. Examples of such rights are language rights, affirmative action, land rights, federal autonomy and exemptions from formal dress codes. Kymlicka (1995, 2010) has introduced an analytical distinction between minority rights for indigenous peoples, sub-state national groups and immigrant groups, and notes that in current political debate, minority rights for immigrant groups appear to be much more controversial than rights for the other two groups (Kymlicka, 2010).

Multiculturalism is also a normative political theory promoting a certain vision of a fair and equal society. Kymlicka underlines the normative underpinning of both multiculturalism and the concept of citizenship: he holds that multiculturalism can be conceptualised as ‘citizenisation’, that is, ‘developing new models of democratic citizenship, grounded in human rights ideals, to replace earlier uncivil and undemocratic relations of hierarchy and exclusion (...) multiculturalism is precisely about constructing new civic and political relations to overcome the deeply entrenched inequalities that have persisted after the abolition of formal discrimination’ (Kymlicka, 2010: 101-2).<sup>24</sup> Scholars of multiculturalism have introduced the concept ‘multicultural citizenship’ in order to a) describe minority rights and multicultural policies and b) dismantle ethnic and racialised hierarchies (Castles, 1994; Halsaa et al., 2011).

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<sup>24</sup> Multiculturalism has been challenged with the argument that it may threaten, rather than promote, the principle of equality embedded in the concept of citizenship (Joppke, 2002; Okin et al., 1999: 254). However, Kymlicka (1995, 2010) argues that minority rights are compatible with the principles of liberal-democratic citizenship and are indeed necessary to promote citizens’ sense of belonging to the community.

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### 3.3.3 Outside the Public Sphere and the Nation State

The literature focusing on gender, sexuality, race and ethnicity, have impacted on the conceptualisation of citizenship in two different ways: firstly, they have performed and encouraged analyses of the status and rights of minoritised groups, such as women, ethnic minorities, sexual minorities and racialised minorities, in terms of formal rights as well as the realisation of rights. Secondly, the above contributions have expanded the concept of citizenship to include new dimensions, which have not traditionally been analysed within the citizenship literature. Much of the feminist and the multiculturalist scholarship on citizenship have a noteworthy 'blind spot'. Despite the critique of exclusion and subordination, the exclusion of aliens from citizenship mostly escapes analysis (Bosniak, 2006; Joppke, 2002; Sassen, 2002). 'The idea of citizenship is invoked to refer to the condition of full belonging and recognition among already presumed members of the state. Ample attention is paid to "second-class citizenship" in various guises, but the issue of formal non-citizenship simply does not arise' (Bosniak, 2006: 10). Even though the feminist and multiculturalist conceptions of citizenship take difference into account, the nation-state continue to function as the implicit frame of analysis in many of these contributions (Bosniak, 2006; Joppke, 2002; Sassen, 2002). Consequently, many of these contributions fail to question the distinction between the inside and the outside of the nation state, a distinction fundamental to the concept of citizenship and essential for analysing migration. In order to fully understand the logics and paradoxes of marriage migration, conceptualisations of citizenship focusing solely on citizenship within the nation-state are inadequate. Central contributions on citizenship and gender, sexuality and ethnicity have to be supplemented by literature problematising the insider/outside distinction of citizenship.

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## 3.4 Citizenship and the Nation State

### 3.4.1 Acquiring Status and Rights

Some parts of the citizenship literature focus on the national boundedness of citizenship, and analyse the current and historical conditions for aliens to acquire citizenship status (Brochmann and Seland, 2010; Nyhagen Predelli et al., 2012) or rights (Morissens and Sainsbury, 2005; Sainsbury, 2006). In these analyses, citizenship is not first and foremost a principle of equality, but an exclusive and privileged status to which aliens can only be admitted on certain conditions. Here, 'citizenship' refers to the formal status as citizen of a nation state and is often used synonymously with nationality. Naturalisation is the process through which a non-citizen can become a (naturalised) citizen. States' citizenship regulations are often described in terms of three citizenship regimes *jus sanguinis*, *jus soli* and *jus domicil*. *Jus sanguinis* means that citizenship is transmitted from parents to children or their descendants, through the blood line. *Jus soli* means that citizenship is required by birth to any person born within the national borders regardless of the parents' citizenship or residence status. *Jus domicil* means that citizenship can be required through residence. *Jus sanguinis* has been the basis of the German citizenship regime, *jus soli* has been the basis for the North American one and *jus domicil* has been the basis of the French citizenship regime (Brochmann, 2002; Brochmann and Seland, 2010: 433; Koopmans, 2005; Statham and Koopmans, 2000). Today, most EU countries, in addition to *jus sanguinis*, allow for naturalisation through residence, when certain conditions are fulfilled (Joppke, 2002: 250). Such conditions include language courses, language tests, a citizenship test, knowledge about political systems, society and culture and pledges or oaths (Brochmann and Seland, 2010: 431).

Even though citizenship rights are tied to citizenship status, the formal status as a citizen is not always a precondition for having access to citizenship rights (Soysal, 1994). With regard to a number of civil and social rights, people with permanent residence status may have more or less the same rights as citizens. Within the European Union (EU), citizens of other EU countries are increasingly treated on equal

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terms as national citizens with regard to social rights and welfare benefits. Thus, Europeanisation has obliterated some of the differences between citizens and non-citizens with regard to rights (Brochmann, 2002; Hammar and Brochmann, 1999; Lister, 2003: 54; Nanz, 2009; Sassen, 2002: 282). Migration scholar Tomas Hammar (1990) uses the term ‘denizen’ to denote people granted citizenship rights without acquiring the formal status of a national citizen. However, it is important to note that regulations designate different rights to denizens, depending on their nationality, residence status and entry category (Kraler, 2010; Sainsbury, 2006). Empirical studies examining the social rights of migrants show considerable variation in welfare entitlements for migrants across entry categories, as well as welfare state regimes (Morissens and Sainsbury, 2005; Sainsbury, 2006). Consequently, the category of ‘denizen’ is not homogenous; it includes different groups with different rights. Thus, social inequality between citizens and different categories of non-citizens is a central issue.

### **3.4.2 Belonging to a (National) Community**

According to T.H. Marshall, citizenship is, in addition to status, rights and duties, essentially about being a full member of society and having a share in the social heritage (Marshall, 1992). While status, rights and belonging are interrelated, these are different characteristics of citizenship and do not necessarily overlap. People may be formal citizens without having a feeling of belonging and visa versa. For example, the ethnic majority population often do not consider ethnic and racialised minorities to belong to the nation even though they have the formal status and rights of citizens (Ahmed, 2004; Yuval-Davis, 2007).

According to the republican citizenship tradition,<sup>25</sup> democracy requires that citizens have a strong attachment to the political community that ‘grows out of a connection to their fellow citizens’. Without such a connection, democracy cannot survive (Dagger,

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<sup>25</sup>The citizenship literature is often described as consisting of two broad citizenship traditions: the liberal citizenship tradition and the civic republican citizenship tradition. The liberal citizenship tradition tends to emphasise the rights dimension of citizenship, while the civic republican citizenship tradition, to a larger extent, emphasises citizenship duties (see for example Lister, 2000: 13–42).

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2002: 148). Citizenship is a matter of legal status, but it is more than that. Citizenship has an ethical dimension which requires so called civic virtues, that is ‘commitment to a common good and active participation in public affairs (Dagger, 2002: 149). Some scholars have argued that immigration and ethnic diversity erode social cohesion and civic virtues, and consequently undermine political participation and the political support for welfare rights (Putnam, 2000; 2002).

Other scholars of citizenship focusing on belonging, criticise the exclusionary aspects of the current emphasis on social cohesion and civic virtues. They analyse how certain conceptions of national belonging may contribute to the exclusion of ethnic and racialised minorities (Fortier. 2010; Lithman. 2010; Yuval-Davis. 2007). Nira Yuval-Davis (2007) discusses the relationship between citizenship and belonging, and argues that ethnically based notions of nationalism or anti-immigration rhetoric, produce exclusionary visions of citizenship. Yuval-Davis critically examines the current politics of belonging in Britain and argues for the promotion of an anti-racist vision of citizenship that allows for multi-layered belonging and participation (Yuval-Davis, 2002; Yuval-Davis, 2007). According to her analysis, racism and exclusionary notions of nationalism should be represented as the problem, rather than ethnic diversity *per se*.

### **3.4.3 Citizenship Beyond the Nation State**

A broad scholarship on citizenship critically assesses the relationship between citizenship and the nation-state (for example Bauböck and Guiraudon, 2009; Benhabib, 2004; Benhabib and Resnik, 2009; Bosniak, 2006; Brodie, 2004; Kukathas, 1997; Nash, 2009; Sassen, 2002; Soysal, 1994). Some argue that the use of the nation-state as an implicit frame of reference for discussions about citizenship, limits the analytical potential of the concept (Bosniak, 2006; Sassen, 2002). Others argue that the connection between citizenship and the nation-state is not only analytically, but also ethically, problematic (Carens 1992). Exploring the possibilities of citizenship beyond the nation-state, these critics have used a range of alternative citizenship concepts: for example ‘global citizenship’ (Armstrong, 2006), ‘post-national citizenship’ (Soysal,

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1994), ‘cosmopolitan citizenship’ (Linklater, 2002; Nash, 2009), ‘universal citizenship’, ‘multi-layered citizenship’ (Yuval-Davis, 2007), ‘transnational citizenship’ (Smith, 2007), ‘denationalised citizenship’ (Bosniak, 2000) and ‘world citizenship’ (Nussbaum, 2010).

Saskia Sassen argues that processes of economic globalisation, the development of an international human rights regime, changes in national citizenship laws and the emergence of political actors unwilling to automatically identify with a nation (Sassen 2002: 277) are historical changes which makes it necessary to readjust our theoretical understanding of citizenship. While the national remains important for the understanding of citizenship, current changes to the national are at the heart of the theoretical development of citizenship (Sassen 2002: 287). Nira Yuval-Davis has introduced the concept of ‘multi-layered citizenship’ to account for the fact that people belong not only to a nation state, but to local, ethnic, religious, national, regional, transnational and international political communities (Yuval-Davis, 2007). However, this does not mean that national citizenship has lost its importance, or that nation-states are no longer important: ‘while multi-layered citizenship does not give monopoly to citizenship in nation-states, it recognises that while states’ roles might be changing in today’s globalised world, they are definitely not withering away’ (Yuval-Davis, 2007).

According to Linda Bosniak, the concept of citizenship is characterised by a fundamental duality. On one hand, citizenship is taken to stand for individual rights, equality, inclusion and recognition. Citizenship in this sense is committed to universalist norms; even though equal citizenship for all is not yet fully achieved, universalism is still its normative standard. On the other hand, citizenship is also used to refer to a persons’ formal legal status. In this sense, citizenship denotes membership to a national community and simply means nationality. When used in this sense, the concept of citizenship is not committed to universalist norms. Rather, it is the exclusive privileged status of those who belong to the national community. According to Bosniak, both aspects of citizenship have to be taken into account, the inclusive, universalist notion of citizenship, and the exclusive, nationalist understandings of citizenship. While Bosniak’s main concern is to problematise the inside/outside

distinction of citizenship, her analyses of domestic work also includes a discussion of the feminist arguments concerning the centrality of care work for citizenship (Bosniak, 2007, 2009). Bosniak's work has pointed me towards the argument I put forward here, namely that the critiques of the inside/outside and of the public/private distinctions, stemming from two different strands of citizenship literature, need to be combined, in order to allow for an adequate understanding of marriage migration.

### 3.5 Citizenship and Marriage Migration

Following in the tradition of Marshall, the literature on gender, sexuality and ethnicity gives a framework for understanding how the realisation of citizenship is shaped by existing patterns of social inequality. These perspectives expand the concept of citizenship to include previously excluded groups and issues. However, as Bosniak (2006) and Joppke (2007) have pointed out, most contributions on citizenship gender and ethnicity focus on the realisation of citizenship rights for groups of people who already have a formal membership in the nation-state. Analysing migration, this view of citizenship and social inequality needs to be supplemented with insights from other streams of the citizenship literatures, for instance political scientists focusing on aliens' acquisition of status and rights. In this thesis, I have made use of central concepts from this part of the citizenship literature such as 'denizens' and the processes of 'Europeanisation'. In order to fully capture the patterns of social inequality embedded in immigration regulations, gender, sexuality, ethnicity, as well as citizenship status, have to be included into the analysis, and this requires merging separate streams of the citizenship literature.

In Marshall's terms, the right to marry a person of one's choosing could be seen as a basic civil right. This right, however, is essentially the right of citizens, as the citizenship Marshall describes is confined to the nation-state. The right to marriage migration can then be understood as a secondary right derived from a citizen's civil right to marry. Such a conceptualisation is in line with the current regulation of marriage migration. Family migration is formulated as the right of any alien with a close family member settled in Norway. For marriage migrants, this right is totally

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dependent on the relationship to the sponsor (and his or her ability to fulfil a duty to be self-supported through labour market participation). One important limitation to Marshall's framework is that he focuses solely on the relationship between the individual and the state, and lacks a conceptualisation of secondary rights derived from or dependent on the rights or duties of other persons. Some feminist perspectives on citizenship, however, have taken into account the fact that the individual's relationship to the state is often shaped and mediated by relationships to other people. Citizenship is just as much about the relationships between individuals and groups, as the relationship between the individual and the state (Halsaa et al., 2011; Lister, 2003; Nyhagen Predelli et al., 2012: 189; Siim, 2000). Such perspectives on citizenship seem better suited to analysing marriage migration than perspectives focusing solely on the relationship between the individual and the state.

Ken Plummer's (2001, 2003) and Sasha Roseneil's (2008, 2012) contributions to the conceptualisation of citizenship are very relevant to the study of marriage migration. Through the concept of 'intimate citizenship' they have brought sociological perspectives on the transformation of family life and intimacy into a dialogue with the citizenship literature. Such a theoretical synthesis is, I would argue, valuable to the study of marriage migration because it theorises the intimate links and connections between what is usually seen as public, such as laws, regulations and policy, and what people tend to understand as personal and private, namely family and intimate relations. Both Plummer and Roseneil describe a development towards diversification and liberalisation of intimate life, both in terms of policy and regulations as well as social practice. What these authors have not paid much attention to, however, is the importance of immigration law for intimate citizenship. Consequently, they do not capture the fundamental tension between liberalisation control in the sphere of family life and immigration, respectively. Based on an investigation including both the dimensions of citizenship theorised by Roseneil and Plummer, and the exclusionary aspects of citizenship highlighted by migration scholars (such as Benhabib and Resnik, 2009; Bosniak, 2006; Hammar, 1990), I argue that this paradoxical development is a central characteristic of intimate citizenship.

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In ‘The Problem of Dependency’ (Eggebø, 2010), I analyse the political arguments for an increased subsistence requirement for marriage migration. With this requirement, a person’s economic gain on the labour market, documented through official tax reports, becomes a precondition for fulfilling an intimate life of one’s choosing. For some groups of citizens then, a tax report becomes the ticket to married life. Consequently, the subsistence requirement is a regulation clearly cutting across the traditional public/private distinction. The article also presents some oppositional voices arguing against the subsistence requirement because it might affect women and ethnic minorities disproportionately. These oppositional voices draw on a discourse of equality which is also central in parts of the citizenship literature. A potential limitation of this discourse, however, is that it primarily addresses the subjects already present within the borders of the nation state. It is the violation of the rights, and potential discrimination against, different groups of sponsors (for instance men and women, minorities and majorities, student and workers) that is presented as unjust within this framing. The question of migrants’ status and rights as individuals remains unclear. This example may illustrate the necessity of taking into account both the inside and the outside dimensions of citizenship. Its inclusive and equality oriented dimension is usually limited to persons already legally residing within the country and is not easily extended to migrants.

The article ‘A Real Marriage?’ (Eggebø, 2013) discusses contemporary norms of intimacy by analysing the regulations on marriages of convenience. Here, I show that a relationship has to be recognisable as authentic and true before a marriage migrant is allowed to enter the country. Checks and controls concerning people’s private and intimate life is a part of the procedures that may allow legal entry. The couple has to accept that the immigration authorities cross the borders into what is usually seen as their private life, in order for the marriage migrant to be allowed to cross the borders into the nation-state. The article ‘With a Heavy Heart’ (Eggebø, 2012) thematises the public/private distinction in a slightly different manner. Here, the main focus is on the bureaucrats’ boundary-making between what they see as their own private feelings and opinions, and the public laws, rules and procedures that should govern immigration regulations. The bureaucrats’ reflections on ethics and justice in the field of marriage

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migration problematise the distinction between the public and the private, and reason and emotions. The distinction between the inside and the outside of the nation state is also an important and striking feature of immigration regulations. The discourse on equal treatment, central to bureaucratic assessment, has some clear limitations in this context as immigration law is built on the differential treatment of citizens in relation to non-citizens, as well as between groups of differentiated citizens.

As I have argued in this chapter, I think it is crucial to conceptualise citizenship in a way that takes into account both the public and the private sphere, as well as the inside and the outside of the nation state. For a migration scholar, a framework focusing solely on the rights and duties of the citizens of a nation state is quite limiting. A notion of citizenship that focused exclusively on the public sphere would not be very helpful for an investigation of intimate relations. The citizenship literature includes contributions questioning both the distinction between the inside and the outside of the nation state, and the public/private distinction. Nevertheless, hardly any contributions have sought to make a clear conceptualisation of citizenship bridging both these distinctions, and I would argue that this is a central point for the theoretical development of the citizenship literatures.

In this chapter, I have aimed to contribute to such a merging of different perspectives on citizenship in order to further a more fruitful theoretical understanding of the concept. Combining perspectives from these two sections of citizenship scholarship exposes the fundamental and inextricable link between public and private concerns and the porousness of the borders that separate the inside and outside of the nation-state. Consequently, citizenship is shown to be a complex and multi-layered legal status and practice: applicants do not have the status, but their sponsors do; applicants, sponsors and the relevant civil servants are called on to engage in citizenship practices (applicants), or to verify them (civil servants) in their attempts to respectively fulfil and enforce the necessary requirements of the measures that regulate marriage migration. Marriage migration and the issues it gives rise to, as I have discussed in different ways in the three articles that comprise this thesis, is an important site of

academic investigation, which brings citizenship's inner (private sphere/national) and outer (public sphere/international) entanglements to the fore.

## 4. Methods and Methodology

This is a doctoral thesis in sociology, investigating the regulation of marriage migration to Norway, a topical issue that has not been much studied in the Norwegian context. I have sought to identify and explain the logics and paradoxes embedded in the regulation of marriage migration to Norway. I enquire into contemporary discourses, practices and regulations of intimacy and immigration by use of qualitative sociological methods, and draw on sociological perspectives on the welfare state, intimacy, bureaucracy and emotions (Ahmed, 2004; Bauman, 1989; 1993; Esping-Andersen, 1992; 2009; Giddens, 1992; Weber, 1981).

The analyses are based on standard qualitative data: interviews, texts and observation. The investigation was empirically driven, explorative and open-ended in order to allow for the empirical findings to guide the research process. The research project has resulted in three articles published in international academic journals. These analyse the regulation of marriage migration from the perspectives of policy-makers, bureaucrats and applicants, respectively. Both the specific topics and the theoretical frameworks in each article were gradually developed throughout the process of data analysis. While the data and analytical techniques differ between the articles, they are the products of one coherent research project. I have drawn on several different methodological approaches to qualitative research, for instance institutional ethnography, discourse analysis and method triangulation, and argue for an eclectic use of analytical techniques.

This methodology chapter proceeds as follows: first, I will present the research design. Second, I outline the process of data collection. Third, I present the different analytical strategies I have employed, and discuss the relationship between them. Fourth, I present some ethical reflections that this project has stimulated. Finally, I discuss the methodological strengths and weaknesses of the project.

## 4.1 Design

When I first started developing this research project, my primary concern was to investigate how the regulation of marriage migration is experienced and understood by the people who are subject to these regulations. In order to better understand the institutional arrangements and power relations that the applicants are subject to, text analysis and interviews with bureaucrats was included into the research design. This design was inspired by sociologist Dorothy E. Smith's institutional ethnography (Smith, 2005). According to Smith, sociological enquiry is essentially about investigating and analysing how social relations of power operate in modern societies. Her explicit aim is to produce knowledge that is useful to ordinary people rather than serving the purposes of institutions and people in power. In order to be useful to ordinary people, sociology must be able to explain how the particular experiences of the individual is shaped by more general institutional arrangements and discourses (Smith, 2005). In line with Smith's program for sociological research, I wanted to start my inquiry from the standpoint of ordinary people and investigate what the social world looks like from their perspective. The ambition was to describe institutional processes and their general features beyond the perspective and knowledge of the individual (Smith, 2005, 2006b).

During the research process, the direction of the project changed slightly. The initial interest in the experiences of applicants and their family developed into a curiosity about how the regulation of family immigration to Norway is seen by the various actors involved. The regulation of marriage migration brings about quite different concerns, dilemmas, challenges and consequences for applicants and sponsors than for policy-makers or bureaucrats. While policy-makers have the power to pass laws and regulations, applicants are subject to legal regulations that, as non-citizens, they do not have the political right to influence through elections. While the majority of sponsors have political rights, their future family lives are highly depend on the outcome of bureaucratic assessment procedures. Bureaucrats, on the other hand, have the power to make decisions of the greatest importance to applicants' lives. Nevertheless, their

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decision-making power is defined by laws, regulations and professional norms and procedures.

In order to account for the diverging perspectives and positions of power, this thesis includes the voices of politicians, civil servants as well as applicants and their partners. In ‘The Problem of Dependency’ I analyse parliamentary debates and policy documents. The article ‘A Real Marriage’ investigates how the process of applying for family migration is perceived from the perspective of applicants and their partners. In “‘With a Heavy Heart’” I seek to understand the regulation of marriage migration from the perspective of bureaucrats in the immigration administration. It is important to note that I use different types of data in these three articles. Analysing the perspective of politicians, I draw on parliamentary debates and policy proposals, not interviews. These texts are the products of a specific institutional context and differ significantly from transcribed interviews. For the two other articles, however, I mainly draw on qualitative interviews with applicants and their partners, and bureaucrats. I would suggest, though, that the arguments and justifications that politicians publicly present in Parliament are highly relevant sources of data for understanding the political discourse on marriage migration. The applicants and the bureaucrats have a less public role in this regard.

This research project is inspired by Smith’s institutional ethnography in the sense that I have aimed to take seriously the consequences that power relations and positionality have for knowledge production, combined with the notion of true knowledge (Smith, 1999). While the different articles of this thesis take as their starting point the perspective of politicians, bureaucrats and applicants, respectively, the ambition has been to describe the more general features of institutional processes, discourses and power relations. Furthermore, the analytical strategies I draw on include some elements from institutional ethnography, most importantly the significance of analysing texts in order to capture the general features of institutional processes. Nevertheless, this research project does not adopt institutional ethnography as its overall methodological perspective. Rather, I draw on a series of different methodological approaches and argue for an eclectic use of analytical techniques.

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## 4.2 Recruitment, Access and Data Collection

### 4.2.1 Interviews

As part of this study, I have conducted 19 qualitative interviews with marriage migrants and/or their partners. Informants were recruited through organisations, personal networks and an internet forum, and the interviews were conducted during the autumn of 2008 and early winter 2009. Recruiting informants proved to be quite easy; most organisations I contacted were helpful, and the marriage migrants and partners I came in touch with were willing to share their experiences. Throughout the project period, several people contacted me on their own initiative offering to tell their story. In the end, personal networks turned out to be the most efficient recruitment strategy. Most of the informants were recruited in this manner, but one was recruited through the internet forum, two through organisations and one through self-recruitment.

Before I started this research project, I knew that many scholars of migration have struggled to recruit informants. Consequently, I was expecting the recruitment process to be challenging. Quite surprisingly, however, I found it relatively easy to recruit people to participate in the project. There are several reasons for this. Firstly, while migrants coming from certain countries and regions have been subject to much research interest, family and marriage migration has not been much researched in the Norwegian context. Many informants expressed an eagerness to contribute to more knowledge and debate about this category of migrants. Also, I think my choice of studying marriage migrants in general, and not only marriage migrants from a particular country made the recruitment easier. First of all, the population is of course bigger when all nationalities are included and second, I avoided singling out already stereotyped national groups.

Eleven of the interviews were carried out with one partner only and eight had both partners present. The interviewees were fifteen women and thirteen men, twenty-two heterosexuals and six non-heterosexuals, twelve Norwegian citizens and sixteen non-Norwegian citizens (citizens of the Australia, Iraq, Liberia, Nepal, Pakistan,

Philippines, Russia, Somalia, Thailand, Turkey, the Ukraine, USA and Venezuela). At the time the interviews were conducted, two applications had been rejected; four were waiting for a permit and/or visa and 12 had already received a positive decision and been able to join their partner. One of the interviewees had, according to her own story, entered into a marriage of convenience.

Most interviews were conducted in a Western, an Eastern and a Northern Norwegian city. The interviews took place at cafés, in the informants' homes or at their workplace. All interviews were taped and they lasted between one and a half and four hours. At the beginning of the interview, I gave some general information about the project and then I asked the informants to tell me about the application process for marriage migration and the relationship they had applied on the basis of. An open and flexible interview guide informed the interviews. The informants had quite different experiences and stories to tell, and the broad opening question allowed the informants to talk about what they found most important (see appendix, interview guide 1).

Several informants said that they viewed the interview as an opportunity to make public information about an important issue, and hoped that their experiences could be useful to others. Some felt that talking about the troubles they had faced throughout the application process had some therapeutic effect. This is in line with Tom Clark's investigation of informants' motives for engaging with qualitative research: therapeutic interest, empowerment and the wish to inform change, are important reasons for participating in research interviews in which large amounts of personal information and potentially highly sensitive material are revealed (Clark, 2010: 399-400).

The interviews covered a wide range of issues, for example love, family relations, marriage, children, violence and distrust, divorce, personal migration stories, country of origin, Norwegian culture and society, racism and prejudice, language, work, integration, immigration regulations and bureaucratic procedures. As I asked about the application process, the immigration authorities played a central role in many informants' stories. While a few interviewees underlined that they were satisfied with

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the assessment practice of the immigration administration, most were more or less critical of the Directorate of Immigration.

Those who expressed such criticism most clearly were the highly educated, female Norwegian sponsors. They seemed both surprised and utterly provoked by the difficulties they had confronted throughout the application process. One informant described the application process as ‘Kafkaesque’, referring to Franz Kafka’s famous novel *The Trial*. These sponsors’ surprise and indignation may be due to the widespread trust in state authorities that characterises Norwegian society (Catterberg and Moreno, 2006; Wollebæk et al., 2012). In contrast, a refugee who had his wife’s application rejected, expressed his criticism in a different manner. He seemed more resigned and less surprised by the difficulties he had confronted throughout the application process for family immigration. As a refugee, he had already been through an application process once before, and these experiences seemed to have influenced his expectations of Norwegian society in general, and of the immigration administration in particular.

During the interviews, people told me openly about their intimate relationships. On one occasion, by the end of the interview, the informant started asking me questions about my intimate relationships. As this male informant did not have a partner at the time, and had indicated throughout the interview that he was looking for one, I interpreted his questions as if he was making an advance. At that point, I wanted to make clear that my interest in him as a person was purely professional. On the other hand, I did not want to appear rude or abrupt after he had given me his time and answered my questions. This incident illustrates some general dilemmas of qualitative interviews. Interviews tend to simulate ordinary conversations and draw on many of the same elements in order to create confidence and trust in the situation. Normally, a conversation has a reciprocal form, where both participants ask questions, talk and listen. The interview, however, has an asymmetrical form where only one person asks questions and listens, and the other person talks (Fog, 1994). Throughout the interview, the border between interview and conversation may become blurred, and may cause confusion about how to define the situation. When the informant started

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asking me questions about my private life, I felt it was an inappropriate attempt to re-define the situation from an interview into a reciprocal meeting between two people. He, on the other hand, might have seen it just as a polite way to conclude the interview in a less formal way.

The interviews with applicants and their partners were, at least partly, about their interview with the immigration administration. Some of the questions I asked, about the partners and their relationship, might have resembled the interview questions of the immigration authorities, questioning applicants and sponsors about the marriage in order to find out whether the marriage was real. Could I be interpreted as just another official questioning the reality of their relationship? When I started interviewing, I sought to avoid the informants viewing me as an official, and I thought carefully about how I could gain their confidence during the interviews. When I started interviewing, however, I found it quite easy to gain informants' confidence by showing a sincere interest in their stories and reacting empathetically to their stories, whether or not those were positive or negative. During most interviews, I had the feeling that I was seen more as an ally to whom they could question the practices of the immigration administration, and as a conversation partner with whom they could reflect on their experiences and reactions. Nevertheless, there were some instances where I felt that many questions could have been understood as me further questioning the interviewee's relationship. In one instance, I was really surprised by the fact that the applicant had achieved a permit without problems. Throughout the interview, I worried that my surprise had been read as disapproval of them being granted the permit and the reality of the relationship.

#### **4.2.2 Texts**

Throughout the process of recruiting and interviewing marriage migrants, I also collected and analysed policy documents, and legal texts concerning the regulation of marriage migration to Norway. In 2010, the new Immigration Act (Utlendingsloven 2008) came into force, and replaced the old immigration act of 1988 (Utlendingsloven 1988); both the old and the new laws have been important objects of analysis in this

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project. A broad range of policy documents and legal texts were collected and analysed in this project, including laws, law proposals, law changes, regulations, instructions and parliamentary debates. The key texts are the proposal for a new Norwegian Immigration Act (AID 2007) and the following parliamentary debate (Odelstinget, 2008).

Moreover, the White Paper on the new immigration act (NOU, 2004: 20 2004) and the Ministry's instructions regarding prevention of marriages of convenience (Justis- og politidepartementet, 2010) are central. In addition, other texts were analysed, for instance, organisations' responses to the public hearing on the Immigration Act, the Marriage Act (Ekteskapsloven 1991), different proposals for legal changes (Justisdepartementet, 1987; Kommunal- og regionaldepartementet (KRD), 2005a; 2005b) and legal regulations and instructions (UDI, 2002, 2008; Utlendingsforskrifta, 1990, 2009). All of the analysed texts are publically available on the web pages of the Government ([www.regjeringen.no](http://www.regjeringen.no)), the Norwegian Directorate of Immigration ([www.udiregelverk.no](http://www.udiregelverk.no)) and The Lovdata Foundation ([www.lovdata.no](http://www.lovdata.no)).

The regulation of marriage migration to Norway has been subject to continuous change throughout the project period (2008-2012). While the constant changing of the object of study is certainly a general feature of social science (Corbin and Strauss, 1990: 5), the dynamic character of the regulations under scrutiny proved particularly salient in this research project. The subsistence requirement, discussed in 'The Problem of Dependency' (Eggebø, 2010) serves as an example: when I started investigating the political arguments presented for these regulations, the specificities of the regulation were still unsettled, as the administrative regulations were under preparation at the Ministry. In 2010, during the first year of its implementation, the subsistence requirement caused a considerable decrease in the number of family immigration permits (Utlendingsdirektoratet, 2011). In 2012, several newspaper articles reported on the negative consequences that the subsistence requirement have had for some families. Moreover, the Directorate of Immigration also reported to the Ministry about the unintended consequences of the new regulations. On July 6<sup>th</sup> 2012, the Ministry issued some new changes to the subsistence requirement (Justis- og

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beredskapsdepartementet, 2012b).<sup>26</sup> This illustrates the necessity of building ‘change through process, into the method’ (Corbin and Strauss, 1990: 5), for instance through continuous collection of data about new changes in regulations and procedures.

### **4.2.3 At The Norwegian Directorate of Immigration**

The third data source for this project consists of data from short-term fieldwork at the Norwegian Directorate of Immigration. I gained access after a formal request; no special permission was needed as long as I did not seek access to registers and case files containing personal information about applicants. The Department of Professional Strategy and Coordination handled the request, and one of its advisors became my contact and helped me recruit informants.

I conducted ten formal interviews with employees in the immigration administration; five with executive officers, one from each of the five units in the Family Immigration Area, three with bureaucrats in leading positions and two with immigration officers at a local police station. While the immigration officers carry out interviews with applicants and sponsors, the civil servants assess case files only. However, some of the bureaucrats had also interviewed applicants as part of their previous work experience. Officers with more than a decade’s experience were among those interviewed, but most had worked there for no longer than a couple of years. Most employees at the Norwegian Directorate of Immigration are female (ASU, 2010), and only one informant interviewed for this project was male. A semi-structured interview guide informed the interviews, and informants were asked to speak about their tasks and the challenges they face.

A researcher always enters the field with certain preconceptions about the object of study, and it is important to reflect on these and be open to having them corrected by empirical findings. When I first entered the doors of the Norwegian Directorate of Immigration, my knowledge and perceptions of the institution were strongly influenced by the interviews with applicants and sponsors, as well as the research

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<sup>26</sup> An analysis of these most recent changes in the subsistence requirement is outside the scope of this thesis.

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literature and newspaper articles I had read. As Gudbrandsen (2011) has documented, the Directorate of Immigration often figure as the ‘bad guys’ in newspaper articles about people victimised by immigration regulations. Moreover, most of the applicants and sponsors I had interviewed were more or less critical of the assessment practices and procedures of the immigration administration. The first interview at the Directorate of Immigration, however, initiated a process of self-reflection with regard to my preconceptions about the Norwegian Directorate of Immigration. The informant had seemed quite reserved and even somewhat anxious. This led me to ask myself some questions, such as: was her anxiousness influenced by my own critical view of the Directorate? Did I seek to confirm my own presumptions about the immigration administration through the interviews? During the subsequent interviews, I tried to open my mind and to show a genuine interest in the dilemmas and challenges that the civil servants described.

I also found myself being surprised by the finding that most of the interviewees at the Directorate showed a genuine interest in, and concern for, the applicants and their families. My surprise might be related to the fact that the media tend to portray the decisions of the Directorate as heartless and barbaric (Fuglerud, 2003) and these portrayals had probably affected my own presumptions more than I had been aware. Sociologist Åsa Wettergren (2010) has studied the Swedish Migration Board and describes a feeling of surprise when she found that the majority of the civil servants were ‘young and open-minded people, often adopting a cosmopolitan stance and a deep seated concern about human rights issues’ (Wettergren, 2010). Based on the impression given by the Swedish media, she had expected to find ‘cynical and defensive employees’. To a certain degree, Wettergren’s feelings of surprise paralleled my own upon meeting employees of the Directorate of Immigration.

Most of the interviewees talked openly and willingly about their job. Some however, seemed reserved, anxious and even hostile. The informants seemed conscious of their role as representatives of the organisation, and were careful to act and talk within the limits of their professional authority. I got the feeling that as a researcher, I was sometimes seen as a representative of critical voices from the media and the public.

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Some bureaucrats might have felt pressured to participate in the study, since interviews took place at work and an employee at the directorate mediated the request.

During the days I spent at the Directorate of Immigration, I observed a so-called 'practice meeting'. Practice meetings bring together 10-15 officers from the Family Immigration Area and are held regularly in order to establish uniformity. At this particular meeting, the group discussed six general legal and administrative issues and five specific case files. My data consists of transcribed conversations from the meeting, reconstructed on the basis of the field notes. I also got the opportunity to investigate a sample of case files that the directorate had identified as related to 'marriages of convenience'. These files had been selected and anonymised for the purpose of another research project, commissioned by the Directorate of Immigration (Econ Pöyry, 2010). The cases were sorted into three categories: 1) Cases rejected on the basis of being marriages of convenience after the first application round (9 cases). 2) Cases where a temporary residence permit had been withdrawn due to being marriages of convenience (6 cases). 3) Cases investigated on the basis of being marriages of convenience, but nevertheless approved (14 cases). According to the Directorate of Immigration, the 29 case files investigated constitute about 10 per cent of the total number of cases of marriages of convenience.

The short-term field work at the Directorate of Immigration lasted for six days in total; four days in February and two days in April 2010. According to research literature on ethnographic methods, field-work usually last a lot longer; the strength of the ethnographic method is related to the kind of knowledge one gains from spending a considerable amount of time in the field. On this basis, one may question whether the processes of data gathering at the Directorate deserves the term 'field-work', as I did not have the opportunity to stay there for a longer period and follow the work processes and work relations over time. Consequently, it would perhaps be more precise to describe the process of data gathering as a collection of different kinds of data: interview data, observational data as well as text.

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Regardless of its limitations however, I would argue that the data from the Directorate of Immigration does have some of the qualities of field-work. Firstly, I met people face-to-face at their work place, and participated in the employees' social interactions during lunches. Tacit information about the work atmosphere supplemented the formal interviews in important ways. Secondly, the opportunity I got to investigate case files resulted from being present in the field at the right time. Thirdly, through field-work, I got to know about and obtained access to central texts, for example the ethical guidelines discussed in the article "'With a heavy heart': Ethics, Emotions and Rationality in Norwegian Immigration Administration' (Eggebø, 2012). As the studying of texts is an important part of ethnographic work (Smith, 2006a), the field-work may be said to be more extensive than the limited number of days spent at the institution. Also, communication and relations with the employees continued throughout the project, for example through e-mails, and I was invited to deliver a lecture about my findings at the Directorate, discussed further below.

#### **4.2.4 Procedures for Recording and Collecting Personal Data**

In Norway, researchers collecting personal data, for example through interviews, observations or questionnaires are required to notify the Data Protection Official for Research. Before I started the process of recruiting informants, I notified the Norwegian Social Science Data Service (NSD), which is responsible for handling notifications. The project design and data collection procedures were approved by the NSD. Before fieldwork at the Directorate of Immigration, the approval from NSD was updated and renewed. According to the NSD's terms and conditions, all information that may identify informants will be marked for destruction as soon as the project ends in 2012.

All interviews, 29 in total, were recorded and later transcribed. I transcribed the first 19 myself, but due to the limitation of time I outsourced the transcription of the remaining 10 interviews. Most interviews were conducted in Norwegian, and some in English. The interviews in English are influenced by the fact that this was not the mother tongue of either the informants or me. Except from the interviews in English,

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all quotes used in this thesis were translated from Norwegian to English. The level of detail in the transcriptions is adjusted to capture the meaning and content of what people said; it was not my intention to do any detailed conversational analysis of the interviews. Moreover, the quotes presented in the articles are often cut and edited considerably in the process of ‘translating’ oral into written text. I have analysed the meaning and content of the interviews without focusing on exact wording.

### 4.3 Data Analysis

This research project combines different types of qualitative data, most importantly interviews, observational data and texts. These types of data are often seen as standard data sources for qualitative methods (Mason, 2006: 13), and it is hardly controversial to use one of these methods, or a combination, for sociological inquiry. However, there is an ongoing debate in sociology about how to mix different types of data and methods. Literature on ‘mixing methods’ mostly focuses on the challenges and advantages of mixing qualitative and quantitative methods. Sociologist Jennifer Mason has discussed this issue, and asked how we can integrate different forms of data, and whether it is possible to reconcile methods building on different epistemologies, different world views and different explanatory logics (Mason, 2006: 19-20). While these questions undoubtedly need to be addressed when combining qualitative and quantitative methods, they may very well also be relevant questions with regard to the combination of different qualitative data and analytical strategies.

In this research project, the process of analysing data has been inspired by several different qualitative approaches, most importantly the ‘What’s the Problem-Approach’ (Bacchi, 1999, 2009), institutional ethnography (Smith, 2005, 2006b) discourse analysis (Bacchi, 2005, 2000; Smith 2005, 2006b; Widerberg, 2001), triangulation (Moran-Ellis et al., 2006) and theme-based interview analysis (Widerberg, 2001). The different kinds of data collected for this project, have necessitated the use of different analytical techniques. Consequently, I have taken a pragmatic approach to analytical strategies, selectively drawing on the techniques and insights I have found useful for analysis. I would argue that the different qualitative methods and analytical strategies

used, despite their differences, do have some commonality, which facilitate synergy and synthesis. For instance, all of the analytical approaches I have used are based on theoretical perspectives acknowledging the importance of language for representing and analysing social reality, while at the same time upholding an ambition to investigate experiences, material realities and power relations. In line with Mason, I would argue that one does not need an overarching theory to integrate methods and establish coherence (Mason, 2006: 19-20).

### **4.3.1 Text Analysis**

In my analysis of policy documents and parliamentary debates, I have used Carol Lee Bacchi's (1999, 2009) 'What is the Problem-Approach'. Bacchi's perspective combines insights from Foucauldian discourse analysis and feminist theory, and includes deconstruction and critical analysis of power and position. According to Bacchi, policy is not simply an attempt to solve a problem. Implicitly or explicitly, the 'problem' is constructed by the policy proposal. Policy-making involves different problem representations, and the competing diagnoses as well as the different 'solutions' proposed have to be investigated. Bacchi's basic thesis is that policy documents should be analysed by asking questions about what 'problem' a certain policy document addresses. Moreover, it is essential to analyse power relations between different actors, and to look for the dominant as well as the alternative or marginalised problem representations in policy documents. Bacchi's perspective is outlined and applied in 'The Problem of Dependency: Immigration, Gender, and the Welfare State' (Eggebo, 2010: 298-9). I found this to be a useful approach for analysing policy documents. What is the problem is represented to be? is a question suited to enquiring into how problems, issues and policy measures are constructed in policy proposals, and allows for questioning their underlying presuppositions. Questioning the presuppositions and definitions of immigration regulations and policies have been a central aim of this project.

When analysing the law proposal for a new Immigration Act, I started with a broad description of the various 'problems' that the policy proposal sought to address with

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regard to family migration (the diagnosis), as well as the proposed measures to address these problems (the prognosis). Based on this initial analysis, I decided to concentrate on one measure, namely the subsistence requirement for family migration, and the two ‘problems’ that this requirement is meant to address, that is forced marriage and burdens on welfare budgets. The subsequent analytical process involved investigating the content of the subsistence requirement, the different arguments presented in Parliament for or against the proposal, as well as competing and alternative problem representations found in organisations’ responses in the public hearing on the law proposal. Feminist welfare state theory played a decisive role in the later stages of the analytical process, and I focused on identifying potential gaps and paradoxes between welfare policy, gender equality policy and immigration policy.

### **4.3.2 Interviews With Applicants and Sponsors**

After transcribing the interviews, I had a good overview of the complexity and details of the data material, and some thoughts and ideas about what to investigate further. The initial analysis of the interviews with applicants and sponsors was inspired by the topic-based analytical strategy described by sociologist Karin Widerberg in *Historien om et kvalitativt forskningsprosjekt* (The story of a qualitative research project) (Widerberg, 2001: 116-62). I began by carefully reading through the material and making notes. Based on these notes, I identified different themes and topics found across the interviews and started writing briefly about these topics and gathering relevant quotes (Widerberg, 2001). The themes and topics were derived from the empirical material. Most topics came from the interviews, but some central issues, for example the concept of a ‘real marriage’, was derived from the text analysis performed earlier. At this point in the analytical process, I coded the interview quotes, according to the themes and topics identified, using the software program HyperResearch.

The next step in the analytical process was to make a choice about what issues and topics I should include in a planned article. The decision to write about the concept of a real marriage was both empirically and theoretically informed. First of all, the phenomenon of marriages of convenience, to which the concept of a real marriage

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refers, is a central issue in the literature about regulation of marriage migration (De Hart, 2006; Williams, 2010). Although marriages of convenience was not a central topic in most interviews, the procedures and regulations aimed at preventing such marriages seemed to have great influence on the application process, and applicants' and sponsors' experiences of this process. Secondly, the concept of a real marriage could be related to the academic debate about the nature of contemporary intimate relationships, and the interviews included numerous explicit comments and more implicit assumptions about what a real relationship should or should not look like.

The later stages of the analytical process were more theoretically informed than the initial steps. Drawing on sociologist Anthony Giddens' (1992) concept of the 'pure relationship' and sociologist Lynn Jamieson's notion about practical and silent intimacy, I analysed the different norms of intimacy found in the interview material. I looked for the informants' ideas about love, how they expressed their views and ideals about intimate relationships and how they narrated their own intimate relationship. Here, I drew on social constructivist perspectives, focusing on the importance of analysing language and discourse in order to understand social reality.

However, the analytical process also took a quite different direction: inspired by sociologist Dorothy Smith's institutional ethnography, I investigated how the experiences of the informants were shaped by legal regulations and administrative procedures. The legal texts I had investigated, as well the data from fieldwork, were now read in relation to the interviews in order to explain how such regulatory texts govern institutional processes *and* the individual experiences that takes place within an institutional framework. Moreover, the interviews with applicants, sponsors and bureaucrats gave detailed information about procedures and application processes, and such information about the actual working of legal regulations could not always be found in actual texts. Through a combination of ethnographic data and text analysis, I have aimed to produce knowledge grounded in individual experience, which, nonetheless, has a general validity beyond the individual case.

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### 4.3.3 Analysing Data on the Immigration Administration

The formal interviews were the main data source from the fieldwork. As the topic-based analytical strategy described by Widerberg (2001) had proved useful in the initial phase of interview analysis, I also used this approach for analysing the interviews with the bureaucrats. Among the topics initially identified was the notion of ‘culture’, the impact of the applicants’ national background, considerations regarding the principle of equal treatment, the tasks, dilemmas and challenges described by informants, the notion of professionalism, and finally emotions and ethics. Drawing on previous research on bureaucracy in general and immigration administration in particular, emotions and ethics was the empirically identified topic I decided to focus on through further analysis.

When analysing the field notes, I focused on these themes from the interviews. This is an analytical strategy for combining different data that Moran-Ellis et al. (2006) have described as ‘following a thread’: ‘Based on the literature and the original research questions, we picked an analytic question or theme in one dataset and followed it across the others (the thread) to create a constellation of findings which can be used to generate a multi-faceted picture of the phenomenon’ (Moran-Ellis et al., 2006: 54).

The analysis in the article “‘With a heavy heart’” is based on the interview data as well as the observational data from the ‘practice meeting’. The two different types of data produce different kinds of information: while the interview data may give access to narratives, justifications and professional identities, the observational data is suited to revealing negotiations and disagreements between employees, and concrete considerations and dilemmas in relation to specific case files. In addition, other field notes contributed to the overall understanding of the institution, but these were not analysed systematically in the article.

## 4.4 Ethical Considerations

It would have been a serious ethical problem if participating in this research project caused harm to the informant, for instance by reducing the chances of a successful

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application for family immigration. Indeed, one interviewee did reveal information that could have caused problems for later applicants if this information had become known to the immigration authorities. Another interviewee included information which could cause serious harm to the informant by actors other than the immigration authorities if this information was disclosed. Consequently, these interviews made me think twice about the importance of, and challenges related to, anonymity and the careful storage of personal information.

Several of the informants' stories included particular circumstances that made them difficult to present without revealing information that would lead to the identity of informants. However, anonymity was less of a challenge than anticipated when it came to writing up the analysis and the findings. There are two main reasons for this. Firstly, I chose to write an article-based thesis, and articles leave less room for extensive case presentations than in a monograph. Secondly, I chose to do theme-based rather than case-based analyses of the interviews. Letting a topic rather than a personal narrative lead the analysis required less personal information about informants (Widerberg, 2001).

However, the choice to write articles and not write analyses based on case-presentation also create some ethical problems. Some informants had expressed clearly that they wanted to tell their story to the public and presented this as a motive for participating in the research project. One informant had wanted to write a book about her story, but as she had not been able to realise this project, she had decided to participate in the research project. At the time of the interview, I did not comment on this motive. Even though I knew that I would probably not be able to present every single story, I had not yet realised how little room the article format would leave for presenting the experiences and opinions of each informant. In the end, there were just so many important aspects, issues and dilemmas arising from the interviews, that I could not possibly write about more than a few of them.

According to Dorothy E. Smith, sociological enquiry should be motivated by an ambition to produce knowledge that is useful to the people that the project has taken as

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its starting point (Smith, 2005). Indeed, this project was motivated by the wish that my findings would be useful for applicants for family migration. With regard to this ambition, writing articles in English was not necessarily a good choice. For many of the people who want to know more about the process of applying for family migration to Norway, the combination of sociological theory and English language makes the information difficult to access. Consequently, there are some unresolved issues with regard to the ethical duty to communicate findings back to informants.

In addition to the applicants and their families, my informants also consisted of bureaucrats working in the immigration administration. Because of the emphasis I put on knowledge production being useful for the people it concerns, I was happy to be invited to the Norwegian Directorate of Immigration to present my research. Before the presentation, however, I was more nervous than I would usually be before giving a lecture. What would they think about my findings? How would they react to my presentation? Would they find it useful? If they were provoked or disagreed totally with my analysis, would I have failed to produce knowledge that was useful for the people whose standpoint I had taken as a point of departure? Moreover, I risked the informants withdrawing from the project, which could have caused problems with a forthcoming publication. Despite my worries, however, the lecture proved to be useful and informative to me, and judging from the feedback I have received, also for the employees at the immigration administration.

My initial aim with the project was to focus on how applicants and their families experience the regulation of marriage migration to Norway. Data from the immigration administration was included primarily in order to better understand the institutional processes that shape the individual experiences of the informants. As I started to analyse the fieldwork data from the immigration administration, I quickly found that it would be possible to use this data to describe how the work of the civil servants was shaped by gendered stereotypes, and problematic notions of 'culture' impacting on the experiences of the applicants. I did ask myself, however: was this a fair way to use the data? For ethical reasons, as well as reflections about the most valuable contribution to this field of research, I decided to define the bureaucrats as 'ordinary people' whose

standpoint I took as my point of departure for analysis. Rather than only using the interviews with the bureaucrats to make sense of the experiences of the applicants, I have tried to explain the dilemmas and challenges faced by the immigration administration, and sought to understand how power relations, discourses and institutional arrangements influence the work experiences of the civil servants in the immigration administration.

## 4.5 Methodological Strengths and Weaknesses

Social scientists have underlined the point that the merits of the social sciences should not be judged according to the parameters and standards of the natural sciences, but according to their own specific goals and purposes (Flyvbjerg, 2001). In a similar vein, proponents of qualitative methods have stressed that these methods should be assessed according to their own evaluative criteria. A precondition for such evaluations, however, is that the evaluative criteria of a certain methodological perspective are made explicit. Moreover, the specific steps and procedures of a research project must be thoroughly described (Corbin and Strauss, 1990). So far in this methodology chapter, I have tried to describe in detail how the research was been conducted. In this final section of the chapter, I will discuss social science evaluative criteria, and the strength and weaknesses of this particular research project.

A central strength of this research project lies in the combination of different data and the inclusion of different actors' perspectives. The project takes into account the voices of policy-makers as well as organisations, civil servants on different levels in the bureaucratic hierarchy, and applicants and/or their partners. Geographer Bent Flyvbjerg has presented some methodological guidelines for social science, and argues that it should be dialogical in the sense that a polyphony of voices is included. The aim of social research should be to 'produce input to the ongoing social dialogue and praxis in society' (2001: 139).

The combination of text analysis, interviews and observational data is also considered a strength of the project, as such meshing of data may create a broader understanding

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of the different dimensions of the regulation of marriage migration to Norway (Mason, 2006; Moran-Ellis et al., 2006). The specific ways in which perspectives and data are combined, however, has some limitations worth discussing. Firstly, the data on policy-makers, bureaucrats and applicants, respectively, are analysed in three different articles. Consequently, these different perspectives are not systematically contrasted and compared. Secondly, the three articles analyse three different substantive issues, as well as different individual cases. While one article analyses the subsistence requirement, another investigates the regulation of marriages of convenience, and the third discusses the ethical considerations involved in the assessment of applications. Also, the individual cases discussed in the two latter articles, presented through quotes and observational data, are not the same. Thirdly, the different analyses are also informed by, for the most part, different theoretical perspectives. While all articles shed light on the regulation of marriage migration to Norway, they do not analyse the same substantive or theoretical issues. However, ‘social experience and lived realities are multi-dimensional and [...] our understandings are impoverished and may be inadequate if we view [a] phenomena only along a single dimension’ (Mason, 2006: 10). For this reason, I have chosen to investigate different issues in the different articles of the thesis, ranging from welfare policies to norms of intimacy, and the role of emotions in bureaucratic work.

The kinds of data I have chosen to include, or not to include, in the articles as well as in the research project as a whole, also result in some potential limitations worth noting. The article “‘With a Heavy Heart’” (Eggebø, 2012) could potentially have benefitted from including the case files investigated into the analysis. The case files were comprehensive and included many different kinds of documents. From copies of passports, ID-cards, pay cheques and housing contracts, to reports from doctors and psychiatrists, open letters written by sponsors to the UDI and small post-it notes written by executive officers. During the initial analysis of this material, I discovered that markers of class background, such as educational level, labour market position, familial background and familiarity with bureaucratic discourse appeared to influence the final decisions on case files where marriages of convenience were suspected. I did not follow up this issue further. In retrospect, I would have wanted to read those case

files again, focusing on emotions and ethics, in order to figure out how this material could have contributed to the analysis in “‘With a heavy heart’”. The case files did reveal emotional reactions from the applicants and sponsors, as well as how the bureaucrats may have felt and reacted, when confronted with feelings expressed on paper; this could have been valuable to the analysis.

In a similar vein, systematic analysis of data from the fieldwork could have strengthened the analyses presented in ‘A Real Marriage’ (Eggebø, 2013). In fact, at some point in the analytical process, I did make an effort to include these data into the article. Due to the limited scope of journal articles, however, I concluded that an in-depth analysis of a limited set of data would make a more valuable contribution. Consequently, the data from the fieldwork was analysed in a different article. This choice was also made in order to allow for the applicants and the bureaucrats, respectively, to speak ‘with no one voice, including that of the researcher, claiming final authority’ (Flyvbjerg, 2001: 139).

With regard to the research project as a whole, I would like to point to the potential gains from including analyses of quantitative register data in addition to the qualitative data. Through the fieldwork at the Directorate of Immigration, I was made aware of the large amounts of unexploited data in the registers of the Directorate. While Statistics Norway has used some of these data to describe patterns of family migration to Norway (Daugstad, 2006, 2008; Henriksen, 2010), there have been few statistical representative investigations of the characteristics of rejected applications (Bratsberg and Raaum, 2010; Woon, 2007). A statistical analysis of rejected applications, including variables such the legal grounds for rejection as well as gender, national background, age, educational background, labour market position for the sponsor and applicant, respectively, would have been a valuable supplement to the qualitative data. For instance, in ‘A Real Marriage’, I touch on the issue of stereotypes and their impact on individual case assessment (Eggebø, 2013). The discussion of stereotypes would have benefitted greatly from data on the statistical patterns of approvals and rejections. In the ‘Problem of Dependency’, I speculate on the consequences of the subsistence requirement with regard to gender and national background (Eggebø, 2010). This

publication could have been followed up by an analysis of quantitative registered data in order to establish the actual statistical consequences of the regulation. Some brief discussions of statistical patterns are included in paragraph 1.3 of this thesis. However, an in-depth analysis of these patterns, for example through a multiple regression analysis of rejected and approved cases, would be a relevant topic for further research on the regulation of marriage migration to Norway.

## 5. The Paradoxes of Marriage Migration

This thesis investigates the regulation of marriage migration to Norway from the perspective of politicians, bureaucrats and applicants. I have sought to identify the logics and paradoxes characterising the regulation of marriage migration. The regulation of marriage migration is marked by a central tension between liberalisation in the field of family and intimate relations, and strict regulation in the field of migration. Norway has a long tradition of liberal regulation of marriage (Melby et al., 2000), and throughout the last four decades, the regulation of intimate relationships has been further liberalised: in 1972, cohabitation and homosexuality were formally legalised in Norway; while formally illegal, cohabitation and homosexuality had usually not been prosecuted for some time (Hellesund, 2008: 157-8, 62-3). Since the 1970s, cohabitation and same-sex relationships have increasingly become accepted and recognised through legal regulation, and according to common norms and social practices (Syltevik, 2010). Freedom, inclusion and individual choice characterise Norwegian family law. The regulation of immigration to Norway, however, has been subject to a different development. Until the late 1960s and early 1970s, immigration to Norway was subject to relatively little control and few restrictions. With the 1975 immigration stop, however, there was a radical change in immigration policies. From then onwards, immigration was subject to increasing and relatively strict control (Brochmann et al., 2010; Fuglerud, 2001; Hagelund, 2003).

These different changes in the regulation of intimate life and immigration seem to correspond to changed perceptions of what groups tend to be regarded as a threat to societal norms and stability. While homosexuality used to be regarded as a major threat to morality and the institution of marriage, the majority of Norwegians no longer see it as such (Anderssen et al., 2008). Rather, liberal and accepting attitudes towards same sex relationships are seen as integral to Norwegian national identity (Gressgård and Jacobsen, 2008). With regard to migrants and ethnic minorities, there is a long historical tradition for seeing these groups as a potential threat to society, whether they have been Swedish labour migrants, Jews, Roma, Sami, or more recently, labour migrants from Asia or Africa (Fuglerud, 2001). Myrdahl (2010a) has identified a

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marked shift in the perception of labour migration between 1968 and 1975. In the late 1960s, labour migration was seen as a necessary and positive contribution to economic growth. During the early 1970s, however, the political discourse on labour migration was more problem and control oriented. According to Myrdahl's analysis, it was not 'immigration per se that was seen as threatening: it was the immigration of workers from Asia and Africa, and, often, Southern Europe' (Myrdahl, 2010a: 107). '[T]he national home is seen as threatened by the introduction of too many migrants that are seen as excessively different (Myrdahl, 2010a: 115).

With regard to the question of whether marriage migration is perceived as a threat to the nation, the answer may be both yes and no. On one hand, recent policy documents conceptualise family migration as a potential burden on the welfare state because applicants are presumed to be dependant rather than employed (NOU, 2011: 7). Moreover, the family members of some migrants, as well as Norwegian citizens with migrant parents tend to be perceived as excessively different, and consequently a potential threat to Norwegian norms and values. This has become particularly clear through the public debates about forced marriage (Hagelund, 2008, 2010a; Myrdahl, 2010b). On the other hand, marriage migrants, at least some of them, are first and foremost perceived to be the legitimate family members of a Norwegian citizen. Within such a discourse, intimate life and marriage based on love and free choice is an individual right, and marriage migrants are legitimately tied to the Norwegian nation state through their bond to a citizen. Then, marriage migration becomes less a question about threat and economic costs than about liberal rights. In this way, marriage migrants inhabit a paradoxical position: they both belong and do not belong to the nation (-state).

Three specific paradoxes are identified and explored in the three articles of the thesis. Firstly, the regulation of marriage migration is characterised by potential tensions between gender equality policies, that usually aim to promote women's autonomy, and immigration regulations that sometimes create and reinforce a situation of dependency for marriage migrants (Eggebø, 2010). Secondly, the regulation of marriage migration, and in particular the regulation of marriages of convenience, is caught between two co-

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existing and somewhat contradictory norms of intimacy and family life. On one hand, there is the idea of romantic love, and on the other hand, there is the realist notion of love. These two co-existing ideals make it particularly difficult to pinpoint a legitimate standard for what a real marriage is (Eggebø, 2013). Thirdly, the regulation of marriage migration is characterised by two different ethical norms. On one hand, there is the idea that emotions are the foundation of ethical conduct. On the other hand, there is the idea that rationality is the foundation for ethics (Eggebø, 2012). While the ideal of rational and disengaged assessment practices is of the uttermost centrality to the bureaucrats, a different ethical norm, based on commitment, feelings and identification, is also important.

In different ways, all the three articles of this thesis discuss and analyse central societal norms. The first article discusses norms of autonomy and self-sufficiency. While autonomy and self-sufficiency are certainly norms that all citizens are expected to uphold, these norms have become strictly enforced through the regulation of marriage migration. Here, a certain level of income, precisely 242.440 NOK (33.000 Euros), has become a precondition for bringing a spouse to Norway. Hence, economic self-sufficiency is no longer only a norm but a requirement for living with a partner of one's own choice. While the new subsistence requirement has provoked many critical reactions from applicants and partners prevented from living together in Norway, the regulation also resonates with deep rooted social norms. In Norway as well as in the U.S., economic self-sufficiency through wage labour has become a norm, which all adults are expected to conform to (Fraser and Gordon, 1994; Syltevik and Wærness, 2004).

The second article shows that the regulation of marriage migration, and in particular the requirement that the marriage is 'real', initiates reflections and debate about what a real marriage is. I identify two contradictory but co-existing ideals of love and intimate life: first, there is the narrative of romantic love. According to the narrative, love is an immediate, irrational and overwhelming force superior to reason and family considerations. Romantic love is love at first sight, an extraordinary adventure where the protagonists often meet obstacles that prevent them from marrying (Illouz, 1998:

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164-73). Second, there is the narrative of realistic love characterised by slow development, the sharing of everyday routines and compatibility in terms of age, class and ethnic and religious background. The regulations' operationalisation of a 'real marriage' comes closer to the ideal of realistic love than romantic love. Nevertheless, the regulations, the bureaucratic assessment procedures and the applicants themselves seem to draw on both narratives of love. While the requirements for a 'real marriage' are contested by applicants, partners and some voices in the public debate, because intimate norms are diverse, the regulations also resonate with common but often unarticulated norms about what a real marriage is.

The third article discusses norms of bureaucratic conduct, notions of justice and ethics found among the civil servants in the immigration administration. As the article shows, the norms of bureaucratic conduct and ethics mostly resonate with what Paul du Gay (2000, 2005) describes as the bureaucratic ethos. It is an ethos where justice is secured through equal treatment of applicants and a strict division of labour between policy-makers and bureaucrats. These norms of bureaucratic case assessment are central to modern societies. Nevertheless, they are also challenged by different and partly contradictory norms where emphasis is put on what is right in the individual case, and where emotions are central to ethical conduct. As the articles clearly shows, central values are at stake in the regulation of marriage migration. For policy-makers, the future of the Norwegian welfare state, as well as gender equality, is at stake. For applicants and their families, love, intimacy, family life and freedom of choice are at stake. For bureaucrats, justice, professional integrity, but also their own humanity, are at stake.

Many features of the regulation of marriage migration to Norway are strikingly similar to those of other European countries. For instance, the Netherlands introduced a subsistence requirement for family migration already in 1993 that was very much like the current Norwegian regulation (see Van Walsum, 2008: 232-9). Moreover, Van Walsum's (2008) research on family migration to the Netherlands also emphasises the many paradoxes stemming from the contradictory development of liberal regulation of family life on one hand, and strict immigration control on the other. Nevertheless,

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there might important features of the regulation of marriage migration to Norway that is specific to the Norwegian context. For example, Hagelund (2003) has identified a discourse of ‘decency’, aimed at ‘aiding the truly needy’, as characteristic of the Norwegian political discourse on immigration. This ‘helping’ discourse is also evident in the policy documents and political debates I have analysed for this thesis. This case study of Norway may prove to be an important contribution to both the research on marriage migration, as well as citizenship theory, which tend to be dominated by research on and discussions from Anglo-American contexts, such as the UK, the U.S. and Canada.

This thesis has engaged with a wide range of theoretical perspectives and traditions. By drawing on feminist welfare state theory, sociological perspectives on the transformation of intimacy, and theories on bureaucracy and emotions, I have identified the norms and paradoxes characterising the regulation of marriage migration. On one hand, the quite strict regulation of marriage migration contradicts commonly accepted norms about self-determination and privacy with regard to family and intimate life. On the other hand, the regulations also resonate with commonly accepted norms with regard to self-sufficiency and economic independence, romantic and practical love, and equal treatment in bureaucratic organisations. Moreover, marriage migration cuts across the public and the private dimensions of social life, and the inside and the outside borders of the nation-state. These distinctions, the public/private and the inside/outside, have been critically examined within the interdisciplinary scholarship on citizenship. Consequently, citizenship theory has proved useful as an overall theoretical framework for this thesis; it has allowed for a thorough investigation of how the borders between the public and the private and the inside and the outside of the nation-state are constructed and contested through the regulation of marriage migration. Based on this case study of Norway, I argue for a theoretical integration of the critique of the public/private distinction and the problematisation of the inside/outside distinction within the conceptualisation and application of citizenship.

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# The Problem of Dependency: Immigration, Gender, and the Welfare State

## Abstract

*This article discusses the regulation of marriage migration to Norway through an analysis of the subsistence requirement rule which entails that a person who wants to bring a spouse to Norway must achieve a certain level of income. Policy-makers present two main arguments for this regulation. First, the subsistence requirement is a means to prevent forced marriage. Second, its aim is to prevent family immigrants from becoming a burden on welfare budgets. The major concern of both these arguments is that of dependency, either on the family or on the welfare state. The article investigates the representations of the “problems” underpinning this specific policy proposal and argues that the rule in question, and immigration policy more generally, needs to be analyzed with reference to the broader concerns and aims of welfare state policy and gender equality policy.*

## Introduction

Patterns of marriage and immigration in Norway are intertwined; a central feature of the changing marriage patterns over the last decades is a substantial increase in marriages involving at least

one person with an immigrant background. Moreover, marriage migration constitutes a substantial share of the total immigration to Norway (Daugstad 2008).<sup>1</sup> The spouse of a person who has legally settled in Norway has the right to family migration as long as certain conditions are met.<sup>2</sup> One key condition here is to have access to the means of subsistence. This is a requirement for all immigration. Up until now, the migration regulations have allowed migration officials to take the spouses' joint income into consideration when making decisions on family migration cases. After a new immigration act came into effect in 2010, however, the requirement has to be met solely by the spouse already settled in Norway. This article investigates the regulation of family migration to Norway, and it analyzes the arguments policy-makers present for this recent change. The two main arguments concern, first, the prevention of forced marriage and, second, the need to avoid burdens on the welfare state caused by immigration. The first argument places the subsistence requirement within a much debated and relevant issue throughout contemporary Europe (Bredal 2005; Fair 2010; Hagelund 2008; Myrdahl 2010; Phillips 2007; Roggeband and Verloo 2007; Schmidt et al. 2009; Wray 2008). The second argument draws upon the assumed welfare dependency of foreigners, which has become a central topic in public debates on integration and immigration (Morissens and Sainsbury 2005, 637). These two arguments define the premises of the debate and reflect its dominant framing within the Norwegian context, but, as I show, have also been subject to challenge.

A topic in much welfare state policy research is the relationship between work/welfare and autonomy/dependency. Feminist theorists who study the welfare state have focused on the gendered aspects of welfare state policy and highlighted how different family models, or breadwinner models, have different consequences with regard to men and women's autonomy. This article poses two research questions: (1) What forms of dependency are presumed and created by the subsistence requirement and what are the consequences of this for cross-national couples in Norway?<sup>3</sup> (2) With respect to the issues that the changes of the subsistence requirement are meant to address: what is the problem represented as being?<sup>4</sup> The data analyzed consists of two documents: first is the proposal for a new immigration act, *Odelsting proposition no. 75* (Arbeids- og inkluderingsdepartementet (AID) 2007). In Norwegian, this law is referred to as the *Lov om utlendingers adgang til riket og deres opphold her* (*Utlendingsloven*) of 15 May 2008, but here I refer to it as the "new immigration act." My second data source is the official record of the parliamentary debate on this proposal. The analysis

uses the subsistence requirement as a prism for examining how dependency is constructed as a problem within Norwegian gender equality policies, welfare policies, and immigration policies, and this is discussed in relation to the wider Scandinavian and European context.

First, I present the legal proposal and the public debates that ensued in the process of preparing the new immigration act. I then describe the methodology and summarize the research on international immigration, welfare states, and gender that informs the empirical analysis. This is followed by an analysis of what it means to be independent from the state and the family within the context of marriage migration. This focuses primarily on how the government argued for changes in the subsistence requirement, but it also pays attention to oppositional voices inside and outside the parliament. By asking *whose independence*, the subsistence requirement is meant to secure, I provide an analysis of the gendered aspects of this regulation by drawing on literature on welfare state regimes, gender regimes, and migration regimes (e.g., Apitzsch et al. 2007; Borchorst and Siim 2010; Esping-Andersen 1999; Langvasbråten 2008; Lister 2009; Morissens and Sainsbury 2005; Sümer 2009).

### A New Norwegian Immigration Act: Case and Methods

The new Norwegian immigration act came into force in January 2010. The process of passing this new law was initiated earlier in 2001, when the Ministry of Local Government and Regional Development appointed a committee to report on immigration regulations. The committee's mandate was to modernize the current immigration act in accordance with the challenges caused by increased immigration. In 2004, the government-appointed committee submitted the white paper *Ny utlendingslov* (Norges Offentlige Utredninger [NOU] 2004, 20) and the white paper was then given a public hearing by a number of organizations and institutions.<sup>5</sup> The immigration act was presented in 2007 (AID 2007) and the parliament debated the bill in April 2008 (Odelstinget 2008). In the fall of 2008, the specific changes in the subsistence requirement were again given a public hearing with thirteen organizations and public institutions commenting on the issue. The new immigration act of 15 May 2008 has now replaced the old immigration act of 24 June 1988.

The regulation of family migration and, in particular, the means to prevent forced marriages received more public attention than almost any other legislative discussions (Myrdahl 2010, 105). Through personal stories presented by the media, the issue of forced

marriage has become a public concern in Scandinavia throughout the past two decades (see Bredal 2005). During this period, Denmark has passed new legislation in order to reduce the number of family migrants and prevent forced marriages (Bredal 2005; Fair 2010). These Danish regulations are discussed in the Norwegian white paper on the new immigration act, and partly as a result of attention drawn to the issue by the media, the prevention of forced marriages figures as a central concern in the document.

One proposal significant in the debate was the suggestion that family migration based on marriage should, in order to prevent forced marriages, not be allowed for persons under twenty-one years old. This proposed regulation, a parallel to the Danish twenty-four-year law passed a few years earlier, led to a polarized public debate about the extent of forced marriage and the adequate means to combat it (Bredal 2005; Hagelund 2008; Siim and Skjeie 2008; Skjeie and Teigen 2007). This particular proposal was subsequently withdrawn from the bill due to its highly controversial character.

Although the old legislation also had a subsistence requirement, as a result of the new immigration act, an application for family migration to Norway now must include documentation of income equivalent to civil service pay grade 8 (currently about €28,000 per year). This requirement may be met by the reference person's own earnings, personal funds, a student loan, or long-term social security benefits (e.g., a permanent disability pension or old age pension), but not by short-term welfare benefits (UDI 2009). In addition to the income requirement, the spouses must live together at the same address, and adequate housing must be documented by a rental contract or home ownership. The legal regulation of family immigrants varies between European states, but for most, having a place to live and a means of subsistence are standard conditions for family migration (European Migration Network 2008 4.1.1.6; Kofman 2004; SOPEMI 2000). Sweden is the only country in Europe where family migrants were not, until very recently, faced with any subsistence requirement (European Migration Network 2008, 6; Hagelund 2008; Hansen 2006, 24; *Justitiedepartementet* 2009).<sup>6</sup>

In analyzing the legal proposal for the new Norwegian immigration act (AID 2007) and the parliamentary debate on it (Odelstinget 2008), I draw on Carol Lee Bacchi's approach, "What is the problem represented to be?" (Bacchi 1999, 2000, 2009). Rather than understanding policies just as an attempt to solve problems, Bacchi examines how, implicitly or explicitly, the "problem" is diagnosed in policy proposals. She also argues that policy-making is inherently contested and that requires an investigation of competing

problem representations and the uneven power relations involved (Bacchi 2009, 237, 254). Laws and legislation are taken as starting point for policy analysis (Bacchi 2009, ix).

The law proposal and the parliamentary debate under scrutiny here are public sources and products of national policy-making institutions and thus well suited for understanding dominant public discourses. Furthermore, in addition to articulating new policies on immigration, the texts reveal political processes of dispute and compromise and contain competing representations of the problem. The parliamentary debate makes visible the political controversies articulated by different representatives in parliament, and the law proposal makes reference to actors outside parliament, such as researchers, public institutions, and interests organizations. The voices of these organizations and institutions, which gave their responses to the proposed policy changes during the public hearings, are briefly represented in the official documents but published in their entirety at the web pages of the Ministry of Labour and Social Inclusion.

In line with Bacchi's (1999) approach, I focus on the conceptions of "problem representations" and investigate those that underlie the arguments for the subsistence requirement, along with the presuppositions and assumptions lying behind the particular policy proposal. Further, I look at the gaps and silences in the analyzed texts, the re-problematizations, the space for challenge and the signs of resistance (Bacchi 2009, 237–8). Bacchi (2009, 156–7) also recommends that policy analysis should transcend national contexts and connect to different policy areas; other scholars have argued that different national migration and integration policies are related to and should be studied comparatively with theories on welfare state regimes and gender regimes (Apitzsch et al. 2007, 216; Borchorst and Siim 2010; Keskinen et al. 2009; Lister et al. 2007, 138–39; Lutz 2007; Morissens and Sainsbury 2005; Sainsbury 2006; Williams and Gavanas 2008). I therefore investigate the connections between how "the problem of dependency" is represented in migration policy, welfare state policy, and gender equality policy.

### Immigration, Welfare, and Gender

Welfare and migration are interrelated fields within research and policy, and a debated question is how far immigration challenges or eventually undermines the modern welfare state (Brochmann 2002, 2005; Hammar and Brochmann 1999; Kildal and Kuhnle 2005; Kjeldstadli 2003, 2008; Kymlicka and Banting 2006; Taylor-Gooby 2005). According to Gösta Esping-Andersen's (1992, 1999) categorization of the European welfare states, Norway has, as the other

Scandinavian countries, a “social democratic” welfare state regime, often considered to be more generous toward immigrants than the “liberal” and “conservative” regimes because universal rights are granted to all residents, immigrants included (Kildal and Kuhnle 2005, 14; Morissens and Sainsbury 2005; Sainsbury 2006).<sup>7</sup> Some argue that immigration may threaten the sustainability of these generous welfare states because, first, resources are always limited, and second, ethnic diversity is often perceived as a potential threat to the social cohesion, trust and solidarity that uphold the welfare state (Brochmann and Hagelund 2010). Despite being faced with similar challenges, there is evidence that the social democratic countries are following rather different paths with regard to migration and integration policies (Borchorst and Siim 2010; Brochmann and Hagelund 2010; Hagelund 2008; Keskinen et al. 2009; Lister 2009; Morissens and Sainsbury 2005).

The concept of dependency figures strongly in welfare, gender, and migration policies. Within welfare discourse, paid labor is commonly seen as a precondition for autonomy, while welfare is associated with dependency (Bacchi 2009, 60–65; Lødemel and Trickey 2001a). One of the major challenges to welfare states is the increasing cost of those dependent on welfare. Dependency in these terms is usually presented as a problem involving an element of moral judgement (Dean 2004; Fineman 2004; Lødemel and Trickey 2001b; Mead and Beem 2005; Pierson 2006; Schram 2006). In the European Union directive on family migration, “dependant” is the official term for a family migrant, and “sponsor” denotes the person with whom the prospective immigrant wants to live (European Migration Network 2008, 12). Traditionally in line with global patterns of gendered division of labor and the male-breadwinner model, sponsors have been presumed to be men and dependant family migrants have been presumed to be women or children (Grillo 2008; King 2002; Kofman 2004). However, research on women and migration has questioned the assumption that women migrate only as dependent family members, showing that they migrate as workers and act as sponsors (Walsum and Spijkerboer 2007).

Fraser and Gordon (1994) trace how the concept of dependency is used in the historical context of the United States. Throughout modernity, the concept of independence was strongly connected with the capacity for self-support through paid labor. Wages implied that the worker had the ability to support a dependant wife and family. Since the dual breadwinner family has now become the assumed norm, a situation of dependency is no longer required or even legitimate for either women or men. Dependency has thus increasingly come to be seen as an individual trait rather than a

social position of subordination, and to be perceived as “dependent” has acquired greater stigma (Fraser and Gordon 1994). These notions of welfare dependency, “independence,” and “self-sufficiency” are evident in Norwegian policy discourse (Bøe and Wærness 2005; Syltevik and Wærness 2004, 100).

Dependency here refers to people being economically dependent on their families or the welfare state for subsistence. Women’s economic dependence on men has been the central focus within feminist welfare state theory and gender equality policy (Leira 2002; Lewis 1992; Orloff 2009; Sümer 2009). Fifty years ago Norwegian women were expected to be provided for by their spouses, and it was then that the male breadwinner model reached its apogee (Hagemann 2006, 2007; Leira 2002; Syltevik and Wærness 2004). This was subsequently challenged both by the women’s movement and in feminist scholarship. Over time and across Europe, the male breadwinner model has been modified to varying extents (Sümer 2009). The Scandinavian welfare state is known to promote gender equality by undermining the male breadwinner model (Hernes 1987; Leira and Ellingsæter 2006; Lister 2009), emphasizing individual rights, women’s labor market participation and consequently, a dual-earner, dual-career family model (Esping-Andersen 1999, 18).<sup>8</sup>

Syltevik and Wærness (2004), however, argue that there is a discrepancy between norms and reality with regard to breadwinner models. While ideology has changed relatively rapidly from the male breadwinner model to a situation where men and women are held to be individually responsible for providing for themselves, the practices of Norwegian couples have not necessarily kept up with changing norms (Syltevik and Wærness 2004). Furthermore, although most social benefits are given as individual rights, marriage may affect the individual’s right to certain benefits and spouses may have an obligation to support one another. So, in spite of individualism and norms of autonomy, public policies treat marriage partners sometimes as individuals and other times as a single unit (Roseneil et al. 2008, 146).

### The Arguments for the Subsistence Requirement

According to the Norwegian Marriage Act of 7 April 1991 (including the latest changes from 2009), citizens over eighteen years of age, of different or same sex, may enter into marriage—provided each enters into it voluntarily. Foreign citizens must in addition obtain legal residency in Norway in order to marry under Norwegian law. The immigration act regulates residence permits, and the three principal conditions for family migration on the basis

of marriage are that the marriage must be *formally legal*, the couple must *live together*, and the marriage must be *real* (UNE 2008). According to the cardinal rules, means of subsistence and adequate housing are required for all immigrants, family migrants included. The principle of self-support is put forward as one of the main reasons for the general subsistence requirement (AID 2007, 14).

In the parliamentary debate on the new immigration act, the Minister of Labour and Social Inclusion (that is, the chief minister of AID) articulated two main objectives of the subsistence requirement for family migration based on marriage:

The aim of the subsistence requirement is that people who wish to bring a spouse to Norway, and who are granted permission based on marriage, need to be economically independent. This is important because the arriving spouse cannot automatically expect to be supported by the state. But what is important with respect to forced marriage is that the ability to resist such pressure might imply that the person becomes estranged from her family. The ability to resist such pressure and even break with one's family will improve if the person is economically independent (Odelstinget 2008, 320 Bjarne Håkon Hansen, Labour Party).

Two central arguments are presented in this quote. First, family migration on the basis of marriage should not burden state budgets, alluding to the threat of economic costs of immigration. Second, a self-supporting person is seen to be better equipped for resisting family pressure regarding whom to marry. Welfare dependency and forced marriage are presented as two problems that the subsistence requirement is meant to target. While the history of immigration control has tended to prevent or promote immigration on the basis of economic means of subsistence (Fuglerud 2001, 101–5), forced marriage adds a quite new rationale to the subsistence requirement (cf. earlier law in Justisdepartementet 1987, 55–7). Unsurprisingly, there is consistency between how the problem is presented by the minister in the parliamentary debate and how it is framed by the Ministry in the law proposal:

The Ministry considers that out of consideration for the signal effects, it is desirable that the law should contain a rule demanding that the prospective immigrant be supported independently. [...] The Ministry underscores that *intensifying the subsistence requirement* could stimulate young people to become self-reliant through work or education, and that this

will make them more economically independent of their families (AID 2007, 64–65, my emphasis).

Some of the most important changes in the new regulation exempting this intensification of the subsistence rule, emphasized above, include:

- Only the expected income of the reference person and not the expected income of the immigrant should count as means of subsistence.
- The reference person must not have received any short-term welfare the year before the residence permit be given.
- The existing rule, which can waive the subsistence requirement for marriage partners or cohabitants of Norwegian citizens over twenty-three years old (cf. §25, part 3) be repealed (AID 2007, 14 and 64).

While the old law allowed the spouses' joint income to be taken into consideration, the new regulation stipulates that the reference person must alone fulfill the subsistence requirement. Furthermore, reference persons who have received short-term welfare benefits become excluded from family migration rights and that Norwegian reference persons are no longer privileged with regard to the subsistence requirement. All these changes are geared to making sure that the reference person is genuinely self-sustained on a long-term basis (AID 2007, 65).

The arguments presented by the Minister of AID reflect the dominant framing of the problem. In both the parliamentary debate and the law proposal for a new immigration act, welfare dependency and forced marriage were presented as the problems the subsistence requirement is supposed to solve. The law proposal was presented by a governmental coalition consisting of the Labour Party, the Socialist Left Party, and the Centre Party. Representatives from the Progress Party and The Conservative Party generally argued in favor of a stricter subsistence requirement and thereby supported the majority coalition on this issue. Some representatives from the Liberal Party and The Christian Democratic Party questioned the dominant framing of the subsistence requirement or oppose certain specific aspects of the proposed changes. So did those the institutions and organizations that commented on the intensification of the subsistence requirement in the public hearing. The following section looks at both dominant and alternative representations of the problem.

### Independence from State Support

The message from the general principle of means of subsistence is that “as a main rule, those who seek to become residents of Norway must be self-supporting” (AID 2007, 14). The emphasis in the new immigration act on self-support resonates with the discourses of the “work approach” which wants to shift away from the “passive support” associated with earlier income maintenance policy to an active linking of benefits to work requirements, in order to make the claimant self-sufficient (Nilssen and Kildal 2009, 307). Meanwhile, the changes in the family migration regulations require that only the income of the reference person will be taken into account: “the reference person is responsible for securing subsistence in order to be ready to receive the person with whom he or she wishes to establish a family” (Odelstinget 2008, 296 Bent Høie, Conservative Party). This emphasis on the reference person’s responsibility to provide for the immigrant contradicts the wording of the initial quote of this section which emphasizes the migrant’s need for self-sufficiency. In the context of family migration, it is presented as a problem if the immigrant becomes dependent on the welfare state for maintenance. As a solution, “those who wish to bring a spouse to Norway (...) need to be economically independent” (Odelstinget 2008, 320 Bjarne Håkon Hansen, Labour Party). Thus, in this context, a migrant’s independence from state support means that the reference person should be self-sufficient through paid work and thereby be able to provide for the spouse. Moreover, the representatives from both the Labour Party and the Conservative party framed the issue of subsistence in a very similar way, indicating a consensus between left and right on this particular issue: independence through labor market participation should be a precondition for bringing a spouse to Norway.

The subsistence requirement does not apply to all groups:

There will be exceptions [from the subsistence requirement] for the families of refugees who established a family life before coming to Norway (Odelstinget 2008, 293 Arild Stokkan-Grande, Labour Party).<sup>9</sup>

This exception of refugees is justified through international law. A refugee has the right to protection and this protection should also include preservation of the unity of the family, access to work, education, accommodation, and welfare services (AID 2007, 70). As a consequence, economic self-support and economic independence are not requirements for this particular group. Interestingly, the discussions on refugees follow a completely different line of argument:

The new immigration act strengthens the legal status of persecuted persons. As such, it perpetuates the strong Norwegian tradition of taking care of those who are weakest (Odelstinget 2008, 293 Arild Stokkan-Grande, Labour Party).

Refugees are here defined as “the weakest” and when speaking of this group, the potential welfare burdens caused by immigration are no longer an issue. This resonates well with what Anniken Hagelund (2003) refers to in Norwegian political discourse on immigration: that immigration legislation involves moral and ethical concerns, where Norway is seen to have a duty to help those who truly need it. In contrast to other groups who might not be able to fulfill the subsistence requirement, policy-makers do not demand a test of economic independence for refugees, but constructs them as a group of truly deserving persons (Hagelund 2003) and not part of the problem of dependency. Asylum seekers granted residence permit on humanitarian grounds, on the other hand, are not exempted from the subsistence requirement. In the public hearing, the Equality and Anti-Discrimination Ombud (LDO), The Directorate of Integration and Diversity (IMDi), and the Professional Forum for Municipal Refugee Work (ffkf) claimed that this represents discrimination of people with a residence permit on humanitarian grounds, and challenged the representation of this group as less needy than people with refugee status.

As mentioned, one consequence of the new immigration act is that a person in receipt of short-term welfare benefits the year before the application is submitted, cannot act as a reference person in cases of family migration (AID 2007, 14, 64). Several other European countries have a similar requirement, including Denmark (Hagelund 2008, 82), the Netherlands and Germany (SOPEMI 2000, 117). Reference persons who have been partly or totally dependent on welfare are thus presented as a problem: “Receiving welfare benefits indicates that the person has not been self-supported and therefore will not be able to provide for new family members” (AID 2007, 65). The implication and fear is that the reference person’s migrant partner will also become dependent on the state. However, some outside the Parliament argued that this was “unreasonable,” claiming that such benefits might actually help people to become economically independent in the long run (IMDi 2008) rather than being a sign of dependency.

According to the old immigration act, the spouse of a Norwegian or a Nordic citizen could be exempted from the subsistence requirement, and this exemption was practiced quite liberally (AID 2008). In the new immigration act, this exemption is removed and the subsistence requirement applied to everyone, “regardless of the reference

person's age, residence permit or citizenship" (AID 2007, 64). This change in regulations implies a shift in the way the problem of welfare dependency is presented: the majority of people seeking marriage migration are in fact married to ethnic Norwegians, hence, under the old regulation, the subsistence requirement was waived for the majority of marriage migration applicants. Norwegian citizens with immigrant backgrounds were either presumed to lack the capacity for self-sufficiency through paid work to a greater extent than ethnic Norwegian citizens, or the latter were generally thought to hold legitimate positions of dependency (e.g., through having paid taxes most of their lives). This change in the law extends to ethnic Nordic citizens the potential problem of welfare dependency. In addition, according to the The Norwegian Directorate of Immigration (UDI), this change is likely to increase the number of rejected applications.<sup>10</sup>

On one hand, this change in the subsistence regulation may be read as a movement toward formal equality regardless of citizenship. On the other hand, the subsistence requirement does not apply to European Economic Area (EEA) nationals or their spouses, since they exercise their right to freedom of movement (AID 2007, 98–99; SOPEMI 2000, 115). This particular exception for EEA nationals and their spouses was not raised or questioned by any participants in the parliamentary debate or the hearing, in contrast to many other aspects of immigration regulations. There seemed to be no need for its justification except for reference to freedom of movement and EEA regulations. In this way, the citizenship of the reference person still matters. Thus, when the policy-makers revoked the exception for Norwegian and Nordic citizens from the subsistence requirement, rather than being a movement toward formal equality, it became a means for compelling Norwegian and Nordic citizens to provide for themselves through labor market participation.

According to the law proposal, an exception from the subsistence requirement can be given to people undergoing long-term higher education (AID 2007, 65; 2008). In the parliamentary debate, one of the representatives from the opposition offers the example of a "Norwegian medical student in love with a boy from South Africa [...] who has a job offer in Oslo" (Odelstinget 2008, 305 Trine Skei Grande, Liberal Party). This example was used to question the subsistence requirement; it was presented as being unreasonable that a Norwegian student should need to fulfill the subsistence requirement in order to bring her boyfriend to Norway. It seems self-evident to the speaker that this sort of case should not be circumscribed by the subsistence regulations. In this way, the suggested means for preventing forced marriages and welfare burdens were seen to spread too

widely. The class position and ethnicity of the ethnic Norwegian medical student did not fit the common understanding of a victim of forced marriage, nor could she be perceived as a typical welfare dependant. It seemed evident to the parliamentary representative that the Norwegian medical student did not constitute part of “the problem” and consequently the parliament made some exceptions for students. The figure of the student thus functions as a rhetorical tool allowing a boundary to be placed between those who do and those who do not constitute “the problem” when it comes to welfare dependency and forced marriage.

A different criticism to emerge involved discrimination and class, gender, and ethnicity as relevant dimensions of social inequality. The following quote is an example of this type of criticism voiced in connection with the issues and perceived problems the new regulations are meant to address:

I find that the increase in the subsistence requirement represents discrimination of people with low incomes. [...] The average income of persons with ethnic minority backgrounds is less than the subsistence requirement. Furthermore, men earn more than women (Odelstinget 2008, 302 Bjørg Tørresdal, Christian Democratic Party).

In the public hearing other groups and organizations emphasized the potentially discriminating and “unreasonable” effects of the subsistence requirement (e.g., IMDi 2008; Juss-buss 2009; LDO 2008). Some of the hearing responses offered a different view—that the problem was the government’s eagerness to prevent immigration (Juss-buss 2009), displacing both the issue of welfare dependency and that of forced marriage.

### Independence from Parents

The subsistence requirement for family immigrants is, as we have seen, partly justified as a way to prevent forced marriages: “The idea behind these means is that reference persons who are unable to provide for themselves will be in a vulnerable situation with regard to pressure from their families, because they are in a situation of economic dependence on their parents” (AID 2007, 194). Consequently, it is argued that the requirement will stimulate young people to pursue both financial and practical independence (AID 2007, 203). At this point one may ask: who are these reference persons imagined to be, and in what kind of situation do they exist?

In the new immigration act (AID 2007, 191–203), the issue of forced marriage is presented as a problem for young Norwegian

men and women with ethnic minority backgrounds, whose parents might want to force them into marrying partners from their (the parents') home countries. "Bringing a spouse from the home country" (AID 2007) is presented as a situation where forced marriage is a prominent risk. According to the law proposal, forced marriage is seen as a problem closely related to the practice of arranged marriages, and arranged marriages between cousins are especially associated with compulsion or pressure. Pakistan in particular, but also Turkey, Iraq, Somalia, India, Morocco, Sri Lanka, and Afghanistan are listed as areas where the tradition of arranged marriage is commonly practiced (AID 2007, 193). Forced marriage is thus presented as a social problem for Norway, as a consequence of immigration from these countries.

Forced marriage is further associated with young people (AID 2007, 191–197; KRD 2005b, 25–33). Given the assumption that young people above twenty-one years old are "more independent and mature" and hence more likely to be able to resist pressure with regard to marriage (AID 2007, 202; NOU 2004, 20, 247), the argument about age, maturity, and independence became important to justify the proposed age limit for family migration. A similar line of argument figured in the Danish debate as the basis for the existing "twenty-four year law" (Fair 2010). Such arguments are not a new in Scandinavian legislative tradition; the marriage laws of the early twentieth century had a relatively high minimum age for marriage and such regulations aimed at securing the woman as an independent individual when entering into marriage (Melby 2006, 148, 408). As mentioned earlier, the Norwegian government report for the new immigration act suggested both spouses should be above twenty-one years old to be eligible for family migration when marrying a person from outside the EEA area (NOU 2004, 20, 239–50). However, both the legitimacy and the effectiveness of such rules were contested (Bredal 2005; Fair 2010; Hagelund 2008; Schmidt et al. 2009) with the consequence that the age limit for family migration was in Norway, as opposed to Denmark, withdrawn from the final law proposal for the new immigration act.

The way the problem of forced marriage was presented in the Norwegian debate was both similar and different to that of Danish political discourse. In both contexts, forced marriage was presented as a problem which concerns young women of ethnic minority background marrying foreign citizens. In addition, the arguments presented for the subsistence requirement in the Norwegian context, namely prevention of forced marriage and the problem of welfare dependency, also existed in the Danish debate (Fair 2010, 144). Yet the Danish debate and legislation differed from the Norwegian one

in that a clearer distinction between arranged and forced marriages emerged in the Norwegian regulation while Denmark has a more explicit aim to reduce family migration in general (Bredal 2005; Fair 2010; Hagelund 2008). In the Norwegian law proposal, the problem of forced marriage was presented in the same way as in the preceding white paper, but the solution is depicted differently with the subsistence requirement as an important initiative for its prevention. The shift in Norwegian legislation has been from maturity and age to independence through paid labor. Nevertheless, presupposing that financial independence is normally correlated with age (AID 2007, 191–7), the subsistence requirement may also be seen as an indirect way of regulating the marriage age for cross-national couples, although the regulations are quite different than the Danish twenty-four year law.

In the law proposal in question (AID 2007; KRD 2005b, 25–33), forced marriage is not presented as a gendered problem, but one concerning young men and women of ethnic minority backgrounds. Nonetheless, I would suggest that, taking the wider context of the law proposal into account, the issue of forced marriage did appear as a gendered problem and a gender equality concern. The question of gender is prominent in other law proposals (KRD 2005a, 2005b), research (Bredal and Skjerven 2007), and in the National Action Plan against Forced Marriage (BLD 2007, 9). Similarly, in the public debate, combating forced marriage was presented as a gender equality concern and an issue for minority women's liberation (see for example, Salimi 2004; Storhaug 1998). Forced marriage was presented as a particular problem for young women of Pakistani background; such a woman risks being forced to marry a man from Pakistan who might even be her cousin, and, due to immaturity and economic dependence on her parents, she does not have the capacity to refuse the marriage. This is where the subsistence requirement comes in. The regulation was meant to make sure that the young woman of Pakistani background has her own income; it seeks indirectly to make sure that she has reached a certain age and maturity before such a marriage is even possible. Insofar as the subsistence requirement can only be met by the reference person, this also reinforces the above described framing.

Income is associated with maturity and independence and functions as a precondition for choice and personal freedom. Although some actors outside the parliament questioned this line of argument, claiming that labor market participation cannot reduce the use of force in situations of forced marriage (LDO 2008), a close connection between autonomy and work was the underlying logic of the arguments for the subsistence requirement. The strong relationship

between women's labor market participation, independence and equality of gender was by no means unique for the specific debate about forced marriage. Access to the labor market has also been a central focus of the women's movement. It has, for instance, been seen as a prerequisite for independence from men and thereby a precondition for women's autonomy and liberation (Danielsen 2008; Haukaa 1982). In comparative welfare state theory, married women's labor market participation is often regarded as a key indicator of gender equality because it undermines the model of the male breadwinner solely supporting a family (Esping-Andersen 1999, 2009; Lewis 2002; Sümer 2009). Working women are also an important area of concern in Norwegian gender equality policies. The aim of the subsistence requirement, following the line of argumentation concerning forced marriage, seems therefore to promote the autonomy of young women of minority background through economic independence and labor market participation.

### Independence for whom? A Gender Perspective

It is interesting to examine "the ways in which policy proposals produce 'women's equality' as a particular kind of problem" (Bacchi 1999, 8). As we have seen, gender was not a chief concern in the arguments for the subsistence requirement (AID 2007). The main distinctions in the texts are between reference persons and applicants and the different entry categories of immigrants (labor migrants, family immigrants, asylum seekers, etc.). The law proposal mostly follows a seemingly gender-neutral language in common with Nordic policy discourses (Lister 2009, 249). Nevertheless, in the context of forced marriage, the proposal renders women's equality as a particular kind of problem. Forced marriages and arranged marriages not only threaten the autonomy and freedom of young women of minority backgrounds; they also threaten gender equality as a value and norm: "[The] practice of arranged marriages may be seen as a challenge to Norwegian ideals on freedom and [gender] equality" (AID 2007, 203). This quote presents gender equality as a particular Norwegian value. Gender equality as a central aspect of national identity is evident also in Sweden (Dodillet 2009) and the Netherlands (Roggeband and Verloo 2007), and may be seen as a feature of the self-understanding of several European welfare states, in particular the Nordic welfare states (Keskinen et al. 2009; Lister 2009).

At first sight, the general insistence on independence through earning one's own living seems to be in line with the general norms underpinning Norwegian welfare policy. At least on an ideological

level, economic independence through earning wages and individual responsibility for subsistence are promoted as norms. The Scandinavian welfare states are known to promote defamilialization, women's labor market participation and to focus on individual rights (Esping-Andersen 1999, 2009). The arguments concerning forced marriage are in line with this tradition. Yet with the recent changes, the subsistence requirement can no longer be fulfilled by family members other than the spouse, the reference person. The policy seeks, through this means, to avoid family involvement in marriages and to ensure that the young woman of minority background is actually the sole breadwinner of the newly established family, thereby radically undermining the male breadwinner model.

The fact that the subsistence requirement is now to be met solely by the reference person makes the family immigrant's potential self-support through his/her own income irrelevant in the application process. Only one of the organizations participating in the hearing explicitly commented on this point. The legal aid organization Juss-Buss claimed that the immigrant's potential capacity for economic self-sufficiency should be recognized at the time of application (Juss-Buss 2009). However, from the point of view of the legislator, this change was proposed with reference to young Norwegian women with ethnic minority backgrounds. Among the group of foreign spouses applying for family migration with second generation immigrants, six out of ten reference persons are women. However, this target group constitutes only 3 percent of the total number of marriage migrants. The vast majority of reference persons for marriage migration are men, 40 percent being immigrants themselves. Of this group, 75 percent of the immigrant spouses are women, 57 percent of reference persons are Norwegian citizens, and of this group, 70 percent of the immigrant spouses are women (Daugstad 2008, 60–65). The changes in the regulation affect *all* family immigrants, not only the female reference persons of the second generation who are presented as the main target group. The subsistence requirement therefore presupposes and potentially reinforces immigrant spouse's economic dependence on their partner. Thus, when we take the entire population of cross-national couples into account—not only the women regarded as potential victims of forced marriage—a potential paradox surfaces: In order to promote the independence of young Norwegian women with immigrant backgrounds, a single breadwinner model is introduced as the basis for all applications for family migration.

The critique of the single breadwinner model first developed in a context where it was taken for granted that the sole family provider was a man. And in the context of contemporary marriage migration,

the Norwegian reference person, who is supposed to be the family provider, is indeed in most cases a man. However, the reference person may certainly also be a woman, so even though one may want to focus on how the law affects women, one cannot ignore the consequences of economic dependency for male immigrant spouses. By focusing only on the individual reference person, and by ignoring the relations of power between cross-national couples, it is possible to employ an argument which seems to be in line with the ideology of independence and gender equality. Alternatively, if focusing on the cross-national couple, the subsistence requirement presupposes familialization and spouse dependency for immigrants, in contrast to the ideological promotion of and individual independence in Norwegian society at large.

In spite of being categorized as social democratic welfare states characterized by universal benefits, individual rights and de-familialization (Esping-Andersen 1999; Lister 2009; Sümer 2009), with regard to immigration and integration policies, Norway, Denmark, and Sweden differ substantially (Hagelund 2008; Langvasbråten 2008; Lister 2009; Morissens and Sainsbury 2005). Denmark has, in general, introduced strict restrictions on family immigration, while the Swedish migration regime is less restrictive. Norway is positioned somewhere in the middle (Hagelund 2008, 74). Denmark has a general subsistence requirement, but there is no demand for a set annual income as in Norway. The reference person has to provide a financial security (currently about €8,700), and must not have received public assistance (The Danish Immigration Service 2010). In 2010, Sweden introduced a subsistence requirement for some groups of family immigrants, but the scope of the requirement and the arguments presented for this recent regulation differ from the Norwegian one (see *Justitiedepartementet* 2009).

It is interesting to further compare the Norwegian immigration regulations with those of Germany, a different welfare state regime, namely the “conservative” or “continental” model. In Germany, until recently, regulations prevented an immigrant spouse from working for four years after arrival (Sainsbury 2006, 235).<sup>11</sup> These rules, then, not only presupposed a strong breadwinner model, but made such a model mandatory for all cross-national couples. While the old Norwegian law allowed that the spouses’ joint income could be considered, the new regulation presupposes a sole breadwinner model at the time of application.

However, in contrast to German regulations and in line with the other Scandinavian countries, family migrants to Norway are normally given a work permit when the residence permit is granted and are thus in principle allowed to earn wages. In addition, family

migrants have, after a residence permit is given, the right and obligation to participate in Norwegian and social studies tuition, “aimed at improving immigrants’ chances of participating actively in employment and society at large” (IMDi 2010). As such, welfare state policies seek to promote individual economic independence for family migrants as well. In the long run, immigrant spouses are expected to participate in the labor market and thereby contribute to a dual-earner family model, but this is something to be achieved after settling in Norway. This taken into account, the subsistence requirement, which demands the capacity to provide for a spouse, does not necessarily imply that immigration and integration policy supports a sole breadwinner family model. Notwithstanding, economic dependency, at least initially, seems to have become the price one must pay for entering the “gender equal” Norwegian society. In these ways, the regulation of family migration to Norway holds some paradoxes with regard to the ideological promotion of economic independence.

### Conclusions

Behind the arguments for the subsistence requirement are two main issues which are presented as problems, and it is these that the policy-makers aim to address. First, there is the problem of welfare dependency in general and the particular problem of the welfare costs of immigration. Second, there is the problem of forced marriage. Economic independence through labor market participation is offered as the solution to both these problems and the subsistence requirement is developed as the tool to promote labor market participation. Independence is intimately linked to wage-earning labor and, in general, dependency is portrayed as a problem, even though some legitimate positions of dependency are allowed. This framing of the subsistence requirement tended to dominate the white papers and the parliamentary debate. Compared with the extensive criticism directed toward the proposed age limit for family migration, the subsistence requirement provoked remarkably little protest and debate. However, oppositional voices, both inside and outside the parliament, questioned the intensification of the subsistence requirement and challenged the way the issue was framed in that it constituted discrimination and social inequality as central problems.

Following the dominant representations of the subsistence requirement, economic independence is promoted as a core value for all citizens, including immigrants. It is clear however that the economic independence of the reference person is the focus of the law proposal. For the family migrant, spouse dependency is offered as an

alternative to state-dependency. Immigrant spouses are, at the time of applying for family immigration, expected to be provided for by their spouses. In the public debates and proposals on policies concerning breadwinning and the reconciliation of work and family, the issue of women's participation in the labor market and gender equality is central. The majority of immigrant spouses are women, and taking these gendered patterns of family migration into consideration, it seems strange that the changes in the subsistence requirement were discussed without much reflection over the gendered aspects of the capacity and obligation to provide for/be provided for by a spouse. The failure to connect mainstream gender-equality policies and questions concerning minority to immigration policies is not unique for this case study (Langvasbråten 2008; Roggeband and Verloo 2007; Skjeie and Teigen 2007). Migration policy, welfare state policy, and gender equality policy are linked to one another, but as long as issues of gender equality are only made relevant in relation to forced marriage, the gendered patterns of immigration, economic dependency, and the capacity to provide for a spouse remained the problem frame and not addressed when the subsistence requirement was discussed.

I argue to combine the perspectives of immigration, welfare, and gender, and in these terms I have discussed the subsistence requirement in relation to the wider Norwegian, Scandinavian, and European context. Even though the debates about the new Norwegian immigration act have some commonalities with the public debate in Denmark, there are marked differences between the Scandinavian countries with regard to immigration and integration policies in general and family migration policies in particular. Moreover, this article reveals some paradoxes with regard to the norms of the Norwegian welfare state model. Together, this might indicate that politics of immigration and integration do not necessarily follow the traditional division between the three different welfare state regimes types.

The subsistence requirement is one part of a complex regulatory regime designed to fulfill many different and potentially contradictory aims. This article has laid out the two primary ways in which issues are presented as problems and how these problem representations underlie the subsistence requirement. As Norway's new immigration act has just recently come into force, a discussion of the objectives of the subsistence requirement in relation to its actual effect is beyond the scope of this article. However, the Norwegian Directorate of Immigration has indicated that more rejected applications will be a likely consequence.<sup>12</sup> What groups will be excluded from family migration in the future and how does this relate to

different migration, gender, and the welfare state regimes? I would suggest that this is an important question for further research.

## NOTES

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1. Between 1990 and 2006, family migration on the basis of marriage constituted 26 percent of all immigration to Norway from outside the Nordic countries (Daugstad 2008, 73). According to Statistics Norway (SSB), “immigrants and those born in Norway to immigrant parents” constitute 11.4 percent of the Norwegian population (SSB 2010, 1). Seven out of ten immigrants originates from Africa, Asia, Eastern-Europe, or Latin-America (Daugstad 2008, 13).

2. Family migration refers to persons immigrating to live with family members. Family reunification is perhaps the most common term for such permits. Lately, a distinction has been made between family reunification and family establishment (AID 2007; NOU 2004, 20, 20; SOPEMI 2007). While the first term covers family migration of children, parents, other relatives, and prior established marriages, the latter term refers to cross-national marriages where the parties were formally settled in different countries at the time of marriage. Family migration is a more general term that refers to both family reunification and family establishment.

3. This research question is informed by Syltevik and Wærness (2004, 125) a work which has encouraged me to inquire into the forms of dependence created by different types of welfare policies, and to discover the consequences they hold for various groups in the population.

4. This question is inspired by Carol Bacchi and her “what is the problem represented to be?-approach.” In line with this approach, I employ the concept of “problem representations.” See later section).

5. For an overview of institutions and organizations invited to participate in the hearings and results of the hearings, see The Ministry of Labour (the Ministry of Labour was named The Ministry of Labour and Inclusion un till 2010): <http://www.regjeringen.no/nb/dep/ad/dok/hoeringer/hoeringsdok/2005/horing-nou-200420-ny-utlendingslov/2.html?id=97828>

(accessed February 23, 2010), and <http://www.regjeringen.no/nb/dep/ad/dok/hoeringer/hoeringsdok/2008/horingsbrev---krav-til-sikret-underhold-/horingsuttalelser-2.html?id=533765> (accessed February 16, 2010).

6. 1 April 2010 Sweden introduced a subsistence requirement for family migrants. The requirement is waived for large groups, e.g., cases where the reference person is a child, a Swedish citizen, a citizen of the EEA area or Switzerland, a refugee, an immigrant on a permanent residence permit residing in Sweden for four years or more, or if the applicant is a child (see *Justitiedepartementet* 2009 for further details).

7. Sainsbury presents a comparative study showing that the social rights of immigrants vary between different welfare state regimes (Sainsbury 2006). In the United States (a liberal regime), the right to family migration has a strong class dimension. A strict income requirement limits the possibility for low-income groups to bring family members into the country. In Germany (a conservative regime), the rules are based on a strong breadwinner model. Economic self-sufficiency must be proven and is based on the single income of the male breadwinner. Sweden (a social democratic regime) has a more inclusive policy where social rights are based on residency and given as individual entitlements for family members (Sainsbury 2006, 234–38).

8. The typology of Esping-Andersen (1992, 1999) has been contested. Jane Lewis (1992) has argued for a different typology, one focusing on the different breadwinner models of the welfare states. From such a vantage point, Norway has been characterized as a strong male breadwinner regime in contrast to the weak breadwinner model characterizing the other Scandinavian countries (Hagemann 2006, 2007; Lewis 1992). Due to policy changes over the past decades, Norway seems to be catching up with Denmark, Sweden, and other Scandinavian countries (Ellingsæter 2003).

9. Asylum seekers whose applications for a residence permit are accepted, may be given refugee status or a residence permit on humanitarian grounds. Refugees are in many ways a privileged category of immigrants compared with the latter, since they are given more rights. The exemption from the subsistence requirement is one example of this privileged position. Nevertheless, it must be specified that the exception to the subsistence requirement applies only for the already-established family of a refugee. A refugee who establishes a new marriage after coming to Norway is not protected by the principle of unity of the family. In such a situation, he/she must fulfill the subsistence requirement.

10. Interviews with employees at the Norwegian Directorate of Immigration 8–12 February 2010.

11. According to a report published by the European Migration Network in 2008, the German regulations seem to have changed since Sainsbury's analysis: "Granting of a residence permit to a dependant in Austria, Germany, Sweden can entitle its holder to take up employment" (European Migration Network 2008, 24).

12. This opinion was expressed by most of the employees I talked to at the Norwegian Directorate of Immigration during a series of qualitative interviews conducted between 8 February and 12 February 2010.

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# A Real Marriage? Applying for Marriage Migration to Norway

Helga Eggebø

*Marriages of convenience have become a central concern in political debates about immigration policy. According to Norwegian regulations, the right to marriage migration only applies to 'real' relationships. The notion of a real or genuine marriage, as opposed to a marriage of convenience, raises the question of what characterises a legitimate intimate relationship. Based on interviews with the parties involved, this article investigates how marriage migrants and their partners perceive the application process for marriage migration to Norway, and how they are affected by the idea of marriages of convenience. It argues that the scholarly literature on contemporary intimate relationships is relevant to studies of migration and provides important insights into the narratives of marriage migrants and their partners. On the one hand, 'the pure relationship' seems to be one standard against which cross-border marriages are sometimes judged. On the other hand, the ideal of the pure relationship is also used by marriage migrants and their partners to question immigration regulations. The pure relationship is one, but far from the only, normative ideal present in the narratives of my interviewees. Interviewees draw on several different, and sometimes contradictory, norms, ideals and narratives of intimacy when they talk about and justify their own relationships, after being confronted with the immigration regulation's requirement for a 'real marriage'.*

*Keywords: Marriages of Convenience; Marriage Migration; Intimacy; Pure Relationship; Application Process*

## Introduction

In many European countries, marriages of convenience have become a central concern in political debates about immigration policy.<sup>1</sup> Such marriages are often presumed to be widespread, and legal measures have been taken in order to prevent migration on this basis (De Hart 2006; Williams 2010). The frequency of marriages of

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convenience is hard to establish, but the number of rejected applications on this basis is relatively limited and existing research provides little evidence of high numbers of unrecorded cases (De Hart 2006; Digruher and Messinger 2006; Econ Pöyry 2010; Williams 2010; Wray 2006). However, the idea of the marriage of convenience has a broad impact that is not limited to the rejected applicants. It has served as a political argument for general restrictions on marriage migration, and measures taken to prevent marriages of convenience often affect genuine marriages as well (De Hart 2006); throughout the application process, cross-border marriages are scrutinised in order to determine whether or not the marriage is genuine.

According to Norwegian regulations, the right to marriage migration only applies to 'real' relationships. The notion of a real or genuine marriage, as opposed to a marriage of convenience, raises the question of what characterises a legitimate intimate relationship in contemporary Norway. Some recent studies suggest that the normative standard that cross-border marriages are judged against resembles what Giddens (1992) has described as the 'pure relationship' (see also Hagesæther 2008; Lan 2008; Williams 2010).<sup>2</sup> The pure relationship, 'a relationship of sexual and emotional equality', is a central concept in Giddens' (1992: 2) work and has become a main point of reference in many empirical studies of contemporary intimate relationships (e.g. Illouz 1998; Jamieson 1998, 1999; Roseneil 2007; Smart and Shipman 2004). In the work of Giddens (1992), as well as Bauman (2003) and Beck and Beck-Gernsheim (1995), changes in contemporary intimate relationships are described as key elements in twentieth-century processes of social change; the ongoing processes of individualisation and increased reflexivity evident in the realm of intimacy may have profound influences on modern institutions.

Marriage migration<sup>3</sup> actualises the question of what characterises modern intimate relationships, and a number of studies analyse the relationship between immigration policy and norms of intimacy, marriage, gender and sexuality. Most studies of family immigration regulations, however, do not relate to the theoretical discussion on changes in contemporary intimate relationships initiated by Giddens, Bauman and Beck. Rather, they have focused on the processes of inclusion and exclusion brought about by national regulations, and how these processes are structured by gender, sexuality, race and class (Breger 1998; De Hart 2007; Kraler 2010; Lan 2008; Luibhéid 2002; Mühleisen *et al.* 2009; Myrdahl 2010; Schmidt 2011; Strasser *et al.* 2009; Van Walsum 2008; Wray 2006, 2008). As several migration scholars have pointed out, cross-border marriages are subject to scrutiny, checks and public debate to a much larger extent than other relationships, and otherwise-liberal regulations of family life do not apply to immigration policy (Gedalof 2007; Strasser *et al.* 2009; Van Walsum 2008; Williams 2010; Wray 2008). Consequently, marriage migration represents a special case for studying intimate norms and practices. This special context, where otherwise-often-unspoken norms and assumptions are articulated, specified and codified, is an important site for analyses of the changes and continuities and the ideals and practices of contemporary intimate life.

Studies of family immigration regulations have often analysed policy, legal documents and administrative practices, though some include migrants' own accounts and strategies (e.g. Breger 1998; Charsley 2006; Schmidt 2011; Strasser *et al.* 2009). This article investigates how marriage migrants and their partners (the sponsors) perceive the application process for marriage migration to Norway, and how they are affected by the idea of marriages of convenience. The data consist of 19 interviews with applicants and/or their partners for marriage migration to Norway. I analyse the accounts of these informants in order to understand what norms and narratives of contemporary intimate relationships are activated in this context. The guiding research question in this article is whether Giddens' (1992) notion of the pure relationship can account for the ways in which marriage migrants and their partners talk about, understand and justify their relationships when faced with Norwegian immigration regulations' requirement for a 'real' marriage. I first present the theoretical framework, methodology and some necessary contextual information. This is followed by an analysis in three parts, the first showing how the ideal of the pure relationship is used to question immigration regulations, the second focusing on how the ideal of the pure relationship is questioned by marriage migrants and their partners, and the third arguing that the informants draw on different and sometimes contradictory narratives of intimacy when they talk about and defend the reality of their own relationships.

### **Migration and Intimate Relationships**

Within migration studies, the family, intimate relations and love are subject to increasing scholarly interest (Bailey and Boyle 2004; Constable 2005; Grillo 2008; King 2002; Kofman 2004; Kraler 2010; Mai and King 2009; Smith 2004; Williams 2010). Migration scholars have presented different arguments concerning the relationship between norms of intimate relationships and immigration policy. One argument is that the family norms of the majority population in a local context function as the normative standard against which all relationships are judged (Myrdahl 2010; Schmidt 2011; Shah 2012; Williams 2010; Wray 2006). However, according to Helena Wray's study of British regulations, these do not always privilege marriages conforming to the norms of the majority population. Rather, marriages perceived as traditional and in accordance with the norms of the migrant's local community are accepted, even though they may diverge from the majority's norms and values. Marriages which are perceived as atypical and unorthodox in the migrants' country of origin appear to be more likely to be rejected (Wray 2006, 2008).

Furthermore, some scholars have focused on the contradictions between immigration policy and other policy fields, arguing that the underlying norms of the former often diverge from the implicit and explicit norms of the latter—e.g. family law, welfare-state policy and gender-equality policies (Eggebo 2010; Van Walsum 2008; Wray 2008). Van Walsum (2008) identifies numerous inconsistencies between Dutch family law and family immigration policy, and argues that there is a

growing disjunction between liberal family law and restrictive family immigration policy (2008: 219–57). Kraler studied the consequences that family immigration policies have on the migrants themselves, and focuses on how they struggle to bring their own practices in line with the family norms and ideals of state policies (2010: 17). Moreover, family immigration regulations embody a fundamental tension between the right to privacy and family life on the one hand, and national immigration control on the other hand (Foblets and Vanheule 2006; Strasser *et al.* 2009; Wray 2008).

Changes in contemporary intimate life are a central issue in some analyses of modernity and post-modernity (e.g. Bauman 2003; Beck and Beck-Gernsheim 1995; Giddens 1992). Most scholars agree that intimacy has undergone a transformation in postwar Western societies in terms of women's position in the family, lesbian and gay rights, sexual liberation, increasing rates of divorce, declining marriage rates and increasing rates of cohabitation. However, opinions differ regarding what characterises 'contemporary intimate relationships'.

According to Giddens, modern marriages 'have veered increasingly towards the form of a pure relationship' (1992: 58). The pure relationship has four central characteristics. First, it is a 'social relation [that] is entered into for its own sake, for what can be derived by each person from a sustained association with another; and which is continued only in so far as it is thought by both parties to deliver enough satisfactions for each individual to stay within it' (Giddens 1992: 58). Second, the partners are emotionally involved; they open up to one another and create a sense of intimacy through processes of mutual disclosure. Third, the pure relationship presumes equality, power balance and individual autonomy and has a potential for changing power relations and gender hierarchies. Fourth, it is characterised by sexual equality and reciprocal sexual pleasure being key elements in whether the relationship is sustained or dissolved (Giddens 1992).

Giddens has been criticised for describing an idealised version of intimacy that diverges considerably from people's real relationships and practices (Jamieson 1998, 1999; Smart and Shipman 2004). According to Jamieson, contemporary intimate relationships are not freed from economic and social structures. Rather, material circumstances, such as money and a shared household, bind people together (1999). Spending time together and sharing a house provide people with detailed knowledge about each other, and this is a minimal sort of intimacy found universally (Jamieson 1998). Practical sharing and caring is also a way to express love and create intimacy, which may often be just as important as mutual self-disclosure (Jamieson 1998, 1999). Furthermore, she challenges the thesis that modern relationships are becoming more democratic and equal, highlighting the persistence of gender hierarchy and structural inequalities. Nevertheless, she acknowledges that there is a general assumption that a good relationship will be equal and intimate, and shows how people work to create a sense of an equal relationship, despite social and structural inequalities (1999: 484–5).

'Love' is a key concept in several works on intimacy (see Bauman 2003; Beck and Beck-Gernsheim 1995; Giddens 1992; Jamieson 1998; Luhmann 1986). According to the sociologist Eva Illouz (1998), people tend to talk about their own intimate relationships by drawing simultaneously on two contradictory narratives of love. *Romantic love* is an immediate, irrational and overwhelming force superior to reason and family considerations. Romantic love is 'love at first sight', an extraordinary adventure where the protagonists often meet obstacles that prevent them from marrying (Illouz 1998). Illouz' informants see this model of love as foolish and unreal, a Hollywood myth, and say they do not believe in it. Rather they prefer a realistic model of love, where the relationship develops more slowly and evolves from friendship. In the narrative of *realistic love*, reason and passion are combined as the partners are compatible to one another and love develops from the routines of everyday life. Paradoxically, however, realistic love is also rejected because it lacks intensity and passion; it is seen as unromantic, cold, unappealing and old-fashioned. In fact, the romantic and the realistic models of love are both discredited and 'held as ideals by the same people, who invoke them for different reasons at different points in the interview' (Illouz 1998: 171).

### Case and Methods

Marriage migration accounts for a substantial number of migrants in many European countries (EMN 2008). In Norway, marriage migration constituted 43 per cent of all immigration between 1990 and 2006 (Daugstad 2008: 73) and has received increasing political interest (Hagelund 2008). As in many other European countries, political debates about marriage migration have centred on the issue of forced marriage. One example is the controversial proposal for a 21-year age limit for marriage migration, inspired by the Danish 24-year law passed a few years earlier (see Bredal 2005; Hagelund 2008; Myrdahl 2010; Siim and Skjeie 2008). In recent immigration law proposals, forced marriage, the abuse of migrant women and children and marriages of convenience are presented as the three central challenges related to cross-border marriage migration (AID 2007; NOU 2004). During the 2000s, marriages of convenience received more attention than before, both from policy-makers and in the media. In 2010, Norway adopted a new legal definition of marriage of convenience, also inspired by Danish legislation (AID 2007: 187), that is stricter than those of many other European countries (Econ Pöyry 2010: 2).<sup>4</sup>

The main preconditions for marriage migration to Norway are that the marriage is formally legal, that the relationship is 'real' and that the couple lives together. The sponsor must also document his or her means of subsistence and adequate housing (Econ Pöyry 2010; Eggebø 2010; Staver 2010; UNE 2008). In 2009, the Norwegian Directorate of Immigration assessed 11,168 applications for marriage migration. All told, 15 per cent of the applications were rejected but, of these, only 1.8 per cent were rejected because they were deemed to be marriages of convenience (Econ Pöyry 2010).

Recent efforts to prevent marriages of convenience have had major consequences for the administrative processing of applications (Econ Pöyry 2010: 2). Of particular importance are the instructions from the Ministry of Justice and the Police, specifying what factors civil servants are to consider when assessing applications. These factors include how long the spouses have known each other, their knowledge of each other, whether they can communicate in a common language, their age difference and whether the marriage is atypical according to the traditions of the immigrant's home country (Justis- og Politidepartementet 2010). These instructions concerning marriages of convenience are similar to those of other European countries (see, for instance, Econ Pöyry 2010).

The primary data for this article consist of 19 interviews with applicants and/or their partners for marriage migration to Norway. Eleven of the interviews were carried out with one partner only and eight had both partners present. Informants were recruited through organisations, personal networks and an Internet forum, and the interviews were conducted during the autumn of 2008 and early winter 2009. The gender breakdown was 15 women and 13 men, 22 heterosexuals and six non-heterosexuals, of whom 12 were Norwegian citizens and 16 were non-Norwegians (citizens of Australia, Iraq, Liberia, Nepal, Pakistan, the Philippines, Russia, Somalia, Thailand, Turkey, the Ukraine, the USA and Venezuela). At the time of the interviews, two applicants had been rejected; four were waiting for a permit and/or visa and 12 had already received a positive decision and been able to join their partner. One of the interviewees had, according to her own story, entered into a marriage of convenience.

The interviews were informed by a semi-structured interview guide and interviewees were asked to talk about the application process for marriage migration and their relationships. The aim of the interviews was threefold:

- to produce narratives about the application process and the informant's intimate relationships, including their reflections on the immigration regulations' requirement for a real marriage and what they themselves consider to be a real marriage;
- to gain access to detailed descriptions of individual lives and trajectories and of how rules, regulations and institutional processes function in relation to people's lives; and
- to tease out general features of the application process.

This last part of the analysis also included legal texts and policy documents pertaining to the Norwegian immigration act (AID 2007; NOU 2004; *Utlendingsloven* 2008) and data from short-term fieldwork at the Norwegian Directorate of Immigration.<sup>5</sup>

The interviewees presented very different stories and their narratives are clearly shaped by the application process and its outcome. Despite their differences, all the interviewees had been in a situation where they had to relate to the Norwegian migration regulations, and most were directly or indirectly confronted with the idea

of the marriage of convenience. Many felt that their relationship was being questioned throughout the application process and that they had to defend the 'realness' of their marriage. During our conversations, many interviewees opposed regulation and control practices and defended their own relationships as real and legitimate.

### **The Practical Dimensions of Intimacy**

Detailed knowledge acquired from spending time together and sharing a home may be seen as a minimal and universal aspect of intimacy (Jamieson 1998). When applying for marriage migration to Norway, most applicants and sponsors are subject to interviews with the immigration administration,<sup>6</sup> during which they are asked a wide range of questions about the relationship and the partner. Questions tend to be specific and detailed and concern material and practical aspects of the relationship and the partner's everyday life, and these control practices appear to focus on what Jamieson (1998: 8) describes as 'the practical dimension of intimacy'. During their interviews with the researcher, applicants and reference persons often questioned these control practices.

Many informants described the application interview as an uncomfortable situation where they felt nervous and stressed. The situation is uncomfortable because they know they are being scrutinised and tested, but they do not know according to what standards and what specific parameters. A male marriage migrant from South America related his interview:

They ask where you met your partner. They want to know the precise date, and if you remember what time exactly, that's even better. So during the interview, it's important to have a good memory (...) They look for marriages of convenience, and I have no problem with that. Our story is true, so it was alright for me. But when they wanted to know not only where you met and how long you have been together, but what our flat looks like and more intimate stuff, it felt uncomfortable. You have to cooperate though, but it is uncomfortable to answer (...) [The police officer] wanted me to sketch the flat (...) and asked all kinds of detailed questions. Not exactly the colour of my partner's socks, but things like that. Many odd questions. He wanted to know everything in detail (...) A lot of people wouldn't have handled this situation the way I did. People tend to get nervous, forget things. We know they are looking for something, but we are not quite sure what. So it is an uncomfortable situation. And it is easy to forget the exact date of when you met your partner, because right there and then, you feel the pressure. It's like an exam. You are stressed. You are nervous (Interview 8).

The situation is marked by the unequal power relationship between the interviewer and the interviewee. The authorities set the standards and define the criteria for what a real marriage is, and the civil servants of the immigration administration have the power to make decisions on this basis. Applicants however, just 'have to cooperate' and then await a decision.

Analysis of my data allows me to discern some general features of how the reality of a marriage is scrutinised. As the above quote illustrates, there are generally two types of question asked during interviews with the immigration administration. First, there are those concerning the development of the relationship, from when they first met until they married. For example, when and how the partners met, whether they were introduced to each other by another person or met randomly, the number and duration of visits, how long they had known each other before they decided to get married, who proposed, the number and names of wedding guests, what food was served, the price of the wedding ring and who paid for it. Second, there are questions concerning the couple's everyday life such as who sleeps on which side of the bed, how the partners take their tea or coffee, what film they saw last time they went to the cinema and where they keep the vacuum cleaner. They also ask questions about the partner's friends and family—for example, names, addresses, dates of birth and occupations. When searching for real marriages, the immigration administration focuses on shared detailed knowledge acquired from spending time together and sharing a home. Consequently, the control practices described here appear to be more in line with Jamieson's descriptions of intimacy, than with that of Giddens.

Some informants find the detailed and practical questions easy and unproblematic to answer. Others find them intrusive and uncomfortable and worry that they will not be able to provide the information and detail requested, or that what they say will be used against them. Others again see such questions as ridiculous, meaningless and rather irrelevant for the task of determining whether a marriage is real. One informant, a Norwegian woman previously married to a man from Iraq, suggested that the questions asked do not capture the important dimensions of intimacy and proposed an alternative interview strategy:

First of all, the interviews should have been shorter and more human. Second, they should have asked more intelligent questions related to deeper psychological aspects of marriage, with both of the spouses there together at the same time so they could also talk to each other. I think that would have made it easier, much easier, to reveal whether it is true or not. They should have a psychologist there, a person who is trained to observe people (Interview 6).

According to this interviewee, investigations should focus on interaction, communication and feelings instead of practical details. The informant also remarks that such an interview strategy would probably be even more intrusive than questions about practical and economic matters. However, the point seems to be that, to her, the investigations do not seem suitable for distinguishing real relationships from marriages of convenience. While the immigration administration focuses on practical sharing and detailed knowledge acquired from everyday life, this informant, instead, highlights the deep knowledge and understanding acquired through communication and the mutual disclosure of inner thoughts and feelings. Thus, she seems to draw on an understanding of intimacy resembling the pure relationship, and this narrative of

intimacy is used to question immigration regulations and the procedures of the application process.

During our research interviews, informants tended to oppose control practices with reference to the right to self-determination and privacy, and demanded state non-intervention into private matters. According to Giddens, self-determination is a key feature of the pure relationship (1992: 199). In contrast, the practices of immigration control make cross-border marriages heavily dependent on conditions defined by immigration regulations rather than by the partners themselves. A Norwegian woman married to a Pakistani man comments:

I found the questions they asked really provoking. (...) They asked how long we had known each other, how much we had talked, how many times we had met, and so on. Is that their business? It is my private life! Why should they know these things? Whether I have known my husband for a long time or not, that is my problem. (...) I find it provoking that you can't choose. It is like you cannot choose where you find your spouse. Do you have to find a spouse in Norway? Should the state decide whether you marry a Chinese, Japanese, Pakistani or Norwegian? (...) [While we waited for a visa], it was very difficult to plan anything. (...) We couldn't plan the wedding properly and we lost a year of living together. (...) Our life together was postponed. If I were 18 or 19 alright, but I am 30 and certainly didn't need the postponement (Interview 19).

Her intentions, as shown in the quote above, were apparently questioned by the immigration administration due to the fact that she had chosen an arranged marriage to a man from the same country of origin as her parents. In public discourse, arranged marriage and marriage of choice are frequently presented as fundamentally contradictory (Bredal 2005; Fair 2010; Myrdahl 2010; Schmidt 2011). To this informant, however, the normative ideals of autonomy, self-determination and privacy encompass the right to choose an arranged marriage without being questioned by state authorities, and she opposes the procedures of the application process with reference to these ideals.

The ideal of the pure relationship explains, I would argue, why many marriage migrants and sponsors react to and oppose the practices of immigration control and, to some extent, the pure relationship appears to be the standard against which the control practices of the immigration administration are judged.

### **The Pure Relationship in the Context of Migration**

Equality, power balance and mutual sexual pleasure are important elements of the pure relationship (Giddens 1992). While some control practices focus on practical information and domestic details, the issues of equality and sexuality are also aspects of how a real marriage is understood by the immigration administration. As cohabitation is a requirement for marriage migration, the police may show up at the spouses' place of residence to determine whether they live together (Econ Pöyry 2010: 38–42).<sup>7</sup> Such home visits do not appear to be widespread, but several informants say

they worry one may happen any day. During home visits, the police checks for shoes, clothes, toothbrushes, razorblades and other personal items. They also look for evidence that the couple share a bed (Mühleisen *et al.* 2009). Control practices tend to focus on cohabitation in a shared flat and the consummation of the marriage. In some countries, investigations include direct questioning about sexual practices (Digruher and Messinger 2006; Luibhéid 2002), but this is not usually the case in Norway. Still, one Norwegian sponsor interviewed says she was questioned about sex:

I understand that they ask questions concerning sexuality, but really, I think it is rather irrelevant. I mean, couples are so different with regard to sex. Some have a lot of sex, others don't. I do not think that sexual intercourse, which they tend to focus on, can reveal that much. Intimacy is more important (Interview 6).

Even though the state does not control spouses' sexual practices in other contexts, the control practice concerning sex could still be seen as somewhat in line with traditional legal understandings of marriage, as consummation has been regarded as essential to marriage in much European family law (Crowhurst 2008; Lando 2004; Telste 2000). Such practices are also, to some extent, in line with the notion of the pure relationship, where 'sexuality and intimacy are tied together as never before' (Giddens 1992: 84). My informant, however, challenges the assumption that sex is essential for a real marriage and presents sex and intimacy as separate issues. She activates what Illouz (1998: 166) has described as 'the modern notion of sex and love, where these are separate narratives which may and may not converge'.

According to Williams, cross-border marriages are always likely to fall short when the pure relationship is set up as the template for marriage, because these relationships are 'even less likely than marriages between citizens to be truly equal' (2010: 83). Indeed, several informants said they worried that their relationship would be perceived as unequal and thereby disregarded as unreal. As a Norwegian woman married to a Pakistani man commented:

In our case, cultural difference concerns class, education, language and so on. The authorities see these kinds of difference as an alert, a warning lamp! (Interview 18).

According to her, she and her husband were perceived as very different from each other, and this raised suspicions about their relationship. Other informants share her concern that social differences between the spouses—e.g. class, culture, age and religion—could lead to perceptions of the couple as incompatible and raise suspicions of a marriage of convenience.

According to both Giddens (1992) and Jamieson (1999), equality is a widely shared ideal for a good relationship. The ideal of equality can serve to discredit many cross-national marriages and several informants talked about how they feel discredited in public discourse, by the immigration administration, by the local community and sometimes also by their own family. Global economic inequalities are often interpreted as a motive for marrying a person residing in a wealthy welfare state

such as Norway. According to the informants' narratives, people are prone to suspect that marriage migrants from non-Western countries marry for the sake of economic betterment. On some occasions, these assumptions may even lead the couple to question each other's intentions. A male sponsor married to a Thai woman comments:

I think that marriage migrants are often believed to marry for practical reasons. And these are thoughts I have been thinking myself as well. Are there only practical reasons for the two of us to live together? Would she leave me when the three years of temporary residence permit have passed? (...) Falling in love is the basis for marriage, but of course, there are also practical reasons for staying together. Love is not the only bond between us (...) You live together, and the more practical stuff has to be done (...) Is love or practical sharing the foundation of marriage? I think it's both (Interview 10).

Marrying for economic, practical and strategic purposes would diverge from the ideal of the pure relationship, sustained only for its own sake and characterised by autonomy, equality and power balance (Giddens 1992). However, according to my informant, real relationships are not devoid of all practical and economic bonds, and practical commitments and gains do not stand in opposition to love. Questioning this opposition, the informant seemed to repudiate the suspicion cast on (some) cross-national marriages due to structural and economic inequalities. Drawing on an understanding of intimacy which resembles that of Jamieson, the informant can be said to challenge the ideal of the pure relationship.

### **Realistic and Romantic Love**

Illouz (1998) shows how people activate two contradictory narratives of love—realistic and romantic—when they talk about their own intimate relationships. A general tendency in the material analysed here, regardless of the interviewees' gender, national background and immigration status, is that people draw on a repertoire of different norms and ideals for marriage and intimate relationships. Several informants referred to both the romantic and the realistic model when they defended the realness of their own relationships. A Nepalese sponsor temporarily settled in Norway with his wife and child described his marriage as 'not a totally arranged marriage, nor a pure love marriage; it is a combination' (Interview 4). According to Illouz, 'marriages of "reason" organised by families and combining passion and reason, form part of the realistic model of love' (1998: 164). Presenting the story of his own relationship, the informant combines the two contradictory narratives of realistic and romantic love. Moreover, his narrative is also in line with Wray's argument that there is a tendency to accept marriages perceived as traditional and in accordance with the norms of the migrant's local community, and to reject relationships perceived as atypical:

A friend of my parents has a cohabitant. He and his partner live together, but they are not married. Then he moved here and applied for a visitor's visa for her. He didn't get it. (...) If any European had a cohabitant, he would get a visa (...) Maybe

the authorities think that these kinds of relations don't exist in Nepal and that it might be fake? (Interview 4).

The informant suggests that migrants from some parts of the world are judged according to the immigration administration's perception of what a traditional relationship looks like in a certain part of the world, and this would be consistent with Wray's findings (2006, 2008). It seems that different expectations about intimate norms and practices are applied to different applicants, depending on their country of origin. Apparently, immigration regulations may also be informed by sometimes contradictory narratives of love and intimacy. On the one hand, the administration seems to expect people to present a realistic narrative of love. On the other, marriage migrants are also expected to conform to the ideal of romantic love (Lan 2008; Myrdahl 2010; Schmidt 2011).

The Nepalese couple was apparently never suspected of having a marriage of convenience. In contrast, a Norwegian woman married to a Pakistani man felt that the reality of their relationship was being seriously questioned throughout the process and experienced the application process as extremely difficult and provoking. According to her, the relationship was regarded as suspect because she is older than her husband, because they have both been married previously and because her husband is from Pakistan. Studies often describe a tendency to suspect and control marriage between local women and foreign men more than others, particularly if the woman is considerably older than her partner (Breger 1998; De Hart 2006, 2007; Digruber and Messinger 2006; Hagesæther 2008; Kraler 2010; Mühleisen *et al.* 2009). According to Wray's study of British control practices, male applicants from the Indian sub-continent are regarded as suspicious, in particular if there is a considerable age gap (older wife), or if the sponsor is divorced or has children (2006: 311–12). During our interview, my respondent presented her objections to what she saw as discriminating control practices, and defended the reality of her own marriage:

One Friday night we were talking, and he said something very wise which all these people who have an opinion about other people's relations should have heard. He said that what happened to me and you shouldn't be possible. That we could marry and have a life together. We are from different planets. We come from different countries, from different continents. From different cultures, from different religions and have different economic and social backgrounds. We are different culturally and academically (Interview 18).

She presented a narrative of romantic love. It is extraordinary; a story of impossible love and sacrifice where the lovers have overcome considerable obstacles to carry on the love (Illouz 1998: 173). The informant's narrative breaks with the 'everyday life taken-for-grantedness' and the notion of compatibility described by Illouz as central features of the realistic model of love (1998: 167–9). She draws on the narrative of romantic love to challenge control practices where compatibility and reason—central features of realistic love—seem to be the normative standard against which her

relationship is judged. The narrative of romantic love is activated in order to defend the reality of the relationship. According to Kraler, this is a common narration strategy among marriage migrants suspected of being in a marriage of convenience (2010: 51). However, elsewhere in the narrative, she activates the model of realistic love. She describes a love relationship developed from friendship and a marriage where the practical routines of everyday life are an important aspect of intimacy. Moreover, she describes the similarities between her husband and herself and thereby stresses compatibility. In line with Illouz' findings, both narratives of love seem to be presented as ideals by the same people in the same interview (1998: 171).

## Conclusions

Migration scholars have shown how family immigration policies privilege some relationships and disadvantage others, and that immigration control represents a form of state control of intimacy quite different from that with which most couples are faced. Even though the informants oppose and question this control, most of the marriage migrants and sponsors interviewed say they think there have to be some kinds of regulation preventing immigration on the basis of marriages of convenience, and acknowledge that only real marriages should give the right to marriage migration. All, except one, regard their own relationship as real and also regard the control practices of the immigration administration as unnecessary in their particular case. Even though most applications for marriage migration are accepted and the majority of relationships are recognised as real, the application process places people in a frustrating situation of indeterminacy. The informants emphasise that genuine relationships should be recognised and treated with respect but, even in their own narratives, there do not seem to be any unitary definitions of a real marriage. Rather, informants draw on different and sometimes contradictory norms, ideals and narratives of love, intimacy and marriage when they talk about and justify their own relationships, faced with the requirements of the Norwegian immigration regulations.

Marriage migrants and sponsors' accounts provide insight into the contemporary norms and practices of intimacy in a global context, and theories on intimacy are relevant for studies of migration. According to the findings in this article, the pure relationship seems to be one standard against which cross-border marriages are sometimes judged. Structural inequalities between spouses may become a reason to suspect that the marriage is entered into for strategic purposes; this would contradict the ideal of a 'relationship for its own sake'. However, many of the control practices of the Norwegian immigration administration—for example, detailed questioning regarding practical, material and economic matters—are more in line with the practical dimension of intimacy and the realistic narrative of love described by Jamieson (1998, 1999) and Illouz (1998) respectively, than with the pure relationship.

Interestingly, the pure relationship also functions as the standard against which the control practices of the immigration administration are judged by applicants and their partners. When confronted with the notion of a real marriage centred on

practical intimacy and realistic love, the informants defend the realness of their relationship and question the relevance of the authorities' control practices by activating the narrative of romantic love or the ideal of the pure relationship. In this article I have shown that Giddens' (1992) notion of the pure relationship is one, but far from the only, normative ideal present in the narratives of the marriage migrants and their partners. Jamieson's and Illouz' studies on intimacy that focus on realistic love and practical commitments, and the literature on migration and intimate relations that focuses on the processes of exclusion brought about by immigration law, also provide important insights into the narratives and experiences of the interviewees.

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### Notes

- [1] Terms such as 'bogus', 'fake', 'sham', 'residence' or 'bad-faith' marriages, and '*marriage blanc*', are used to describe what is known in Norway as a 'pro forma marriage'. For the sake of conceptual clarity, this article will use the term 'marriage of convenience'.
- [2] In a recent study of marriages of convenience, sociologist Pål Vegard Hagesæther suggests that 'the pure relationship' functions as the ideal that cross-border marriages are judged against in the Norwegian context (Hagesæther 2008: 28). Pei-Chia Lan has studied female migration to Taiwan, and suggests that the practices of immigration control privilege 'pure relationships' and devalue traditional marriages (Lan 2008: 846).
- [3] The concept of 'marriage migration', or more specifically 'cross-border marriage migration', includes the migration of one spouse following the other (family reunion), as well as family formations—people who marry across borders (Williams 2010: 5). 'Family migration' includes both marriage migration and reunion with other family members (children, parents etc).
- [4] According to Norwegian policy-makers, efforts to prevent marriages of convenience should focus on family formation rather than on family reunion (AID 2007; NOU 2004); however, the rules and regulations are the same for both categories.
- [5] Data from fieldwork include interviews, observational data and case files where marriage of convenience had been suspected. Elsewhere, I have analysed policy documents (Eggebo 2010) and the accounts of employees at the Norwegian Directorate of Immigration (Eggebo 2012). A comprehensive analysis of this material is outside the scope of this article.
- [6] I use the term 'immigration administration' to cover the Norwegian Directorate of Immigration, the Immigration Appeals Board, local police units and migration-related staff at Norwegian embassies. Applicants are usually interviewed by embassy personnel in their country of origin, and sponsors are interviewed by the local police in Norway (Econ Pöyry 2010: 33–43).
- [7] A family immigration permit is temporary and, if the spouses do not live together, separate or divorce, the residence permit is withdrawn. After three years of temporary permits, a migrant can apply for a permanent one. A permanent residence permit is not contingent on the marriage and grants the marriage migrant an independent residence status. For an overview of similar regulations in other European countries, see the EMN report (2008).

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# 'With a Heavy Heart': Ethics, Emotions and Rationality in Norwegian Immigration Administration

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## Abstract

This article analyses decision-making processes concerning applications for family immigration to Norway by giving an account of the dilemmas and challenges faced by the employees of the Norwegian immigration administration. I argue that these civil servants negotiate two somewhat different ethical principles where the foundation for ethical conduct is either emotion or reason. The article investigates the ethical potential of bureaucracy and aims to contribute to sociological debates about ethics, emotion and rationality.

## Keywords

Bauman, bureaucracy, emotions, ethics, family migration, migration administration, rationality

## Introduction

This article analyses the dilemmas and challenges faced by employees of the Norwegian immigration administration and aims to contribute to sociological debates about bureaucracy, ethics, emotions and rationality. According to Max Weber (1981: 21), a fully developed bureaucracy is 'dehumanized' in the sense that 'love, hatred, and all purely personal, irrational, and emotional elements which escape calculation' are eliminated. The bureaucratic principle of equal treatment according to formal rules eliminates traditional forms of governance based on personal relationships, power and privilege (Weber, 1981: 24–5). Nevertheless, the instrumental rationality of bureaucracy represents a great danger to modern societies because it is incapable of ethical action that is firmly grounded in compassion, responsibility and brotherhood (Weber and Kalberg,

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2005: 245). The ambivalence in Weber's work on the role of emotion and rationality in bureaucracy echoes a general philosophical debate: in moral philosophy, there is disagreement about whether the foundation for ethics is emotion or reason. According to the Kantian ethical tradition, emotions are seen as irrelevant and even an obstacle to justice (Ahmed, 2004: 195). Others have argued that emotions, or at least some emotions, are foundational to ethics, morality and justice (Nussbaum, 2001; Roeser, 2010; Solomon, 1995). Cultural theorist Sarah Ahmed challenges both these positions: while she rejects the Kantian tradition, she also argues that it is dangerous to make the judgement of right and wrong dependent on the existence of emotions (2004: 193).

Following in the tradition from Weber, several scholars have discussed the consequences of rationalization and bureaucratization with regard to ethics and humanitarianism (Bauman, 1989; du Gay, 2000; Herzfeld, 1992). The ambivalence found in Weber's work is reflected in these debates. Sociologist Zygmunt Bauman criticizes modern bureaucracies for displacing moral concerns and argues that morality is a non-rational phenomenon (1989). He presents an ethic based on moral impulse rather than codified rules (Bauman, 1993). Sociologist Paul du Gay takes a very different position, arguing that bureaucracies are far from immoral, but have their own ethical and moral legitimacy (2000: 2). In a polemic defence of bureaucracy, he claims that a bureaucratic ethos, based on impersonal implementation of formal rules and regulations, is indeed a substantial ethical and democratic principle (2000, 2005, 2008).

This article poses the following research question: do the ethical reflections of civil servants at the Norwegian immigration administration resemble the ethos of bureaucracy described by du Gay (2000, 2005, 2008) or Bauman's (1989, 1993) ethical position?<sup>1</sup> Data were gathered during fieldwork in the Section of Family Migration of the Norwegian Directorate of Immigration. Here, civil servants assess case files – a central task for a bureaucratic organization (Weber, 1981) – without any direct contact with applicants or the public. Moreover, the Directorate is more focused on control and restriction than, for example, the welfare bureaucracies that provide assistance and benefits.

The Section of Family Migration of the Norwegian Directorate of Immigration is a valuable site for an analysis of bureaucracy, ethics, emotion and rationality for several reasons. First, regulating and restricting access to family relationships is politically and ethically sensitive. It also has emotional and practical consequences for the individuals and families subjected to regulations (Eggebø, forthcoming). Second, immigration law designates rights and privileges to citizens that non-citizens by definition do not have. Taking the principle of universal human rights as a point of departure, national citizenship and global inequality raise some serious concerns with regard to ethics and justice (e.g. Elias and Habermas, 1994; Nash, 2009). Third, the Directorate has been much criticized in Norwegian public debates for making inhuman and immoral decisions (Fuglerud, 2003; Gudbrandsen, 2011). Consequently, I argue that immigration administration is a context where bureaucrats are challenged as ethical beings, perhaps more so than in other bureaucratic organizations.

The article proceeds as follows: first, I present my theoretical framework and a brief literature review. Second, I introduce the Directorate of Immigration and discuss my methodologies. Third, the data are analysed. Here, I describe the presence of emotions in

the individual bureaucrats' jobs, analyse the collective management of emotion within the bureaucratic organization and show how the socio-cultural context influences emotional management and ethical reflections in the immigration administration.<sup>2</sup> In conclusion, I argue that emotions have an ambiguous status in immigration administration and that the insights from this empirical investigation of emotions provide a contribution to general sociological debates about bureaucracy, ethics, emotions and rationality.

## Ethics, Emotions and Bureaucratic Organizations

According to Bauman (1989, 1993), bureaucratic rules and formal justice displace moral concerns. In *Modernity and the Holocaust*, he argues that the Holocaust was not a result of 'the tumult of irrational emotions', but was rather 'the organizational achievement of a bureaucratic society' (1989: 13). This argument provides a powerful criticism of bureaucracy as such:

One of the most remarkable features of the bureaucratic system of authority is, however, the shrinking probability that the moral oddity of one's action will ever be discovered, and once discovered, made into a painful moral dilemma. In a bureaucracy, moral concerns of the functionary are drawn back from focusing on the plight of the objects of action. They are forcefully shifted in another direction – the job to be done and the excellence with which it is performed. It does not matter that much how the 'targets' of action fare and feel. (1989: 159)

Morality is a non-rational phenomenon not to be found in organizations and institutions. Depersonalized bureaucratic systems are independent of feelings and personal commitments and displace moral concerns and dilemmas. Bauman develops a person-oriented ethics, arguing that morals are inextricably tied to human proximity, moral impulse and responsibility for the Other (1989: 189–92, 1993).

According to du Gay, Bauman's charges against modern bureaucracy correspond with a widespread popular criticism in which bureaucratic conduct is represented as inherently unethical (2000: ix). He argues that Bauman romanticizes emotions and personal bonds, and challenges the view that emotions would represent a better form of judgement. In contrast to Bauman, du Gay claims that bureaucracy has its own ethical code and that 'practices of formalistic impersonality gave rise to certain substantive ethical goals [...] for instance, formal equality, reliability and procedural fairness in the treatment of cases' (du Gay, 2008: 338).

Bauman and du Gay discuss the ethical possibilities of bureaucracy without studying empirically how emotions, reason and ethics are negotiated in specific bureaucratic organizations. As a part of a more general interest in emotions, in sociology as well as in other disciplines (Barbalet, 2002; Burkitt, 1997; Craib, 1995; Stets, 2010), there exists literature about how employees of different occupations and professions negotiate emotions and rationality at work (e.g. Fineman, 1996; Guy et al., 2010; Hochschild, 1979; Küpers and Weibler, 2008; Olesen and Bone, 2009; Sieben and Wettergren, 2010; Theodosius, 2006).<sup>3</sup> Central here is the concept 'emotional management' coined by Arlie Hochschild (1979, 1983). It refers to the way people actively try to manage emotions according to socially shared norms and values. These shared norms and values are

so-called 'feeling rules' that define appropriate and inappropriate feelings in specific situations.

The research on emotions in organizations suggests that emotions play an ambiguous role in informing and shaping organizations in various positive and negative ways (Küpers and Weibler, 2008: 265). For instance, emotions may positively influence job satisfaction, but can also lead to burn-out (Guy et al., 2010: 295–6; Küpers and Weibler, 2008: 261, 286–7; Lipsky, 1980). Moreover, joyful feelings are motivating, while feelings of failure, fear and shame hamper action. Compassion and sympathy with clients may cause helping behaviour (Sieben and Wettergren, 2010: 11), while suppressing such feelings may lead to indifference (Graham, 2002: 210). While emotions are often assumed to have a negative impact on rational decision-making, some authors discuss how emotions can actually promote it (Elster, 1999: 284; Fineman, 1996: 547–11). In situations where rules or technical rationality provide no clear guidelines, gut feelings may give direction to decision-making (Knights and Surman, 2008: 2).

Stephen Fineman criticizes the literature on emotions in organizations for being based on individual-psychological models and serving narrow managerialist goals (2010: 24, 38). Fineman calls for a critical sociological perspective on emotions in organizations, one which analyses wider social and ideological structures and power relations and asks questions about 'the moral and emotional orders that an organization takes for granted and sustains' (2010: 38). Such a critical perspective is present in some recent studies investigating the emotional management of civil servants involved in immigration administration (Graham, 2002; Hall, 2010; Pérez, 2010; Wettergren, 2010). For example, Åsa Wettergren presents a critical discussion of work at the Swedish Migration Board, and argues that emotional management is required for employees to develop an identity of the self as a morally good person 'without recognising the dehumanisation of both the self and the others' involved in the practices of migration management (2010: 415). Analysing immigration administration and emotions, Alexandra Hall (2010), Mark Graham (2002), Alberto M. Pérez (2010) and Wettergren (2010) show that the hierarchical relationship between citizens and non-citizens may give rise to concerns about justice (see also Heyman, 2000).

In *The Cultural Politics of Emotion*, Ahmed (2004) investigates the role of emotions in the reproduction and transformation of social relations and hierarchies. Similarly to Bauman and du Gay, she is also preoccupied with the relationship between emotions and justice. Ahmed's perspective, however, designates emotions a more ambiguous and complex role: while she rejects the Kantian ethical tradition, Ahmed also contends that emotions cannot be installed 'as a form of access to truth, or indeed as a "better" form of judgement'; justice is not about having the right kind of feelings (2004: 195). Instead of presupposing that emotions are either irrelevant or foundational to ethics, Ahmed asks: what do emotions do? More specifically, she questions what feeling grief for the other does, and how it moves the subject into a relationship with the other (2004: 191–2).<sup>4</sup> While Ahmed does not study bureaucracies or immigration administration, her analysis of the relationship between emotions and justice is related to migration and otherness, and consequently it may prove useful for the empirical investigations here.

## Managing Immigration to Norway

During the mid 1980s, immigration became a central issue on the Norwegian political agenda.<sup>5</sup> In 1988, the Norwegian Directorate of Immigration was established as a response to a marked increase in the number of asylum seekers in this period (Brochmann et al., 2010: 240-7; Utlendingsdirektoratet, 2008). While asylum seekers have been subject to considerable public attention, numerically, family migrants have been a far more important category. Between 1990 and 2008, family migrants constituted 40 per cent of all immigration to Norway; more than 150,000 persons in total (Henriksen, 2010: 5, 9). During recent decades, family immigration has become the subject of considerable attention from policymakers and the media (Gudbrandsen, 2011; Hagelund, 2008).<sup>6</sup>

Compared to other Norwegian public institutions, the Directorate of Immigration has a poor reputation (Apeland Informasjon AS, 2010), and has faced recurrent criticism from the media, the Ministries and the public (Christensen et al., 2006; Fuglerud, 2003; Utlendingsdirektoratet, 2008). In 2006, the Ministry initiated an investigation which concluded that the Directorate had breached legal guidelines and had been too liberal in its law enforcement (Graver, 2006). Media, on the other hand, tends to characterize the decisions of the immigration administration as racist, barbaric and heartless (Fuglerud, 2003: 139), and most newspaper articles about family migration portray the individual applicant as a victim of restrictive immigration policies (Gudbrandsen, 2011). According to its employees, the Directorate is criticized by some for being too strict, and by others for being too soft (Øverås and Westborg, 2005: 54). Precisely because of this, improving the organization's image has been a central concern for its managers (Utlendingsdirektoratet, 2008).

The Directorate of Immigration has more than 1200 employees. For many employees, this is their first post-graduation employment and it is seen as a stepping stone to a future career in the central bureaucracy or as a lawyer. The majority of employees have a Master's degree in social science or law, and their main task is to assess case files (ASU, 2010; Fuglerud, 2003: 143). All new employees are introduced to the organization's ethical guidelines, which stress loyalty to the employer as well as the bureaucrat's individual responsibility for ethical reflection (Utlendingsdirektoratet, 2007).

The Directorate of Immigration is not a 'street-level bureaucracy' (Lipsky, 1980) where low-level bureaucrats meet clients face-to-face. While the police and Norwegian embassy personnel interview applicants, executive officers in the Section of Family Migration process case files and do not have direct contact with applicants. The Section of Family Migration is a division under the Managed Migration Department and has five units and one special team responsible for tackling forced marriages. Each unit has between 10 and 15 employees and is responsible for assessing applications from a particular country portfolio. According to executive officers, legal rules on family migration are mostly clear and unambiguous, and do not leave room to exercise extensive professional discretion.

## Methodology

This article is part of a research project about the regulation of family migration to Norway (Eggebo, 2010, forthcoming). The data analysed in this article consist of

qualitative interviews and field notes from short-term fieldwork at the Directorate of Immigration. I gained access to the organization after a formal request; no special permission was needed since I did not seek access to registers containing personal information about applicants. The Department for Strategy and Coordination handled the request and one of its advisors became my contact and helped me recruit informants.

During the fieldwork, I conducted 10 formal interviews: five with executive officers (one from each of the five units in the Section of Family Migration); three with bureaucrats in leading positions; and two with immigration officers at a local police station. Among the interviewees are officers with more than a decade of work experience, but most had worked there for a couple of years. Most informants were female and only one male.<sup>7</sup> While executive officers handle case files only, the immigration officers carry out interviews with applicants and sponsors. Some of the bureaucrats had also performed such interviews as part of their previous work experience.

A semi-structured interview guide informed the interviews and informants were asked to speak about their tasks and the challenges they face. The informants seemed conscious of their role as representatives of the organization and were careful to act and talk within the limits of their professional authority. Nevertheless, most informants talked willingly about their job. Some however, seemed reserved, anxious and even hostile. I got the feeling that as a researcher I sometimes came to represent the critical voices from the media and the public. Moreover, some might have felt pressured to participate in the study since interviews took place at work and an employee at the Directorate had mediated the request.

The data on which this analysis is based also include notes from a so-called 'practice meeting' observed during fieldwork. Practice meetings bring together 10 to 15 officers from the Section of Family Migration and are held regularly in order to establish precedence across units. At this particular meeting, the group discussed six general legal and administrative issues and five specific case files. This article presents two edited conversations from the meeting; these are reconstructed on the basis of the field notes. While the interview data may give access to narratives, justifications and professional identities, the observational data are suited to reveal negotiations and disagreements among employees as well as concrete considerations and dilemmas in relation to specific case files.

The research design did not include a specific focus on ethics, emotions and emotional management. Rather, this analytical focus was developed through the process of data analysis. Analysing the different types of data, I used a strategy resembling what Moran-Ellis et al. (2006) have described as 'following a thread': I worked inductively, searching for different themes and topics across interviews, and emotions and ethics appeared to be one common concern. Then, analysing the field notes, I picked up these themes from the interviews, and followed this 'thread' in order to 'create a constellation of findings which can be used to generate a multi-faceted picture of the phenomenon' (Moran-Ellis et al., 2006: 54).

## **The Ambiguous Status of Emotions**

Emotions influence work in different ways and on different levels (Küpers and Weibler, 2008; Sieben and Wettergren, 2010). Face-to-face interactions between workers and

clients have been analysed as important sites of emotional labour (Guy et al., 2010; Hochschild, 1983). Even though the civil servants of the Section of Family Migration at the Norwegian Directorate of Immigration do not have face-to-face contact with applicants, emotions and emotional management certainly seem to be important aspects of their job. They describe various manifestations of emotions; for example, emotional reactions to decisions, intuitive gut feelings directing case investigations, feelings of compassion, responsibility and guilt in relation to applicants, and joy and satisfaction from helping clients.

During interviews, informants described cases where the applicant was believed to circumvent regulations or abuse other people, and these cases seemed to provoke resentment accompanied by a resolve to reject the application. Other cases apparently evoked strong sympathy with the applicant and the family, accompanied by a willingness, if possible, to approve applications. Nevertheless, civil servants must, despite sympathetic feelings, reject applications when there are no legal grounds for approving them. One informant described how such a decision made her feel sad:

Sometimes it is difficult to reject an application even though it is evident that the requirements are not satisfied. It is my job to administer rules, and I do, but sometimes it is with a heavy heart. It is just sad when a man does not earn enough to satisfy the subsistence requirement for family reunification with his wife and children in Afghanistan and you know they are in a difficult situation there. (Bureaucrat 3)

In this case, the decision seemed to run contrary to the executive officer's feeling of what would have been a good outcome, but regulations were clear and unambiguous and did not leave room for any other outcome than rejection.

According to another informant, emotional involvement with clients can become a problem for bureaucrats:

I remember thinking that if I am going to be so emotionally involved I have to quit this job. If I am to continue, I have to develop a more distant orientation. I think a lot of people have to make these kinds of considerations. (Bureaucrat 1)

The informant explained that emotional involvement with clients made the job too burdensome. Emotional detachment, then, provided a strategy to prevent burn-out (Lipsky, 1980). Developing a more distant and rule-oriented conception of case assessment proved to be an essential coping strategy for this informant.

Moreover, emotions may influence work in a quite different way: 'In some cases you just have to follow a kind of gut feeling. You may have this feeling that there is something not quite right; something that has to be investigated further' (Bureaucrat 2). In this quote, the word 'feeling' refers to an instinctive or intuitive feeling, and, according to the informant, such intuitive feelings may be useful to determine whether the case is to be subjected to further investigation. Intuition and gut feeling appear to be a resource when facts are hard to find, regulations are less clear and there is room for professional discretion. According to executive officers, this is typically the case in relation to forced marriages or abuse, marriages of convenience or considerations of what would be in the best interest of the child.

One bureaucrat interviewed has previous work experience from interviewing applicants at a Norwegian embassy, and she explained how face-to-face contact may give an intuitive feeling about a case:

When I met people face-to-face, I remember having this instant feeling about whether a particular marriage was genuine or not, whether everything was ok or not. Sometimes, I was really annoyed when the Directorate accepted an application when I had this feeling they were cheating. At the same time, I guess too many feelings should be avoided. (Bureaucrat 7)

According to the informant, direct interaction with applicants through interviews sometimes provided her with an intuitive feeling of what would be the correct decision. However, she stressed that regulations, rather than gut feelings, should determine decisions. Moreover, the quote also illustrates that the Directorate, the police and the embassy personnel perform different tasks within this bureaucratic system and sometimes have diverging opinions about cases (see also Econ Pöyry, 2010: 39–44). Several informants touched on the pros and cons of letting gut feelings direct case assessment: on the one hand, immediate gut feelings may be a source of valuable information and can reduce the amount of time and resources spent on investigations. On the other hand, feelings seemed to be regarded as a somewhat suspect source of information, which may threaten the transparency, objectivity and legitimacy of the decision-making process.

### **‘The Strength of Bureaucracy’**

The emotional management that individual civil servants do is influenced by the structure, rules and norms of the organization. For example, emotional management may be endorsed by the division of labour between different institutions and functions within the bureaucratic system: ‘We who make the actual decisions are shielded from direct contact with applicants [...] Working at the embassy also has some benefits in the sense that you have a short-term responsibility for the case’ (Bureaucrat 7). The informant explained how lack of face-to-face contact with applicants or limited decision-making power may reduce feelings of guilt and make otherwise difficult tasks less burdensome.

Another informant stressed that clear formal rules and regulations are important in reducing feelings of personal responsibility with regard to applicants’ lives and destinies:

As a bureaucrat, I would say it is good to know that my decisions are made on the basis of rules. In this way, I feel secure. I know why I make the decisions I do and that they are correct. Decision-making is a great responsibility. [...] These decisions have a great impact on people’s everyday lives, and I am glad that we always have backing for decisions. That is the strength of bureaucracy. (Bureaucrat 1)

Clear regulations create a feeling of security for the bureaucrats, who sometimes feel they are left making decisions alone in their offices. Rather than advocating more autonomy and room for professional discretion, the employees tend to seek clear guidelines and coordinated practices. To this informant, rational, rule-oriented and collectively

organized decision-making was preferable to a more individualized, subjective or emotional approach.

The organization's rules and norms about impersonal and objective assessment are justified with reference to values such as justice and democracy. Liberal democracy implies a clear boundary between policymaking and administration, and this principle is emphasized by informants: 'We administer the law. We do not decide the rules. Personally, I may not agree with the rules as they are. But they are there, and we administer them' (Bureaucrat 8). This informant stressed that her task is to administer, as objectively and consistently as possible, the rules and regulations passed by policymakers. Bureaucrats who assess cases according to their own opinions and feelings would challenge the authority of democratically elected legal decision-makers and ultimately threaten democratic principles.

The principle of equal treatment is an important characteristic of bureaucracy (Weber, 1981). For one informant, equal treatment means that applications are assessed in due order:

Equal treatment means that even though you have the capacity to contact us through phone or e-mail and follow up on your application, we cannot prioritize your case. We are not trying to be difficult. We just ensure equal and just treatment of applications. (Bureaucrat 3)

Equal treatment means that no one should be able to work the queue; an ordered queue becomes a sign of justice. Another informant, a police officer whose tasks are to interview sponsors and prepare applications, related an incident when she gave some extra service to a client. Helping when possible seemed important for this informant's job satisfaction and she illustrated how feelings such as compassion and sympathy can cause a helping behaviour (Sieben and Wettergren, 2010: 11). However, the informant was critical of her own engagement with clients and explained that if some applicants are given special treatment then the principle of equal treatment is threatened. According to the bureaucratic ethos, formally equal treatment is associated with justice, while personal engagement, emotional involvement, sympathy and helping behaviour threaten justice. The so-called 'feeling rules' of immigration administration are justified and maintained with reference to justice and democracy.

Informants frequently cite the principle of equal treatment. As a principle of justice, however, 'equal treatment' has some specific limitations in the context of immigration management; differential treatment of citizens and non-citizens is a fundamental premise for migration regulations and employees in the immigration administration are conscious about the exclusionary nature of national borders: 'Immigration law is by definition a discriminatory system' (Bureaucrat 8). The injustice of border control and global inequality must be kept out of sight in order to sustain the idea of a just system (Wettergren, 2010).

Even in a formal concept of justice limited to the equal treatment of non-citizens, such equal treatment is not always easily implemented in practice. A conversation from the practice meeting may illustrate this: one point on the agenda was a certain administrative practice related to the former Immigration Act, the so-called 'seven-months-rule'. This practice was an exemption from the general rule that a person applying for family

immigration must hand in the application in their country of origin and wait there while the case is processed. According to administrative precedent, women more than seven months pregnant and already residing in Norway were usually allowed to hand in applications for family immigration in Norway. The question under consideration was whether such a practice was consistent with the regulations established by policymakers:

It has been defined as reasonable to let pregnant women stay.

If a woman is seven months pregnant we let her hand in the application for a residence permit in Norway, because she wouldn't be allowed on board a flight anyhow.

Don't we just instruct the police to demand that she leaves the country after giving birth instead? We never defined pregnancy as 'strong humanitarian grounds'.

Perhaps I'm the only one who remembers giving birth and finds such a practice ruthless? [The group laughs].

At least it is evident that this practice is inconsistent.

Wouldn't it appear to be unreasonable if pregnant women are treated more favourably than women who have just given birth?

We have to sort out and clarify this question, that's for sure.

In my opinion, we interfere with the policymakers' domain if we uphold this practice. The Ministry has made clear that applicants should follow the rules and apply from their country of origin. We cannot establish a practice breaking with this principle unless we confer with policymakers.

But if health service is bad in their country of origin, we usually let women with newborn babies stay. Then, it is not due to pregnancy or birth per se, but for health reasons.

Forcing people to travel to Lahore with a newborn baby would contradict humanitarian principles.

In my opinion, country of origin is decisive. We tend to travel to Thailand on holiday anyhow. But these countries in Africa are a different story.

Driving from Finnmark [northernmost region of Norway with a border to Russia] to Russia wouldn't be a problem either [laughter].

This conversation exemplifies how the group worked through the questions under consideration. First, they presented practical arguments such as airline regulations, travel distance and health service conditions in the country of origin. Moreover, reference was also made to their own experiences of giving birth and this signalled empathy and identification with applicants. Finally, they referred to concepts such as 'reasonableness' and humanitarian principles, equal treatment and the authority of democratically elected lawmakers. There seemed to be a general agreement amongst those present that all of these considerations are legitimate. For instance, arguments based on the executive officer's identification with the applicant were not dismissed. Nevertheless, rule-oriented lines of argumentation seemed to have more weight. While compassion-oriented arguments seemed to be legitimate and applicable, they were difficult to defend against the rule-oriented arguments. The conversation illustrates that the bureaucratic ethos, based on equal treatment and respect for the authority of democratically elected bodies, functions as a powerful argument in favour of tightening immigration practice.

## **'We Are not Insensitive and Cold'**

The norms, practices and emotional rules of an organization are developed in relation to the broader socio-cultural context (Fineman, 2010; Sieben and Wettergren, 2010). Public debate in Norway has been characterized by a critical stance towards the Directorate and the organization has a weak reputation. Negative media attention was a recurring theme during interviews, and previous research has highlighted that civil servants often feel they have to defend themselves from constant criticism (Fuglerud, 2003; Øverås and Westborg, 2005: 54). According to one informant, they are commonly accused of emotional insensitivity:

PR is a challenge for the immigration administration as we are often exposed to criticism in the media. [...] We are often portrayed as cold and insensitive and incapable of making good assessments and decisions [...] But we are not insensitive and cold. We do see that applicants are people affected by the decisions we make, and that family is what is most important to people. (Bureaucrat 8)

This informant responded to criticism by insisting on the bureaucrats' ability to feel. Several other informants also emphasized that they do not want to be seen as distanced and formalistic and they talked about their feelings of empathy towards applicants: 'Of course, you are moved and touched by people's destinies' (Bureaucrat 5). Accusations of being cold and insensitive seem to be based on a connection between emotional detachment and immoral and inhumane decisions. The idea that an emotional engagement with applicants is required for just and ethical immigration management frequently appears in the Norwegian public debate. Criticizing bureaucratic organizations for being emotionally detached and consequently immoral is quite widespread (du Gay, 2000), but such criticisms may have a particular resonance in the context of immigration management because decisions often have serious consequences for individual applicants. Bureaucrats responded to charges of coldness and insensitivity by referring to the ethos of bureaucracy. Nevertheless, the civil servants also insisted on their ability to feel empathy and compassion and to take ethical responsibility.

In the aftermath of a period of public investigations and criticism, the Directorate of Immigration revised the organization's ethical guidelines. These new guidelines stress that the civil servants have a duty to be loyal to the organization and their supervisors. At the same time, however, they emphasize that bureaucrats have an individual responsibility to report unethical behaviour and for ethical reflection and conduct regardless of orders from supervisors (Utlendingsdirektoratet, 2007). One informant commented on the ethical guidelines:

If something completely contradicts our own ethics – it would be strange if that happened, but still – we should at least be able to ask another person to sign the decision as well. (Bureaucrat 1)

The informant's expectation that the moral values of the executive officers would normally be consistent with the bureaucratic rules and regulations signals a strong belief in the ethical character of the Norwegian bureaucratic system. The ethical guidelines

demand individual reflection and ethical responsibility from bureaucrats, despite their role as docile implementers of rules and regulations. This strong articulation of individual ethical responsibility has some resemblance to Bauman's ethical position.

The civil servants relate to two different ethical positions. On the one hand, there is the idea that bureaucracy has its own ethos where justice is secured through rational, rule-oriented case assessment and the principle of equal treatment (du Gay, 2000). On the other hand, there is the idea that impersonal bureaucratic systems are inherently immoral and that ethical conduct is premised on a strong feeling of personal responsibility to the Other (Bauman, 1989, 1993). While these two ethical positions seemed to influence decision-making, a commitment to following the ethos of bureaucracy (du Gay, 2000) or a person-oriented ethics (Bauman, 1993) did not automatically solve the concrete considerations and dilemmas of case assessments. A discussion at the practice meeting I observed during fieldwork may illustrate how emotions do not give unproblematic access to truth or justice (Ahmed, 2004: 195–6).

A case under consideration at this meeting concerned a man who had applied for family immigration with his Norwegian wife and child. The applicant had previously applied for asylum and had then claimed to be a citizen of an African country. During the asylum procedure it was concluded, on the basis of language tests, that the applicant was not a citizen of the country he claimed. The application was subsequently rejected because of the incorrect information about his identity. Later, he applied for family immigration and provided a passport from another African country as identification. For a family immigration or asylum permit, the applicant's identity has to be verified. However, since documents from some countries are generally not recognized because many are fraudulent, the passport provided was not regarded as sufficient documentation of his identity. When documents cannot be relied on, or if the applicant lacks official documents, the applicant's own words and credibility are important. This applicant had little credibility because he had given incorrect and contradictory statements during the asylum procedure. The group discussed whether they could and should grant the applicant a residence permit:

The applicant's Norwegian wife has a mental health problem. They have a child she cannot properly take care of. Child welfare is involved.

Also, he has kidnapped the child or dumped her abroad or something.

There is a lot of trouble and chaos in his private life.

If he had been single, it would have been easy to reject the application without feeling guilty.

The family makes it harder.

But should family relations influence the decision regarding identity?

Identity and family immigration are two separate questions. We have to assess one question at the time.

This is a dissolving family. We have to consider what is in the best interest of the child.

The family receives help from child welfare. And this man doesn't seem to be of very much help to his family anyhow.

The applicant has not been acting as a carer for his family.

He doesn't have a job either.  
The child welfare service considers him to be a necessary support for the family.  
But did they make that assessment before or after the kidnapping?  
Are we really considering rejecting the application?  
Yes [responded several people in the group].

In this case, immigration regulations did not give a definite answer to what a right decision would be, and the participants at the meeting expressed diverging opinions about how to interpret the regulations. However, taking emotions or intuitions as a point of departure for decision-making did not eliminate disagreement either. While some of the participants at the practice meeting seemed to think that separating the family would be inherently wrong, as the unity of the family is in the best interest of the child, others expressed resentment towards the applicant, whom they perceived to be a bad and irresponsible father, and consequently seemed to think that rejecting the application would be the right decision. Consequently, the above conversation gives support to Ahmed's argument: emotions cannot be installed as a better form of judgement and they do not give immediate access to truth or justice (Ahmed, 2004: 191–6).

The relationship between justice and emotions is complex; while emotions do not give immediate access to truth or justice, emotions are not irrelevant to judgements of right and wrong (Ahmed, 2004: 191–6). The case discussed in the above conversation seemed to evoke various emotional responses (for example, guilt, sympathy and resentment), and these emotions were made relevant in the decision-making process. None of the participants at the meeting expressed much sympathy with the applicant. Rather, they seemed to feel sorry for the wife and child and signalled that a decision should be made in the best interest of the child. This may illustrate how emotional responses to others also work as forms of judgement (2004: 195–6). Affective responses are readings that give others meaning and value (2004: 28), and the bureaucrats' reading of the case seemed to assign more value to the child than the father. What emotions do here is to create a hierarchy between the citizen child worthy of compassion, and the irresponsible and undeserving immigrant father. As Ahmed argues, 'to be moved by the suffering of some others (...), is also to be elevated into a place that remains untouched by other others (whose suffering cannot be converted into my sympathy or admiration)' (2004: 192). Thus, while the participants at the meeting were moved by the suffering of the innocent child, they remained untouched by the story of the applicant, and this shows how emotions are bound up with the reproduction of social relations and hierarchies (2004: 4).

## Conclusions

This article has discussed the dilemmas and challenges faced by civil servants in the Norwegian immigration administrations. Even though these bureaucrats do not have face-to-face contact with clients, immigration administration is an interesting and relevant site for analyses of emotional labour. Emotions seem to have a fundamentally ambiguous status in bureaucratic work. On the one hand, emotions are seen as a useful, positive and essential human capacity, which is foundational for ethical conduct. On the

other hand, emotions are seen as burdensome and ethically problematic because they may threaten democracy and justice.

Just as emotions are ambiguous, ethics are equally so, and the civil servants negotiate two somewhat different ethical principles: on the one hand, there is the idea that bureaucratic organizations are just, or at least have the potential of achieving justice, because everyone is treated equally according to democratically defined laws, rules and regulations. According to this ethics, emotions have no place in bureaucratic practice; the professional bureaucrat is required to control emotional reactions and resist emotional involvement in order to realize the principle of equal treatment. Du Gay (2000) advocates such an ethical position in his defence of bureaucracy. On the other hand, there is the idea that bureaucracies are essentially immoral and allow for injustice and atrocities because of emotional detachment, distance and rationalization. Bauman (1989) presents this argument forcefully.

The case study showed that the civil servants' own ethical reflections resemble the bureaucratic ethos formulated by du Gay, but there are also signs of an ethical position resembling that of Bauman. Consequently, these positions both have relevance for understanding the ethical considerations of bureaucrats and of the broader public debate about immigration management. Nevertheless, this analysis also makes evident that neither of these moral positions seem to give an unproblematic access to justice. As Ahmed (2004) argues, emotions do not give access to some kind of privileged truth or morality, and justice is not just about having the right feeling. Consequently, drawing on Ahmed's perspective on emotions and justice, this empirical analysis advances an important criticism of these two opposing views.

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## Notes

- 1 I use the term 'immigration administration' to cover the bureaucratic institutions involved in the management of migration. In Norway these are the Directorate of Immigration, the Immigration Appeals Board, local police units and migration-related staff at the embassies.
- 2 This trisection is inspired by Sieben and Wettergren (2010: 10–11).
- 3 See also the *International Journal on Work Organizations and Emotion*.
- 4 Based on a critique of a sociological model of emotions, as well as a psychological one (Ahmed, 2004: 12), Ahmed develops an innovative perspective on the ontological status of emotions. As for this article, the discussion of her work is limited to the relationship between emotions and justice.
- 5 Historically, Norway's population has been relatively homogenous with low levels of immigration. Until the late 1960s, migration was subject to little regulation and politicization (Brochmann et al., 2010: 38). From then on labour migration from outside Europe increased steadily (2010: 223–6). In 1975, Norway introduced a temporary 'stop' in labour migration. As labour migration was restricted, family migration and asylum became the two central routes of migration. Today, the migrant population constitutes 10.4 per cent of the population and originates from 214 countries (2010: 213).

- 6 The category 'family migration' refers to residence permits granted on the grounds of a family relationship and includes family reunification with members of an already established family, as well as people who marry across borders (Williams, 2010: 5). According to Norwegian regulations, spouses and children under the age of 18 of a person legally settled in Norway have the right to family immigration as long as certain requirements are met. Requirements include documenting the applicant's identity, adequate housing and means of subsistence (Eggebo, 2010).
- 7 Most employees at the Directorate are women (ASU, 2010). Several scholars have discussed the gendered aspect of emotions (Duncombe and Marsden, 1993; Lutz, 1990) and emotional management at work (Knights and Surman, 2008). A further discussion of these issues is outside the scope of this article.

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# **Appendix: Interview Guide 1. Applicants and Partners**

## ***Part 1: Introduction:***

I have asked you to participate in a project about marriage migration to Norway. I am interested in knowing about everything you would like to tell me about this issue. I will tape the interview and make some notes throughout your story to be able to follow up. I would like it to be an open interview, where you tell me what you think is important. In the beginning, I will not ask a lot of questions, and please take your time and elaborate. When you do not have anything more to say, I would like to follow up with some questions. Before we finish, I would like to make sure that I have all the necessary information about your background. Does this sound alright to you?

Main question: So, would you tell me about your experiences of applying for family immigration and the relationship you applied on the basis of?

## ***Part 2: Follow up:***

### **Expectations of the application process:**

- How did you experience the application process? Was it as expected?
- Where did you receive information about how to apply?
- What has been most frustrating about the process?
- Did you have any problems with fulfilling the subsistence requirement? What did you do to meet this requirement?

### **The relationship:**

- How did you meet?
- When did you get married?
- The Directorate of Immigration is instructed to consider 'the age difference between the parties' as a part of the application process. What is the age difference between you?

### **Norms about marriage and relationships:**

- How would you describe an ideal relationship? What is important to you? (reflections on intimacy, communication, friendship etc).
- What is an ideal progression for a relationship?
- How would you define 'love'?
- Who do you define as a part of your 'close family'?

### **About immigration regulations:**

- Do you think that the regulations on family immigration are too strict or too liberal, or good as they are?

### **Discrimination**

- Have you experienced discrimination based on race, religion or ethnic background throughout the application process?

### **Media and public debate:**

- Marriage of convenience has been much debated in the media recently. What are your thoughts about marriage of convenience and the debate?
- There has also been a lot of public debate about arrange marriage as a contrast to love marriage. What are your reflections?

### **National background:**

- Does national background seem to have consequences for the application process?

### **Gender difference:**

- Does the informant presents reflections on gender difference in relation to the application process or the relationship it selves?

### **Three year rule:**

### ***Del 3: Background***

#### **Personal information**

- Name
- Contacts (phone, cell, e-mail)
- Married?
- Sex
- Citizenship and national background
- Work position and education
- Children?
- Age
- Type of permit, now and first time

#### **About the application process**

- When did you apply for family immigration?
- When did you get married and where?
- How long did it take before you had a decision?
- Did you have an interview at the UDI? When?
- Did you complain to the UNE?
- Did your wife/husband apply from her/his country of origin or from Norway?
- Have you applied for other permits for other family members?
- What kind of documentation did they want for the application process?
- Have the situation in your country of origin caused problems for the application process?

## Appendix: Interview Guide 2. Interviews with Bureaucrats.

- Kva du skildra kva du gjer i løp av ein vanleg arbeidsdag? (Can you describe what you do throughout an ordinary day at work?)
- Korleis føregår saksbehandlinga? Kan skildra ein typisk saksgang? (How do you do case assessment? Can you describe the typical procedures?)
- Kva oppfatar du som dei største utfordringane knytt til ditt arbeid med å handsama søknader om familieinnvandring på grunnlag av ekteskap? (Opent hovudspørsmål). (What are the major challenges with regard to assessing applications for marriage migration? (main question))
- Kva andre lovar, reguleringar og rundskriv er mest sentrale? (What are the most central laws and regulations?)
- Kva er, etter di vurdering, dei vanlegaste grunnane for avslag? (What are the main reasons for rejecting applications for family migration?)
- Korleis går de fram for å kontrollera og eventuelt avdekka om eit ekteskap er proforma? (What do you do in order to show whether it is a marriage of convenience?)
  - Rundskrivet omtaler mellom anna ekteskap som er ”atypiske”. Kan du fortelja litt om korleis du tolkar dette og eventuelt nokre døme på kva saker de kan vera snakk om? (The regulations use the phrase ”atypical marriages”. Could you tell me about how you interpret this and perhaps give an example of such a case?)
- På kva grunnlag vurderer de om eit ekteskap er eit tvangsekteskap? (On what grounds do you consider whether a marriage is a forced one?)
- Har du vore borti tilfelle der ein avslår/ønskjer å avslå/vurderer å avslå søknader fordi de meiner de er fare for at søkjaren vil bli mishandla i forholdet? (Have you ever worked with a case where you considered rejecting the application because you feared that the applicant or her children subject to abuse from her partner?)
- Kva type landinformasjon er relevant, og på kva måte, i forhold til handsaminga av søknader om familieinnvandring på grunnlag av ekteskap? (What information relating to the applicant's country of origin is considered relevant, and in what way?)
- Syns du det er ein fordel eller ei ulempe at du ikkje møter søkjarane andlet til andlet? Kva informasjon blir vidareformidla av politiet? (Do you think it is a drawback or an advantage to case assessment that you do not meet the applicants face-to-face?)
- Familiebilder, brudebilder etc, korleis blir denne forma for dokumentasjon vurdert og brukt? Kva får ein til å fatta mistanke? Manglande bilete, korleis blir det tolka? (How do you assess pictures, for instance family pictures and wedding pictures attached to

the application? What would make you suspicious? If there are no pictures attached, how do you interpret that?

**Jobb: fortid og framtid (work, pas, future).**

- Kor lenge har du jobba i avdelinga? (How long have you worked in this unit?)
- Framtidsutsikter? Halda fram i UDI? Andre arbeidsoppgåver, stillingar? (Plans for the future? Continue here? Other tasks and positions?)