



‘Assembly-Line Baptism’ *Judicial Discussions of ‘Free Churches’ in German and Austrian Asylum Hearings*

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Abstract: We explore judges’ approaches to asylum court appeals based on the issue of conversion from Islam to Christianity. Our court ethnography in Germany and Austria in 2018 and 2019 provides an insight into how such claims are discussed during appeals. At the time, they were increasingly common, especially concerning Iranians and Afghans involved in ‘free churches’ (e.g. Evangelical, Pentecostal or charismatic). We show how rumours, congregations’ reputations and assumptions about baptism and what genuine conversions entail are discussed. These factors can not only influence appellants’ cases, but reveal church–state tensions and some of the intractable challenges of refugee status determination.

Keywords: assessments of churches, asylum court hearings, asylum adjudication, church–state relations, religious conversion, judicial assessments



In this article, we focus on the adjudication of asylum appeals in Germany and Austria. In both countries, government bodies – the German Federal Office for Migration and Refugees (BAMF) and the Austrian Federal Office for Immigration and Asylum (BFA) – decide on asylum applications. Asylum seekers can appeal such decisions at administrative courts, and judges decide on whether to uphold the government bodies’ decisions, or instruct them to reconsider or amend their decisions in favour of asylum appellants. In both Germany and Austria, judges review the asylum cases anew, examining all potential forms of protection.

We explore the ways judges discuss and verbalise their reasoning about religious conversion from Islam to Christianity, which concerned migrants from Iran and Afghanistan in our sample. Religious conversion cases were special cases during our ethnographic research: they



were significantly longer than most other cases,¹ there were almost always supporters of the asylum appellant present such as members from their religious congregations, and asylum appellants' testimony was much more frequently corroborated by witnesses, such as clerical staff or members of the congregation.²

Furthermore, we observed some judges being openly critical of some religious conversion cases, ascribing 'asylum-tactical' motivations (see below) to such appellants. This often occurred when appellants had converted in 'free churches' – such as Evangelical, Pentecostal or charismatic congregations – with some judges suggesting that these congregations practise 'assembly-line baptism' [*Taufen am Fließband*] in order to assist asylum seekers to gain refugee protection in Germany. From our observations of a wide range of types of asylum claims, the way such judges openly and negatively commented on such conversion cases was distinctive: few other types of claims we observed generated as much criticism from judges.

Other scholars (among others Annicchino 2015; Karras 2019; Musalo 2004; Pernak 2018; Petersen and Jensen 2019a; Samahon 1999; Sonntag 2018; Thebault and Rose 2018) have critically explored legal and factual aspects of religious conversion in refugee status determination (RSD), but have based most of their analysis on national and international regulations and directives, or on written court decisions. Our article adds to the literature by offering ethnographic data on how judges discuss religious conversion during hearings, which affects how appellants give evidence and could frame the reasoning for the case.

We first briefly review the legal background of religious conversion in RSD to outline the considerations judges should take into account when assessing religious conversion claims. We then explore the way some judges discussed 'free churches', as well as clerical perspectives on such judicial opinions. We argue that in-court judicial comments have to be analysed in their specific local context, by exploring the potential unfamiliarity with 'free' Christian congregations in Germany and Austria. In this article, we make no general comment on the motivations for conversion among refugees and migrants, and do not seek to reflect directly on the 'sincerity' or 'credibility' of the asylum seekers' faith. Rather, we focus on the way judges verbalise their reasoning, undertake questioning and conduct discussions, and highlight the effects of rumours in asylum hearings. We understand rumours in light of Arkaitz Zubiaga and colleagues' (2016) notions that a rumour is a 'circulating story of questionable veracity' and that it is 'apparently credible but hard to verify'.³

Legal background: Religious persecution

Articles 1 and 2 of the 1951 Refugee Convention refer to well-founded fear of persecution on the grounds of ‘race, religion, nationality, membership of a particular social group or political opinion’, which implies that a person outside his or her country of origin who has a ‘well-founded fear of being persecuted’ for religious reasons meets the criteria of a refugee. Similarly, in 2013 the Court of Justice of the European Union (CJEU) ruled that as freedom of religion is a fundamental human right,⁴ ‘persecution for reasons of religion is a recognized persecution ground’ as outlined in EU Directive 2011/95/EU [(Recast) Qualification Directive (QD)] Article 10 (Berlit et al. 2015: 653). Accordingly, the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection* (UNHCR [1979] 2019; see also Article 18 of the International Covenant on Civil and Political Rights of 1969, and Article 9.1 of the European Convention on Human Rights of 1953) mentions freedom of thought, conscience and religion,⁵ including ‘the freedom of a person to change his religion and his freedom to manifest it in public or private, in teaching, practice, worship and observance’.

Conversion is ‘considered a criminal offense’ in some countries of origin (COO) (Richardson 2014: 737). In extreme cases, conversion can ‘result in (and cause) persecution and violence’ (Woods 2012: 450). Although ‘no universal definition of persecution exists’ (Sonntag 2018: 994),⁶ generally a ‘threat to life or freedom on account of [the Convention reasons] is always persecution, as are serious violations of human rights’ (UNHCR [1979] 2019). Religious persecution can take a multitude of forms, such as restrictions on membership of a religious community, on worship in public or in private, on religious education; punishments imposed on persons who do not adopt and practise the dominant religion (e.g. restrictions on access to the labour market, education services and health services); as well as penalties for converting to a different faith (apostasy) and for missionary activities (Frantz 2007: 518; UNHCR 2004: 4–7). It affects those who belong to or who are identified with a particular religious community, or have changed their faith.

Here, we encounter a key question in RSD: to what extent should sincerity of belief play a part in granting refugee protection on the basis of religious conversion? The UNHCR (2004: 4) states that decision-makers are not necessarily required to establish ‘sincerity of belief’ by focussing on (adherence to) religious practice and understanding of theological concepts.

That is, the focus of RSD should not necessarily be ‘sincerity’ and ‘credibility’ of a religious belief, but whether the mere affiliation with, or *perceived* conversion to, an ‘unaccepted’ religion in the country of origin⁷ is enough to lead to potential persecution in that country.⁸ As one interpreter told us: ‘Even if their conversion is fake, if they would be returned to Iran, they would be persecuted as blasphemers. . . . it’s a serious gamble for them’. Legal scholars also advocate for this position: ‘If the persecuting country ties sanctions relevant to refugee law to a certain conviction of the asylum seeker (which may only be said to be true and does not have to correspond to the facts), then the person at risk of persecution . . . is entitled to protection according to the Geneva Refugee Convention’ (Pernak 2018: 162). Thus, RSD decision-makers have to conduct an ‘objective and fact-specific examination’ of the fear and ‘real risk’ of persecution upon return to the COO. As the UNHCR (2014: 7–8) states: ‘The role of the examiner is to assess risk (whether the fear of persecution is well-founded) and not to demand conduct (pronounce upon what that applicant should and should not do)’.⁹

Nevertheless, legal scholars acknowledge that persecution risk assessments may ‘check-mate the authorities’ (Møller 2019: 74): asylum seekers can draw attention to themselves ‘by making sure to appear in the media with name and picture so that . . . the staff at . . . the Iranian embassy are likely to notice’ (ibid.). In one case we observed, the judge accused Iranian appellants of such ‘asylum tactics’ that involved hiring a documentary film team which followed their asylum procedure in Germany. Because the appellants made their conversion public (and thus visible to potential persecutors in Iran), credibility assessments may be irrelevant, as deportation to the COO could breach non-refoulement directives.¹⁰

There were a few other types of observed asylum claims that generated similar criticism from judges during hearings. For example, cases concerning Nigerian appellants who experienced threats from so-called ‘secret cults’ or ‘student confraternities’ in their COO¹¹ generated almost equivalent open criticism from some German judges. Similar to conversion claims, some judges argued that these claims were also based on ‘asylum tactics’, and so they often dismissed them. However, judges often argued during such hearings that their dismissal of these claims was based on country of origin information (COI), claiming that internal protection in the COO was possible. Therefore, these claims differed from the conversion claims because it seemed that judges could rely more on COI to help support their reasoning.

Despite the limited status of sincerity of belief in assessing conversion claims in theory, credibility assessments that aim to gauge the

sincerity of a person's faith are a common part of RSD with respect to religion, possibly because RSD authorities are wary of 'asylum tactics'. Decision-makers often follow a simple formula, summarised by Michael Kagan (2010: 1208, our emphasis):

All members of X religion have a well-founded fear of being persecuted. *Therefore:*

If A is *sincere* in her belief in X, s/he has a well-founded fear of being persecuted, [and is therefore a refugee].

If A is *not* a sincere believer in X, s/he is *not* a refugee.

While the assessment of credibility is paramount in RSD, it also relies on relatively few indicators (for in-depth discussions of credibility assessments in religious conversion, see, among others, Frantz 2007; Kagan 2003, 2010; Keri and Sleiman 2017; and Pernak 2018). Because corroborating evidence (of, for example, persecution in the COO) may be scarce in RSD, asylum cases often depend heavily on the asylum seeker's testimony (Kagan 2003: 367; 2010: 1182), or may be limited to the comparison between the asylum seeker's statements and limited evidence provided by them and their legal representatives (evidence can include independent evidence, such as COI, expert reports, documentary evidence, and, in some cases, witness testimonies, see Berlitz et al. 2015: 652–654; Kagan 2003: 383). According to the UNHCR's advisory document *Interviewing Applicants for Refugee Status* (1995), credibility is established if the testimony is internally and externally consistent and coherent, does not contradict 'known facts' (from COI), and is sufficiently detailed and plausible.¹² However, decision-makers may be faced with vague, inconsistent or even contradictory narratives.

Credibility assessments 'encompass many of the fundamental tensions and conflicts at the core of the refugee system' (Kagan 2010: 1183), often further complicated by asylum seekers being hesitant to trust authorities and by communication 'across a cultural chasm' (Kagan 2003: 413). What may appear rational (and probable) to decision-makers, may not apply to appellants' socio-cultural (as well as religious) backgrounds and experiences, as well as to their religious practices.

Relevant scholarly work on religious conversion in RSD

Academic works on the concept of religious conversion *in general* often view conversion as a positive, life-affirming action that emerges from a high degree of individual agency and religious devotion. While related to life circumstances like migration histories and economic and social

conditions (see, for example, Rambo 1993, 1999; Rambo and Farhadian 2014b; Snow and Machalek 1983, 1984; Woods 2012; Yamane 2000), such conceptual work tells us little about how religious conversion could or should be assessed by decision-makers in RSD, so we do not specifically address this body of literature in this article.

In contrast, in much of the legal literature on RSD, conversion is mostly viewed as a potential basis for fear of persecution in the COO from which protection is sought (see, among others, Annicchino 2015; Gunn 2003), or reviewed and assessed critically within the context of legal credibility assessments (for example, Frantz 2007; Kagan 2003, 2010; Leone 2014). That is, credibility of conversions are often put into doubt in the legal mind, and conversion may be viewed as an ‘asylum tactic’ in so-called ‘fraudulent claims’ (for a critical review, see, for example, Kagan 2003; Pernak 2018; Petersen and Jensen 2019b; Samahon 1999).

Both bodies of literature – that is, the academic and the legal – contrast with a third ‘activist’ literature by religious interest groups (for example, Open Doors 2019), who argue that only providers of pastoral care possess the authority and expertise to make assessments of the credibility of conversion, and that legal assessments of asylum conversion claims should solely be based on evidence provided by Christian congregations, such as baptism certificates and witness statements (see below). Benjamin Pernak (2018), however, provides an in-depth analysis of the legal basis of refugee status determination considering religion, showing that such legal assessments do not infringe churches’ right of self-determination in the German context (see also Karras 2019).

Although they are contrasting, and cover a considerable amount of ground, a common omission from these three dominant areas of literature is the way in which external factors impact on legal, supposedly objective forms of deliberation (Kocher 2019). Law is neither neutral (Klatt 2007) nor independent of political and public debates over immigration control, deterrence and management (Lahusen and Schneider 2017). Judges do not work in isolation and in any case are demonstrably different in terms of their style of hearing management (Roach Anleu and Mack 2017), which is related to their biases, worldviews and identity characteristics. Legal practice is also deeply embedded in the societies in which it exists, both in general and within particular contexts (see Moore 1973 in general, and Gill and Good 2019; Jubany 2011 with respect to RSD). In RSD, such practices are sometimes characterised by an ‘engrained culture of disbelief’ (Yeo 2018: 1) and a ‘culture of denial’ (Madziva and Lowndes 2018: 85; Souter 2011). Similarly, we explore

instances of intrinsic disbelief in religious conversion, especially if it occurs within a community that has a negative reputation with judges in a certain court.

Court ethnographies in Germany and Austria

The article is based on the ASYFAIR research project, a European Research Council-funded study at the University of Exeter.¹³ ASYFAIR researchers observed more than 400 asylum court hearings in European countries, including in Austria, Belgium, France, Germany and the United Kingdom. The research focus was on procedural differences rather than on the content of cases per se, and we selected cases at random on each day at court, with the overall aim to attend as many cases by one judge per day as possible. We did not have access to the files of the cases, and therefore we were only able to obtain details during the hearings. We have also made use of the written decisions of the conversion cases we have observed, which we obtained through public requests to the relevant courts. We do not reference cases (for example, dates and courts) in order to preserve the anonymity of the people observed, which includes all participants: asylum seekers, lawyers, witnesses and judges.¹⁴

The advantage of court ethnography is that it 'challenges conventional, doctrinal approaches to law that present it as a concept, universal across time and space . . . [and] that represents a system of law that is coherent and uniform' (Von Benda-Beckmann et al. 2009: 3). Our work demonstrates this by outlining that rather than focussing on persecution assessments, judges sometimes appear to assess congregations. Ethnography is also able to highlight the rich texture of social interaction that is inseparable from the law itself (see Coutin and Fortin 2015; Dahlberg 2009; Darian-Smith 2004; Faria et al. 2020; Walenta 2020). Similarly, we present verbatim accounts of what occurred in the court room.

Here, we exclusively focus on our German and Austrian research, where we conducted 290 observations in six different German courts and one Austrian court in total, of which 14 concerned religious conversion cases (4.8 per cent). The findings presented in this article are based on those 14 cases. Ethnographic research took place in German. All cases we observed were public hearings. We also had conversations with judges, lawyers, appellants and witnesses before and after hearings, for example in waiting areas, which we included in our data.

This includes conversations with German pastors (mostly without an international migratory background themselves) from ‘free churches’ who served as witnesses. Occasionally, we were able to inform appellants about who we were before their hearing, but we were mindful of the stress they were experiencing on the day of their hearing and often judged this to be inappropriate. Nevertheless, we made project information in multiple languages available to appellants and legal representatives whenever possible, as well as on our website, including information about how to withdraw from the study.

In comparison to numerous other case-types we have seen at courts (e.g. persecution by non-state actors, such as the Taliban in Afghanistan), conversion hearings tended to be significantly longer than other types of cases, and thus feature prominently in our data set. However, all but one of 14 cases in our sample concerned conversion into ‘free’ churches. Thus, rather than comparing conversion to ‘types’ of churches (e.g. Roman Catholic congregations), our analysis is focussed on judicial perceptions of conversion to ‘free’ churches.

Various factors related to the judicial assessments of conversion were potentially invisible to us. We observed conversion cases in six different German courts and one Austrian court, and although the reasoning we report in what follows was common to each of them it is possible that judges reasoned privately about free churches in different ways to the reasoning revealed via their public utterances and questions in court. Thus, rather than centring our argument on what was in the ‘minds’ of judges during decision-making, this paper explores the ways judges discussed and verbalised their reasoning about certain religious congregations during hearings.

Free churches in Germany and Austria

In order for the judges to assess religious conversion asylum appeals, information demanded from asylum appellants was often highly dependent on detailed theological knowledge. In one case, an Iranian appellant was unable to recall and recite his baptismal verse, and the lawyer defended him, arguing that she did not know hers either. However, the judge dismissed the lawyer’s intervention: ‘But we didn’t convert to Christianity under the threat of the *death penalty*. We also did not claim asylum based on our faith that is *so strong*, and so formative for our identity, that we cannot return to our country of origin’ (judge’s emphasis).

Religious congregations featured in the judges' questioning and verbal reasoning in particular ways. In Germany (as well as Austria and Switzerland), there is an important distinction between national churches [*Landeskirchen*], such as the Roman Catholic and the Protestant Churches, and 'free churches' [*Freikirchen*]: whilst the former is an official statutory/public body [*Körperschaften des Öffentlichen Rechts*],¹⁵ financed through church taxes¹⁶ and organised territorially; the latter is akin to an association [*Verein*] based on voluntary membership, financed through membership donations and external funding, and has no specific catchment area (for an in-depth analysis of these churches, see Coleman et al. 2015).¹⁷

Appellants in 13 cases we observed did not belong to so-called 'national' churches, but rather to so-called 'free' churches, such as the Free Evangelical-Lutheran (four cases), the Free Protestant (four cases), the Free Evangelical (three cases), the Free Pentecostal (one case), and Presbyterian (one case). For context, in 2019, 53 per cent¹⁸ of the German population self-identified as Christian,¹⁹ and within this percentage 49 per cent self-identified as belonging to the Roman Catholic faith and 45 per cent as belonging to the Protestant Church. Some 3 per cent self-identified as Orthodox Christians, 1 per cent as belonging to 'other' Christian churches, 1 per cent as members of Free Evangelical churches, and 0.4 per cent as belonging to 'other Christian associations'.²⁰

Although not common in Germany (or Austria), Pentecostal Christianity and Evangelical Christianity are growing faster than are other denominations globally (a 2 per cent growth rate each in comparison to a 1.2 per cent growth rate for Christianity overall).²¹ In comparison to their small numbers in Germany, 13 per cent of the global Christian population self-identify as Pentecostals, 13 per cent as Evangelical, and 14 per cent as Charismatics²² (see also Thebault and Rose 2018: 546). The small number of free, Evangelical or Pentecostal congregations in Germany may limit judges' familiarity with the tenets of their religious practices and beliefs (Open Doors 2019: 18), which are often less focussed on strict adherence to sacramental traditions (Kling 2014: 605). This was also highlighted by a pastor of a free church, who told us:

The ones who make a judgement here, essentially only have an absolute, superficial folk church comprehension: 'We celebrate Christmas and Easter', and 'there is Protestant and Catholic'. And with us, for example, our services are very festive and liturgical, and the service on the sixteenth Sunday after the Trinity is just as festive as the Easter service. Well then you always have to tell [asylum seekers] beforehand: 'Careful! They think an Easter service is completely different from the other services'.

Evangelical, Pentecostal and charismatic congregations often perceive themselves as a reform movement in Christian religion emphasising a practical Christian way of life. Many free churches are also vocal in rejecting state interference, and place great importance on religious freedom and the separation of church and state,²³ which explains the comments by some clerical supporters that state institutions – such as courts – should not have a right to rule on conversion cases (see below). Moreover, in comparison to Catholicism and Protestantism, most Evangelical free churches reject the baptism of children, and rather call on adults to make a conscious decision to be baptised, emphasising conversion as a choice by an autonomous individual occurring in the private sphere (Kling 2014: 605), with a strong emphasis on personal growth and individual accountability (Thebault and Rose 2018: 546).

Several scholars suggest that due to the character of these free Christian churches, which are focussed on the individual whilst being communal, and modern whilst retaining ‘traditional moral values’ (Akcapar 2006: 840), they are particularly popular for people migrating from the Global South (Akcapar 2006; Gooren 2014; Kong and Nair 2014; Nielsen 2019; Petersen and Jensen 2019b; Rambo and Farhadian 2014a; Sparre and Paulsen Galal 2019; Steigenga 2014; Streib 2014; Woods 2012; Yang and Abel 2014). Furthermore, that services are often provided in the migrants’ native languages may be another pull factor for such churches. As our data shows, asylum appellants often stated that they have joined a particular congregation because they provide services in, for example, Farsi or Dari (see Akcapar 2019).

Rumours about free Churches

Rumours about ‘free churches’ were openly discussed at court. During an informal conversation, one judge remarked that he distinguished between ‘spiritual’ and ‘social’ conversion, and that he is of the conviction that most asylum seekers convert in order to feel ‘socially included’ in the churches, which are often the only place offering support and social gatherings for asylum seekers, especially in rural areas of Germany. He emphasised that he does not ‘believe there is a real spiritual conversion there’, and ‘most asylum seekers would not maintain their Christian faith once they lose their social circle within the church congregation’, or they ‘find other communities to attach themselves to’. The judge generally felt frustrated with religious conversion cases, arguing that some free churches offer baptism only to assist asylum seekers with their asylum applications. Another judge dismissed a witness, who argued

that an Iranian appellant's involvement in their 'free church' community showed they had genuinely converted, with: 'They might just need something to do, and they know that it helps their asylum claim'.²⁴

Several judges asserted that certain 'free churches' and congregations conduct 'assembly-line baptism' for asylum seekers or offer baptism for payment. In one court, a judge explained after a conversion hearing (that was brief and was dismissed by the judge) that the particular church the Iranian appellant was a member of was 'well-known, for baptising everyone who wants to, for a certain sum of money', conducting a monthly 'mass baptising. . . churning out converts'. He emphasised his point by showing the researcher a photo from the church that showed a mass baptism of adults. In another instance, a judge and lawyer discussed a 'free church well-known to the court' that is said to offer 'baptisms on order' during the hearing, and said that asylum seekers attend the church 'under false pretences' in order to get refugee status in Germany. These rumours circulated among other court participants too, such as interpreters (for a critical discussion of the role of interpreters in conversion cases, see, among others, Kagan 2003; Open Doors 2019, Pernak 2018, UNHCR 2004; Yeo 2018). During a break in one hearing, the judge and interpreter had an informal chat about conversion hearings, and the interpreter remarked: 'There is a greedy, money-driven asylum and migration industry in Germany . . . I know of a church, which offers baptisms [to asylum seekers] for 1,800 Euros'. The judge replied with a vigorous nod and a sarcastic tone: 'The worst are the free churches and the Evangelicals. . . As if we don't know this at court'.

Other rumours concerned increased congregation membership. In an informal chat after one conversion hearing, a judge commented sarcastically that since the 2015–2016 'refugee crisis' in Germany, some 'free church' congregations swelled from hundreds to thousands of members through 'mass-proselytising' at refugee accommodation venues. For example, Susanne Stadlbauer (2019) describes the increase in members in one German congregation from 150 (mainly German members) to 1,600 members, mostly comprising of Iranians. In Denmark, Bjørn Møller (2019: 68, 73) refers to some churches as 'soul-fishers', having 'local and often very small congregations', 'who may seek to persuade the asylum seeker to convert' by offering assistance.²⁵ In one case, the judge concluded with a laugh that '[clerical staff] think [asylum converts] are all genuine [Christians], but then act surprised when the refugees don't show up anymore after they get a positive status'. One pastor we spoke to explained that it does happen that '[converts] are no-shows after a positive [asylum] decision', but these instances are (according

to him) ‘rare’ and ‘an exception’. We are unaware of reliable data or evidence substantiating or disproving the judge’s conjecture. This is unsurprising, given that any potential deception may not be detected through research. Nor does our article set out to discuss the validity of such claims and counter-claims. But the incidence of scepticism about conversion claims among the judges we observed is noteworthy. The conversion cases in our sample were rarely successful – nine dismissed, two withdrawn by the appellants, and only three successful (resulting in refugee protection). One pastor we spoke with at court told us that they used to have a ‘100 per cent recognition rate’, but since 2016 have barely been successful – he argued that both BAMF and the courts have changed their stance ‘to not believing the converted Christians anymore’.²⁶ These rumours, detectable at court, were barely mentioned in written decisions, and therefore any analysis of conversion cases in RSD that is solely focussed on court decisions will likely miss this crucial factor in decision-making.

Church–state tensions

Among the congregation leaders themselves, there was indignation. One pastor claimed that in some BAMF asylum application rejection letters, decision-makers argue that certain churches ‘strategically lure in people with financial promises’, or ‘hand out blank baptismal certificates that people only have to sign’. The pastor outlined claims by decision-makers that ‘churches work together with people smugglers’: ‘They say that. . . . refugees who come from Iran, are told by the smugglers to say they are Christians. . . . This is part of the “all-inclusive package”. . . . and that churches are also involved in this’. He concluded that state institutions ‘assume from the outset that churches are some kind of upscale human trafficking organisations [*Schlepperorganisationen*]’. However, the pastor also highlighted that although he sometimes has the impression that judges ‘resent’ ‘free churches’, there may be another reason for dismissals: ‘It is helplessness: [judges] simply do not know how to deal with conversion, and therefore [act] according to the motto “before I do something wrong, I prefer to dismiss it”’.

Before one asylum court hearing, a pastor, who served as a witness for an Iranian appellant, argued that German government institutions have ‘no understanding of faith’, and have ‘no right to question personal faith . . . it’s in our constitution’. The tension between ‘free churches’ and courts was exemplified in various court decisions of cases in our sample. One decision read: ‘A pastor naturally lacks the necessary dis-

tance from the person baptised by him, as well as the knowledge of the baptised person's history under immigration and asylum law' (Decision, Germany 2018).²⁷ Another decision of a case we observed stated:

The assessment of a third party, even if the pastor works in the asylum seeker's current parish, cannot replace the seriousness of a conversion claimed by the asylum seeker to be assessed by the court. The question of whether the asylum seeker's alleged conversion is based on a serious and firmly established conviction is of a highly personal nature and can (and must) be made credible by the asylum seeker alone. The decisive factor here is the credibility of the description and the credibility of the asylum seeker's person, which the court itself has to examine and assess. (Decision, Germany 2018)

This and similar decisions took the view that, although courts may not interfere with a church's right of self-determination, it is the exclusive right of a sovereign nation-state 'to determine who is entitled to stay within its territory, for how long and with what residence status' (Pernak 2018: 125). It is the use of the word 'serious' in the quote, however, that is most telling. Antonyms for 'serious' include 'frivolous' and 'light-hearted'. Church pastors often felt frustrated when conversion claims that they approached with uttermost gravity and considered to be serious were dismissed by courts.

Status issues

One pastor also criticised the distinction between 'national' and 'free' churches made by decision-makers: 'Just like this stupid question "Why are you Protestant or Catholic?" Well, if someone comes from Iran or Afghanistan, then he doesn't know the Western European church history of the last 500 years, does he? If he then says "I am just a Christian", [judges argue that] he has not engaged enough with the various denominations. These are always reasons for rejection'. Indeed, we observed several judges asking specific questions about why an asylum appellant had joined a specific congregation, referring to 'free churches' as associations or clubs [*Vereine*], rather than 'official' congregations [*Gemeinde*]. In one case, the judge addressed this head on: 'I Googled this [free] church. . . . and it says that this is a club [*Verein*] . . . a social information and outreach centre [*soziale Beratungsstelle*], specialised in immigration law consultation, and not a church. So what church do you actually attend? Because this one seems to be only a club'. The lawyer defended the church, replying that this specific 'free church' is a small congregation, and is 'really strict about who they accept in their community'.

The distinction between ‘national’ and ‘free’ churches is not limited to Germany. In one Austrian conversion case, the government representative asked the Afghan appellant: ‘Are you aware that your congregation is not a recognised church in Austria? Why did you not join a recognised church?’, to which the appellant replied: ‘It isn’t important for me if they are recognised’. However, the government representative continued to refer to the ‘free church’ as a club [*Verein*], which was recorded in the hearing’s minutes as such. This deliberate wording has significance, as it undermines the credibility of the appellant’s religious affiliation.

So strong is some judges’ cynicism surrounding some churches that, if appellants distance themselves from them, this can act in their favour. In one hearing, an Iranian appellant explained that he joined a ‘free migrant church’ congregation after arrival, because he felt lonely, and sought connections in a community. He described his increasing interest in Christian doctrine and practice, but felt that the congregation was (in his words) ‘overrun with new immigrant Christians’, who ‘had no religious interest’, and felt that he ‘could not learn anything new from this group’. In order to deepen his faith and gain insight into Christian teachings, he sought out a German (‘free church’) congregation, and explained in detail how the German congregation expanded his knowledge through in-depth Bible studies, which the judge acknowledged at the end of the hearing by stating: ‘I want to emphasise that today we started on a much higher theological level than is possible in most other cases’. Indeed, the case resulted in one of the few positive decisions of the cases we observed. In the written decision, the judge stated: ‘By moving to this congregation, the appellant has proven that when he turned to Christianity, it was not just about social ties . . . but also about religion itself’ (Decision, Germany 2018). It may have helped that the new congregation the appellant joined is not an ‘immigrant and asylum church’ (as one of the witnesses put it), but a German congregation, suggesting that judges may not only be critical of ‘free churches’, but of ‘migrant churches’ as well.

In another case, in which an Iranian appellant described a ‘miracle’ she experienced as a reason for converting, familiarity and accusations of ‘asylum tactics’ featured prominently.²⁸ The judge frowned at the pastor sitting in the public area, and stated dismissively: ‘So, the same thing as last week then’. This implied that the judge had already heard a case with someone from the same congregation, who must have told a similar story.

Asylum tactics

The suspicion of 'fraudulent' asylum claims is related to the political rhetoric in the Global North,²⁹ sometimes accusing 'asylum-seekers of being frauds who manipulate refugee protection to find a better way of life' (Kagan 2003: 368). As Pernak observes, the notion of 'asylum-tactical conversion has established itself as a fixed phrase in [German] case law', and is often perceived as a strategy to avoid deportation, 'taking advantage of the difficult evidence situation' (2018: 13). In this view, religion is portrayed as 'potentially suspicious and problematic; something to be controlled, managed and even eliminated . . . a source of conflict and violence, a tool for manipulation and self-gain' (Petersen and Jensen 2019b: 5).

With such strong tropes circulating in popular discourse, judges need to be careful about internalising any of them. In one conversion case, the judge clearly stated his general cynicism about Iranian converts: 'I did Iran before . . . for many years. I never had any conversions, but since [the Iranian government] announced the death penalty for conversion . . . it exploded'. Although the judge used disbelieving intonation to convey scepticism when making this remark, in fact under international law if the death penalty is in place then refugees *should* arguably have protection. The appellant's lawyer gave a passionate final speech in this case, but felt the need to baldly state the stereotypes surrounding conversion, as well as asylum claims based on sexual orientation. 'We all know that all Africans are gay, but have four kids and are married. And all Iranians are Christians',³⁰ he remarked, as if attempting to find common ground with the judge before explaining why the appellant in this particular case broke the mould. Again though, the judge was dismissive, and added in a mocking tone with a big grin that the appellant's openness about his faith in Germany was 'because he wants to booze [*sich betrinken*]'.

Timing

One of the most common reasons judges used to question claims of conversion to 'free churches' was the timing of the baptism. Some of the judges we observed intimated that asylum appellants were attracted to these congregations because of their purportedly lax approach to preparations for baptisms. Judges particularly questioned the speed of conversion. One judge stated: 'The chronology of the baptism is conspicuous [*auffallend*]. . . it cannot be denied that the date of the baptism

is conspicuously convenient [for the asylum claim]'. The lawyer retorted: 'You would be surprised with the shockingly low requirements for baptism. . . . you don't even need to be Christian . . . I could go now, find a Bible, and baptise you right here!'. This did not help the Afghan appellant, whose case was dismissed by the judge, writing in the decision: 'The temporal context in particular leaves no reasonable doubt that the appellant . . . was primarily concerned with becoming a Christian and creating the basis for a ban on deportation in his asylum procedure and thus the chances of success for his claim' (Decision, Germany 2018).

Judges raised the question of timing both in cases in which conversion occurred directly after arrival, as well as directly after an initial negative decision by BAMF.³¹ In one case, the judge accused an Iranian appellant of 'asylum tactics' because she joined a Christian congregation even before she filed her asylum claim in Germany: 'According to the note by [the pastor], you went to church directly after you had arrived, asking to be baptised. Why didn't you file a claim for asylum first?' In another case, the judge commented that it was 'suspicious' that the Afghan appellant sought a date for baptism from two different 'free' Christian congregations only six weeks after arriving in Germany, and began the instruction courses three months thereafter. As the judge pointed out in both the hearing and the (negative) written decision, there was a strong suspicion that the appellant selected these congregations exactly because they offered a 'speedy' baptism, and further selected one of the two congregations because it offered a baptism two months earlier than the other congregation, 'suggest[ing] that the appellant was striving to use the earliest possible baptism date without serious consideration for the content of the different faiths' (Decision, Germany 2018). Another judge raised the speed of conversion with a clerical witness: 'See, this is what irritates me here: those who run to you immediately when they arrive. Because surely one needs time to become familiar with Christianity'. These arguments are based on the assumptions that preparation for baptism had not begun before the migration took place, and that a high degree of theological reflection – much of it comparative between Christian denominations – characterises genuine conversion.

The speed of conversion was also questioned during the case we observed in Austria. The Afghan appellant said their pastor had told him 'to get baptised first, and worry about learning about Christianity later'. The judge was taken aback by this statement, and asked the appellant: 'So, before you met [the pastor], did you ever hear anything about baptism at all?' The appellant candidly replied: 'No'. This led to

a rather antagonistic cross-examination of said evangelical pastor, who served as a witness in the hearing. The judge stated: 'The baptism of Mr. [appellant] occurred relatively quickly after the first meeting'. When the judge asked whether 'there [was] a theological background to this speed' and whether there were 'specific passages in the Bible that would explain the quick baptism', the witness replied that it depended on the novice's 'understanding of Jesus Christ', and that if they were 'willing to follow Jesus' they would be baptised as quickly as possible. This resulted in a direct confrontation with the government representative, who attacked practices of the church and the 'value of the baptism certificate'. 'Wouldn't it be better to hand out a membership ID? Why a baptism certificate? . . . Don't you think you put into question the sanctity of baptism? In any recognised church a baptism preparation takes at least one year. In your "club" it is enough if someone knows parts of the Bible, and can get baptised within two weeks!'

Putting aside the theological basis of 'speedy baptisms', which were carried out by some churches, negative reputation affects all asylum appellants who have chosen to join such congregations – regardless of their actual religious conviction and sincerity. As one pastor highlighted in a conversation with us at court, the association with certain congregations is 'enough to be automatically considered as less credible' by decision-makers.

Information-Sharing

Another common accusation was that conversion is based on information-sharing among asylum seekers about 'best' strategies to obtain refugee status. In one written decision (unsuccessful for the Iranian appellant), the judge cited BAMF's reasoning:

All in all, [BAMF] came to the conclusion that the appellant had specifically looked for promising opportunities in Germany to get a positive decision on the coveted refugee recognition and turned to the religious community for this purpose. It is also known that the evangelical communities in particular are a meeting place for Iranian asylum seekers, which is communicated to other Iranian asylum seekers through word-of-mouth propaganda. It stands to reason that Iranian asylum seekers also talk to each other about their situation and promising possibilities of obtaining a secure residence status at such meetings, which take place for example in the form of Bible study groups. (Decision, Germany 2018)

These doubts were also expressed during court hearings. One judge told the lawyer frankly: 'It's well known, and interpreters told us, that

Iranians share information on how to get asylum in Europe, one of which is conversion'. At the hearing's conclusion, during an informal conversation, the judge remarked: 'You can Google everything, and I am sure there is even information for asylum seekers . . . I have no doubt that there is information on how to sound credible. We know from interpreters . . . that this is a strategy. BAMF was lenient [with converts] in the beginning, and so were the courts. But we have learned our lesson'.

Judges' suspicions were also reflected in questioning how converts found and approached their congregations. One Afghan appellant in Austria insisted he was not religious in the past; the judge then asked with a quizzical facial expression: 'It's a big step from being an irreligious person to becoming a person of faith. Why? Can you tell me a comprehensible reason?' The appellant replied that a friend invited him to church. The judge then asked, outraged and with a raised voice: 'So *that's* the reason? Because your friends are going to church? That's the *only* reason?' (judge's emphasis).

Appellants' behaviour within congregations was also scrutinised in some of the cases we observed. In a frosty cross-examination of a 'free church' leader who served as an appellant's witness, the judge insistently asked the witness about her conversations with the Afghan appellant, and whether the appellant ever sought 'theological advice'. Reluctantly, the witness admitted that the appellant 'mostly only has questions or needs help with right of residence procedures, access to benefits or housing, and government appointments'. The judge concluded by asking: 'So he only met you to ask questions about residency law, not theological questions?'. In the decision, the judge wrote that the witness was 'unable to present personal exchanges with the appellant, particularly on religious issues', and used this fact to support his argument that the appellant converted for 'asylum-tactical' reasons.

Contrarily though, the judges also sometimes expected appellants to be better prepared due to information exchange in their communities. One Iranian appellant did not provide any supporting documents, like a baptism certificate, to the court within the statutory deadline. The judge dismissed the appellant's claim that he was unaware of the obligation to co-operate and provide evidence:³² 'But surely you have Iranian friends, who advised you, and told you to submit documents. If you are so integrated in your church, as you claim, they must have experience with asylum claims . . . many of these "free churches" know how it works! Believe me, I have them here as witnesses all the time'.

Conclusion and recommendations

Article 4 EU Directive 2011/95/EU of the (Recast) QD requires that assessments of religious conversion shall not be based on the judges' personal understandings, but be assessed objectively based on COI, as religious practice may differ between the judges' own understandings and the asylum appellants' experiences (Berlit et al. 2015: 651–652).³³ Asylum hearings are a 'human process' (Kagan 2003: 375), and religious conversion cases represent 'a highly demanding task for the judge in each individual case, which is limited to the testimony of the appellant, to determine whether his religiously determined actions – or omissions – that are threatened by persecution, are of significance' (Pernak 2018: 165). However, our ethnographic examples in this article demonstrate that despite the legal requirement of objective assessments, in-court decisions and verbalised reasoning may sometimes be carried out in terms of rumours and presuppositions, especially about so-called 'free churches', which may not correspond to mainstream experiences of Christianity in Germany and Austria. These may not take into consideration the specific cultural and congregation-dependent aspects of conversion (Karras 2019: 8), and there is a danger that decisions are affected. One risk is that in the course of hearings judges measure credibility by using a Eurocentric yardstick, rather than by discerning how appellants practise their new-found faith 'in their different socio-political and religious contexts' (Madziva and Lowndes 2018: 81–82; Paloutzian 2014: 210–211).

Our research holds some implications for the practical conduct of asylum appeals. There may be space, for example, for pastoral staff to advise judges about the specific ways in which their religion is practised within their 'free church' congregation, which may differ from the judges' experiences and expectations. Clerical figures we encountered in our research often argued that, rather than relying on expert reports or expert witness statements like in other asylum cases, judges often presumed to know what it meant to be Christian, typically because they grew up as Christians in a Christian society. One pastor remarked in conversation with us:

The experience [of] pastoral care . . . should be weighted *much more strongly* than the artificial situation of a hearing at court. That is my *goal*: to make it the overall standard . . . In other cases, expert reports also play a decisive role and . . . judges trust expert reports. Only when it comes to the *Christian* faith do they suddenly consider themselves experts [original emphasis].

Although judges have to assess the risk that asylum appellants feign aspects of conversion for the material benefits that it could offer, our research has shown that judges sometimes focus on the reputation of the congregation, rather than on the likelihood of persecution in the COO (see Kagan 2003: 397–398). Contrary to the arguments of some of the judges we observed, potential persecutors in the COO will probably not take into consideration whether or not a church an asylum seeker has joined is a legal entity in the country of refuge. Tuan Samahon (1999: 2234) outlines an ‘apostasy analysis’, which ‘entirely avoids the question of whether the applicant is sincere and actually converted’. This ‘eyes of the persecutor test’ requires ‘the adjudicator to decide whether an Iranian religious judge [for example] would be likely to convict the asylum seeker of apostasy’ regardless of their actual religious conviction (Kagan 2010: 1222), or which congregation an asylum seeker has joined in the country of refuge. In order to bring this shift in focus about, judges should have ample space for reflection, peer teaching and peer-to-peer court observations. Our investigation has highlighted that presuppositions and rumours about churches can be inseparable from the styles of adjudication judges employ in court, which can have serious implications for legal processes on the ground, as well as pose serious risks (such as deportation) for those seeking protection.

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Notes

1. Conversion cases were on average 134 minutes long as distinct from the 69 minute average of other cases we have observed in Germany; they were often *sur place* claims.

2. Presences of witnesses were unusual in German asylum court hearings: in non-conversion hearings, witnesses were only present in 4 per cent of the case studies we observed, whereas witnesses were present in 57 per cent of conversion hearings.

3. For another critical discussion of definitions of the term ‘rumour’, see Di-Fonzo and Bordia (2007).

4. *Federal Republic of Germany v Y* (C-71/11), *Z* (C-99/11) (5 September 2012) CJEU EU:C:2012:518, <https://www.refworld.org/cases,ECJ,505ace862.html> (accessed 3 July 2020). See also CJEU Homosexuality I verdict: *Minister voor Immigratie en Asiel v X* (C-199/12), *Y* (C-200/12) and *Z* (C-201/12) (7 November 2013) CJEU EU:C:2013:720, <http://curia.europa.eu/juris/document/document.jsf?text=&docid=144215> (accessed 3 July 2020).

5. See Pernak (2018: 33, 38, 164) for a critique of international declarations and their definitions, arguing that the Refugee Convention and Universal Declaration of Human Rights have their ‘roots in the [European] bourgeois revolutions of the late 18th century’, and such Eurocentric standards are ‘largely based on the self-determined, enlightened Western image of man, [which is] difficult to reconcile with the values of other cultures’.

6. See Sonntag (2018: 994–995) and Annicchino (2015: 578) for definitions of persecution as per the 1951 Refugee Convention and Article 9(1) of EU Directive 2004/83. We do not discuss the distinction between the ‘two types of agents of persecution’ – state and non-state actors (see also, for example, Gunn 2003: 206; Musalo 2004: 196).

7. Although Christianity may be officially ‘recognised’ in Iran, the Iranian state restricts worship, the establishment of new congregations, religious education, and it criminalises evangelicalism (proselytisation) (Darwish 2018: 47; see also Akcapar 2006: 843; Sonntag 2018: 1039).

8. The 2013 CJEU ruling (similar to the CJEU ruling on homosexuality cited in note 4) dismissed arguments of discretion – that is, that asylum seekers can prevent persecution in their COOs if they ‘abstain from practising [their] religion’ (in Annicchino 2015: 578–579). Thus, ‘discretion’ questions (such as ‘Could you hide your religion in your COO?’) are not permitted.

9. Some authorities emphasise that if conversion is not visible it may not warrant protection, however sincere it may be. In their guidelines on Iranian converts for example, the UK Home Office (2020: 8) states: ‘Simply converting to Christianity is not considered enough to put a person at real risk of persecution. The convert’s

actions and activities and the degree to which their conversion is “visible” will determine whether or not they would be at real risk’.

10. ‘Non-refoulement is a cardinal protection principle, most prominently expressed in Article 33 of the 1951 Convention and recognized as a norm of customary international law’ (UNHCR 2014: 3). This principle entails that signatory nations are under the obligation ‘not to expel or return (refouler) a person to territories where his or her life or freedom would be threatened’ (2014: 3). This principle was adopted in Articles 3 and 13 of the European Convention on Human Rights.

11. See, for example, https://www.easo.europa.eu/sites/default/files/Country_Guidance_Nigeria_2019.pdf (accessed 24 February 2021).

12. See also EASO (2014).

13. Under the European Union’s Horizon 2020 research and innovation programme, grant agreement No. StG-2015_677917.

14. We acknowledge the impact on case outcomes based on intersectional factors (e.g. gender, ethnicity, economic background, etc.) of asylum appellants, but these are outside the remit of this article and our ethnographic data.

15. A statutory/public body is an organisation under public law outside of direct state administration, which takes on and performs public tasks assigned to it by law and in accordance with its statute under state supervision, and is entitled to use state resources. From <https://wirtschaftslexikon.gabler.de/definition/koerperschaft-des-oeffentlichen-rechts-39864> (accessed 1 October 2020).

16. For those who are registered as members of churches that are statutory/public bodies in Germany, 8–9 per cent of their income tax is levied as church tax [*Kirchensteuer*] (1–2 per cent of gross income, similar to Austria). Article 140 of the German Basic Law in conjunction with Article 137, para. 6 of the Weimar Constitution. See also <https://www.dbk.de/themen/kirche-und-geld/kirchensteuer/>; <https://www.anwalt.org/kirchensteuer/> and <https://www.akademie.de/wissen/kirchenaustritt-kirchensteuer?page=3> (accessed 1 October 2020).

17. From <https://fragen.evangelisch.de/frage/4182/was-ist-der-unterschied-zwischen-einer-landeskirche-und-einer-freikirche> (accessed 2 October 2020).

18. Data from <https://de.statista.com/statistik/daten/studie/1233/umfrage/anzahl-der-christen-in-deutschland-nach-kirchenzugehoerigkeit/> (accessed 1 October 2020).

19. For comparison: 38 per cent self-identified as non-religious [*ohne Bekenntnis*], 5 per cent as Muslims, 4 per cent as ‘other religions’ and 0.1 per cent as Jewish. Data from <https://fowid.de/meldung/religionszugehoerigkeiten-2018> (accessed 1 October 2020).

20. In Austria, little reliable data is available on religious denominations, as the state no longer collects data on religious affiliations (e.g. in a census) and has not done so since 2001. According to media reports, it was estimated that in 2018 ‘free’ Christian churches in Austria had approximately 40,000 members, which is only about 0.5 per cent of the total Austrian population, in comparison to Roman Catholic (56 per cent in 2019) and smaller congregations such as Christian Orthodox (9 per cent), Islam (8 per cent) and Protestant (3 per cent), although there is a steady increase in memberships in ‘free church’ congregations (see <https://www.profil.at/oesterreich/freikirchen-sekte-kirche-10382460> and <https://de.statista.com/statistik/daten/studie/304874/umfrage/mitglieder-in-religionsgemeinschaften-in-oesterreich/> (accessed 1 October 2020).

21. From <https://factsand Trends.net/2019/06/11/7-surprising-trends-in-global-christianity-in-2019/> (accessed 1 October 2020).

22. From <https://www.learnreligions.com/christianity-statistics-700533> (accessed 1 October 2020).

23. From <https://fragen.evangelisch.de/frage/4182/was-ist-der-unterschied-zwischen-einer-landeskirche-und-einer-freikirche> (accessed 1 October 2020).

24. For research on religious conversion and motivations to convert in the German asylum context, see, among others, Karras (2019); Open Doors (2019); Pernak (2018); Sonntag (2018); Stadlbauer (2019). For the Swiss context, see Thebault and Rose 2018; for Denmark, see the edited volume by Petersen and Jensen (2019a); for Finland, see Silvola (2018); for the United Kingdom, see Yeo (2018); for Europe, see Keri and Sleiman (2017); for Turkey, see Akcapar (2006, 2019); and for other countries, see Darwish (2018); Kagan (2003, 2010); Musalo (2004); Samahon (1999) (this list is non-exhaustive).

25. Petersen and Jensen (2019b: 10) caution that religious congregations may not necessarily be a source of support, and may 'exert pressure on asylum seekers to participate in religious activities'. Contrary to beliefs that religious congregations create an egalitarian *communitas* through 'ritual participation' (i.e. Sunday worship) (Gooren 2014: 100), Lily Kong and Seeta Nair warn that 'social tensions may also emerge when evangelization is aggressively pursued, with successful conversions driving wedges into existing social relations' (2014: 76). Orlando Woods argues that researchers have to critically examine the 'ameliorative and potentially predatory interconnections between social marginality, welfare provision, faith-motivated groups and religious conversion', and that, 'taken to the extreme', religious congregations can 'become "illegitimate" spaces of forced conversion, where relief may be contingent upon, and provide a pretext for, religious switching' (2012: 448–449; see also Akcapar 2006: 839; Sparre and Paulsen Galal 2019: 50).

26. Generally, the BAMF success rate for Iranian asylum seekers in Germany has decreased from around 50 per cent in 2014–2017 to just above 20 per cent in 2018–2020. The average success rate at courts for Iranian asylum appellants has been around 20 per cent for 2014–2019. For Afghan asylum seekers, the BAMF success rate decreased from an average of 48 per cent for 2014–2017 to an average of 38 per cent for 2018–2019. The success rate at courts for Afghan asylum appellants was 32 per cent on average for 2014–2019. The average BAMF protection rate for all asylum seekers across Germany has been around 43 per cent for 2014–2020, and an average 14 per cent at courts during the same period. From <https://www.proasyl.de/thema/fakten-zahlen-argumente/statistiken/> (accessed 22 February 2021).

27. See Pernak's (2018: 122, 124) discussion of the role of German courts in conversion cases: courts do not assess legitimate membership, as religious communities can set their own admission requirements and preparation assessments (according to Article 4, para. 1 and 2 and Article 140 of the German Basic Law). However, state institutions, such as courts, are 'not bound by the religious community's assessment of an individual's religious identity, . . . which is subject to the standard of proof of full judicial conviction, and . . . an intrinsic task of the court' (Pernak 2018: 124). German judges may assess the entry requirements of a religious community in order to determine credibility (2018: 113). For Pernak, religious communities and clerical 'activists' who argue that they alone can decide on credible conversion in asylum cases 'fail to recognize the boundaries of the

different spheres of activity of the secular state and the faithful religious groups within its territory' (2018: 126).

28. Experiencing miracles, dreams, visions or miraculous healing is a common theme in Evangelical and Pentecostal Christianity. See, among others, Akcapar (2006); Darwish (2018); Gooren (2014); Kling (2014); Open Doors (2019).

29. Such suspicions are not limited to German institutions. See, for example, Marlene Ringgaard Lorensen and Gitte Buch-Hansen's (2019) discussion in the Danish context; or the UK Home Office's guidance notes on Iranian converts (2020: 6).

30. This is not limited to conversion hearings. In an informal conversation with an experienced judge at a German court, the judge mentioned that there are 'certain epidemics in asylum justifications', and that it is a 'running joke' among judges that many asylum seekers from African countries with low success rates are filing sexual orientation and gender identity (SOGI) claims. Such stereotypes are indeed problematic, and raise issues of fair and impartial assessments (see also Open Doors 2019: 6).

31. For discussions on the distinction between pre-migration and *sur place* religious conversion, see, among others, Møller 2019: 64–65, 70–71; Musalo 2004: 223–224; Pernak 2018: 21, 76–77, 91, 111; Samahon 1999: 2214, 2224; Sonntag 2018: 1004, 1051; Stadlbauer 2019; UK Home Office 2020: 8; and UNHCR 2004: 12.

32. *M. M. (C-277/11) v Minister for Justice, Equality and Law Reform, Ireland, Attorney General* (22 November 2012) CJEU EU:C:2012:744. <https://www.refworld.org/cases,ECJ,50af68c22.html> (accessed 3 July 2020). Para 66 sets out the obligation of asylum seekers to co-operate with the state by, for example, providing evidence and statements for their claim.

33. Similarly, in the UK court case *NM (Christian Converts) Afghanistan CG*: [2009] UKAIT 45, the judge ruled that 'it cannot safely be assumed that any given judge will have sufficient knowledge of a given religion', and that there is a danger of the judge misunderstanding or misinterpreting important elements of the asylum appellants' narratives, 'descending impermissibly into the advocacy arena and losing impartiality' (in Yeo 2018).

References

- Akcapar, S. K. (2006), 'Conversion as a migration strategy in a transit country: Iranian Shiites becoming Christians in Turkey', *International Migration Review* 40, no. 4: 817–853. doi:10.1111/j.1747-7379.2006.00045.x.
- Akcapar, S. K. (2019), 'Religious conversions in forced migration: Comparative cases of Afghans in India and Iranians in Turkey', *Journal of Eurasian Studies* 10, no. 1: 61–74. doi:10.1177/1879366518814666.
- Annicchino, P. (2015), 'The persecution of religious and LGBTI minorities and asylum law: Recent trends in the adjudication of European supranational courts', *European Public Law* 21, no. 3: 571–590. <https://www.deepdyve.com/lp/kluwer-law-international/the-persecution-of-religious-and-lgbti-minorities-and-asylum-law-NmAa2lzlrl>.
- Berlit, U., H. Doerig and H. Storey (2015), 'Credibility assessment in claims based on persecution for reasons of religious conversion and homosexuality: A practitioner's approach', *International Journal of Refugee Law* 27, no. 4: 649–666. doi:10.1093/ijrl/eev053.

- Coleman, S., R. I. Hackett and J. Robbins (2015), *The Anthropology of Global Pentecostalism and Evangelicalism* (New York: NYU Press).
- Council of the European Union (2011), 'Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)', 20 December 2011, OJ L. 337/9-337/26; 20.12.2011, 2011/95/EU. <https://www.refworld.org/docid/4f197df02.html>.
- Coutin, S. B. and V. Fortin (2015), 'Legal ethnographies and ethnographic law', in A. Sarat and P. Ewick (eds), *The Handbook of Law and Society* (Malden, MA: Wiley Blackwell), 71–84.
- Dahlberg, L. (2009), 'Emotional tropes in the courtroom: On representation of affect and emotion in legal court proceedings', *Law and Humanities* 3, no. 2: 175–205. doi:10.1080/17521483.2009.11423767.
- Darian-Smith, E. (2004), 'Ethnographies of law', in A. Sarat (ed), *The Blackwell Companion to Law and Society* (Malden, MA: Blackwell Publishing), 545–568.
- Darwish, L. (2018), 'When your heart is touched, it's not a decision: A Narrative analysis of Iranian Muslim conversion to Christianity', *Studies in Religion/Sciences Religieuses*, 47, no.1: 45–77. doi:10.1177/0008429817732327.
- DiFonzo, N. and P. Bordia (2007), 'Rumor, gossip and urban legends', *Diogenes* 54, no. 1: 19–35. doi:10.1177/0392192107073433.
- EASO (European Asylum Support Office) (2014), *Practical Guide: Personal Interview*. December (Luxembourg: Publications Office of the European Union). doi:10.2847/40257.
- Faria, C., S. Klosterkamp, R. M. Torres and J. Walenta (2020), 'Embodied exhibits: Toward a feminist geographic courtroom ethnography', *Annals of the American Association of Geographers* 110, no. 4: 1095–1113. doi:10.1080/24694452.2019.1680233.
- Frantz, B. L. (2007), 'Proving persecution: The burdens of establishing a nexus in religious asylum claims and the dangers of new reforms', *Ave Maria Law Review* 5, no. 2: 499–526. <https://lawreview.avemarialaw.edu/wp-content/uploads/2019/06/V5i2.frantz.copyright1.pdf>.
- Gill, N. and A. Good (eds) (2019), *Asylum determination in Europe: Ethnographic Perspectives* (Cham, Switzerland: Palgrave Macmillan).
- Gooren, H. (2014), 'Anthropology of religious conversion', in L. R. Rambo and C. E. Farhadian (eds), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press), 84–116.
- Gunn, T. J. (2003), 'The complexity of religion and the definition of religion in international law', *Harvard Human Rights Journal* 16: 189–216. doi:10.4324/9781315255019-20.
- Jubany, O. (2011), 'Constructing truths in a culture of disbelief: Understanding asylum screening from within', *International Sociology* 26, no. 1: 74–94. doi:10.1177/0268580910380978.
- Kagan, M. (2003), 'Is truth in the eye of the beholder? Objective credibility assessment in refugee status determination', *Georgetown Immigration Law Journal* 17, no. 3: 367–415. <https://scholars.law.unlv.edu/facpub/633/>.

- Kagan, M. (2010), 'Refugee credibility assessment and the religious imposter problem: A case study of Eritrean Pentecostal claims in Egypt', *Vanderbilt Journal of Transnational Law* 43, no. 5: 1179–1234. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1917592.
- Karras, B. (2019), 'Religiöse Konversionen im Asylprozess' [Religious conversion in the asylum process], *Konrad-Adenauer-Stiftung e. V. Analysen & Argumente* 374 (Berlin: Konrad-Adenauer-Stiftung e. V.). <https://www.kas.de/sr/analysen-und-argumente/detail/-/content/religioese-konversionen-im-asylprozess>.
- Keri, S. and C. Sleiman (2017), 'Religious conversion to Christianity in Muslim refugees in Europe', *Archive for the Psychology of Religion* 39, no. 3: 283–294. doi:10.1163/15736121-12341344.
- Klatt, M. (2007), 'Taking rights less seriously: A structural analysis of judicial discretion', *Ratio Juris* 20, no.4: 506–529. doi:10.1111/j.1467-9337.2007.00373.x.
- Kling, D. W. (2014), 'Conversion to Christianity', in L. R. Rambo and C. E. Farhadian (eds), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press), 598–631.
- Kocher, A. (2019), 'Immigration courts, judicial acceleration, and the intensification of immigration enforcement in the first year of the Trump administration', in J. Kowalski (ed), *Reading Donald Trump: A Parallax View of the Campaign and Early Presidency* (Cham, Switzerland: Springer International Publishing), 83–101.
- Kong, L. and S. Nair (2014), 'Geographies of religious conversion', in L. R. Rambo and C. E. Farhadian (eds), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press), 65–83.
- Lahusen, C. and S. Schneider (2017), *Asyl verwalten: Zur bürokratischen Bearbeitung eines gesellschaftlichen Problems* [Managing asylum: On the bureaucratic processing of a social problem] (Bielefeld, Germany: Transcript Verlag).
- Leone, M. (2014), 'Religious conversion and semiotic analysis', in L. R. Rambo and C. E. Farhadian (eds), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press), 369–400.
- Madziva, R. and V. Lowndes (2018), 'What counts as evidence in adjudicating asylum claims? Locating the monsters in the machine: An investigation of faith', in B. Nerlich, S. Hartley, S. Raman and A. Smith (eds), *Science and the Politics of Openness* (Manchester: Manchester University Press), 75–94.
- Møller, B. (2019) 'Religion, persecution and asylum', in M. J. Petersen and S. B. Jensen (eds), *Faith in the system: Religion in the (Danish) Asylum System* (Aalborg: Aalborg University Press), 63–82.
- Moore, S. F. (1973), 'Law and social change: The semi-autonomous social field as an appropriate subject of study', *Law & Society Review* 7, no. 4: 719–746. doi:10.2307/3052967.
- Musalo, K. (2004), 'Claims for protection based on religion or belief', *International Journal of Refugee Law* 16, no. 2: 165–226. doi:10.1093/ijrl/16.2.165.
- Nielsen, P. (2019), 'Talking about conversion: Reflections on religion during the asylum process', in M. J. Petersen and S. B. Jensen (eds), *Faith in the System: Religion in the (Danish) Asylum System* (Aalborg: Aalborg University Press), 105–112.
- Open Doors (2019), 'Schutz für Konvertiten vor Abschiebung in Länder mit Christenverfolgung: Erhebung zur Situation von 6,516 Konvertiten in Deutschland'

- [Protection for converts from deportation to countries with persecution of Christians: Survey on the situation of 6,516 converts in Germany]. https://www.opendoors.de/sites/default/files/Open_Doors_2019_Schutz_fuer_Konvertiten_vor_Abschiebung_in_Laender_mit_Christenverfolgung_zertifiziert.pdf. (accessed 3 May 2020).
- Paloutzian, R. F. (2014) 'Psychology of religious conversion and spiritual transformation', in L. R. Rambo and C. E. Farhadian (eds), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press), 209–239.
- Pernak, B. (2018), *Richter als 'Religionswächter'? Zur gerichtlichen Überprüfbarkeit eines Glaubenswechsels: Asylverfahren von Konvertiten in Deutschland und Großbritannien im Vergleich* [Judges as 'guardians of religion'? On the judicial review of a change of faith: Asylum procedures of converts in Germany and Great Britain in comparison] (Berlin: Duncker & Humblot).
- Petersen, M. J. and S. B. Jensen (eds) (2019a), *Faith in the System: Religion in the (Danish) Asylum System* (Aalborg: Aalborg University Press).
- Petersen, M. J. and S. B. Jensen (2019b), 'Faith in the system: Religion in the (Danish) asylum system—Introduction', in M. J. Petersen and S. B. Jensen (eds), *Faith in the System: Religion in the (Danish) Asylum System* (Aalborg: Aalborg University Press), 5–18.
- Rambo, L. R. (1993), *Understanding Religious Conversion* (New Haven, CT: Yale University Press).
- Rambo, L. R. (1999), 'Theories of conversion: Understanding and interpreting religious change', *Social Compass* 46, no. 3: 259–271. doi:10.1177/003776899046003003.
- Rambo, L. R. and C. E. Farhadian (2014a), 'Introduction', in L. R. Rambo and C. E. Farhadian (eds), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press), 1–22.
- Rambo, L. R. and C. E. Farhadian (2014b), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press).
- Richardson, J. T. (2014), 'Legal and political issues and religious conversion', in L. R. Rambo and C. E. Farhadian (eds), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press), 736–755.
- Ringgaard Lorensen, M. and G. Buch-Hansen (2019), 'The complexity of survival: Asylum seekers, resilience and religion', in M. J. Petersen and S. B. Jensen (eds), *Faith in the System: Religion in the (Danish) Asylum System* (Aalborg: Aalborg University Press), 113–124.
- Roach Anleu, S. and K. Mack (2017), *Performing Judicial Authority in the Lower Courts* (London: Palgrave Macmillan UK).
- Samahon, T. N. (1999), 'The religion clauses and political asylum: Religious persecution claims and the religious membership-conversion imposter problem', *Georgetown Law Journal* 88, no. 7: 2211–2238. http://works.bepress.com/tuan_samahon/12/.
- Silvola, I. (2018), 'Asylum seekers, the church and Finnish society: Understanding the situation through Hannah Arendt's concept of "the right to have rights"', *Poligrafi* 23, no. 91–92: 185–205. <http://ojs.zrs-kp.si/index.php/poligrafi/issue/archive>.
- Snow, D. A., and R. Machalek (1983), 'The convert as a social type', *Sociological Theory* 1: 259–289. doi:10.2307/202053.

- Snow, D. A., and R. Machalek (1984), 'The sociology of conversion', *Annual Review of Sociology* 10, no. 1: 167–190. doi:10.1146/annurev.so.10.080184.001123.
- Sonntag, H. (2018), 'Testing religion: Adjudicating claims of religious persecution brought by Iranians in the U.S. and Germany', *Case Western Reserve Law Review* 68, no. 3: 975–1057. <https://scholarlycommons.law.case.edu/caselrev/vol68/iss3/20/>.
- Souter, J. (2011), 'A culture of disbelief or denial? Critiquing refugee status determination in the United Kingdom', *Oxford Monitor of Forced Migration* 1, no. 1: 48–59. <https://www.opendemocracy.net/en/5050/asylum-decision-making-in-uk-disbelief-or-denial/>.
- Sparre, S. L. and L. Paulsen Galal (2019), 'Routes to Christianity and religious belonging among Middle Eastern Christian refugees in Denmark', in M. J. Petersen and S. B. Jensen (eds), *Faith in the System: Religion in the (Danish) Asylum System* (Aalborg: Aalborg University Press), 41–52.
- Stadlbauer, S. (2019), 'Between secrecy and transparency: Conversions to Protestantism among Iranian refugees in Germany', *Entangled Religions* 8. doi:10.13154/er.8.2019.8322.
- Steigenga, T. J. (2014), 'Political science and religious conversion', in L. R. Rambo and C. E. Farhadian (eds), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press), 401–427.
- Streib, H. (2014), 'Deconversion', in L. R. Rambo and C. E. Farhadian (eds), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press), 271–296.
- Thebault, D. and L. Rose (2018), 'What kind of Christianity? A v Switzerland', *Oxford Journal of Law and Religion* 7, no. 3: 543–550. doi:10.1093/ojlr/rwy044.
- UK Home Office (2020). 'Country policy and information note Iran: Christians and Christian converts (version 6)'. London: UK Home Office. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/868800/Iran_-_Christians-Converts_-_CPIN_-_v6.0_-_Feb_2020_-_EXT_PDF.pdf (accessed 25 June 2020).
- UNHCR (United Nations High Commissioner for Refugees) [1979] (2019), *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, HCR/1P/4/ENG/REV. 4, <https://www.refworld.org/docid/5cb474b27.html> (accessed 1 July 2020).
- UNHCR (United Nations High Commissioner for Refugees) (1995), *RLD4: Interviewing Applicants for Refugee Status*. <https://www.refworld.org/docid/3ccea3304.html> (accessed 26 June 2020).
- UNHCR (United Nations High Commissioner for Refugees) (2004), 'Guidelines on international protection no. 6: Religion-based refugee claims under Article 1A (2) of the 1951 Convention and/or the 1967 Protocol Relating to the Status of Refugees', <https://www.refworld.org/docid/4090f9794.html> (accessed 1 July 2020).
- UNHCR (United Nations High Commissioner for Refugees) (2014), 'Submission by the Office of the United Nations High Commissioner for Refugees in the case of F.G. v. Sweden', Application No. 43611/11). <https://www.refworld.org/docid/543e3b9b4.html> (accessed 26 June 2020).

- Von Benda-Beckmann, F., K. Von Benda-Beckmann and A. Griffiths (2009), 'Introduction: The power of law', in F. Von Benda-Beckmann, K. Von Benda-Beckmann and A. Griffiths (eds), *The Power of Law in a Transnational World: Anthropological Enquiries* (New York: Berghahn Books), 1–29.
- Walenta, J. (2020), 'Courtroom ethnography: Researching the intersection of law, space, and everyday practices', *The Professional Geographer* 72, no. 1: 131–138. doi:10.1080/00330124.2019.1622427.
- Woods, O. (2012), 'The geographies of religious conversion', *Progress in Human Geography* 36, no. 4: 440–456. doi:10.1177/0309132511427951.
- Yamane, D. (2000), 'Narrative and religious experience', *Sociology of Religion* 61, no. 2: 171–189. doi:10.2307/3712284.
- Yang, F. and A. S. Abel (2014), 'Sociology of religious conversion', in L. R. Rambo and C. E. Farhadian (eds), *The Oxford Handbook of Religious Conversion* (Oxford: Oxford University Press), 140–163.
- Yeo, C. (2018), 'Opening a window into the soul: How to prepare asylum claims based on religion', *Free Movement*, 20 June. <https://www.freemovement.org.uk/asylum-claims-religion/>.
- Zubiaga, A., M. Liakata, R. Procter, G. Wong Sak Hoi and P. Tolmie (2016), 'Analysing how people orient to and spread rumours in social media by looking at conversational threads', *PLoS ONE* 11, no. 3: e0150989. doi:10.1371/journal.pone.0150989.