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Sticking to the Iceberg: Methodologically blonde at the UN in a tactical quest for inclusion

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How can anthropologists negotiate access in high profile, bureaucratic apparatuses, such as a UN human rights monitoring mechanism? To begin answering the question, we need to define what we mean by 'inside': public sessions where 'constructive dialogue' around state reports takes place, NGO hearings accessible only to insiders of UN committees and NGO representatives, or individual documents with classified status circulating inside closed sessions? For each of these examples the border of inclusion and exclusion is defined differently - and it is further impossible to define how it is drawn in the abstract. First, it is by no means evident that anything as tangible as a 'border' could be seen as existing, and second, there certainly are no specific UN guidelines to clarify the matter.

Over the past decade several anthropological writings have attempted to clarify core methodological questions in the study of expert cultures, bureaucracy, human rights and globalisation. How does one study such fieldsites? - Via 'multi-sited', extended, non-local or even 'deterritorialized' ethnography (Rabinow et al. 2008; Andersson 2014; Marcus 1995)? Should we call such fieldsites - 'parasites' (Deeb and Marcus 2011)? To what extent should we build on models and language that emphasize direct participant-observation, for example Trouillot's caution that ethnographies of the state or 'global phenomena' must not be reduced to targets of empirical investigation alone (Michel-Rolph Trouillot 2001)? Greg Feldman has drawn a distinction between the study of 'relations' and 'connections' arguing for the anthropology of 'apparatuses' (Feldman 2011).

What about the knowledge that we produce in such settings as well as its relationship to our interlocutors: should we call it 'co-constructed', 'denunciated' (Jean-Klein and Riles 2005) or collateral knowledge (Riles 2011)?

This paper contributes to these debates by focusing on the question of *access* in a high profile UN human rights body - the UN Human Rights Committee. The Committee is the treaty body that monitors how states comply with the obligations they have undertaken by becoming parties to the International Covenant on Civil and Political Rights (ICCPR), and it is commonly called the 'most important' and 'authoritative' human rights expert body of the entire UN system. Via a description of my navigation of UN sociality and experiments with the microstructures of inclusion and exclusion, this paper discusses the tactics that I relied on in my attempts for access, illustrating how access never becomes something that one simply has, but how it rather remains subject to negotiation, temporal restrictions and surprise. Via its ethnographic insights on the peculiar nature of UN sociality this paper further considers how these findings impact the normativity of UN operations.

### The tactical fieldworker

In order to get started in one's fieldwork every anthropologist must figure out an answer to the question: how does one get one's interlocutors to engage with one's project, to *talk*, that is beyond small-talk? When conducting ethnographic research at such a power-dense setting as a UN expert body, this question poses particular challenges, requiring the fieldworker to update familiar notions of infiltration and camouflage that our disciplinary handbooks present us with. So far the vast body of scholarship on international bureaucracy has done a great deal to increase our understanding of the operations and inner dynamics of global bureaucracies – their reliance on the techniques of audit (Cowan 2014), infatuation with quantified data (Merry 2016), and downplaying of anything whiffing of 'personal' (Billaud 2014), among others. Yet we have seen less discussions on how access is reconfigured in such settings. This paper engages with this task by focusing on the micro-processes via which I eventually gained

access beyond the evident point of inclusion, that is, collecting my *badge* at the UN accreditations office and proceeding through the UN security gates.

Of central importance to my article is the notion of the tactical subject ‘which possesses an intense understanding, mastery and indeed sense of the social field she or he occupies, and the relations he or she entertains in such field’ (Kyriakides 6-7); a notion building in particular on the work of Wagner, Bourdieu and Bailey (Wagner 1967; Wagner 2010; Bourdieu 1977; Bailey 1983). I describe the tactics that I relied on in my – eventually successful - attempts to gain access to closed sessions. I proceed to describe how in the quest for inclusion I attempted to form ‘liaisons’ that created an ‘sticky surface’ between my interlocutors and myself. Eventually, these ‘liaisons’ transformed me from an inconspicuous and detached scholar – a ‘nobody’ – into a conspicuous ethnographer – ‘a somebody’, whose existence was not only noted by the ‘insiders’ of this high profile UN expert body, but who on occasion held fleeting roles of relevance in the proceedings that unfolded. Simultaneously this transformation allowed me to overcome the biggest paradox that exists between (doing research of) UN human rights bureaucracies and the human rights ideology, namely that everyone is a ‘someone’. Here I relied on a tactical revelation of connections, to echo Marilyn Strathern’s work (Strathern 2005:102), both fleshing them out at certain select moments, and ‘containing them within the body to generate potential’ (Kyriakides, introduction) at others.

I also introduce instances where I failed; moments that are equally telling of the border of ‘inclusion’ and ‘exclusion’ in the UN world. Here this paper echoes with Anna Tsing’s work on the importance of treating seeming failures as openings of new insights and analysis (Tsing 2015). In this paper, the moment of exclusion – failure - is concretized by a document that I was *prevented* from receiving, despite of having recognized access to the closed UN session in which it circulated.

The tactics that I utilized can be characterized via three rubrics: ‘being blonde’, name-dropping, and opportunism. All of them were further embedded in a

‘tactical matrix’ – something that I call ‘exaggerated transparency’ over my research. This tactic built on my knowledge that like most contemporary international bureaucratic work, UN human rights monitoring adheres to the ideal of transparency (Cowan and Billaud 2017). Yet, despite of there existing – in principle and in the abstract – rather clear-cut guidelines to address issues of access, in the reality of UN operations matters are more intricate. Consequently, the question of access becomes tricky and elusive, and to describe it via the language of ‘transparency’ requires a very particular definition of the term. Ironically at the UN often the very policies implemented to ensure transparency, in fact, cloud it over, such as in the case of producing ‘truthful’ human rights documents (Billaud 2014). Similar irony characterizes the ethnographic data discussed in my paper – and even my own tactical use of ‘exaggerated transparency’.<sup>1</sup>

Thus, whereas *glass* could be an ideal metaphor for describing transparency in UN operations (Hazzard 2004), in empirical terms the metaphor that captures the empirical predomination of the UN’s ‘fuzzy logic’ (Bourdieu 1977) is *ice*. Like ice, the transparency of actual UN operations is always partial, distorting, even opaque despite of stated ideals or what one may spontaneously think. This applies likewise to the question of access. Just as it is impossible to deduce the detailed microstructure of ice completely from outside appearances, one cannot figure out exactly where the passages of inclusion may reside within the inner contours of UN bureaucracy. Just as one may find unexpected openings that allow for further maneuvering, one may encounter unforeseen obstacles that close off previously accessible avenues of inquiry. Just as ice reacts to sunlight, freezing temperatures and thawing, so do the micro-dynamics of UN bureaucracy continually re-adjust to personnel changes, budgets fluctuations

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<sup>1</sup> In my fieldwork I always remained truthful toward my interlocutors about the intellectual, substantive goals of my research. In other words, I explained that I sought to understand what goes on inside a high profile UN human rights monitoring mechanism as well as what is the general state of the post-world war II utopia structured around the ideology and language of human rights discourse and embodied in infinite human rights bureaucracies. Simultaneously, it is equally true that my real reason for sharing such detail was not the mere desire to share information, but to forge a ‘sticky surface’ and ‘liaisons’ – a tactical play on the use of transparency on my part.

and new procedures. To the newcomer the border of inclusion may begin and end with the processing of securing badge to *enter* a UN building. Yet, the seasoned insider knows better: that, in fact, 'transparent' UN practices form a gigantic bureaucratic iceberg – a formidable 'apparatus' (Feldman 2011) - with only a fraction of its 'tip' body visible to spontaneous outside gaze (Cowan and Billaud 2017).

In this paper I illustrate my attempts to negotiate access via opportunistic embrace of the category of intern. This category is of crucial importance in the world of UN bureaucracy, chronically under-resourced and under-staffed (Billaud 2014; Cowan and Billaud 2017; Sapignoli 2017). For my fieldwork, association with this category showed, among others, how inclusion in the UN is often linked to the confident demeanor via which a person communicates to others that one is entitled of being included, instead of the tangible plastic artefact that one receives upon confirming one's accreditation.

Finally, the metaphor of ice captures the essential fragility that on closer examination characterizes the work of the UN Human Rights Committee and the UN human rights monitoring framework generally: they may be decades old, and accompanied by highly respected expert bodies, yet their continued existence, and tangible 'impact' as well as their sustained legitimacy are highly delicate matters that one must treat carefully. This sense of 'delicacy' is intensified, so I interpret, by the wide-sweeping threats that the post-world war international order is currently facing, whether embodied in the threat of numerous African states to withdraw from the International Criminal Court (Trigt 2016, BBC 2017) , the possible abolishing of the UK Human Rights Act following Brexit (Gearty 2016), President Trump's proclamation that the US will withdraw from the Paris Climate Agreement (The Guardian 2017) or the proliferation of powerful bi-lateral covenants such as the planned Trans-Atlantic Trade and Investment Partnership (TTIP) to subvert state regulatory powers and those of international organizations (TTIP 2017).

The sense of looming threat – paired with localised experiences of disappointment over the international human rights regime (Allen 2013) – has inspired some to call this the ‘endtimes of human rights’ (Hopgood 2013). All this contributes to distinct caution by insiders of UN human rights bureaucracies and ‘pro-human rights scholars’ – two groups who realistically are often synonymous with one another. They may fear that critical analysis jeopardize the continued sustenance of this fragile system as well as the role of human rights worldwide; sentiments that one can understand easily enough. Simultaneously these observations give rise to yet another question: is it tactical of me to share all that this paper entails, or would it be wiser – in view of my continued access to UN bodies also in the future - to ‘contain them within the body’, thus maximizing the potential that this knowledge holds for future fieldwork?

In the following I consider these questions through glimpses from my fieldsite, the Palais Wilson, where I commenced an ethnographic study of the UN Human Rights Committee in 2013. In that year I participated in all of the Committee’s three annual sessions, lasting in total 15 weeks of which around 10 contain sessions that are open for general observers (Halme-Tuomisaari 2013b). The Palais Wilson is a beautiful 19<sup>th</sup> century palace located at the heart of the city of Geneva by the striking Lac Léman, and the former headquarters of the League of Nations. Today the Palais is the home of the UN Office of the High Commissioner for Human Rights, which oversees the sessions of UN human rights treaty bodies. I first visited the Palais in 2007 as an offspring of my ongoing study of a Nordic human rights expert network, which examined how conceptions of education, expertise and human rights knowledge were embodied in its activities (Halme-Tuomisaari 2013a; Halme-Tuomisaari 2010). In 2010 I continued my inquiry into the different aspects of the contemporary human rights phenomenon via a study of how human rights documents were compiled at the Finnish Ministry of Foreign Affairs, focusing in particular on how compilation processes formed the impression of objectivity while masking internal political tensions (Halme-Tuomisaari 2012). At the same time I conducted extensive research into the history of human rights (Slotte and Halme-Tuomisaari 2015), including archival research around the drafting of the Universal Declaration of Human Rights in the

1940s (Halme-Tuomisaari 2015). Thus when I commenced my fieldwork at the Palais I was both a seasoned insider of the world of human rights scholarship, and a newcomer into the sessions of the Committee – a duality that proved essential for my tactical manoeuvring for access.

‘Do you think I could – if it weren’t too forward of me...’

It is the end of yet another session at the main conference room of the Palais Wilson, located at the Palace’s spacious main floor. The session has, once again, discussed issues of paramount importance – namely the realisation of obligations enlisted in the International Covenant on Civil and Political Rights (ICCPR) in one of the Covenant’s member states. These sessions form the core of this monitoring mechanism’s operations: the ‘constructive dialogue’ that takes place between representatives of state parties and international experts of the UN Human Rights Committee, the most ‘lawlike’ and authoritarian of all the ten UN treaty bodies that monitor how states comply with their covenant bound obligations.<sup>2</sup>

These sessions – attended, in theory at least, by ample representatives of the civil society (Halme-Tuomisaari 2017) – are characterised by a charged atmosphere (as well as some inevitable boredom (Billaud and Halme-Tuomisaari 2013)). This atmosphere is intensified by the immense preparatory work both in UN offices in Geneva and diverse national contexts around the world that has preceded these sessions as well as all the practical hassle that joining them has required, namely the coordination of work, schedules and, of course, travel to Geneva. The release of tensions is most palpable as sessions end and people rush out of the room. NGO delegates discuss whether the issues they had laboured on to bring to the attention of Committee members were, in fact, raised, as well as whether state representatives addressed them, or merely, pushed them to the

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<sup>2</sup> For scholarship on UN treaty bodies and human rights monitoring, see for example (Megret 2012; Bayefsky 2000; Kamminga and Scheinin 2009; Crawford 2010; Gearty and Douzinas 2012; Cassese 2012; Bassiouni and Schabas 2011; Simmons 2009)

sidelines. Calls are made back home, press releases are perhaps drafted - and of course, the Committee members need their coffee break too!

I am feeling the tension myself, but for very different reasons. Will this be the moment when I am finally able to strike a conversation with one of the Committee members? Or perhaps a member of the UN secretariat before they rush off to prepare for the next session; an NGO delegate, even a member of a state delegation? With my 'UN expression' plastered on my face, exhausting my jaw muscles from so much wear, I linger at the doorway. Most of the Committee members pass me by, either indifferent to my presence, or acknowledging me with a faint nod. By now most of them recognise me - after all, I have spent a fair amount of time hanging out at the sessions, and the number of people who stay put is realistically not that large. Yet most have neither the slightest idea as to who I am, nor any interest in finding that out. They spend their days at the sessions, their nights in preparations, mornings in breakfast meetings, lunch times at different hearings or informal meetings, and evenings in dinners and receptions. There is simply no room for random chats with the anthropologist. Aware of this reality I attempt, once again, something else: I share a random comment to someone who passes me by, attempting to fall naturally into the flow of their movement so as to find an entry point for continuing our discussion as they walk toward the cafeteria located at the other end of the corridor.

It feels as if I am fishing, hoping for a few gentle nibbles that will allow me to get them properly hooked. I try using personal detail as a lure - that I have once again barely slept as our 1-year old has kept me up at night. I experiment by volunteering something of shared expertise - commenting on the skill of the state delegation in responding to the issues highlighted by the Committee, or how the size of the audience differed from that of the previous state report. I play with being 'blonde' - why are the members of conference service dashing in and out of the room with so many papers in their hands? Usually, I get something back in return, that is, if I have succeeded in judging my interlocutor correctly. To my good fortune it is very rude not to engage in at least some small talk with

the person next in line at the UN cafeteria, even if you are a member of a high profile Committee.

Yet, realistically, I can continue with such meaningless chit-chat for only so long before coming across as the lone village idiot – there sure are enough of those also in UN bureaucratic circles, I have come to learn. Before my moment expires, I bring out the main bait: under the pretense of something or other I weave into the conversation: I am an anthropologist conducting a study of UN human rights monitoring – *and* that I am a long-time student of one of the most famous figures in (critical) international law, namely professor Martti Koskenniemi (Koskenniemi 2005, 2004,2011). This usually does the trick. As if Sesam had opened his gates, I watch the other person’s expression change from indifference to keenly interested. I have been transformed from a ‘nobody’, a random detached observer of irrelevance - a ‘stranger, an alien, possibly an enemy’ who ‘in an important sense (does not) exist’ until I have ‘reveal(ed) my networks’ (Shipton 2003:67; Cohen and Odhiambo 1989:27) – into a ‘somebody’ who not only is doing something potentially worthwhile, but who via her disciplinary connections holds distinct ‘liaisons’ to my interlocutors.<sup>3</sup> I have succeeded in creating a ‘sticky surface’.

In such moments it is usually best not to dwell on too much detail – such as that in reality I am a senior researcher and a mother of two - and instead allow people to slot me in the category where they commonly assign me: an intern who is likely a PhD candidate. Whereas I usually mention my actual scholarly status in passing, in continued interaction I embrace this categorization, pairing it up with a performance of a distinct habitus, ‘blondness’. With this I refer not to the literal state of having blonde hair – which I, ironically, at the time had – but rather to the more figurative elements commonly associated with someone ‘being blond’:

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<sup>3</sup> Cohen and Odhiambo add ‘and importantly, until this network has been verified by my interrogators’; yet in the international human rights field this is more rarely the case as mere mentioning of names may suffice for establishing connections, likely due to the intricate and vast nature of the international human rights buraucracies.

of being slightly naïve and uninformed; dependent and childlike, and definitely non-threatening and benevolent.

Consciously, I embrace the role of an eager student – a pre-existent and well-established slot in UN bureaucracy (Halme-Tuomisaari 2010) - while simultaneously evading the role of an expert, a role that in other contexts I embrace confidently and credibly, for example when I teach human rights issues at universities. Concomitantly, and with intention, I calibrate a power hierarchy between my interlocutors and myself – a hierarchy which often exists in reality due to my interlocutors' superior professional status, compared to my own vicarious professional position. I am actively complicit in creating a fieldwork situation of 'studying up' (Nader 1972; Nader 2011).

It is difficult to say to which extent I am convincing in my role-play. Yet, my open embrace of 'blonde' habitus succeeds in engaging my interlocutors to a sufficient degree so as to allow for our interactions to evolve. Simultaneously, I make my role-play explicit via 'exaggerated transparency' over the content of my research. In practice this meant my custom to share, or at least offer to share, my research proposal with my interlocutors, as well as to tell them exactly what, and how, I was studying via my participant-observation at the UN.

Whether they really grasped what all this meant remained uncertain, of course. Despite of all the shared terrain in terms of scholarly and professional background, one essential difference remains between myself and my interlocutors: we approach human rights from the opposite sides of 'ideology'. For my interlocutors it is evident that human rights are unambiguously good entities, integral tool for world improvement. Albeit they have no pains in recognising that improvement is slow, they never challenge whether it is actually happening. For me, on the contrary, none of this appears as certain (Halme-Tuomisaari 2010:19). Still, via my exaggerated transparency, my tactical role-play is exposed, shared, perhaps even laughed about – '*we are your tribe*' is a common-enough joke in such discussions.

Thus the 'conspicuous ethnographer' became a subjectivity that was 'aware of itself' (Kyriakides, EASA panel abstract) and created a shared reflective space beyond deceit due to my interlocutors' analytical sophistication and their upper hand in our mutual power relations. Simultaneously this space was subject to negotiation and bargaining, making my liaisons 'dangerous'. Playing this game required keen tactical awareness over the extent to which it was prudent, and necessary, to make both my connections and personal attributes visible (Strathern 2005), to which extent it was more advantageous to 'contain them within the body in order to generate potential' (Kyriakides intro, 4). Yet, playing with this risk was essential as it embodied my only hope of gaining access, for realising my transition from a mere inconspicuous and detached observer into a keenly engaged participant who, gradually, started sharing the tension, anticipation, excitement – and even boredom - of the sessions of the Human Rights Committee. Eventually my aspirations for access worked. I was able to move from the public sessions of the Committee to closed NGO hearings, to gain glimpses of background preparations by individual Committee member as well as drafting work engaged in by state representatives, and the preparation of NGO 'shadow reports'. I was also able to join moments of NGO lobbying during the Committee's sessions alongside NGO delegations.

Getting in – only to be excluded again

The transformation of my status is concretised by the degree of access that I enjoyed at the three sessions of the Human Rights Committee (Halme-Tuomisaari 2013b). In the first session in March 2013 I had no pre-existing direct contacts inside the Committee, and thus nobody at the Committee or the UN secretariat took me 'under their wing'. This, I soon discovered, separated me from virtually all others who stayed in Geneva and frequented the Palais for the entire duration of the Committee's five-week session; by all accounts, I was the only genuine 'outsider' perennially present. Other observers, such as journalists, usually visited the sessions for a few days, often in relation to the processing of a particular state's report. The same applied to the vast number of state representatives and NGO delegates who commonly flew in and out of Geneva in

the matter of days. Those who stayed put were usually in some manner connected either to the UN secretariat, or the Committee.

In the March session I had secured an observer badge, which entitled me to follow the sessions that were open to the general public, most importantly the 'constructive dialogue' that took place in the large conference room between Committee members and state delegates (Halme-Tuomisaari 2013a). In terms of fieldwork this meant that I merely started to hang out at the Palais Wilson from morning until evening, frequenting the cafeteria during breaks or lingering in the hallways when the cafeteria was closed. This was straightforward and rewarding in terms of data. Yet, it was evident that to fully grasp what the Committee's work was all about, I needed to gain greater access – which, in turn, formed a real challenge.

Gradually, with ample lingering at doorways, things started to work out. I was able to initiate a series of lunch and coffee meetings with Committee members as well as NGO delegates and the occasional member of the UN Secretariat. Eventually I stayed in touch with one Committee members in between sessions, acting as his informal 'intern' as he prepared for the summer session of 2013. Integral to all this was my continued association, from the very beginning of the first session, with the category of "the intern." This category consisted of undergraduate or PhD students who stayed in Geneva for the duration of the Committee's sessions as interns of distinct Committee members, who were usually also professors at different universities.

Association with this category not only offered the social benefit of having company for lunch-breaks, but it also allowed for the tactical navigation of the border of inclusion and exclusion. Such navigation started out as innocent inquiries as to why certain sessions were closed from observers, but the interns were nevertheless allowed access. It was via such discussions that I learned that *not even the interns themselves* were always sure whether they were *formally* permitted to attend a session or not. They usually followed subtle clues from the

Committee member for whom they were interning, and who indicated whether it was appropriate for the interns to be present or not.

Usually, as the weeks wore on, Committee members lowered their guard, and some of the interns became bolder in experimenting; they would simply show up at a meeting, and if they were not told to leave, they would treat this as permission to stay. I soon started to follow cue: where the interns went, I went too. By this time – because of my ‘exaggerated transparency’ over my research – everyone in positions of responsibility within the Committee knew that I was an anthropologist doing an ethnographic study of the sessions. Subsequently I started to treat this shared knowledge as my ultimate ‘badge’ for inclusion: if those responsible for managing the border of inclusion and exclusion in the sessions did not actively exclude me, I took that as a sign that I was allowed in. Of course not everyone likely remembered that I was not an *actual* intern – yet, nobody ever questioned whether I had the right badge to attend or not. In fact, as one part of my experiments I never wore my badge – the plastic artefact with my name and affiliation printed on it – despite of being always told to do so by the security guards upon entering the Palais. Nobody ever asked to see it either. Thus I learned that my real badge for inclusion was, in fact, my confident demeanour and in particular the casual nod and slight smile when I encountered people.

In fact, in all the weeks that I spent at the Palais, only once did someone question whether I actually had the required access to participate in a given session. As I was also at that instance in the company of the interns, this question was not directed solely at me. Eventually we all succeeded in defending our entitlement to stay by highlighting our association to individual Committee members – something in which we capitalised on our knowledge of the Committee’s inner dynamics: its members – who are (ideally) recognised and renown international experts of human rights matters, commonly either university professors or diplomats by vocation – are the ‘stars’ of the sessions, whereas many members of UN conference services attending to practical matters may be junior UN officials with temporary contracts. Thus at such occasions the interns were able to

tactically employ this discrepancy of professional rank, not between UN staff and themselves, but with their patrons, thus boldly pushing the boundary of inclusion in their favor.

Despite of merely having an observer's status, by the end of the first session in 2013 I was considered to be sufficiently an insider to be allowed to sit in on the lunchtime NGO briefings that were closed off from states. By the second session in summer 2013 I was able to sit in on the occasional closed Committee session, which were off-limits to NGO representatives. I had direct contacts with numerous Committee members, and even acted as an occasional NGO lobbyist. Yet it was the third session of 2013 that shifted the boundary of inclusion even further: after a bold question I directed at a Committee member, as the second session was about to close, he agreed to take me on as an informal intern. This meant that when I returned in the fall I had access to all the sessions of the Committee. Importantly this meant access to restricted documents inside sessions, on which the Committee member asked for my views. The feeling of being an 'insider' was tangible.

Of course, my access was far from unrestricted: I continued to experience surprising moments of exclusion even while sitting inside closed sessions with full entitlement. This is illustrated by one restricted document that the Committee dealt with which was, unusually, handed out as a printed copy during the session, and not distributed as an electronic one as was mostly done, likely due to the document's late arrival. As the member of the UN Secretariat distributed copies around the conference room, she casually passed me by, despite of knowing who I was from earlier contact. I asked her if I too could have a copy, to which she responded that I would need to get the copy directly from the Committee member for whom I was interning since he was the one responsible for my access in the session in question. As we were in mid-session it did not feel appropriate to disturb the Committee member, and hence I never got to examine the document.

Further, my access as a whole was both temporary and vicarious: my internship lasted only for that one full session of the Human Rights Committee, and as soon as it was over, I was an outsider again, with no access even to the Palais without renewed accreditation. I was out on the street once again, just like everyone else who for this particular session was on the inside – save for the few permanent staff members of the UN secretariat. Finally, as my internship was merely the result of a casual verbal agreement, I had no paperwork to testify for my internship status was such requested at any stage, for example for the purposes of research budget – which fortunately never became an issue.

Ironically, this same condition applied for a written research permit over my entire project. I had once discussed the matter with the chairman of the Committee, a highly influential insider of UN human rights circles. He considered it futile to forward a written request as '(t)he Committee has other matters to attend to'. Following the sessions in person I could only agree. As fate would have it, in January 2017 this Committee member passed away, quite unexpectedly, and with him died the only verbal record that such an exchange ever took place. – not that he would necessarily remember it anyway. All this testifies, once again, how fuzzy and contingent the borders of inclusion and exclusion are, and how temporary even the most cautioned plans to solidify access may become within UN bureaucracies. Just like ice thaws, perhaps melts a bit, then freezes again, subsequently forever sealing the small cracks and pores that once existed in its construction, so do the passages of accessibility for an anthropologist studying UN bureaucracies and sociality. They open up, only to close back up again - quite unexpectedly and without a trace or explanation.

## Conclusion

This paper has discussed a fieldworker's aspiration for access via the lens of the 'tactical subject', illustrating how even in such a seemingly transparent context as UN human rights monitoring work, access remains subject to negotiation and even bargaining, as well as opportunistic seizing of moments. Moments and arrangements of access are volatile and temporary, possibly even leading to the

closing of previously accessible paths after the fact. These ethnographic insights summarise a key element of UN sociality, namely its 'fuzziness' due to the infinite rotation of people. As today most UN personnel will only hold any office for a fixed period, there are few people who are 'genuine insiders' in any given monitoring mechanism or expert body – rather most people will be always be partially insiders, partially outsiders.

The same applies for the members of UN treaty bodies, an outcome emphasised by their selection of expert members: whereas the Human Rights Committee, for example, convenes today only in Geneva, its expert members are chosen by state parties at the UN headquarters in New York, and the UN personnel working with a given treaty body will have no say in the matter on a candidate's suitability or skills for the position. Evidently reputation of expertise will travel from Geneva to New York, and it may impact the outcome of member elections.

Simultaneously it is just as possible that it does not, as was the case in 2014: in one go the Committee found itself in the position of having 1/3 of its members replaced, including a few seasoned insiders who were practically considered as 'fixtures' by the Geneva office. The consequences that this exerted on the Committee's workload were tangible: those Committee members who only two years earlier had been the timid newcomers were now the expert old-timers who held their seats with confidence and ease.

Inevitably such moments open up opportunistic moments for the seasoned insiders – including importantly members of the UN secretariat - who wish to develop the Committee's operations in distinct directions. In practice this may mean opportunities to introduce greater space for the input of NGOs to effectively challenge the data presented particularly by 'bad' states (Halme-Tuomisaari 2013a). A practical example of this are the Committee's lunch time sessions that are closed off from state representatives and which have today become an established part of the the Human Rights Committee's practical operations despite of there existing no wording on such hearings in the ICCPR (ICCPR 2017).

In reality the impact of ‘fuzzy logic’ has had far broader implications: today most details related to what a UN treaty body actually does, and how they do it, has been determined by the Committees and the UN Secretariat themselves over the past decades. Whereas one can argue that on the one hand this was already defined by the very covenants that have created them in the first place (ICCPR 2017),<sup>4</sup> and is thus keeping with the ‘spirit’ intended by the Covenants wording, there are also those – numerous states included – who feel like the Committees have taken unwarrantedly broad license in interpreting the scope of its operations, exceeding the actual powers that the ICCPR gives it. These sentiments have manifested themselves in initiatives to restrict the operations of UN treaty bodies, as well as individual statements that its views will not be respected by state parties. However, so far they have remained isolated initiatives and the main diplomatic ‘mood’ remains one of supporting the current, vast understanding of the Committee’s mandate.

However, all this illustrates how the opaque and ‘fuzzy’ nature of UN sociality is in important ways enmeshed with the normative agendas of such bodies as the UN Human Rights Committee, both giving space and relying on the tactical negotiation, anticipation and contestation in the ice-scape of the apparatus - not only of individual UN employees but rather entire UN bodies. These observations, in turn, show how, in order to comprehend how UN bodies operate and have an ‘impact’, one needs to begin analysis from ethnographic insight, not from formal guidelines or abstract generalisations.

This paper’s findings have also disciplinary consequences: it has highlighted the challenges that finding access to such fieldsites poses for one’s anthropological imagination – and also, the inevitable tension that doing such research, in a properly ethnographic sense, forms toward increasingly rigid ethics consent forms requiring specified advance descriptions of just what one wishes to study,

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<sup>4</sup> **Article 36 of the ICCPR states:** “The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.” But Article 39, par 2 clarifies that “The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that (a) Twelve members shall constitute a quorum; (b) Decisions of the Committee shall be made by a majority vote of the members present.”

and how. Evidently this tension is one that will not be resolved in the near future, but it does give rise to another question of decisive importance: is it tactical of me to share all of the above? To describe in such detail just what it is that I have done in my attempts to secure access, and how? Indeed it might be wiser for me to 'contain' these insights 'within the body', thus maximising my potential for future fieldwork periods. I cannot dispute that the thought of doing just that has crossed my mind a few times upon writing this paper. Whether sharing all this means that my future access 'to the iceberg' will be blocked – or perhaps even facilitated via my increased recognised expertise – will remain to be seen.

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Where's the well: DNA Evidence, Personal Narratives and Unpredictability in Finnish Family Reunification

Miia Halme-Tuomisaari, Anna-Maria Tapaninen & Hilja Aunela<sup>1</sup>

*“The applicants’ stories entailed important inconsistencies. According to the plaintiff’s wife water was fetched from a river at a half-an-hours walking distance; according to the plaintiff’s stepmother ... from a stream ‘a little further away’, and everyone took turns; according to the applicant’s step-brother ... from a well that was within a 6-7 minute walk, and it was the donkeys who carried the water; according to the niece’s child, water came from a well that was in the house next door and this was done by the parents.”*

*(Case 1; case number on file with authors to ensure applicant anonymity. Original text in Finnish, translation by the authors.)*

This is a direct quote from a family reunification appeal processed – and rejected – by the Administrative Court of Helsinki, one of seven regional courts of appeal in Finland [that](#) review [bureaucratic decisions made at municipal and state levels](#), including [those regarding](#) immigration. Although particular in its details, this appeal exemplifies a crucial characteristic of immigration cases, namely the use of personal narratives to complement such evidence as DNA analysis in the absence of identification documents approved by the Finnish officials. In the proceedings these details acquire thus legal relevance, or more precisely, they *sometimes do* whereas at other times their significance is dismissed. This article tells the story of how and why this occurs - or more accurately, it tells why it

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<sup>1</sup> [The authors participate in a research venture studying the use of biometric data in family reunification cases \(2014-2016\). Full information in Title Page](#)

is impossible to know or explain *whether* such narrative details, or DNA evidence, or something else, will become significant in these proceedings.

The appeals processed at the Administrative Court are often the last domestic legal remedy available for applicants seeking entry to Finland: whereas the applicants in principle have the right to lodge an appeal at the Finnish Supreme Administrative Court and at the European Court of Human Rights, in practice permits are very difficult to obtain (see Knuutila & Heiskanen 2014; Pakolaisneuvonta 2015). Thus a lot rides on personal narratives, beginning with whether they are accepted as [capable of offering certainty - information](#) (Hetherington [2011](#); Halme-Tuomisaari [2013](#)) - or whether they are seen as fabrication.

Narratives are utilized in Finnish family reunification proceedings in cases where applicants lack the kind of documentation accepted by Finnish immigration procedures. However, their evidentiary weight may also be challenged by data of entirely different kind, namely biotechnological evidence on biological relatedness acquired via DNA testing. Parental DNA testing is today utilized in family reunification cases in Finland in echo with broader international trends of relying on biotechnological tools and biometrics in immigration management (see Aas 2006; Fassin & d'Halluin 2005; Feldman 2011). Since the 1990s, DNA testing has become an established procedure in family reunification cases in at least 25 countries of the Global North, including 21 European Countries (EMN 2016; 2017).

The importance of DNA testing, in turn, rests on its acknowledged precision and objectivity, which commonly translates it into an indispensable tool in a quest for 'truth' by immigration authorities (Helén & Tapaninen 2013; Tapaninen & Helén 2015). Research on German migration proceedings has shown that DNA evidence may trump other types of evidence in the absence of reliable documents (Heinemann & Lemke 2014; Heinemann et al 2015; Co-Tapaninen 2014). Importantly our analysis shows that in Finland the evidentiary weight invested in DNA is, by contrast, highly uncertain. In this article we concretize how this is reflected in the outcomes of family reunification

decisions.

To treat information derived via personal narratives vis-à-vis information derived from DNA analysis appears counter-intuitive as they produce two entirely different types of evidence: one characterized by objective and virtually unchallengeable ‘factualness’, the other by highly subjective interpretation and personal recollection. How, and under what kind of rationales, are they assigned equal explanatory weight as vehicles of ‘reliable facts’ in the bureaucratic and legal proceedings of immigration management? So far these questions have not been covered extensively in existing literature (but see Hall & Naue 2015).

The deployment of DNA testing for family reunification has mostly been studied by focusing on the ethical implications of compulsory testing (Holland 2002; Taitz, Weekers and Mosca 2002; UNHR 2006; Villiers 2010; Weiss 2011; Dove 2014). Alternatively, studies have focused on differences in legal and administrative structures. DNA analysis has also been approached as a ‘biological lie detector’ in the context of ubiquitous suspicion of fraud in the managing of immigration (Weiss 2011; Hall and Naue 2015) or as a form of geneticization of the concept of the family (Heinemann and Lemke 2014; Heinemann et al 2015; see also Lippmann 1991; Finkler 2000).

Our approach differs from this corpus of studies by extending the question from the demand of DNA information to the intricacies of decision-making. We contextualize the use of DNA analysis by connecting it to other forms of investigation, interviews in particular. The precise questions presented to all family members – exemplified by the location of the well in the opening vignette of this article – is another way of digging up ‘the truth’ to prove and/or disprove the claims presented by applicants. Hence, incommensurable pieces of evidence are set side by side in unpredictable ways. We substantiate our analysis via a close study of 253 appeals concerning family reunification applications to the Administrative Court of Helsinki between 2002 and 2014.

The analyzed cases include all decisions of the court from this time frame containing the

term ‘DNA’ either in the appeal or in the Court’s decision. Specifically, our analysis focuses on the 52 cases in which DNA testing had already confirmed the existence of biological family ties but the Finnish Immigration Service had, nevertheless, rejected the application. This choice of data was based on our earlier research comparing the role of DNA testing in family reunification in Austria, Finland and Germany (Helén & Tapaninen 2013; Heinemann et al 2013; Heinemann & Lemke 2014; Heinemann et al 2015; Weiss 2011). These studies have provided a perspective for discussing the role of biotechnologies in immigration control through the notion of biological citizenship (Heinemann & Lemke 2014; Helén 2014).

The broader context for this study is related to the ongoing global ‘refugee crises’, which in Europe affects particularly states bordering the Mediterranean. Over the past years this crises has started to embody itself increasingly on a continental level, reaching also Northern Europe. Yet, the scale remains very different in these two geographic locations. An overview of immigration in Finland casts it spontaneously as offering almost the polar opposite to what we see currently unfolding in Greece and Italy. The reality of the latter two states is characterized by tremendous numbers of immigrants, many of them undocumented, chaos and confusion, with prolonged processes and uncertain outcomes discussed, a scene discussed for example by Heath Cabot in her work of Greece NGOs (Cabot 2012; 2013; 2014). Finland, by contrast, is characterized by low numbers of immigrants, and a highly legalistic and centralized state system. These features apply also to Finnish immigration, and the relevant legal provisions applying to family reunification emphasize the ‘machine-like’ elements of immigration proceedings. Finland is widely recognized as a ‘model human rights country’ in its participation in the international human rights regime (Halme-Tuomisaari 2010), and it has further been an international pioneer in regulating DNA testing by law (Helén & Tapaninen 2013; Tapaninen & Helén 2015), and it

We were expecting that these elements would be visible also in the Finnish family reunification cases we analyzed. We anticipated that our in-depth study of types of evidence utilized by a well-functioning and established bureaucratic immigration setting

would enlighten us not only on the kind of outcomes that family reunification appeals produced, but on the kind of evidence that was relied on in making them. We further believed that these cases would shed light on the way DNA evidence is evaluated, and the kinds of definition of true family ties that they played out. Yet as our research advanced, it began to tell a very different story. Consequently, instead of predictability and certainty of process and outcome, this article speaks ultimately of both the intrinsic superficiality (Latour [2004](#)) and the indeterminacy of legal language and proceedings (Koskenniemi [2006](#); Tushnet [1984](#); Boyle [1985](#); Kennedy [2002](#)).

Via its analysis of Finnish family reunification appeals this article explores what consequences these features have on the bureaucratic and legal proceedings, which, ideally, would rather produce certainty and closure. Our analysis links up the with recent ethnographic work on documents (Riles [2006](#); Hetherington [2011](#); Latour [2004](#); Halme-Tuomisaari [2013](#); Strathern [2006](#), Halme-Tuomisaari [2012](#)), particularly discussions on their capability to produce (un)certainty (Kelly [2011](#); Navaro-Yashin [2012](#)). Building on Kregg Hetherington's discussion of 'information' and 'interpretive stability' (Hetherington [2011](#): 5, 9) we focus in particular on processes aspiring to bestow distinct data the status of reliable information (Tuomisaari, [2013](#)); as Hetherington reminds us "in a world of confusion and uncertainty... information is certainty itself" (Hetherington [2011](#): 5).

Thus in this article we analyze the family reunification appeals fundamentally as struggles initiated by the applicants – or in the case of underage children, by their guardians – over whether they are capable of offering information over themselves and thus to make legitimate representations over reality, with the desired end point being certainty over the courses of their own lives and those of their families. Our principal question concerns how and why various forms of data become accepted as 'factual information' capable of offering this desired certainty in the legal proceedings we examine. In this aspiration we adhered to a highly quantified, 'objective' methodology, attempting to dissect our cases as precisely as we could in an almost desperate search of definitive answers.

Our conclusions are somewhat unexpected: we suggest that, in fact, one cannot reach certainty no matter how deep one digs. Consequently what our findings ultimately highlight is infinite indeterminacy. The wording of relevant legal provisions is vague, and a general sense of open-endedness is reinforced by the decisions of the Finnish Immigration Service. Our selection of appeals confuses matters further: it shows how the very same factors that may have caused the applicants to leave their families and contexts of origins in the first place – the humanitarian grounds that have pushed them to apply for *and* receive international protection – may ultimately produce arguments *against* their applications to be united with family members in their new country of residence.

### 1. Verifying family ties

For people on the move, family reunification has become a major ‘channel’ to Europe: as migration policies have generally tightened, family reunification remains one of few ways continually open for migrants to enter into Europe (European Migration Network 2008; Kofman 2004). Yet in recent years family reunification has become continually more difficult due to amendments in relevant legislation as well as to tighter interpretations of existing legislation. The Finnish case exemplifies both these features. The legal code governing Finnish immigration policy is called the Aliens Act (SDK 301/2004), which entered into force in 2004. The previous Acts originate from 1984 (SDK 400/1983) and 1991 (SDK 378/1991). (See Lepola 2000: 76-124). Since then the Aliens Act has been amended over thirty times – a reality that makes examining the relevant legal provisions of individual family reunification appeals extremely complex.

The high number of amendments can be linked both to EU legislation and to the recently changed policies of Finnish immigration. Up until the 1980s, Finland was a country of labor emigration and even today the migratory ‘flows’ have been less significant than in the other Nordic Countries. In 2014, the last year covered by our sample, less than 4% of the Finnish population comprised of foreign citizens, one of the smallest proportions in

the EU (Eurostat 2015). Finnish migration has distinct national characteristics due to its historic specificity at the border of ‘East’ and ‘West’, and its three largest groups of foreign citizens have continuously been from the neighboring countries of Estonia, Russia, and Sweden (Statistics Finland 2015).

In terms of percentages immigration to Finland has multiplied over the past two decades and growing numbers of asylum seekers have significantly contributed to this development. Simultaneously, historic migration trends have altered, as the country has seen its proportionately largest increases in migrants and asylum seekers, particularly from Somalia, but also China, Thailand, Iraq and Turkey (Statistics Finland 2015). Autumn 2015 saw a sharp shift as an unprecedented number of asylum seekers have fled to the country from Somalia, Iraq, Afghanistan and Syria. Still by international standards immigration numbers remained low, when compared to, for example, Greece.<sup>2</sup>

This increase in volume, and the changed profiles of new arrivals, have elevated immigration into a momentous political issue in Finland, echoing wider political currents in much of Europe (see Lippert & Pyykkönen 2012; Horsti & Pellander 2015, Andersson 2014a).

In Finland, applications based on family ties currently amount to up to two fifths of all applications for a residence permit in the years covered by our sample (Finnish Immigration Service 2015a). In recent years family reunification has become increasingly difficult, especially in cases in which the sponsor’s residence permit is based on international protection.<sup>3</sup> When analyzed in the abstract, the Alien Act’s definition of ‘the

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<sup>2</sup> Updated statistics on migrants and asylum seekers are available at Statistic Finland, <http://statistics.migri.fi/#decisions/23330?start=540&end=551>.

<sup>3</sup> [The success rates varied according to the status of the sponsor. In 2014, for family members of beneficiaries of international protection it was 48 %, whereas it was 86 % for family members of Finnish citizens and 84 % for others \(Maahanmuuttovirasto 2015a\)](#). After recent amendments to the Aliens Act (SDK 549/2010) and the new Act on the Promotion of Immigrant Integration (SDK 1386/2010) there was a significant drop both in the success rates and in the number of applications. These years also witnessed a considerable backlog of Somali applications that was ‘cleared’ in January 2015. From 2012, family reunification applications have to be filed in person in a Finnish mission, and the travel arrangements must be paid for by the applicants. The cases in our sample were mostly filed during the period of congested applications and long processing times.

family' is almost surprisingly permissive. Under specific circumstances, also underage siblings of an unaccompanied minor and other relatives such as grandparents and foster children can be eligible for family reunification. Simultaneously, when applied to reality, this definition appears almost as too restrictive: as our analyzed cases illustrate, we are dealing with families whose members are dispersed around the world and who commonly reside in conflict-stricken areas. Most of the cases in our sample also relate to applicants who have initially received residence permits in Finland on humanitarian grounds.

Simultaneously the actual interpretations of relevant legislation by the Finnish Immigration Service are significantly more restrictive than this permissive wording might suggest, as also scholars have noted (Förbom 2014). A press release by the Finnish Immigration Service from 2008 assists us in understanding the dynamic at stake in the process as it states that "(a) purely biological relationship is not ... sufficient for a positive decision on residence permit without the background of a *genuine, permanent family life*" (Finnish Immigration Service 2008; italics added). DNA evidence of family ties needs to be accompanied by 'other' data, though the precise kind is left unspecified. Aspiring to greater certainty we perused the Aliens Act governing immigration in Finland (SDK 301/2004), examining the definitions of family ties and thus 'family' that emerge from it.

Contrary to the wording of the press release of the Finnish Immigration Service cited above, their family life may not have been convincingly "permanent" – a condition which is, not coincidentally, commonly linked to the root causes of individuals becoming migrants in the first place. When fleeing, and during the application process, contact between family members may become sporadic while, in the course of the years that application and appeal processes take, family members may die or disappear. In the decisions we analyze, it is often concluded that the family tie had ceased to exist during the lengthy separation.

Our case sample illustrates further how 'culturally' predominant notions of 'the family' differ between the applicants' contexts of origin and those embedded in Finnish bureaucracies: in addition to biological parents and under-aged children, relatives such as

grandparents, foster parents, aunts, cousins, nieces, nephews, children and siblings of full legal age can be included among family members in these appeals. Cultural considerations do, however, have some resonance in Finnish immigration policies. In the web pages of the Finnish Immigration Service ([Finnish Immigration Service, n.d.](#)) it is clarified that, “[T]he sphere of family members is laid down by law and does not necessarily correspond to general views on what constitutes a family member. The Finnish concept of family is narrower than that of many other countries.” Here, as can be expected, the legal wording references the predominant nuclear-family model of Finnish society.

The reality, therefore, introduces an additional element into the role that DNA testing imposes on notions of the family: when biological relatedness becomes the proof of true family ties the procreative family becomes the standard model, dictating the eligibility of applications by ‘aliens’ for family reunification and thereby establishing a ‘double standard’ for family recognition (Murdock 2008; Heinemann & Lemke 2014). The use of DNA evidence, however, is less pronounced in Finland than, for example, Germany, since a positive test result is neither a *necessary* nor a *sufficient* piece of evidence in Finnish applications (Tapaninen & Helén 2015).<sup>4</sup>

Although the appeals that we examine relate to family reunification and not asylum applications, it is relevant to note that the background of the sponsors in the cases under appeal are almost [always](#) the ones of international protection. This, in turn, commonly translates into an absence of reliable documentation of family ties such as birth certificates, marriage certificates, or adoption documents. This places applicants at a disadvantage when trying to reunify with their families, and DNA testing is often seen as their last resort. This explains the statistical discrepancy between our sample and all sponsors [or family reunification: whereas former asylum seekers predominate the appeals of the cases that we examined](#), they are only a minority among the sponsors of family

<sup>4</sup> It must be emphasized, however, that we do not know how often the option of DNA analysis is *not* provided by the Finnish Immigration Service or how often a negative test result is used as a basis of rejection that nevertheless is not appealed against. Neither do we know whether the unexpected results are ‘discreetly’ omitted in the decisions as argued by the authorities (see Tapaninen & Helén 2015: 48-49).

reunification (Fingerroos et al 2016).<sup>5</sup>

In Finland, the importance of genetic relatedness has been a constant since the incorporation of the two sections on DNA testing into the Aliens Act in 2000 ([SDK 114/2000](#)). It is also routinely used to provide apparently accurate proof of alleged family ties to complement interview data as outlined above (Tapaninen & Helén 2015). The applicant or the sponsor is provided an opportunity to prove kinship with DNA analysis “if no other adequate evidence of family ties based on biological kinship is available and if it is possible to obtain material evidence of the family ties through DNA analysis” (SDK 301/2004, Section 65(1)). It is thus offered as *an opportunity*, not a *demand* by the authorities. Moreover, it is free of charge for the applicants themselves.

The provisions imply that DNA analysis is the last resort after other investigations have been deemed inadequate. However, in 51 of the selected cases DNA testing had preceded further investigations into the existence of ‘genuine’ family ties. The Finnish Immigration Service, the office responsible for all applications for asylum, residence permits and citizenship, also coordinates DNA testing in cooperation with the two authorized public labs, Finnish Embassies, the Police and the (municipal) health care centers. The thorough centralization of the system is also evidenced by the fact that, pursuant to Subsection 66(1) of the Aliens Act, the results of the test are sent to the Finnish Migration Service. Applicants are thus neither given the results nor, as explicated in the updated instructions of the Finnish Immigration Service (2014), can they demand or initiate testing themselves. The applicants can only request it from the Administrative Court in their appeal, a course of action, which actually occurred in 127 cases of our sample.

Importantly, neither DNA testing nor biological ties are referred to in the legal wording on family ties. However, in decision-making genetic relatedness verified through DNA analysis may indeed be a necessity, thereby actually defining true relations through biological ties. This applies also in cases that do not, by definition, require genetic relatedness, such as marriage or fosterage. As outlined by Section 37(2), unmarried

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<sup>5</sup> As the status of the sponsor is not always made clear in the decisions, we cannot give exact numbers.

couples, cohabiting couples and same-sex unions are included in the definition of marriage-like relationships at the level of legal language. Furthermore, this Section does not differentiate between ‘biological’ and ‘social’ affiliation, that is, between biological children, adopted children and stepchildren but refers only to custody. However, the existence of a marriage-like tie can potentially be proven by a joint biological child. In our material, DNA testing was mentioned even though the relatives concerned may have been genetically more distant than immediate family, and it is for the extended use of DNA profiling that as many as 253 cases matched the criteria of our sample. In Finland, there are myriad potential uses of DNA testing, including the testing of credibility (see also Tapaninen 2016).

## 2. Analytical break-down: searching for quantified certainty

This overview of relevant legal provisions governing family reunification contextualizes our analysis of the 253 selected appeals from the Administrative Court of Helsinki. What can we learn from them? What kind of notions of ‘the family’ emanate from these legal proceedings? What do these cases tell us of the weight given to biotechnological evidence? What kind of images of the importance of DNA evidence versus personal narratives do these appeals promote? In fact, we can say very little about any of them. We conducted extensive quantified data analyses with the goal of finding solid ground for these arguments. Yet the deeper we dug, the more amorphous things became. Ultimately we had no choice but to adjust our hypothesis and agree that our data – embedded in legal proceedings – had a different message: it backed up an argument supporting claims of the superficiality (Latour 2004) and indeterminacy (Tushnet 1984; Boyle 1985; Kennedy 2002) of the law and legal proceedings, and the outcomes that this legal reality had on migrant experiences and destinies.

Having commenced with a few general observations, we move on to concretizing our findings via analytic details using Atlas.fi, a program designed for qualitative analyses backed up by quantified certainty. All the analyzed appeals had to fulfill two prerequisites: first, the appeal had to be connected to residence permit application on the

basis of family ties; and second, the dossier had to include the term ‘DNA’.<sup>6</sup> In the first phase of analysis each of the 253 documents were organized by five primary umbrella categories. These categories were then re-examined, and new layers of details were added with the purpose of pinning down the most significant general patterns. By the end of analysis the total number of categories approached 150. Of the five umbrella categories, the first included basic facts about the applicant(s): country of origin, number of applicants and the relationship between sponsor and applicants. The second category focused on elements derived from the Court’s decision: the result of court proceedings, decision date, the identity of the advocate, the composition of the Administrative Court and whether the decision was arrived at via a vote due to diverging opinions.

The third category targeted the arguments that the applicant had put forward along with the legal provisions referenced. The role of DNA evidence was examined and organized separately, as will be elaborated below. The fourth category consisted of the legal provisions referenced by the appeals, although it should be noted that these were not elaborated in every case. The fifth category listed the merits that the Administrative Court had singled out from the broader details of the case. In the finalized, quantified analysis these include codes such as “inconsistencies in narratives”, “family life has voluntarily ceased to exist”, and “subsistence not adequately guaranteed”, as well as “circumvention of the provisions of entry and residence”.

The applicants come from 27 different countries with an overwhelming majority of cases concerning Somali applicants – 181 cases out of 253 or over seventy percent of all the cases from which our data was drawn. Thus we can conclude that the vast majority of the cases that we discuss in this article address Somali nationals, which returns us to the heart

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<sup>6</sup> To contextualize this data, the total number of appeals handled by the Administrative Court of Helsinki during the same period was 101,245. Of these, 20,641, or approximately one fifth, addressed issues related to immigration. The number of appeals rejected on the grounds of family ties is 3,602. To give an understanding of the success rate of appeals: in this category the Administrative Court overturned the decision of the Finnish Immigration Service in circa 40% of the cases, and thus in the majority the decision was upheld. Of the cases under scrutiny, 205 appeals (81%) were rejected and 41 (16%) revoked. In addition, in seven cases the appeal was rejected for some applicants and revoked for others. One case had become void due to the death of the sponsor/applicant.

of the changed patterns of Finnish immigration, which were discussed earlier.<sup>7</sup> [The most common argument used to defend family reunification is biological relatedness, an argument elaborated below alongside with the Court's responses. Yet this argument was rarely raised alone but instead supported by others, the most common being the best interest of the child, the health of the applicant, proof of active communication during separation and an emphasis that actual family life had ceased to exist because of compelling reasons and not voluntarily.](#)

What about DNA evidence - what impact did it have on court decisions, that is, on the sixteen percent that were overturned? In the appeals, DNA tests emerge in five different roles: first, a demand for a DNA test had been made by the applicants; second, a DNA test had been done and proven biological relatedness; third, a formal opportunity for a DNA test had been provided but the test had not been realized because of the dangers and expenses involved in the journey to the nearest Finnish Embassy;<sup>8</sup> fourth, taking a DNA test had been refused; and finally, a DNA test had shown uncertainties in the nature of biological relatedness. Importantly, in 127 cases, half of all cases, the test had not yet been done. The appellant(s) either demanded DNA testing or gave their consent to testing in advance, which attests to the fact that it was seen as the (only) option that could ensure family reunification. In all its simplicity, this is one of our key findings and is congruent with our interpretation of the rationales of DNA testing: it could combat fraud and/or secure human rights (Helén & Tapaninen 2013; 2015).

In the vast majority of cases where a DNA test had not been conducted – in 77 out of 127 – the Court had stated that there was no need for one. Further, in almost all of these cases, 74 in total, the Court dismissed the appeal, stating in its decision that it was not necessary to test whether a biological relationship existed because the judicial definition of a family

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<sup>7</sup> This emphasis becomes even more predominant when we note that the second most common country of origin is the Democratic Republic of Congo with only 17 cases, followed by Afghanistan and Iraq with 5 cases.

<sup>8</sup> In 18 cases a formal opportunity for a test had been provided but, according to the appeals, the journey to the nearest Finnish Embassy had been an insuperable obstacle. However, all of these appeals were dismissed – with only one exception in which the court found that the health of the applicant was too fragile for the journey to have been made, consequently overturning the decision of the Finnish Immigration Service.

had not been fulfilled due to other factors. The Court is explicit in these cases: “A DNA test cannot provide further clarification whether an actual relation of care existed” – argumentation that links to the aforementioned emphasis on ‘genuine family ties’. In the remaining three cases where a DNA test was not carried out, the Court states that there is no need for one as kinship has been proven adequately by other means. In these cases the decision of the Finnish Immigration Office was revoked.<sup>9</sup>

#### Consistent DNA analyses, inconsistent narratives

We selected 52 cases for closer scrutiny. In them a DNA analysis had been carried out and had proved the undoubted existence of biological relatedness – yet the Finnish Immigration Service had rejected the application nonetheless.<sup>10</sup> Importantly, this finding, despite its unambiguous ‘factual’ nature, did not translate into certainty over the Court’s decision: the Court dismissed the majority of these cases, 40 in total, overturning only 10 of them; in the remaining two cases the appeal was rejected for some applicants, overturned for others. Why did the Court did *not* overturn these 40 decisions by the Finnish Immigration Service? The Court enlists several types of merits, which have been considered in the decision, but it is impossible to decipher which carry the greatest weight. Often the Court’s arguments overlap.

The most frequently recurring argument is that genuine family life had already ceased to exist before the sponsor departed; an argument made in 3 out of 4 of the dismissed cases. In 3 out of 5 instances the Court mentions inconsistencies in the narratives of the applicants; in 2 out of 5 the Court states that family life had ceased voluntarily upon the applicant’s departure, thereby inadvertently indicating an understanding that departure must have been voluntary. This appears grossly contradictory since in all of these cases the sponsor has been given some form of humanitarian protection, in other words,

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<sup>9</sup> The material also includes three instances in which the applicant refused to have a DNA test done for diverse personal reasons - the involvement of rape, the view that kinship had been adequately proven with other documents, and a case where parents who claimed biological parenthood for a child who had been raised by the grandparents – all cases dismissed by the Court.

<sup>10</sup> Four of these cases entail some controversy concerning the test results.

protective status because she or he had compelling reasons to depart from the context of origin.

What does the Court mean when it refers to ‘inconsistencies’ in narratives? Personal narratives refer to data derived via interviews, which in the absence of acceptable documents on family ties are gathered from all applicants. This data are highly problematic in its nature: often evidence sought by the interviews is very specific, as was illustrated by the opening vignette of this article. Various family members may be asked about the location of a water source; other cases query the colors of doors, schools, the material of a roof or fence, details about clothing and food at a wedding ceremony, questions and descriptions of the types of products family members sold at local farmers’ markets, how and where family members were killed, and who attended their funerals. Furthermore, the applicants are expected to know details of the sponsor’s life in faraway Finland.

More importantly, these and similar details that were in numerous instances highlighted as embodying ‘inconsistencies in narratives’, collectively comprised a category that then trumped actual biological relatedness that had been verified via DNA analysis. Yet the interviews may be carried out after lengthy family separations and after periods of time characterized by chaos, shared trauma and displacement, factors not considered in assessing the veracity of personal narratives. Consequently they do not amount to acceptable explanation for why interviewees – including children – might struggle to recall minute details of their everyday lives in the past.

The quest for truth also extends to details of traumatic experiences – killings, disappearances, deaths and separations – which must have influenced recollections. In one case, a mother residing in Finland wanted to reunify with her son, whom she had lost when fleeing an armed attack. When hearing through a radio broadcast that his mother was alive and looking for him, the son could make contact after two years of separation. He had first lived with a couple in the countryside but then moved to Addis Ababa to an acquaintance for the application process. The decision details that “his father had been

killed in a missile attack in 2002, 2005 or 2007. In the same attack his sister called XX had also been killed, but she [the mother] does not remember the year of birth of her daughter.”

There are several temporalities ([Andersson 2014b](#)) at work here. Failing to recollect traumatic dates stands in stark contrast to the long separation that the application process further extended by two years. The immutable proof of DNA analysis evidenced that the applicant is the sponsor’s son but as he turned 18 during the process he was no longer a child in need of custody. In some of the appeals the diverging figures are explained by referring to illiteracy or to the fact that the interviewee “was only ten and did not understand the difference between a week, a month and a year”.

Various sources indicate that inconsistencies in narratives are actively sought by interviewing all the applicants including children over 12 years of age or even younger if they are considered mature enough. The interviews exemplify the criteria of effectiveness pursued through “detailed and unexpected questions” (Maahanmuuttovirasto 2012:9). In the making of facts, the questions that can be answered with numbers seem to count the most: dates and years, the number of rooms in the family home, the sums of money sent by the sponsor – and the distance to the water source as in the opening vignette of this article. Personal narratives can also be viewed as too consistent, which again raises doubts of artificiality. This is indicated by a recent memorandum on family reunification (Maahanmuuttovirasto 2013:4). In our material, no such doubts were expressed, although in one case it was noted that a child had admitted to the interviewer that his mother had told him to give a particular answer.

It must be remembered, though, that the facts that make a difference are the outcome of multiple translations, both concrete linguistic translations and those of the form: the questions sent by the Finnish Immigration Service to the Embassies and the Police, the questions and answers formulated via interpreters, the inscriptions of the notes, the interpretations by the Finnish Immigration Service and thereafter at the Court. Moreover, they also include the inscriptions made by the Border Guard or the Police at the asylum

interview. Ultimately, inconsistencies in narratives – which appear as the most recent category in the Court’s argumentation – seem to carry more weight than a proven biological relationship. In seven cases the Court does not mention the DNA result at all in the decision, and in 16 decisions it is acknowledged but it had no impact on revoking the earlier rejection.

Hence, why were – and are – DNA tests done? Inconsistencies are themselves further interpreted in two alternative ways, which sometimes overlap: the Court may state that these inconsistencies testify that the applicant has intentionally given wrongful information in order to circumvent the provisions of the Aliens Act. In these instances the Court then refers to Section 36(2) of the Act, which states: “A residence permit may be refused if there are reasonable grounds to suspect that the alien intends to evade the provisions on entry into or residence in the country.” Alternatively the Court may conclude that differences in narratives signal that a genuine family has not existed at all prior to the family reunification application.

All of these factors increase the uncertainty that applicants face as their family reunification applications are processed. Even if all applicants are genetically related, their application may be rejected because of inconsistencies – or, ironically, too great a degree of consistency – in the narratives. This analysis suggests that Finnish immigration procedures have an inbuilt tendency to assume that applicants attempt to circumvent immigration laws by offering fraudulent data via personal narratives. In some cases the absurdity of the reliance on this premise can even be seen in the way dates of entry into Finland are expressed by stating that “*according to the sponsor*, she had applied for asylum on [the date]” – as if this were not officially registered.

### 3. Ambiguous criteria and perpetual uncertainty

What have we learned of the ability of specific types of information to assist applicants in their quest for certainty, to return to Hetheringtons’ analysis [on information](#) (Hetherington 2011)? What is the role of DNA information in these appeals, its weight as

evidence when compared to information derived via personal narratives? What kind of notion of the family is embedded in these legal proceedings? To phrase these questions differently: if we were approached by claimants hoping to overturn unfavorable family reunification decisions by the Finnish Immigration Service via an appeal at the Helsinki Administrative Court, what would we tell them? What would we instruct them so as to pass through this particular phase of migration proceedings and free themselves of the state of ‘stuckedness’ (Hage 2009)? What kind of information would we instruct the applicants to include in their dossiers in their quest for certainty: DNA evidence of biological relatedness, uniform narratives of everyday life, or something else?

We fear that we would have few instructions to give. First, we would have to be realistic and point out that if a family reunification case is rejected by the Finnish Immigration Service, this decision is most likely to be upheld in the appeal process. Curiously, there is a clear statistical deviation that characterizes our data: in cases where DNA is mentioned, the percentage of cases that are *not* overturned is notably greater than in other immigration appeals. Thus, whereas 40% of all cases related to immigrants were overturned by the Administrative Court of Helsinki, the percentage for our sample, selected on the basis of using ‘DNA’ as the identifying feature, was much lower, only 17%. This discrepancy has a likely identifiable cause linked to particular features of Finnish immigration discussed above: most of the cases in our sample deal with Somali applicants and, to date, no official documents from Somalia are acknowledged by the Finnish authorities; investigations, therefore, are based a priori on interview data and DNA evidence. Overall statistics of the Finnish Immigration Service show that it is much more difficult for Somali applicants than those originating from other contexts to receive positive decisions on their applications (Maahanmuuttovirasto 2015b). Our findings indicate that the same applies in the decisions of the Administrative Court.

These factors are directly linked to the prolonged crisis in Somalia that acquires relevance in our analyzed cases as it has commonly affected the everyday life of the applicants’ families prior to the departure of the sponsor. Thus in these appeals this fact often translates into evidence *against* the applicants. In many appeals it was concluded

that the family had not enjoyed the kind of ‘permanence’ of family life required by the Finnish Immigration Service prior to the sponsor’s departure. Alternatively, these facts were interpreted to mean that real and effective family ties had ceased to exist, and thus there were not sufficient grounds for family reunification. As a consequence, it is extremely difficult for Somali applicants to convince the authorities of the ‘genuine’ nature of their family ties.

What kind of common features characterize the 17% of appeals in our sample that have been overturned by the Administrative Court after a negative decision by the Finnish Immigration Service? Curiously, despite our detailed analysis we have been unable to identify firm criteria. This much appears uncontested: conforming to all relevant legal provisions at both the Finnish and European level was a prerequisite for a successful appeal, but again brought no certainty of outcome. Such certainty was neither offered by proof of regular contact with, or financial support to, family members while they resided outside their context of origin. Having small children for whom family reunification was sought, or a high level of education among applicants, improved the odds of having a negative decision overturned.

By contrast, virtually all cases where applicants attempted to be united with a large number of family members were rejected, either for all or some of the applicants. Genetic relatedness with those with whom one seeks to be reunited is a practical prerequisite – yet as we have discussed, this element alone is insufficient for a positive decision on an initial family reunification application or appeal. Curiously our sample includes cases in which not having a biological relationship has not mattered either, as a negative decision by the Finnish Immigration Service has been overturned by the Court irrespective of this fact.

Surprisingly, time also trumped DNA evidence of biological relatedness: in numerous cases the prolonged period that had elapsed since the sponsor had departed was interpreted as having severed the kind of genuine and close family ties that are increasingly interpreted by both the relevant Finnish bureaucrats and judges to be

required by the various, frequently modified provisions of relevant legislation. Very unexpectedly this argument also emerged in cases where the prolongation of the period between the departure of the sponsor and the decision delivered by the Finnish Immigration Service was directly caused by a prolonged processing period by the Immigration Service itself. Time emerged as a significant factor when a sponsor or the applicant was under-aged when initiating family reunification processes, but had reached the age of 18 during the course of it – an age when a person is legally considered to be an adult and thus not eligible for family reunification according to a strict interpretation of the Aliens Act. Again, this argument was also raised in cases when the delay in processing was the direct result of prolonged legal proceedings.

It is both noteworthy and anomalous that the argument of prolonged time is utilized against the applicants even though most sponsors in our cases are under some type of international protection. Such an interpretation almost suggests that applicants are being punished for the situation in their home country or for their insecure family life as these legal proceedings translate their most profound tragedies into an insurmountable hindrance to restoring normal life in the future.

#### 4. Firm Conclusions on Legal Uncertainty

How do we understand these findings and what is fundamentally at stake in these appeals? One could argue that the diverse patterns illustrated here speak of systematic anti-immigrant prejudice that has become embodied in the subtle details of immigration bureaucracies and legal practices: the interview setting geared toward exposing the possible fraudulence of applicants; the continually changing provisions of the Aliens Act which almost appears to be in constant movement just to confuse applicants and make it impossible for their claims to prevail; the infinite shifting in preference between different types of information which makes compiling persuasive appeals virtually impossible.

Various elements of these proceedings illustrate a systemic tendency by Finnish immigration officials to view immigrants as cheaters who are actively attempting to

circumvent migration regulation, thus aiming to find entry into Finland on false grounds. This interpretation is supported by interview data with migrants themselves as well as lawyers who handle immigration applications (see Tapaninen & Helén 2015). According to a survey by the Refugee Advice Centre on the best interest of the child, it has practically become impossible for unaccompanied minors arriving in Finland to be later reunited with their family members because sending the child – an alleged ‘anchor child’ – to safety is read as a form of circumvention of the provisions ([Pakolaisneuvonta 2015](#)). This was actually spelled out in a memorandum on family reunification by the Finnish Immigration Services (Maahanmuuttovirasto 2013). A highly critical view of systemic anti-immigration sentiments was also promoted by a study by Jussi Förbom (2014) who claims that in its restrictive interpretation of the Aliens Act, The Finnish Immigration Service has decreased the discretionary scope of legislation, thus effectively diminishing the Act’s application.<sup>11</sup>

However, this answer is only partial for, ultimately, what we have shown does not support an interpretation of *anything* this systematic. This point is crucial as it also departs from what we thought we would find, namely a clearer understanding of the role that DNA information plays in immigration policies and the consequent shifts in notions of biological citizenship (see Helén 2014) – issues that motivated the research behind this article in the first place. Why did we not find answers to these questions from the case data that we examined? We link an answer to the distinct quality of our data – namely, its intrinsic nature as part of the law and legal proceedings. Here we have to remind ourselves of a basic tenet of ‘the law’ and one of its primary qualities: through it one is never connected with ‘real reality’, but always, rather, with ‘legal reality’. Although the two may – and ideally *should* – have a strong resemblance to one another, in actuality they always remain distinct. It is on this foundation that we also must place our analysis.

In this reality one of the dominant features of ‘the law’ is its conceptual open-endedness – the very element that simultaneously captures the most fundamental function of legal

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<sup>11</sup> [Recent work by Ruben Andersson, among others, speaks of similar developments more generally in migration management \(Andersson 2014\).](#)

processes as an instrument via which opposing arguments can be put forward (Koskenniemi 2006; Kennedy 2002). This reflects a characteristic both more profound and, ironically, more superficial which links up with another classic definition of positive law most aptly summarized by Hans Kelsen: a positive legal system effectively creates its own reality, and thus there is no point in attempting to locate a “deep structure” or an “original norm” that guides the stipulations of right and wrong that the law promotes (Kelsen 2009). Bruno Latour advances a similar argument in his analysis of the French Administrative Court, demonstrating that the biggest challenge for the ethnographer is not to grasp the full complexity of the processes at hand, but rather to understand and accept their simplicity. As he phrases it:

There is no point in studying the law in depth! The relationship between appearances and reality which is so important in science, politics, religion and even art is meaningless here: appearances are everything, the content is nothing. This is what makes law so difficult to comment on for the other professions intoxicated by their desire for depth... The legal truth is so light, so flat that it could not to be grasped by minds that want to get to the bottom of things.  
(Latour 2009: 265)

He continues by discussing the consequences of these fundamental characteristics of legal proceedings to ‘knowledge’ or ‘factual information’, noting: “Unlike scientific information, the law constructs no model of the world that, via a series of transformations, would make it possible to revert to the original situation by foreseeing their nature from far away.” (Latour 2009: 268)

We can only conclude that all attempts to locate a ‘profound’ logic – either of notions of the family, of biological citizenship or of the assumed characteristics of applicants – with which we could explain our findings, result in filling gaps that in light of close scrutiny cannot be filled or explained. Indeed, the relevant facts of our analysis in light of the legal decisions that we have examined amount to the following: that the wording of the Aliens Act has continually changed; that the weight given to different types of evidence is in

flux; that the 18<sup>th</sup> birthday of a child will cause an individual to be considered an adult; that inconsistencies in personal narratives will likely result in a case being dismissed.

If we examine these findings from the viewpoint of the law, there emerges little uncertainty or controversy. First, it is only to be expected that legal decisions must be rendered according to legislation that is in effect *at the time* of making the decision. Here it is technically irrelevant to consider what kind of legal provisions were in place when the proceedings were *initiated*, or how they may have changed since. In theory, should such changes be so dramatic as to compromise the integrity of the legal proceedings as a whole, one could assume that a case might on some technicality be sent back for further consideration. As mentioned, our case sample does include some such cases in which the Administrative Court overturned the decisions by the Finnish Immigration service, but their number is limited.

Thus – from a strictly legal point of view – the conclusion becomes that the relevant legislation, namely the Aliens Act, has changed repeatedly and legal decisions must be made on the basis of legislation that is in place at the time. It may be possible, of course, that these legislative changes are caused by deep-seated racist attitudes or anti-immigrant sentiments. Recent political debates in Finland on the subject of migration support the view that anti-immigrant sentiments have grown more pronounced in the country in recent years. Yet on the basis of legal documents we cannot pursue these questions.

What about the argument [that](#) prolonged separation of [family members](#) has [severed](#) the kind of family ties that might otherwise have been deemed acceptable in the eyes of the law? Again, when approached from a strictly positivistic angle, the matter appears straightforward, and can be assessed on the basis of the requirements of sufficient evidence for making legal decisions. Here the time that has elapsed has made the gathering of sufficient and admissible evidence for proper legal proceedings impossible. It is true that ultimately in such instances the elapsed time comprises an argument against the individual's claim even when everything about the person's departure has been involuntary. In 'real reality' this is a valid concern, yet one can understand how in the

eyes of the law this is insufficient: from a legal viewpoint the problem is one of insufficient evidence – and here the time that has elapsed acts as a relevant factor as it may have effectively hindered gathering such evidence.

The list could be continued, but the main message has been established: from the viewpoint of the law alone the issues discussed in this article appear less dramatic, while the processes for rendering these legal decisions echo the superficiality of the law described by Latour. However, this superficiality advances a more profound message on the limits of the law as a regulatory instrument, and it is with this finding that we wish to conclude our analysis. Quite simply, what our analysis demonstrates is that, when applied to a highly complex ‘real reality’, ‘legal reality’ simply lacks the capacity to tackle it, with the outcome that ‘legal reality’ ends up shifting continuously away from what is ‘right’ or ‘just’ in ‘real reality’. Thus our conclusions convey a paramount message: in dealing with the kind of complexity that migrant destinies and their pleas to be united with their family members represent, even when operating *exactly* as a properly functioning legal system *should* operate, it remains a flawed, even incapable tool for guaranteeing certainty for immigrants in their quest to become the masters of their destinies.

## Conclusion

As we have shown via our analysis of the Finnish legal system and its elaborate bureaucracies developed to address immigration, we are dealing with a Western European country that is internationally distinguished by its low number of immigrants as well as by the elaborateness of its administration. Everything that we have discovered in our research suggests that in many respects this state-directed machinery forms close to a textbook example of how immigration issues should be handled according to proper administrative processes – save the commonly exceeded time limits (of 9 months) for application processing. Our case study concerns a country with one of the lowest corruption rates in the world, as well as an elaborate and well-functioning legal system where immigrants applying for family reunification not only have access to these

proceedings, but are also given state sponsorship for legal counsel. Appeals are processed with great precision without charges of corruption or blatant bias.

Yet, despite all the external markers which tick the boxes of ‘rule of law propre’, the reality of is one of considerable uncertainty: applicants remain unsure not only about the course of their appeals, but also about the evidence and criteria that will be relied upon as their appeals are processed. Or put even more starkly, in the case of the Somali applicants in our sample they face great probability of a negative decision, but will remain uncertain as to why this decision will be made, even in cases where DNA evidence offers supports their claims for nuclear family relations. What kind of conclusions can be drawn from these findings – what can we identify as a root cause for the indeterminacy characterizing our analysis? One possibility is to argue that our findings speak of a deep-seated desire to turn down certain kind of applicants – particularly Somali nationals – and that our case study illustrates how these desires have found embodiment in unpredictable institutional policies geared toward producing negative decisions. Recent research that has shown that actual interpretations of relevant legislation by the Finnish Immigration Service are significantly more restrictive than the permissive wording of legislation itself could be seen to support such a conclusion.

Indeed, our case study does make such an interpretation possible. However ending with such conclusions, at least alone, would appear as too restrictive and deterministic as it would overlook a paramount element of our analysis: the indeterminacy that characterizes our query in general, making such clear-cut interpretations of systemic bias very difficult to sustain. Rather we suggest that an answer needs to be sought elsewhere, namely the fundamental ambiguity that characterizes such multi-faceted proceedings, and finds in our case study its articulation in the superficiality of the law. Thus, so we argue, our case study ultimately testifies of the limits of the law to produce certainty over outcome, both in cases concerning family reunification and also more generally.

In family reunification cases the issues at stake are just too complicated, the relevant facts too many, fluid and complex, and the people involved too numerous. Metaphorically, we

are left with is an image of these legal proceedings as forming a maze [that terminates at](#) a gate that the applicants must pass through in order to be united with their families. As applicants enter the maze, they equip themselves with varying kinds of information, including that carried by their bodies in the form of their DNA, hoping that this will allow their applications to prevail. Yet each step of the way presents new surprises – new demands and criteria for information which eternally confuse the desired goal of certainty. Ultimately they either successfully reach the gate by having their family reunification appeals upheld by the Administrative Court of Helsinki – or have to face disappointment.

However, despite the difference in these outcomes, they bear a significant commonality: because of the complexity of the legal processes that we have described here, the applicants will never know *why* or on what basis their cases were decided in their favor or against them – whether knowing ‘where the well was’ held any significance or not. Thus even in those cases where ‘the law’ is able to offer the outcome that they set out to reach, the applicants will forever remain in the dark as to exactly what kind of information allowed them to enter through the gate. Their experience, as well as the outcome of this research, remains one of uncertainty and ambiguity.

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Where's the well: DNA Evidence, Personal Narratives and Unpredictability in Finnish Family Reunification

Miia Halme-Tuomisaari, Anna-Maria Tapaninen & Hilja Aunela<sup>1</sup>

*“The applicants’ stories entailed important inconsistencies. According to the plaintiff’s wife water was fetched from a river at a half-an-hours walking distance; according to the plaintiff’s stepmother ... from a stream ‘a little further away’, and everyone took turns; according to the applicant’s step-brother ... from a well that was within a 6-7 minute walk, and it was the donkeys who carried the water; according to the niece’s child, water came from a well that was in the house next door and this was done by the parents.”*

*(Case 1; case number on file with authors to ensure applicant anonymity. Original text in Finnish, translation by the authors.)*

This is a direct quote from a family reunification appeal processed – and rejected – by the Administrative Court of Helsinki, one of seven regional courts of appeal in Finland [that](#) review [bureaucratic decisions made at municipal and state levels](#), including [those regarding](#) immigration. Although particular in its details, this appeal exemplifies a crucial characteristic of immigration cases, namely the use of personal narratives to complement such evidence as DNA analysis in the absence of identification documents approved by the Finnish officials. In the proceedings these details acquire thus legal relevance, or more precisely, they *sometimes do* whereas at other times their significance is dismissed. This article tells the story of how and why this occurs - or more accurately, it tells why it

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<sup>1</sup> [The authors participate in a research venture studying the use of biometric data in family reunification cases \(2014-2016\). Full information in Title Page](#)