When an asylum seeker presents her claim for asylum to the authorities in a host country, she places her destiny in the hands of a caseworker in the asylum bureaucracy. The task of caseworkers is to distinguish between those who are considered to be *bona fide* refugees and those who are not. Since most asylum seekers have limited documentation of their claims for asylum, the credibility of their stories often becomes a crucial point in the assessment. Making a wrong decision can, at worst, have fatal consequences for the applicant. The stakes are high, the uncertainties are often plentiful, and there is limited reliable feedback about the decisions. In this context of uncertainty, how do caseworkers distinguish refugees from non-refugees?

This thesis explores how caseworkers deal with uncertainty and how organizational and institutional factors affect caseworkers’ experience of discretion, responsibility and doubt. The data material consists mainly of interviews with 24 decision-makers in the Norwegian Directorate of Immigration, in addition to a review of 40 asylum case files and observation of two asylum cases in court. In line with an institutional ethnographic perspective, the point of departure has been to explore interviewees’ work knowledge and everyday practices in order to shed light on the institutional set-up of the refugee determination process.

Although refugee protection is regulated by international conventions, national laws, case law and political instructions, these often provided limited guidance for decision-makers in concrete cases. The most difficult aspects of refugee determination are connected to the interpretation of the situation in applicants’ country of origin and the assessment of credibility, both of which largely remain in caseworkers’ sphere of discretion. Decision-makers who worked closely together developed what can be termed a *system of distinction* ("practice") that allowed them to distinguish between refugees and non-refugees. Once the system had been developed, it contributed to limiting discretion and doubt in the majority of cases. The system was based on legal regulations, political instructions and country information, but it also seemed to be underpinned by tacit, experience-based knowledge – in particular in case portfolios where credibility was central to the outcome. Despite numerous uncertainties, caseworkers often had a distinct sense of the outcome that was difficult to articulate. Their conviction about the outcome of a case seemed to be largely connected to identifying patterns of similarity and difference with previous cases. The emphasis on comparison meant that the outcome in an individual case could not be understood in isolation and that the distinctions between refugees and non-refugees may be drawn somewhat differently, depending on the case set as a whole.

In asylum decision-making, discretion is fundamentally shaped by two major – and in part contradictory – goals: Providing protection and exercising control. Caseworkers seemed to strike a balance between these goals in different ways. In practical terms, this entailed a tendency towards approaching applicants with a presumption of truthfulness or disbelief – or various positions in between. The different approaches seemed to affect the assessment of evidence generally, and the view of credibility more specifically. The presumption of disbelief seemed to shield caseworkers from the emotional impact of difficult decisions. Approaching applicants with a presumption of truthfulness increased the burden of decision-making as it appeared to be accompanied by greater emotional involvement and by actively questioning one’s own knowledge.

A major part of the discretionary power of caseworkers was connected to interpreting ambiguous and uncertain information, in particular information about applicants’ country of origin. Individuals who are in a position to settle interpretations have substantial discretionary power, as they absorb uncertainty and pass interpretations on to others. This power was in part shared with external experts who provided expert advice in the shape of country information, verification reports and language...
tests. When expert advice was available, it alleviated some of the burdens connected to making the decisions, in particular when conclusions were impervious to scrutiny and lay beyond caseworkers’ field of expertise. Although expert advice may have substantial uncertainty attached to it, it may nevertheless gain substantial weight in context where evidence is limited.

Information that is useful for making distinctions between applicants can be considered to be landmarks on mental maps that caseworkers create of applicant countries of origin. These landmarks could be shaped by specific information about geography or physical features in the landscape, but they could also be based on experience with the narratives of other applicants and assumptions about e.g. rational behaviour in a given context. Applicants had to strike a balance between conformity to the map and individuality in order to come across as credible. If many applicants presented stories that departed clearly from the map, these could potentially serve as an impetus for revising or questioning the map. How much weight caseworkers attributed to applicants’ stories depended on whether they approached applicants with a presumption of truthfulness or disbelief.

The thesis explores how the institutional and organizational context affects case workers’ sense of discretion and responsibility. Caseworkers are held accountable for their work through their relationship to the political level, their colleagues, managerial demands, the Norwegian Immigration Appeals Board (UNE) and the media debate. Accountability relations may constrain discretion or conversely function as a mechanism that opens decisions for discretionary reasoning and doubt. Colleagues constituted the perhaps most substantial source of accountability and feedback. The way the relationships between caseworkers were organized seemed to have a significant impact on whether or not discretionary authority and responsibility was concentrated in the hands of a few caseworkers, or dispersed more broadly in a work unit. It also seemed to affect caseworkers’ ability to raise doubt and critical questions. Political accountability appeared to be accompanied by a focus on control and restriction. The salience of political signals seemed to depend on the number of arrivals from a country. When these were high, there seemed to be a tendency for discretion to be curtailed and steered in a particular direction.

Based on the analysis, I argue that it is useful to distinguish accountability from a sense of responsibility vis-à-vis applicants. While accountability directs the attention of caseworkers to demands of the institutional context, feeling responsible for the decisions is intimately connected to a degree of autonomy and choice. Responsibility is in other words tied to discretion. Caseworkers approached discretion with ambivalence: On the one hand, they wanted recognition for their expertise and their important work as decision-makers. They wanted to preserve the autonomy to make well-founded decisions based on their expertise. On the other hand, they appreciated clear expectations, guidelines and mechanisms in their decision-making environment that alleviated the burdens connected to discretion and responsibility.

This thesis offers a theoretical contribution to the understanding of discretion in organizations as a cycle between conviction and doubt. In order to reach a decision, uncertainties have to be dealt with. I describe this as a process of uncertainty absorption, where interpretations of ambiguous information are settled. Decision-makers create a system of distinction that enables efficient decision-making and limits doubts. At a later point, often in response to external impulses, uncertainties may be expanded again and give rise to doubts and deliberation about the current system of distinction. I suggest that the phase of uncertainty expansion and doubt is painful for decision-makers, in particularly in a field like refugee determination, where the consequences of wrongful decisions may be serious.

I argue that doubt is connected to the sound exercise of discretion and therefore plays an important role in the decision-making process. The analysis demonstrates that even though a decision-making process contains many points of uncertainty, they do not necessarily give rise to doubt. Making decisions in asylum cases entails a substantial responsibility. Doubt can be burdensome, in
particular because it may have a retroactive effect: If caseworkers begin to question one decision, it may also cast doubt on similar decisions in previous cases. Because of the burdens of doubt, there is a risk that decision-makers remain too long in the phase where conviction prevails. I suggest that it may be important to routinize opportunities for uncertainty expansion by creating critical spaces in the decision-making process. Such spaces facilitate deliberation, critical questions and doubt, in addition to fostering responsibility.

This thesis contributes to a body of research that demonstrates the complexity and uncertainty of refugee status determinations. The findings illustrate the importance of a bottom-up approach to understanding the refugee determination process. Refugee law is transnational, but it is implemented in a distinct national and institutional context that shapes the boundaries of the refugee category in significant ways. Instead of talking about refugee recognition, it may be more appropriate to say that refugees are defined into being in their encounter with the asylum bureaucracy.