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## *Department of Economics*

Working Paper 2015:2

### *Political Bias in Court? Lay Judges and Asylum Appeals*

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Working paper 2015:2  
May 2015  
ISSN 1653-6975

## POLITICAL BIAS IN COURT? LAY JUDGES AND ASYLUM APPEALS

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# Political Bias in Court?

## Lay Judges and Asylum Appeals

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May 5, 2015

### Abstract

Several countries practice a system where laymen, who lack legal education, participate in the judicial decision making. Yet, little is known about their potential influence on the court rulings. In Sweden lay judges (nämndemän) are affiliated with the political parties and appointed in proportion to political party representation in the last local elections. This paper investigates the influence of their partisan belonging when ruling in asylum appeals in the Migration Courts, where laymen are effectively randomly assigned to cases. The results show that the approval rate is affected by the policy position of the laymen's political parties. In particular, asylum appeals are more likely to be rejected when laymen from the anti-immigrant party the Swedish Democrats participate, and less likely to be rejected when laymen from the Left Party, the Christian Democrats or the Green Party participate. This indicates that asylum seekers do not receive an impartial trial, and raises concerns that laymen in the courts can compromise the legal security in general.

**Keywords:** Political attitudes, Decision making, Court, Immigration, Legal system

**JEL classification:** D72, D79, K10, K37, K40

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Grateful acknowledgments are made to Matz Dahlberg, Olle Folke, Katarina Nordblom, Jon Fiva, Eva Mörk, Jim Snyder, Olof Larsson, participants at the UCFS Workshop in Uppsala 2014, seminar participants at the department of Economics at Uppsala University, as well as at the Political Science department at Gothenburg and Uppsala University for valuable comments. I would also like to thank the staff within the administration and at the archives of the Administrative Courts in Gothenburg, Malmo and Stockholm for answering numerous questions and providing case files and case registers.

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# 1 Introduction

All individuals are entitled to a "fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations", according to the United Nations' Universal Declaration of Human Rights (1948/UDHR, § 10). Hence, understanding to what extent judicial decisions are influenced by the decision makers own values and beliefs is important in terms of equality of rights, as systematic variation would raise concerns about fair trials. Several countries practice a system where laymen participate in court, either as jury members or lay judges.<sup>1</sup> Laymen are thought to represent the people and their participation has historically been viewed as a way to ensure democratic control of the courts. Moreover, laymen have been argued to complement the professional judges' legal knowledge and experience, by representing a common sense of justice in the judicial decision making.<sup>2</sup> Yet, there are also concerns that laymen, who lack legal education, will be influenced by their own personal beliefs.

This paper looks at the effect of lay judge's partisan affiliation when ruling in asylum appeals in the Migration Courts in Sweden. If an appeal is approved the asylum seeker is typically given a permanent residence permit, meaning that he or she can live and work under the same conditions as every other Swedish resident. On the other hand, asylum seekers who got their appeals rejected are expected to return to their native countries. Needless to say, these court rulings have major consequences for asylum seekers' future prospects.

The paper makes several important contributions. First, it adds to the literature on judicial decision making, where the influence of laymen's partisanship has not previously been studied with quantitative methods. In fact, very few papers have studied the influence of laymen, probably due to data limitations or the fact that the participating laymen in some judicial systems are not randomly selected. The Swedish system offers a suitable setting, since laymen (nämndemän) are affiliated with the political parties and the assignment of cases to laymen is random, given that laymen serve on a pre-determined schedule and cases are handled on a first come, first served basis. Thereby, the political composition of the court committee is unrelated to characteristics of the case. Asylum cases are also well suited for investigating the influence of partisan affiliation, given that cases are numerous, rather similar, and there is substantial variation between the political parties regarding their stand on the refugee issue. Second, since the laymen rule together with a judge, the variation between judges can also be analyzed. Third, the number of refugees has increased dramatically in Europe, in response to recent conflicts (EASO, 2014).<sup>3</sup> At the same time, anti-immigrant parties throughout Europe mobilize voters with campaigns that demand

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<sup>1</sup>Unlike juries, lay judges do not form a jury separate from the judges, but decide on both questions of guilt and sentencing together with the judge. Some countries (such as the UK, Australia, and the US) also have Justices of the Peace, judicial officers who lack legal education and mainly deal with misdemeanor cases.

<sup>2</sup>Russia, Japan and Spain have recently re-introduced lay participation in the courts after previously abolishing it, viewing it as an important part of a democratic system (Diesen, 2011).

<sup>3</sup>On average 26 000 individuals applied (to the Migration Board) for asylum in Sweden each year 2000-2010, in 2013 54 000 applied and the number of yearly applicants is expected to reach 80 000 in both 2014 and 2015. (Migrationsverket, 2014)

more restrictive policies towards immigrants and asylum seekers (e.g. Norris, 2005; Dancygier, 2010). Hence, it is important to examine the degree of discretion in asylum decisions.<sup>4</sup> Fourth, the paper also contributes to the literature on deliberation and decision making, by examining how partisanship can influence judicial decisions both through deliberation and the laymen’s voting power in naturally occurring data.

The literature on biases in judicial decision making has mainly focused on judges. A notable exception is Anwar et al. (2012) and Anwar et al. (2014), who find that the age and race of the jury pool affects the conviction rate in criminal cases. Looking at judges, on the other hand, several studies have examined the existence of an in-group bias with respect to gender, race and ethnicity (e.g. Boyd et al., 2010; Glynn and Sen, 2015; Shayo and Zussman, 2011; Kastellec, 2012; Abrams et al., 2012; Lim, Silveira and Snyder, 2015). There are also some studies examining the impact of judges’ nationality in international courts (e.g. Voeten, 2008) and sports competitions (Zitzewitz, 2006; Emerson et al., 2009). A few papers have also examined the influence of party affiliation. Sunstein et al. (2006) (replicated with some adjustments by Hall, 2010) find that partisanship affects how judges vote in the US Courts of Appeal on several issue areas. On the other hand, Lim, Silveira and Snyder (2015) find no effect of judges’ partisan affiliation in Texas State District Courts on criminal sentencing decisions. While most studies have focused on the variation between judges, judges could also be sensitive to other surrounding factors. Lim, Snyder and Strömberg (2015) find that press coverage increase the sentence length by non-partisan elected judges, Shayo and Zussman (2011) show that judges’ in-group bias is associated with terrorism intensity, and Danziger et al. (2011) find that parole decisions are affected by the proximity to judges’ food breaks. This indicates that judicial rulings can be swayed by factors that are completely unrelated to case characteristics.

Beyond judicial decision making, the paper is related to a larger body of research which examines the influence of agents’ preferences on both separate and collective decision making. A number of experimental studies have shown that individuals tend to favor their own group (defined by ethnicity, gender or political affiliation), but discriminate against others (e.g. Bernhard et al., 2006; Leider et al., 2009; Rand et al., 2009). However, there are also studies showing that deliberation can alter opinion. For instance Zitek and Hebl (2007) find that social influence can alter prejudice-related attitudes, such that hearing one person condemn discrimination can influence another one to do the same. Yet, the effect of deliberation varies with the initial preference heterogeneity between the individuals, the quality and diversity of the arguments as well as participants degree of open-mindedness (e.g. Barabas, 2004, Goeree and Yariv, 2011).<sup>5</sup>

In Sweden, lay judges existence has been a hotly discussed topic, partly as a result of the recent success for the anti-immigrant party the Swedish Democrats, giving them political power as well as

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<sup>4</sup>For discrimination in naturalization decisions see Hainmueller and Hangartner (2013)

<sup>5</sup>A growing game-theoretic literature also model how individuals can behave strategic when making collective decisions under incomplete information, by choosing whether or not to reveal their private information (e.g. Austen-Smith and Feddersen, 2006; Iaryczower et al., 2014).

representation in court.<sup>6</sup> Lay judges' are expected to be impartial, and their current participation in the courts is mainly motivated by the hope that it will increase the courts' transparency and thereby support the public's confidence in the courts (SOU, 2013). However, according to surveys 30-60 % of the laymen stated that their work as lay judges was influenced by the ideology of their party (Rundkvist, 1995; Dahlgren, 2011).<sup>7</sup> Yet, descriptive studies (e.g. Karnov Nyheter, 2012; Diesen, 1996) have shown that most cases are decided unanimous, and it's extremely rare for the laymen to overrule the judge. Based on these studies, the common belief, so far, appears to be that there is little disagreement within the courts and that laymen's participation has no influence on the judicial rulings (e.g. SVT, 2012; SOU, 2013). This is not necessarily the case. First of all, previous studies have found a strong consensus norm among judges (e.g. Fischman, 2011), i.e. participants that do not agree with the majority will not always state this, leading descriptive studies to underestimate the amount of disagreement. Second, experimental studies have shown that deliberation can alter opinion (e.g. Goeree and Yariv, 2011). Hence, it is possible that judges will be affected by the laymen's opinions.

I collect a unique data set consisting of all asylum cases in the Swedish Migration Courts 2011-2013 (around 16 000 case files) where lay judges participated. I also gather information about the laymen's party affiliation, gender, and age. Whereas studies looking at criminal cases use a variety of outcome measures, it is straightforward how to categorize and interpret the judicial decisions in asylum appeals, as the outcome falls into two categories -reject or approve.<sup>8</sup>

The results show that the approval rate is affected by the predicted policy position of the court committee, based on the laymen's partisan affiliation. Looking at specific parties I also find that the approval rate is around 1.5-3 percentage points higher when laymen from the Left Party, The Green Party or the Christian Democrats participate, whereas it is around 2.5 percentage points lower when laymen from the Swedish Democrats participate, compared to cases where only laymen from the Moderate Party and the Social Democrats participate. Compared to an average approval rate of 0.13, these effects are substantial. It is difficult to disentangle if the results are driven by voting power or deliberation, although the results suggest that voting power matters more for getting an appeal approved rather than rejected. Concurrent with this paper, and well in line with the results, Anwar et al. (2015) find that convictions for defendants with Arabic sounding names increase when a layman from the Swedish Democrats participates in the Gothenburg District Court. I also detect a large variation between the regular judges approval rate, despite the fact that cases are randomly assigned to judges. This suggests that individual judges consistently apply their own interpretation of the law, although the results indicate that even within judges there is room for variation depending on the lay judges' political affiliation. Taken together, this raises

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<sup>6</sup>For instance, Anne Ramberg, secretary in general for the Swedish Bar Association, has argued that lay judges from the Swedish Democrats don't fulfill the requirement of impartiality (Ramberg, 2012).

<sup>7</sup>Surveys have also shown that lay judges sometimes find it difficult to separate the question of guilt and sanction, arguing that weak evidence should result in a less severe punishment (Diesen, 1996).

<sup>8</sup>For instance, Lim, Silveira and Snyder (2015) use different measures of harshness, Sunstein et al. (2006) code decision as being liberal or conservative, and Anwar et al. (2012) use the conviction rate.

concerns about the practice of justice to asylum seekers appellations.

The remainder of the paper proceeds as follows. The next section discusses the institutional background, section 3 describes the data and measurements, and section 4 formalizes the empirical strategy. Section 5 presents the empirical results and, finally, section 6 concludes.

## 2 Institutional background

Immigrants whose application for asylum has been rejected by the Migration Board (Migrationsverket) are able to have their decision reconsidered.<sup>9</sup> In 2006 appeals were transferred from an administrative process to a court process, aiming to strengthen the rule of law and increase transparency. There are 12 administrative courts in Sweden, and three of these (Stockholm, Gothenburg, and Malmö) also serves as Migration Courts since 2006. In 2013 a fourth Migration Court was established in Luleå, taking over part of Stockholm's judicial district. The Migration Courts mainly handle asylum cases, i.e. applications motivated by risk of persecution or armed conflicts in the individuals' native country, and family cases, where the motive is to join relatives or a partner in Sweden. Asylum applicants can get a residence permit based on being a refugee (i.e. risk of persecution due to race, nationality, religion, gender, sexual orientation, political views, or belonging to a particular social group), but a person who is not a refugee can also get a residence permit if they are in the need of protection.<sup>10</sup> Applicants who are not judged to need protection can also receive a residence permit based on "exceptionally distressing circumstances" (e.g. serious health issues, adaptation to Sweden, or the situation in the complainant's native country).

If the appeal is approved the complainant typically gets a permanent residence permit.<sup>11</sup> After living in Sweden for around 5 years, the asylum seeker can apply to become a Swedish citizen. On the other hand, if the court rejects the appeal, the asylum seeker can apply for a leave to appeal at the Supreme Migration Court. Less than 1 % of these cases are given leave to appeal, since the Supreme Court only takes on cases that are of interest regarding precedent or where extraordinary mistakes have been conducted. Thus, in most cases the Migration Courts' rulings constitute the final decision.

It is often difficult for asylum seekers to make their identity probable and present a comprehensive line of argument, particularly since documents and ID records are not always available. For some

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<sup>9</sup>The Migration Board's decision should be appealed within 3 weeks, since the decision is thereafter given legal force. If the decision is not appealed, the asylum seeker is expected to leave the country. Failure to do so may result in a re-entry ban to the Schengen Area for one year.

<sup>10</sup>Individuals can get a residence permit based on being in need of "subsidiary protection" (e.g. risk of being sentenced to death, subject to torture or risk of injury due to armed conflict) or in need of "other protection" (e.g. due to armed conflict, environmental disaster, or risk of serious violation). The possibility to get "other protection" only exists in the Swedish Aliens Act, and has no equivalent in EU legislation or international conventions.

<sup>11</sup>Approval could also mean that an individual is given a temporary residence permit (never less than a year), that the case is returned to the Migration Board (should only be coded as approval if this was one of the applicants' claims), or that the country/countries the asylum seeker will be evicted to changed. For cases where someone dissented in 2012 I have coded the actual decision. Out of 166 cases that were partly/fully approved only 13 were not given a permanent residence permit.

countries, e.g. Afghanistan and Somalia, the evidence value of a passport is also very low, since they do not fulfill the security requirements. Sometimes a language analysis is performed to assess the asylum seekers legal domicile. A medical examination can also be performed to evaluate the asylum seekers age, but it only delivers an approximate age interval.<sup>12</sup> The European Qualification Directive states that when aspects of the applicant's statements are not supported by documentary or other evidence, those aspects shall not need confirmation, if (among other things) "the general credibility of the applicant has been established" (2004/83/EC, § 4).<sup>13</sup> Thus, assessing the asylum seekers trustworthiness is often an essential part of the investigation process. Particular focus would be given to whether the asylum applicant's story is coherent, detailed, corroborated by information regarding the situation in the asylum seekers native country, and has remained constant during all stages of the asylum evaluation (Diesen et al., 2012). Lack of credibility is also a common reason for the Migration Board to reject an application.<sup>14</sup>

## 2.1 Lay judges in the courts

Lay judges are elected by the county council, and the elections are proportional, meaning that the number of lay judges nominated by a political party will reflect the party's share of seats in the county council.<sup>15</sup> In the beginning of an election period the county council elects the laymen for the following 4 years (i.e. the laymen in this study were elected in the fall 2010). It is up to the parties to decide who is at suitable candidate for their party, and most parties require their candidates to be party members (SOU, 2013).<sup>16</sup> The fact that different courts deal with various areas of the law, could also cause selection within the parties. For instance, party members with a particular interest in the refugee issue might be more likely to sign up as laymen in the Migration Courts rather than the District Courts. To be eligible a person also has to be a Swedish citizen, registered in the county, and least 18 years old. The law states that the regional councils should aim for a versatile composition of lay judges, regarding gender, ethnicity, age and occupation. Whereas recent statistics show that the share of lay judges that are women or have a foreign background is

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<sup>12</sup>Whether an asylum seeker is a child or an adult affects the evaluation of whether the requirements for asylum are fulfilled.

<sup>13</sup>Asylum applicants who had their asylum request rejected could also appeal to the European Court of Human Rights. For instance, Sweden was convicted in the case *R.C. v. Sweden*, when the court stated that there were substantial grounds for believing that the applicant, if deported to Iran, would be subject to torture or ill-treatment. Sweden has also been convicted a number of times by the UN Committee against Torture due to deficiencies in assessing asylum seekers credibility. The committee has emphasized the fact that the existence of implausible claims is a not reason in itself to dismiss an application, since the credibility assessment should focus on the essential parts of the applicant's narrative (UNHCR, 2011). For instance, incorrect details about the applicant's itinerary or family should be of no importance when assessing whether the applicant requires protection. Incorrect information could be due to lack of confidence for authorities, trying not to reveal sensitive information about others, post-traumatic stress disorder etc.

<sup>14</sup>UNHCR (2011) examined 200 cases where individuals from Iraq, Iran, Somalia and Russia had applied for asylum to the Swedish Migration Board. In 38 % of the cases that were dismissed, lack of credibility was part of the motivation.

<sup>15</sup>The law states that the elections have to be proportional if the number of county councilors in favor of proportional elections is larger than the total number of councilors divided by the number of councilors in favor plus one. In practice, the elections are always proportional.

<sup>16</sup>According to a survey of how parties recruit lay judges, only the Green Party stated explicitly that they wanted suggestions of candidates that were not members (SOU, 2013).



similar to the general public, older lay judges are still over represented (SOU, 2013). 40 percent of the laymen in 2011 were older than 65 years, indicating that many laymen are retired. The fact that the laymen are not representative of the population has been a growing public concern.<sup>17</sup>

Cases in the Migration Court are decided either by a professional judge, or by a professional judge and a court committee.<sup>18</sup> Laymen typically participate in asylum hearings, whereas most family cases are decided by a judge. According to the web page of the Swedish National Court Administration (Domstolsverket) neither the judge nor the laymen can choose what cases to participate in, since the court randomly assigns cases. In practice, cases are randomized across departments at the administrative courts (using the computer system VERA), and within each department cases are distributed between judges according to turn-taking. The only exceptions would be if a judge is ill, on vacation, or has a too high workload. During such circumstances a judge would typically not being assigned new cases for a temporary period. Each department consists of up to five judges and a number of rapporteurs and assistants. Regular judges are not given certain types of migration cases, but junior judges that work at the courts during their training (6-month periods) are given fewer and possibly "easier" cases. Moreover, the randomization between departments in Stockholm accounts for the fact that some departments are specialized at certain countries.<sup>19</sup> However, within the departments judges are randomly assigned cases. Cases are handled on a first come first serve basis, and asylum cases are given priority over other cases, such as family cases.<sup>20</sup>

In the court, cases are presented either by a rapporteur or during an oral hearing, where both the asylum seeker and a representative from the Migration Board participate. There would typically be an oral hearing if the evaluation of the asylum seekers trustworthiness is seen as essential information. The court can suggest that an oral hearing should be conducted, but in most cases the suggestion would come from the asylum applicant. The rapporteur preparing the case would then decide (together with the judge) if it is necessary. If a case is presented by a rapporteur, but a majority of the court (i.e. the judge and the laymen) would have preferred an oral hearing, the case will be rescheduled to a later date with an oral hearing.<sup>21</sup> When a case is presented in court, the laymen and the judge have the possibility to ask questions to the asylum seeker or the rapporteur to gather more information. Afterwards they deliberate and decide whether to approve or reject the appeal. Each individual (including the judge) has one vote, and if the voting is inconclusive the judge has the decisive vote. All dissenting opinions are recorded if the decision is not unanimous.

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<sup>17</sup>In 2010 the government asked the Swedish National Courts Administration to conduct an information campaign specifically targeted at increasing the share of young laymen (DV, 2011).

<sup>18</sup>The court decides whether laymen should participate or not, and the general rule is that cases that can be considered as "simple cases" ("av enkel beskaffenhet") can be decided without lay judges. If laymen participate, the legally qualified judge is responsible for leading the discussion with the lay judges and explaining the legal requirements to attain a residence permit.

<sup>19</sup>The countries each department is assigned also change over time, in order to achieve an even work load between the departments. Cases with asylum seekers from some of the most common countries (e.g. Afghanistan) are divided between several departments.

<sup>20</sup>The courts should also aim to reach the governments yearly objective for the Administrative Courts, i.e. 90 % of the migration cases should be decided within 4 months.

<sup>21</sup>If possible with the same judge and court committee.

## 2.2 Court committees and scheduling

In Stockholm, departments that deal with migration cases only focus on these cases, whereas departments in Malmö and Gothenburg are typically specialized at two different types, such as migration and social insurance. Lay judges in Gothenburg and Malmö are not connected to a specific department at the court and serve on all type of cases, whereas lay judges in Stockholm are connected to a particular department and mainly participate in the type of cases handled by that department. In the beginning of a term the court divides the newly elected laymen into court committees (groups of three persons). In Gothenburg laymen are asked about preferences for what weekday they would like to serve, and laymen in Stockholm are asked if they prefer to participate in a specific type of cases (e.g. migration cases). To the extent possible, these preferences would be taken into account when creating the court committees. The committees in Gothenburg always participate the same weekday (e.g. every fourth Wednesday), whereas the committees in Malmö and Stockholm are not connected to a particular day of the week. Moreover, the court in Malmö stated that they try to create groups that are balanced on gender and party affiliation, Gothenburg aim to create groups that are balanced on gender, and Stockholm stated that they focus on gender and age.<sup>22</sup> Laymen are supposed to sit in the same group for the following four years, although given the fact that some laymen resign before their term ends, some groups change as new laymen are elected to fill vacancies.

Once a year lay judges are given a schedule for the upcoming year, and typically serve one day each month.<sup>23</sup> If all cases are presented by a rapporteur the court committee could participate in up to 20 cases during a single day, whereas an oral hearing would typically take a few hours. A few days before the laymen are scheduled to attend they will receive documents from the courts containing information (such as the parties' claims) about the cases they will participate in. Laymen are paid 800 SEK (\$ 90) for a full day, but can also get reimbursement for travel expenditures and lost earnings (if they had to take time of work and thereby received a wage cut).

In Malmö and Stockholm the departments are connected to different courtrooms, i.e. when cases are scheduled they would use the courtrooms reserved for their department. Of course, if one department has not scheduled any cases on a given day and another department need an extra courtroom they could schedule their cases there. In Gothenburg rooms are not connected to different departments, but they are scheduled in order, i.e. on a given day cases are first scheduled to courtroom one and when it is fully booked cases are scheduled to room two and so on. When the court committees are scheduled they are also assigned to specific courtrooms. All groups are

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<sup>22</sup>The courts in Gothenburg and Malmö also try to create groups consisting of individuals living close to the different hospitals in the region, since court committees sometimes go there with the judge to decide on cases concerning custodial care. In the jurisdiction covered by the court in Gothenburg/Malmö, hospitals are located in three/four different areas.

<sup>23</sup>If a layman is unable to attend the day they are scheduled they are responsible for notifying the court well in advance. In Malmö laymen are also responsible for finding another layman to replace them, whereas this is done by the court in Stockholm and Gothenburg. The court would then contact laymen, who stated that they can take on extra shifts, in alphabetical order.

given a specific number, and they are scheduled in that order, i.e. group one is assigned to the first available day and courtroom in the calendar, then group two and so on. When all court committees have been assigned a day, the procedure starts over until the whole year is booked. Hence, this is done well before it is known what cases will be scheduled on a given day. Cases with an oral hearing are typically scheduled a couple of weeks in advance, whereas other cases could be scheduled just a week in advance depending on availability in schedule. Most importantly, laymen are not able to choose what cases to participate in.

### 3 Data and measurements

The data set consists of all court rulings where laymen participated in the Migration Courts in Stockholm, Gothenburg, and Malmö 2011-2013.<sup>24</sup> The Swedish National Court Administration provided me with a list of the case ID of all cases where laymen participated. I then restrict the sample to cases that were coded as asylum cases by the courts, i.e. code 60/01=residence permit -adults and family members or code 60/03=residence permit -child without legal guardian. Almost all court rulings come from the data base JP Rättsfallsnet Migration, to which the courts send case files, i.e. court rulings and possible attachments, each week. All cases not found there (mainly cases with classified attachments from the court in Stockholm) were collected directly from the courts.<sup>25</sup> The final data set constitutes around 16 000 pdf-files. Note that a case could include several asylum seekers, since a family would typically be handled as one case.

When lay judges participate the courts always write the name of the three lay judges in the case file. By writing a program in Python I have automatically extracted the case ID and names of the participating laymen from the case files, as well as other information mentioned such as countries, religions, conversion, sexual orientation, gender related topics, and whether any information has been classified. See the Appendix for an exact description of each category. Unfortunately I do not know in what context the information is mentioned. For instance, the fact that "homosexual" is mentioned would probably mean that the asylum seeker has applied for a refugee status and residence permit based on persecution due to sexual orientation, but I do not know this for sure. If the judicial ruling was not unanimous, the case files would also contain information about who dissented. Although it is possible to extract if anyone disagreed automatically, I have to code who dissented manually (since it is not written in a uniform manner in the case files).

I have also collected all information that the courts register for each case, such as case ID, the name of the legally qualified judge, the court department in charge of the case, if there was an

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<sup>24</sup>The migration court in Luleå is not included since they only handle a very small share of asylum appeals, less than 30 cases (code 60/01 and 60/03) where laymen participated in 2013.

<sup>25</sup>If a case contains sensitive information the court can decide to classify such information. It will then be excluded from the case file, and put in a confidential attachment. As a general rule, the court in Stockholm has decided not to send cases with classified information to JP Infonet. Gothenburg and Malmö send cases that are confidential, but of course the attachments with the confidential information are not included.

oral hearing, and whether the case was appealed to the Supreme Court.<sup>26</sup> The court also registers if the case was fully approved, partly approved or not approved. In the following analysis I code cases as approved if they were either partly or fully approved.<sup>27</sup> Information about the lay judges' names and political belonging has been collected from the county councils. These lists also contain information about age and gender for most laymen, and I code gender based on name for all laymen without this information. I also code laymen as being "foreign" based on having a non-Scandinavian first and surname. The administrative court in Gothenburg has close to 300 lay judges, Malmö has around 350, and Stockholm a bit more than 700 lay judges.

Based on the case ID and names of the lay judges I merge the information from the case files with information from the case registers as well as the list of laymen and their party affiliation.<sup>28</sup> Around 5 % of the observations are excluded, since I have not managed to find a unique match between the names on the party lists and all three participating laymen.<sup>29</sup>

### 3.1 Attitudes to refugees

The extent to which laymen's party affiliation is expected to affect their behavior in court, naturally depends on whether there are any differences regarding the political parties' stand on the refugee issue. The figures below display the result from two different surveys sent out to politicians and the public, see Appendix for exact wording of the used questions. Besides the seven political parties that are represented in all three Migration Courts, there is a local party (the Health Care Party in Västra Götaland, Svg) in Gothenburg, and an anti-immigrant party (the Swedish Democrats, Sd) represented in in Gothenburg and Malmö. Figure 1 is based on a survey (KOLFU) sent out to all local and regional politicians in 2008 and 2012, asking them about working environment and policy issues.<sup>30</sup> The figure shows the parties' average attitudes to receiving more refugees to their

<sup>26</sup>For almost 400 cases I lack information about which judge the case was assigned to. These cases are still included, and the judge is coded as "unknown judge court X". In some cases the court did not try the facts of the case [ej sakprövat], either because the asylum applicant decided to withdraw the appeal or because the judge and the laymen decided to send the case back to the Migration Board for a new evaluation. For 115 cases this is the only outcome registered at the court. These cases are excluded in the analysis. 164 cases are registered both as not having had the facts tried *and* approved or rejected. This could be due to the fact that the case concerned multiple claims or individuals. These cases are included in the analysis. The results are not sensitive to including or excluding all cases coded as [ej sakprövat].

<sup>27</sup>Cases that are partly approved typically have multiple claims. For instance, many appeal to get both a residence permit and a refugee status. If such a case is partly approved that would generally mean that the asylum seeker is given a residence permit, but not a refugee status. However, during the manual coding of dissents I noted that some of these cases were instead coded as fully approved.

<sup>28</sup>Sometimes a case file contains multiple case ID. This is often due to the fact that family members might have appealed their cases to the court at different points in times, and each appeal gets its own case ID. If their asylum motives are similar, the court will handle it as one case and there will only be one case files. Hence, the unit of observation will be case files, rather than case ID.

<sup>29</sup>This corresponds to around 200 cases from Malmö, 200 from Gothenburg, and 400 from Stockholm. In most cases the lack of a match is due to the fact that the name is not extracted properly. The case files are scanned pdf-files, and the text has been digitized by OCR. Given that the files are scanned, the OCR is not perfect and will sometimes produce minor typos. I correct for minor variations of a name (due typo and spelling errors), but for larger errors it is not always possible to find a unique match with the names on the county councils' lists of lay judges. In some rare cases I have the full name, but cannot find the individuals party affiliation. These individuals are most likely replacement laymen, i.e. someone elected in the middle of the term to replace a layman who did not sit a full term.

<sup>30</sup>See Gilljam et al. (2010) for a description of survey results.

municipality, and the red line indicates the national average position. The sample is restricted to politicians in the jurisdiction of the courts.<sup>31</sup> The parties' attitudes largely track the traditional left-right scale, although some parties (particularly the Christian Democrats) are closer to the left-wing parties (V, S and Mp) than usual. The Left Party (V), the Green Party (Mp) and the Social Democrats (S) are most positive to receiving refugees. The Christian Democrats (Kd), the Liberal Party (Fp) and the Centre Party (C) are close to the national average, whereas the most negative parties are the Moderate Party (M), the local health care party (Svg), and in particular the Swedish Democrats (Sd).<sup>32</sup>

Figure 1: Attitudes to refugees

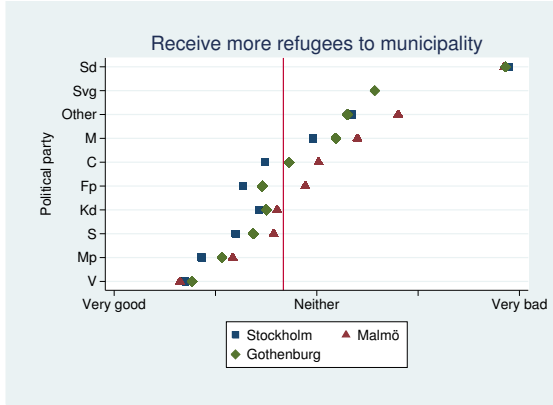


Figure 2: Motive for asylum

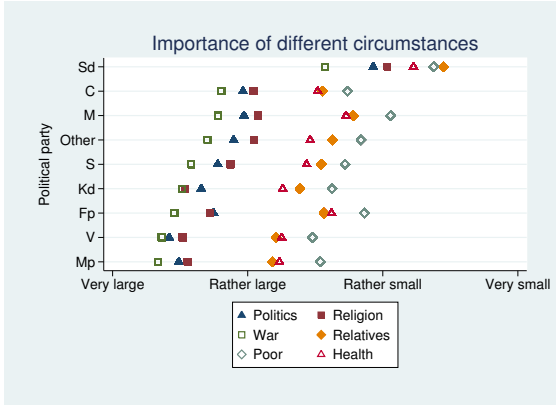


Figure 2 is based on another survey (SOM, 2012-2013) sent out yearly to a representative sample (age 16-85) of individuals living in Sweden, asking them about their opinion on a number of different policy issues.<sup>33</sup> Individuals are asked about what weight different circumstances (war, health issues, religious/political persecution, poverty, relatives) should be given for refugees to receive a residence permit in Sweden. Figure 2 display the average values, based on the individuals declared party preference. War and political and religious persecution are viewed as the most important circumstances. The order of the parties is rather similar to figure 2, although the Christian Democrats differ considerably by being among the parties where most respondents think these circumstances should carry a high weight.

### 3.2 Summary statistics

The data set is summarized in Table 1. The average approval rate is 13 percent, and varies between 12 and 16 %. The approval rate is higher in Gothenburg, but this could be due to the fact that the asylum applicants' native countries also differ between the courts (see table A.2). There are

<sup>31</sup>The results for the parties national average position is displayed in figure A.1.

<sup>32</sup>The category "other" refers to other local parties not represented in any of the three Migration courts.

<sup>33</sup>The survey was conducted by the SOM-institute at Gothenburg University. The principal investigator was Henrik Oscarsson (2012). The particular question is included in a project directed by Marie Demker and financed by FORTE (see Sandberg and Demker (2014)). The survey data has been made available by the Swedish National Data Service (SND). Neither SND nor the principal investigators bear responsibility for the analytical findings in this paper.

around 180 judges in total, and the regular judges (rådmän) have handled around 120 asylum cases each, whereas the junior judges (fiskaler) have managed around 15 cases each during 2011-2013. Most court rulings are unanimous, but in 10 percent of the cases at least one person dissented.<sup>34</sup> The judge was outvoted in around 1 percent of the cases. Most cases that are not approved are appealed to the Supreme Migration Court.

I only include cases that the courts have coded as asylum cases, and these are divided into two categories - children or adults and families. Cases with adults or families are given the same code by the court, but I extract if the case concerns multiple persons from the case file. Around 20 % of all cases refer to multiple persons, but I cannot tell if these cases include families with children or just adults. Moreover, 6 % mention conversion, 3 % of the cases state sexual orientation, 13 % mention something potentially related to persecution due to gender (i.e. rape, genital mutilation, compulsory marriage, honor violence), and around 18 % of the cases mention something that presumably concerns to politics (i.e. political opinion/activity). These circumstances could be related to persecution in the asylum seekers native country, and thereby motivate the approval of the appeal. However, it is possible that more cases actually mention conversion, sexual orientation, or gender related issues, as this information could be classified, given that it is very sensitive for asylum seekers from particular countries. When classifying information, the judge and the laymen can choose to either just classify the name of the asylum seeker, or to classify part of the sensitive information. Yet, even when a case has classified information, the asylum seekers' claims would most often still be written in the case file, but specific details about certain events or assaults would be classified. Hence, under reporting of these sensitive variables is expected to be minor. Unfortunately there is no statistics on how common the different approaches are, but Stockholm stated that they typically only classify the name. Around 8 % of the cases mention nationless, although around 55 % of these cases also have a native country identified. One of the major determinants for whether an asylum seeker gets a residence permit is the current conditions in their native country. Table A.2 in the Appendix display the average approval rate by country, for countries most likely to be the asylum seekers native country (see description in section A.3).<sup>35</sup> As expected, countries with ongoing recent and conflicts, such as Afghanistan and Syria, have a higher approval rate.

Table 1 also displays the characteristics of the court committee. In half of the cases the court committee consists of a majority of women, and every fifth case has a court committee with at least one person with a non-Scandinavian name. The average age is relatively high, at 60 years (in 2011). Looking at the policy position, it is on average zero (by construction). However, note that the average values are higher in Malmö and Gothenburg due to the participation of laymen from the Swedish Democrats. Most court committees consist of laymen from the Moderate Party

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<sup>34</sup>Dissents are slightly over reported, since dissents in 2012-2013 are coded by hand and exclude cases where someone dissented regarding the motivation rather than the final decision, whereas dissents in 2011 include all dissents. However, it is rare for individuals to dissent regarding motivation, so the difference should only be minor.

<sup>35</sup>As an alternative, table A.3 show the average approval rate by country, for all cases mentioning a given country.

Table 1: Descriptive statistics

	(1)	(2)	(3)	(4)
	All	Malmö	Gothenburg	Stockholm
Approval	0.13	0.12	0.16	0.12
Disagreement	0.10	0.10	0.08	0.10
Appeal (Supreme Court)	0.80	0.80	0.76	0.82
Cases/Judge	121.39	110.97	112.84	132.23
Cases/Junior Judge	16.95	13.64	5.55	21.32
Oral hearing	0.43	0.58	0.43	0.37
Confidential	0.23	0.12	0.33	0.25
Case cov.				
Judgement of age	0.03	0.03	0.01	0.03
Language analysis	0.10	0.11	0.09	0.10
Child/ren (no caregiver)	0.06	0.03	0.05	0.07
Multiple persons	0.21	0.29	0.24	0.16
Religion	0.23	0.27	0.17	0.23
Convert	0.06	0.05	0.04	0.07
Sexual orientation	0.03	0.03	0.02	0.04
Gender related	0.13	0.14	0.10	0.13
Politics	0.18	0.12	0.17	0.22
Health	0.18	0.18	0.22	0.15
Nationless	0.08	0.08	0.14	0.05
Court committee cov.				
Average age	60.07	61.00	59.48	59.92
Women (at least two)	0.50	0.42	0.45	0.57
Non-Scandinavian (at least one)	0.22	0.17	0.23	0.24
Policy position	0.00	0.11	0.04	-0.07
Policy position (local)	0.00	0.36	0.08	-0.20
V	0.13	0.10	0.13	0.13
Mp	0.21	0.19	0.12	0.25
S	0.65	0.68	0.79	0.57
Kd	0.17	0.11	0.15	0.20
Fp	0.31	0.39	0.24	0.31
C	0.11	0.13	0.16	0.07
M	0.77	0.75	0.74	0.79
Sd	0.09	0.27	0.10	0.00
Svg	0.05	0.00	0.20	0.00
Observations	15555	3692	3704	8159

*Note:* Mean values. A description of all variables can be found in the Appendix.

(almost 80 % of the cases), the Social Democrats (around 65 %), and some other party. In 22 % of the cases the court committee consists of only laymen from the Social Democrats and the Moderate Party. The Swedish Democrats are not represented in Stockholm, but laymen from their party participate in almost one third of the cases in Malmö, and one tenth of the cases in Gothenburg. Laymen's gender, age and "foreign" status are displayed in table A.5. Not surprisingly, the Green Party and the Left Party have the highest share of women and laymen with non-Scandinavian names, whereas the Swedish Democrats has the lowest share.<sup>36</sup>

### 3.3 Direction of disagreement

In cases that are decided unanimous, it is not possible to know how laymen from different parties have behaved during the deliberation, but the dissenting opinions can indicate if laymen from specific parties systematically express different opinions. If the judge or at least one of the laymen dissented this is always written in the case file, along with a short motivation. The motivations typically focus on having a dissenting opinion regarding the asylum seekers trustworthiness and, thereby, need of protection. Other than that, laymen or the judge sometimes dissent arguing that that the age determination is incorrect, that the judgment of the current conditions in the asylum seeker's home country is inaccurate, or that the case should be returned to the Migration Board due to an inadequate investigation. Also, sometimes the judge and the laymen agree about the fact that the asylum seeker is not in need of protection, but disagree about whether the requirements for "particular distressing circumstances" are fulfilled. I have coded who disagrees manually (only for 2012-2013). Figure 3 display the share of dissents for laymen from each party as well as the judge separately. For cases that were either fully approved or rejected, the dissents are always in the opposite direction, whereas it is possible to dissent in both directions for cases that were partly approved.<sup>37</sup>

The direction of disagreement largely tracks the party differences in figure 1 and 2. Looking at cases where laymen from the Swedish Democrats participated, one finds that they dissented in almost 25 % of the cases where they participated and the majority opinion was to fully approve the case. Similarly, the Moderate Party dissented in almost 10 % of these cases. On the other hand, looking at cases where the majority wanted to reject the appeal, the Left Party and the Green Party disagreed in around 10 % of these cases. The Social Democrats and the Christian Democrats are most balanced, dissenting with almost the same probability in both approved and rejected cases. Moreover, the judge was outvoted 134 times, corresponding to 1,3 % of all asylum cases 2012-2013. In 123 of these appeals the judge wanted to reject the case, whereas all the laymen

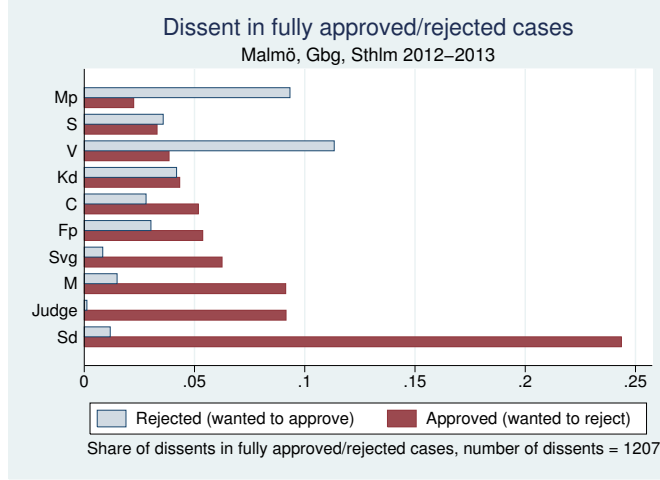
<sup>36</sup>Note that the average age of all laymen is lower than the average age of the participating laymen. This is due both to the fact that younger laymen are more likely to resign in advance, and the fact that a younger layman who is unable to attend when s/he is scheduled is more likely to be replaced with someone older, since older laymen tend to be more available with a short notice.

<sup>37</sup>Cases where someone agrees about the court ruling, but disagrees about the reasoning (e.g. what protection category the individual belongs to) are not coded as dissents. Given that it is rare for cases to be partly approved, there are also very few dissents in these cases. Figure A.2 show dissents in these cases.



wanted to approve it.

Figure 3: Disagreement



## 4 Empirical specification

Identification requires that the political composition of the court committee is exogenous to unobservable characteristics of the case, which is achieved by the random assignment of laymen to cases. The dependent variable  $y_{ijct}$  is a binary variable for whether the appeal was fully/partly approved or rejected for case  $i$ , with judge  $j$ , in court department  $c$ , and in year  $t$ .

$$y_{ijct} = \beta_0 + \beta_1 D_{ijct} + \beta_2 X_{ijct} + \beta_3 Z_{ijct} + \theta_j + \theta_c + C * \theta_t + \varepsilon_{ijct} \quad (1)$$

The variable of interest ( $D_{ijct}$ ) measure the court committees' average policy position, based on the parties' response to the question about receiving more refugees to their municipality from the KOLFU survey (described in section 3.1). The average position of a court committee ( $cc$ ) is measured as  $\sum_{p \in cc} \frac{s_p}{3} (\omega_p - \bar{\omega})$ , where  $s$  is the number of laymen from party  $p$ , and  $\omega$  is the policy position. As an alternative measure, I use dummy variables to indicate cases where at least one layman from a given party participated. Case characteristics ( $X_{ijct}$ ) represents dummies for the countries (around 90) most likely to be the applicants' native countries. I also include dummies for the other case characteristics described in table 1.<sup>38</sup> Court committee characteristics ( $Z_{ijct}$ ) include dummies for whether the committee has a majority of women, whether there is at least one laymen with a non-Scandinavian name, and average age. The specification also includes fixed effects for the judges ( $\theta_j$ ) and court departments  $\theta_c$ . This should capture variation from the other decision makers involved in preparing and deciding a case, and also account for the fact that departments in Stockholm are specialized at certain countries.  $C * \theta_t$  is a court\*year FE to control

<sup>38</sup>Controlling for if information was classified or an oral hearing conducted could be problematic, due to post-treatment bias. Although there are some minor changes of the point estimates of the party dummies when these variables are included, the significance level is hardly affected.

for yearly changes in migration flows to each court. However, given that the political composition is constant over time (since the data only covers the same election period) and laymen from all parties participate regularly during the whole year, laymen’s party affiliation should not be correlated with any time-variation in the characteristics of the asylum applicants. Standard errors are clustered at the judge, although I also show the results clustered at other levels in table 5.

A potential concern would be that the court departments schedule cases selectively to get a court committee with a certain political composition.<sup>39</sup> To confirm that the political composition of the court committee is unrelated to case characteristics I conduct a Pearson  $\chi^2$ -test for each court department after tabulating the laymen’s party affiliation against case characteristics. Table A.4 summarizes p-values from the test, where the observed distribution is random under the null hypothesis. At the 5 percent significance level the null hypothesis can be rejected for three departments (out of 21) regarding child and language analysis, two departments for country, politics and health, one department for family, nationless, religion, gender, sexual orientation, age determination and no department for conversion.<sup>40</sup> Thus, overall there is no evidence of any systematic sorting. Consistent with this, I also show that the results are not sensitive to including these control variables.

## 5 Results

This section starts by looking at the effect of the court committees predicted policy position and the effect of laymen from specific parties. Next, I investigate how the results vary depending on the political majority of the court committee, display the degree of between-judge variation, and show that the results are not sensitive to the level of clustering.

Table 2 shows the results from estimating equation (1). I use the measure of average policy composition based on the laymen’s party affiliation (as described above). Increasing the court committees’ predicted average position by one point above average, i.e. becoming more negative to receiving refugees to one’s municipality, decreases the approval rate by around 4.5 percentage points. Considering an average approval rate of 13 percent, this is quite substantial. Including case and court committee covariates has little impact on the results, as expected. The sample in column (1)-(3) uses the policy position based on the political parties’ average national position. To account for the fact that there is also regional variation with respect to the parties view on refugees (see figure 1), I use the local policy position of the parties in column (4)-(6). The results are almost identical.

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<sup>39</sup>This is unlikely since cases should be handled according to turn-taking. Cases are prepared by rapporteurs, and when all material has been collected the secretary at the department schedules it for a hearing as soon as possible (taking into account when the judge is free, an interpreter (if needed) is available, and when the asylum seekers’ public counsel (if it’s an oral hearing) are available.)

<sup>40</sup>Note that department 23, 25 and 27 in Stockholm only existed 2011-2012, and were then merged with other departments.

Table 2: Approval rate, policy position

	(1)	(2)	(3)	(4)	(5)	(6)
Policy position	-0.046*** (0.009)	-0.045*** (0.010)	-0.045*** (0.010)			
Policy position (local)				-0.047*** (0.010)	-0.045*** (0.010)	-0.046*** (0.010)
Court dep. FE	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	Yes	Yes	No	Yes	Yes
Laymen cov.	No	No	Yes	No	No	Yes
Case cov.	No	No	Yes	No	No	Yes
Adjusted $R^2$	0.022	0.046	0.079	0.022	0.046	0.079
Observations	15555	15555	15192	15555	15555	15192

*Note:* All regressions include year\*court FE. Standard errors are clustered on judge. Case characteristics also include country FE. \*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ .

In table 3 instead of using the laymen's predicted position, I look directly at the effect of having laymen from different parties, compared to court committees consisting of only laymen from the Social Democrats or the Moderate Party (S+M, around 22 % of the observations) or just the Moderate Party (M, 4 % of the observations). The probability of approval is around 1.5-3 percentage points higher when laymen from the Christian Democrats (Kd), the Green Party (Mp), or the Left Party (V) participate, compared to committees consisting of the Social Democrats and the Moderate Party. To the contrary, the approval rate is around 2.5 percentage points lower when laymen from the Swedish Democrats (Sd) participate. When the Moderate Party is the reference group (column 4-6), one notes that the probability of approval is also a bit higher when laymen from the Social Democrats participate. I also add the p-values from an F-test, showing that the party dummies are jointly significant. Overall, these results are well in line with the parties stand on the refugee issue as well as in what direction they tend to dissent.<sup>41</sup>

Table A.5 also display the point estimates of the case and court committee characteristics. Several of the country fixed effects and case characteristics have a significant effect on the probability of approval. In particular, the probability of approval increases by 6-9 percent for cases mentioning conversion, sexual orientation, or nationless. This indicates that the words extracted from the case files also capture something meaningful. On the other hand, there is no significant effect of the laymen's gender, age, or having a layman with a non-Scandinavian name in the court committee. This indicates that it is their political affiliation, and not other background characteristics that

<sup>41</sup>Table A.7 display results for just Gothenburg and Malmö to account for the fact that the Swedish Democrats are only represented in those courts. The results are similar to table 3, but note that there is no significant effect of Svg when looking only at the court in Gothenburg.

Table 3: Approval rate, party effects

	M+S reference			M reference		
	(1)	(2)	(3)	(4)	(5)	(6)
V	0.019*	0.018*	0.020**	0.021**	0.021**	0.023**
	(0.010)	(0.009)	(0.009)	(0.010)	(0.010)	(0.009)
Mp	0.016*	0.016**	0.016**	0.019**	0.019**	0.020**
	(0.008)	(0.008)	(0.008)	(0.009)	(0.008)	(0.008)
Kd	0.029***	0.031***	0.031***	0.032***	0.033***	0.033***
	(0.009)	(0.008)	(0.008)	(0.009)	(0.009)	(0.009)
Fp	-0.010	-0.009	-0.005	-0.007	-0.006	-0.002
	(0.008)	(0.007)	(0.007)	(0.008)	(0.008)	(0.007)
C	0.012	0.013	0.013	0.016	0.016	0.016
	(0.011)	(0.010)	(0.010)	(0.011)	(0.011)	(0.010)
Sd	-0.027**	-0.027**	-0.023**	-0.024**	-0.024**	-0.020*
	(0.010)	(0.011)	(0.011)	(0.010)	(0.011)	(0.011)
Svg	-0.030*	-0.028*	-0.030**	-0.028*	-0.026*	-0.028*
	(0.016)	(0.015)	(0.015)	(0.016)	(0.015)	(0.015)
S				0.014**	0.013*	0.014**
				(0.007)	(0.007)	(0.007)
Court dep. FE	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	Yes	Yes	No	Yes	Yes
Laymen cov.	No	No	Yes	No	No	Yes
Case cov.	No	No	Yes	No	No	Yes
Adjusted $R^2$	0.023	0.046	0.080	0.023	0.047	0.080
F-test	0.000	0.000	0.000	0.000	0.000	0.000
Observations	15555	15555	15192	15555	15555	15192

*Note:* All regressions include year\*court FE. Standard errors are clustered on judge. Case characteristics also include country FE. \*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ .

matter.

## 5.1 Majority composition

Laymen can potentially affect the decision making in two ways, through their votes (i.e. individual preferences are simply aggregated) or during the deliberation with the judge and the other laymen (i.e. they can affect the opinion of the co-judges). Experimental studies (e.g. Goeree and Yariv, 2011) have shown that such deliberation can decrease the impact of voting rules by changing the views of the decision makers. An essential part of evaluating an asylum case is to decide whether the asylum applicant is credible. This could create room for discretion. It is possible that a layman who points to inconsistencies in the asylum seekers story or emphasizes mitigating circumstances to such inconsistencies will affect the co-judges' opinion. However, a further complication when evaluating how decisions are made, is the fact that participants that do not agree with the majority will not always state this due to dissent aversion (e.g. Fischman, 2011).<sup>42</sup>

To exclude the possibility that the results are only driven by cases where the judge or laymen are being outvoted, table A.9 display the results for only unanimous cases, and the results are fairly similar to table 3. This suggests that the results are at least partly driven by the fact that laymen convince the co-judges of their perspective. Yet, in practice, it is hard to say if the laymen are convincing their co-judges of their point of view directly or indirectly, for instance by the laymen's questions to the asylum seeker during the oral hearing, or if their co-judges simply avoid dissenting when in minority.

To further examine the impact of holding a majority of the votes I look at if the probability of approval depends on the number of laymen that are positive to immigration. Based on the results from the surveys and the dissents I define laymen from the Left Party, the Green Party, the Social Democrats and the Christian Democrats as being "positive" to immigration, and the Swedish Democrats, the Moderate Party and the local Health Care Party as "negative". The results in table 4 show that the number of "positive" laymen matter for the results. Having two or three pro-immigration laymen increases the probability of approval by 3-4 percentage points. This would suggest that voting power matters, although one would also expect laymen from like-minded parties to be more responsive to each other's opinions. For "negative" laymen, there is an effect of having just one layman on the court committee, although the effect is larger when all two or three laymen come from these parties. The results are similar when the sample is restricted to unanimous cases. Given that almost 90 percent of the cases are rejected, and that judges are almost only outvoted in cases where the laymen want an approval, the default option appears to be a rejection. If this is the case, having a majority of pro-immigration laymen may be necessary to convince the judge to approve the case and overturn the "norm". On the other hand, the judge

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<sup>42</sup>Although laymen do not have to write the dissenting opinion themselves (this is done by an assistant to the judge) it could be costly to the working climate, given that they are supposed to continue serving in the same court committee for the rest of the term.

Table 4: Approval rate, majority effects

	(1)	(2)	(3)	(4)	(5)	(6)
One positive	0.003 (0.008)	0.002 (0.008)	0.002 (0.008)			
Two positive	0.029*** (0.008)	0.027*** (0.008)	0.028*** (0.008)			
Three positive	0.048*** (0.015)	0.044*** (0.015)	0.041*** (0.015)			
One negative				-0.019** (0.009)	-0.017* (0.009)	-0.019** (0.009)
Two negative				-0.036*** (0.010)	-0.034*** (0.010)	-0.036*** (0.010)
Three negative				-0.031** (0.015)	-0.030** (0.015)	-0.036** (0.016)
Court dep. FE	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	Yes	Yes	No	Yes	Yes
Laymen cov.	No	No	Yes	No	No	Yes
Case cov.	No	No	Yes	No	No	Yes
Observations	15555	15555	15192	15555	15555	15192
$R^2$	0.024	0.059	0.098	0.024	0.058	0.098

*Note:* All regressions include year\*court FE. Standard errors are clustered on judge. Case characteristics also include country FE. \*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ .

would only need support from one layman to enforce the "norm". Hence, a majority would matter more for getting an appeal approved rather than rejected.

## 5.2 Between-judge variation

So far, the focus has been on explaining the within-judge variation, based on laymen's political affiliation. However, looking at the observed differences between judges also indicates to what extent there is discretion in these decisions. Figure 4 display judges average approval rate separately for each court. The sample is restricted to judges who have handled at least 100 asylum cases (where laymen participated). On average these 70 judges have handled 180 asylum cases each. Hence, this is a group of highly experienced judges. Despite the fact that cases are randomly assigned to judges there is substantial variation regarding the judges' average approval rate. For instance, in Gothenburg the judges with the lowest approval rate approve around 5-10 percent of the cases,

whereas those with the highest approval rate approved over 30 percent of the cases. However, it is possible that part of this difference is due to the fact that there is time variation in what type of cases are appealed to the court (for instance with respect to native country) and the fact that all judges have not worked in court for the same time period. Furthermore, in Stockholm, judges will also handle cases from specific countries more or less often depending on what department they work at. To account for this, figure 5 show a histogram of the judge fixed effects from equation (1), estimated on the same set of judges as figure 4. The standard deviation is 0.11, confirming that there is large variation regarding judges' leniency toward asylum seekers. The magnitude is comparable to the difference in predicted probability of approval for an asylum seeker from Belarus or Morocco compared to Afghanistan, i.e. countries with completely different conditions. The interquartile range is 0.13, a considerable difference, but in line with other studies documenting a substantial judge heterogeneity.<sup>43</sup>

One can also compare the explanatory power of the judge fixed effects and the case characteristics (including the country fixed effects). Adding judge fixed effects to a regression with only court\*year fixed effects and department fixed effects increases the adjusted  $R^2$  by 2.4 percentage points, whereas instead adding the covariates increases it by 3.5 percentage points. This also suggests that judges have a substantial impact on the probability of approval. Using an F-test one can reject the hypothesis that the judge fixed effects do not affect the probability of getting an asylum appeal approved. Unfortunately, I cannot explain what causes the between-judge variation. I only know the judges' name, by which I can code their gender, but this is not correlated with the judge fixed effects. Given that almost all judges have Scandinavian names, it is not possible to examine the impact of a "foreign" background. Other explanations could be differences in judges' judicial experience, education, or their individual preferences.

Figure 4: Average approval rate

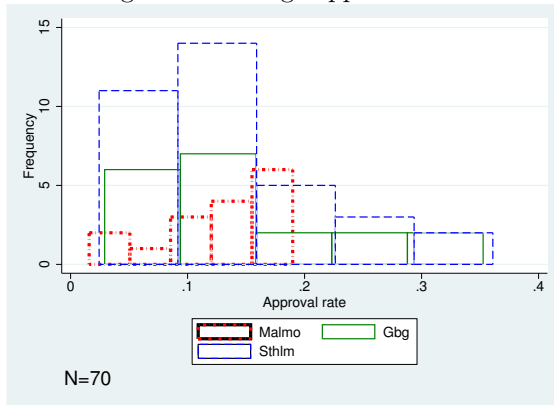
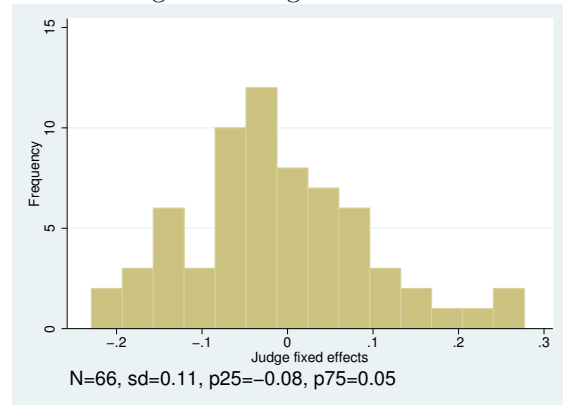


Figure 5: Judge fixed effects



<sup>43</sup>Abrams et al. (2012) find an 11 percentage point difference in the racial incarceration gap between the judge at the 25th percentile and the one at the 75th percentile. Lim, Silveira and Snyder (2015) find an interquartile range of 0.14 percentage points when measuring judges sentencing harshness in criminal cases, and argue that there is substantial cross-judge heterogeneity.

### 5.3 Robustness

Standard errors have been clustered at the judge in the baseline analysis, to account for possible correlation between cases by the same judge. In table 5 I display the result when standard errors are not clustered, as well as when they are clustered on judge, court committee, judge\*court committee, and department\*court committee. The standard errors do not change all that much between the different levels of clustering, and having laymen from the Christian Democrats, The Left Party, the Green Party, or the Swedish Democrats still has a significant effect on the approval rate.



Table 5: Cluster level

	(1)	(2)	(3)	(4)	(5)
	Not clustered	Judge	CC	Judge*CC	Dep*CC
V	0.020** (0.008)	0.020** (0.009)	0.020** (0.010)	0.020** (0.009)	0.020** (0.009)
Mp	0.016** (0.007)	0.016** (0.008)	0.016** (0.008)	0.016** (0.007)	0.016** (0.008)
Kd	0.031*** (0.007)	0.031*** (0.008)	0.031*** (0.009)	0.031*** (0.008)	0.031*** (0.008)
Fp	-0.005 (0.006)	-0.005 (0.007)	-0.005 (0.006)	-0.005 (0.006)	-0.005 (0.007)
C	0.013 (0.009)	0.013 (0.010)	0.013 (0.009)	0.013 (0.009)	0.013 (0.009)
Sd	-0.023** (0.010)	-0.023** (0.011)	-0.023** (0.011)	-0.023** (0.011)	-0.023** (0.011)
Svg	-0.030** (0.014)	-0.030** (0.015)	-0.030** (0.014)	-0.030** (0.014)	-0.030** (0.014)
Court dep. FE	Yes	Yes	Yes	Yes	Yes
Judge FE	Yes	Yes	Yes	Yes	Yes
Laymen cov.	Yes	Yes	Yes	Yes	Yes
Case cov.	Yes	Yes	Yes	Yes	Yes
Adjusted $R^2$	0.080	0.080	0.080	0.080	0.080
F-test	0.000	0.000	0.000	0.000	0.000
Observations	15192	15192	15192	15192	15192

*Note:* All regressions include year\*court FE. CC=court committee and Dep=court department. \*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ .

## 6 Conclusions

Examining how decisions vary by judges' background characteristics and over different areas of law should be of primary interest. Both in terms of justice, but also because it could pinpoint where interventions are necessary to achieve greater coherence. This paper uses the random assignment of cases to laymen, to estimate the influence of partisanship on judicial decision making. I find that the approval rate in asylum cases is higher when laymen are affiliated with political parties that are positive to immigration, and lower when laymen from parties that are negative to immigration participate. An asylum applicant who is unlucky and gets a layman from the Swedish Democrats on the court committee will have a five percentage point lower probability of approval, compared to someone who is lucky and gets a layman from the Christian Democrats. This indicates that lay judges' political beliefs affect their evaluation of asylum seekers motive to apply for a residence permit, as well as the judicial rulings. It is difficult to disentangle if the results are driven by voting power or deliberation. Looking only at unanimous cases, there is still an effect of laymen's partisanship, suggesting that laymen convince their co-judges. On the other hand, having several like-minded laymen on the committee increases these differences, suggesting that voting power also matter. There are also large variations between the regular judges approval rate, suggesting that they apply their own interpretation of the law. This result is in line with several other studies that find substantial judge heterogeneity (e.g. Abrams et al., 2012 ; Lim, Silveira and Snyder, 2015).

Taken together, the results raise concerns about the practice of justice to asylum seekers appellations. Although the procedure and requirements to grant asylum differ between countries, the observed degree of discretion in these decisions is problematic for asylum applicants in general. In particular, as anti-immigrant parties throughout Europe gain support. Whether or not laymen should participate in court has been debated in Sweden for years. These results suggest that even if the system with laymen were to be abolished, the application of the law might still not be consistent, given the degree of judge heterogeneity. Future research is clearly necessary to determine how these differences vary over other areas of the law.

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## **A Appendix**

### **A.1 Kommun- och Landstingsfullmäktigeundersökningen (KOLFU) 2008, 2012**

#### **Attitudes to refugees**

Here are a number of proposals that have occurred in the political debate. What is your opinion about the following?

-Receive fewer refugees to Sweden

Regarding the municipality you live in: What is your opinion about the following proposals?

-Receive more refugees to the municipality

1=Very good proposal

2=Rather bad proposal

3=Neither good or bad

4=Rather good proposal

5=Very bad proposal

[Answers for the first question are coded to correspond to the scale of the second question]

### **A.2 Samhälle, Opinion och Medier-undersökningen (SOM) 2012, 2013**

#### **Motive to get a residence permit**

What weight should the following circumstances be given, for refugees to receive a residence permit in Sweden?

-Poverty

-Disease

-Relatives already living in Sweden

-War in native country

-Persecution due to religion

-Persecution due to political opinion

1=Very large weight

2=Rather large weight

3=Rather small weight

4=Very small weight

### A.3 Definition of case characteristics

**Country FE:** I search for all countries from which an individual had their application for asylum rejected by the Migration Board 2010-2013 (150 countries). Several files mention multiple countries. However, almost all files from Malmö and Stockholm have the decision from the Migration Board attached to the case files. For those cases I use the country mentioned in the attached file (it is always written at a specific place). Otherwise, if there are multiple countries, but only one mentioned as "citizen of country X", I define that country as the native country. Case files where a single country cannot be identified as the native country are coded as having "multiple" countries. I end up with around 90 different countries. Cases where no country is found, either due to typo or being classified (40 % of these cases have classified attachments), are coded as having "no country".

**Nationless:** nationless [statslös]

**Religion:** Christian, Catholic, Protestant, Muslim, Islam, Hindu [kristen, katolik, protestant, muslim, islam, hindu]

**Gender related:** rape, genital mutilation, compulsory marriage, extramarital, honor violence/culture/murder [våldtagen/våldtäkt, könsstympa/könsstympning, tvångsäktenskap, tvångsgifte, utomäktenskaplig, hedersvåld, hederskultur, hedersmord ]

**Sexual orientation:** homosexual, bisexual [homosexuell, bisexuell]

**Conversion:** convert [konvertit/konvertera/konversion]

**Politics:** political opinion/activity, opposition, demonstration [politisk/a/t åsikt/aktivitet/arbete/engagemang/verksamhet, opposition, demonstration]

**Health:** medical care, doctor's certificate, psychological evaluation, HIV [sjukvård, läkarvård, läkarintyg, psykologisk bedömning, HIV]

**Confidential:** secrecy [sekretess]

**Language analysis:** Language analysis [språkanalys, språkanalytiker]

**Age determination:** Age determination [åldersbedömning, bedömning av ålder]

## A.4 Figures

Figure A.1: Attitudes to refugees

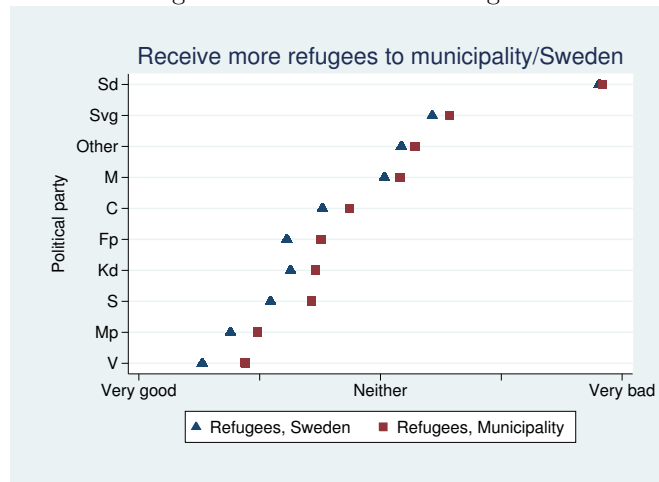
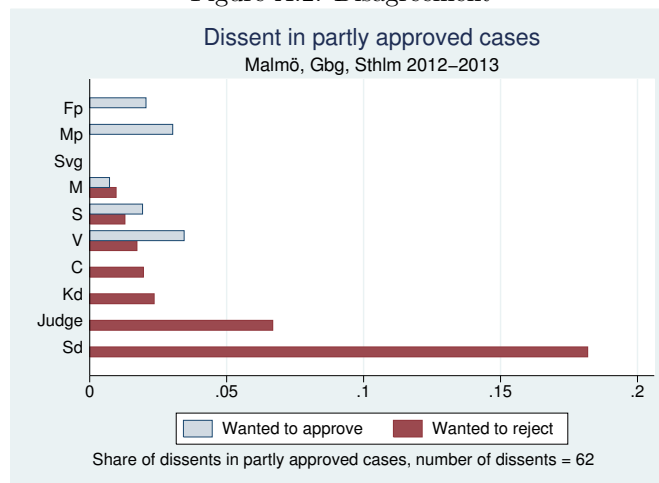


Figure A.2: Disagreement





## A.5 Tables

Table A.1: Laymen characteristics

	Women		Non-Scandinavian		Age	
	mean	number	mean	number	mean	number
All	0.51	1232	0.09	1234	55.48	1166
C	0.45	67	0.03	67	50.84	64
Fp	0.51	112	0.06	113	55.66	107
Kd	0.53	66	0.08	66	54.89	61
M	0.53	392	0.05	393	58.24	371
Mp	0.55	110	0.19	110	47.33	106
S	0.52	357	0.13	357	57.19	334
Sd	0.25	44	0.00	44	51.95	44
Svg	0.43	14	0.07	14	59.29	14
V	0.53	70	0.13	70	50.57	65

Includes original/replacement laymen who participated in asylum cases.

Table A.2: Approval rate by country, most likely native country

	All		Malmö		Gothenburg		Stockholm	
	mean	cases	mean	cases	mean	cases	mean	cases
Afghanistan	0.19	1513	0.18	489	0.21	193	0.19	831
Albania	0.09	199	0.09	57	0.08	64	0.10	78
Algeria	0.06	171	0.09	45	0.00	28	0.07	98
Armenia	0.11	167	0.21	39	0.19	26	0.05	102
Azerbaijan	0.09	243	0.19	37	0.14	66	0.04	140
Bangladesh	0.15	156	0.00	4	0.00	8	0.17	144
Belarus	0.05	155	0.00	35	0.00	19	0.07	101
Egypt	0.06	243	0.08	36	0.08	24	0.05	183
Ethiopia	0.10	312	0.26	19	0.17	29	0.08	264
Iran	0.23	991	0.30	102	0.32	269	0.17	620
Iraq	0.16	1087	0.14	352	0.07	237	0.20	498
Kazakhstan	0.07	219	0.00	13	0.33	6	0.07	200
Kenya	0.09	176	0.33	9	0.14	14	0.07	153
Kosovo	0.09	474	0.08	224	0.06	194	0.20	56
Kyrgyzstan	0.09	257	0.20	25	0.11	19	0.07	213
Lebanon	0.06	239	0.07	126	0.07	60	0.04	53
Libya	0.04	273	0.03	35	0.20	10	0.04	228
Mongolia	0.06	298	0.08	26	0.06	51	0.06	221
Morocco	0.06	198	0.13	39	0.00	26	0.05	133
Multiple counties	0.16	3109	0.17	561	0.17	1282	0.16	1266
Nigeria	0.04	387	0.04	101	0.06	97	0.03	189
No country	0.22	413	0.20	135	0.21	198	0.30	80
Pakistan	0.16	196	0.22	46	0.10	39	0.16	111
Russia	0.09	449	0.13	107	0.11	76	0.07	266
Serbia	0.03	511	0.01	342	0.03	104	0.11	65
Somalia	0.15	796	0.20	123	0.16	252	0.13	421
Syria	0.20	334	0.30	50	0.50	82	0.06	202
Turkey	0.12	171	0.15	60	0.16	44	0.06	67
Uzbekistan	0.07	345	0.25	8	0.10	10	0.07	327

*Note:* Displays all countries with at least 150 case observations. These cases could also mention "nationless". "No country" are cases where no country is found either due to typo or being classified (40 % of these cases have classified attachments). "Multiple countries" are cases mentioning several countries, where no specific native country has been identified.

Table A.3: Approval rate by country, all countries mentioned

	All		Malmö		Gothenburg		Stockholm	
	mean	cases	mean	cases	mean	cases	mean	cases
Afghanistan	0.19	2949	0.18	913	0.22	449	0.18	1587
Algeria	0.07	403	0.12	98	0.00	56	0.07	249
Armenia	0.13	440	0.18	117	0.23	81	0.07	242
Azerbaijan	0.11	512	0.19	99	0.21	115	0.05	298
Egypt	0.10	635	0.15	123	0.22	63	0.06	449
Eritrea	0.12	530	0.27	22	0.21	63	0.09	445
Ethiopia	0.12	976	0.24	96	0.19	140	0.09	740
Iran	0.20	2390	0.20	486	0.28	546	0.18	1358
Iraq	0.17	2205	0.15	737	0.15	418	0.19	1050
Israel	0.14	387	0.14	167	0.20	70	0.11	150
Jordan	0.17	440	0.12	186	0.23	62	0.20	192
Kazakhstan	0.09	571	0.09	47	0.43	23	0.07	501
Kenya	0.10	703	0.25	67	0.18	97	0.06	539
Kosovo	0.08	1060	0.08	454	0.05	475	0.15	131
Kyrgyzstan	0.10	530	0.18	44	0.18	39	0.09	447
Lebanon	0.10	680	0.10	299	0.18	163	0.06	218
Libya	0.06	685	0.09	103	0.11	36	0.05	546
Mali	0.14	639	0.15	110	0.19	124	0.12	405
Mongolia	0.08	464	0.03	36	0.11	71	0.07	357
Morocco	0.06	464	0.15	88	0.02	66	0.05	310
Nigeria	0.04	673	0.05	171	0.05	119	0.03	383
Pakistan	0.20	796	0.22	226	0.18	153	0.19	417
Russia	0.10	1510	0.13	307	0.15	216	0.08	987
Serbia	0.04	1059	0.02	565	0.04	357	0.15	137
Somalia	0.14	1626	0.20	242	0.16	442	0.12	942
Sudan	0.14	455	0.08	37	0.24	55	0.13	363
Syria	0.20	1430	0.19	421	0.34	283	0.14	726
Turkey	0.17	1161	0.17	324	0.22	179	0.15	658
Uzbekistan	0.07	807	0.19	37	0.13	31	0.07	739

*Note:* Displays all countries with at least 400 case observations. Note, one case file could mention several different countries.

Table A.4: Test for independence between party affiliation and case characteristics

chi2															
	Dep	Child	Family	Nationless	Country	Convert	Religion	Gender	Sexual	Politics	Language	Age	Health	N	
	Stockholm	21	0.382	0.161	0.676	0.105	0.240	0.471	0.007	0.308	0.269	0.382	0.606	0.441	1920
	Stockholm	22	0.552	0.234	0.551	0.428	0.676	0.449	0.831	0.255	0.489	0.552	0.529	0.648	2856
	Stockholm	23	0.283	0.919	0.292	0.147	0.188	0.714	0.308	0.408	0.132	0.283	0.151	0.231	1893
	Stockholm	24	0.002	0.678	0.266	0.000	0.754	0.301	0.701	0.652	0.673	0.002	0.066	0.010	3168
	Stockholm	25	0.810	0.002	0.743	0.078	0.131	0.168	0.375	0.031	0.339	0.810	0.460	0.360	2025
	Stockholm	26	0.118	0.071	0.812	0.017	0.364	0.372	0.704	0.153	0.993	0.118	0.212	0.827	3189
	Stockholm	27	0.768	0.473	0.982	0.429	0.108	0.407	0.253	0.250	0.940	0.768	0.686	0.699	1521
	Stockholm	28	0.325	0.846	0.025	0.252	0.426	0.236	0.803	0.121	0.041	0.325	0.586	0.378	3597
	Stockholm	29	0.119	0.162	0.612	0.358	0.476	0.861	0.201	0.777	0.719	0.119	0.731	0.857	4308
	Gothenburg	13	0.993	0.895	0.210	0.972	0.455	0.710	0.119	0.357	0.833	0.993	0.411	0.294	1848
	Gothenburg	14	0.951	0.175	0.906	0.478	0.476	0.897	0.566	0.834	0.696	0.951	0.718	0.014	1809
	Gothenburg	15	0.011	0.226	0.585	0.797	0.207	0.382	0.415	0.153	0.450	0.011	0.589	0.537	897
	Gothenburg	16	0.412	0.980	0.257	0.885	0.689	0.842	0.120	0.327	0.284	0.412	0.832	0.294	891
	Gothenburg	23	0.228	0.570	0.456	0.964	0.163	0.892	0.515	0.317	0.460	0.228	0.651	0.261	1791
	Gothenburg	24	0.337	0.812	0.216	0.459	0.717	0.742	0.412	0.596	0.456	0.337	0.235	0.759	1536
	Gothenburg	25	0.005	0.514	0.737	0.949	0.921	0.874	0.589	0.382	0.311	0.005	0.862	0.806	993
	Gothenburg	26	0.497	0.518	0.921	0.995	0.767	0.954	0.217	0.817	0.047	0.497	0.844	0.715	876
	Malmö	3	0.116	0.605	0.868	0.530	0.670	0.042	0.050	0.821	0.404	0.116	0.804	0.133	1620
	Malmö	4	0.984	0.849	0.812	0.761	0.851	0.304	0.660	0.618	0.377	0.984	0.070	0.063	3006
	Malmö	5	0.676	0.200	0.325	0.998	0.914	0.496	0.560	0.833	0.483	0.676	0.005	0.753	3681
	Malmö	6	0.924	0.059	0.673	0.992	0.451	0.729	0.630	0.241	0.910	0.924	0.222	0.808	2769

Note: Reported p-value from Pearson  $\chi^2$ -test. For country, sample restricted to cases with at least 10 country observation (restriction in Stata)

Table A.5: Approval rate, covariates

	(1)	(2)	(3)
Non-Scandinavian (at least one)	-0.010 (0.007)	-0.011 (0.007)	-0.010 (0.007)
Women (at least two)	0.004 (0.006)	0.004 (0.006)	0.003 (0.006)
Average age	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)
Language analysis		0.027** (0.012)	0.008 (0.012)
Judgement of age		0.009 (0.018)	-0.010 (0.018)
Health		-0.004 (0.008)	0.001 (0.008)
Religion		0.003 (0.007)	0.005 (0.007)
Multiple persons		0.004 (0.006)	0.023*** (0.006)
Child/ren (no caregiver)		0.009 (0.013)	0.017 (0.014)
Nationless		0.069*** (0.016)	0.059*** (0.016)
Politics		0.036*** (0.009)	0.019** (0.009)
Gender related		0.036*** (0.011)	0.034*** (0.011)
Sexual orientation		0.068*** (0.022)	0.089*** (0.023)
Convert		0.094*** (0.017)	0.077*** (0.016)
Court dep. FE	Yes	Yes	Yes
Judge FE	Yes	Yes	Yes
Country FE	No	No	Yes
Adjusted $R^2$	0.047	0.061	0.080
Observations	15192	15192	15192

*Note:* All regressions include year\*court FE. Standard errors are clustered on judge. \*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ .

Table A.6: Approval rate, all mentioned countries

	M+S reference			M reference		
	(1)	(2)	(3)	(4)	(5)	(6)
V	0.019*	0.018*	0.019**	0.021**	0.021**	0.022**
	(0.010)	(0.009)	(0.009)	(0.010)	(0.010)	(0.009)
Mp	0.016*	0.016**	0.015**	0.019**	0.019**	0.019**
	(0.008)	(0.008)	(0.007)	(0.009)	(0.008)	(0.008)
Kd	0.029***	0.031***	0.030***	0.032***	0.033***	0.033***
	(0.009)	(0.008)	(0.008)	(0.009)	(0.009)	(0.009)
Fp	-0.010	-0.009	-0.008	-0.007	-0.006	-0.005
	(0.008)	(0.007)	(0.007)	(0.008)	(0.008)	(0.008)
C	0.012	0.013	0.010	0.016	0.016	0.013
	(0.011)	(0.010)	(0.010)	(0.011)	(0.011)	(0.010)
Sd	-0.027**	-0.027**	-0.024**	-0.024**	-0.024**	-0.021**
	(0.010)	(0.011)	(0.011)	(0.010)	(0.011)	(0.011)
Svg	-0.030*	-0.028*	-0.030*	-0.028*	-0.026*	-0.027*
	(0.016)	(0.015)	(0.015)	(0.016)	(0.015)	(0.015)
S				0.014**	0.013*	0.014**
				(0.007)	(0.007)	(0.007)
Court dep. FE	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	Yes	Yes	No	Yes	Yes
Laymen cov.	No	No	Yes	No	No	Yes
Case cov.	No	No	Yes	No	No	Yes
Adjusted $R^2$	0.023	0.046	0.077	0.023	0.047	0.077
F-test	0.000	0.000	0.000	0.000	0.000	0.000
Observations	15555	15555	15192	15555	15555	15192

*Note:* All regressions include year\*court FE. Standard errors are clustered on judge. \*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ .

Table A.7: Approval rate, looking only at Gothenburg and Malmö

	M+S reference			M reference		
	(1)	(2)	(3)	(4)	(5)	(6)
V	0.036** (0.016)	0.033** (0.015)	0.033** (0.015)	0.039** (0.016)	0.035** (0.016)	0.034** (0.016)
Mp	0.028** (0.013)	0.029** (0.013)	0.025** (0.012)	0.031** (0.013)	0.032** (0.013)	0.027** (0.013)
Kd	0.026* (0.014)	0.029** (0.014)	0.026* (0.014)	0.028* (0.015)	0.031** (0.015)	0.027* (0.015)
Fp	-0.024** (0.012)	-0.023* (0.012)	-0.014 (0.011)	-0.021* (0.013)	-0.020 (0.013)	-0.012 (0.013)
C	0.023 (0.015)	0.027* (0.015)	0.022 (0.014)	0.025 (0.016)	0.029* (0.015)	0.024* (0.015)
Sd	-0.026** (0.011)	-0.026** (0.012)	-0.024** (0.011)	-0.024** (0.011)	-0.024** (0.012)	-0.022* (0.012)
Svg	-0.030* (0.016)	-0.028* (0.016)	-0.026* (0.015)	-0.028* (0.017)	-0.026 (0.017)	-0.025 (0.015)
S				0.010 (0.011)	0.008 (0.011)	0.007 (0.011)
Court dep. FE	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	Yes	Yes	No	Yes	Yes
Laymen cov.	No	No	Yes	No	No	Yes
Case cov.	No	No	Yes	No	No	Yes
Adjusted $R^2$	0.023	0.042	0.095	0.023	0.042	0.095
F-test	0.000	0.000	0.002	0.000	0.000	0.003
Observations	7396	7396	7368	7396	7396	7368

*Note:* All regressions include year\*court FE. Standard errors are clustered on judge. \*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ .

Table A.8: Approval rate, stepwise

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
V	0.017*	0.019*	0.018*	0.021**	0.019**	0.020**	0.020**
	(0.010)	(0.010)	(0.009)	(0.009)	(0.009)	(0.009)	(0.009)
Mp	0.010	0.016*	0.016**	0.019**	0.018**	0.016**	0.017**
	(0.008)	(0.008)	(0.008)	(0.008)	(0.008)	(0.008)	(0.008)
Kd	0.029***	0.029***	0.031***	0.030***	0.030***	0.031***	0.028***
	(0.009)	(0.009)	(0.008)	(0.008)	(0.008)	(0.008)	(0.009)
Fp	-0.006	-0.010	-0.009	-0.010	-0.009	-0.005	-0.005
	(0.008)	(0.008)	(0.007)	(0.008)	(0.007)	(0.007)	(0.007)
C	0.013	0.012	0.013	0.012	0.011	0.013	0.015
	(0.011)	(0.011)	(0.010)	(0.010)	(0.010)	(0.010)	(0.010)
Sd	-0.029***	-0.027**	-0.027**	-0.026**	-0.026**	-0.023**	-0.021**
	(0.011)	(0.010)	(0.011)	(0.011)	(0.011)	(0.011)	(0.011)
Svg	-0.035**	-0.030*	-0.028*	-0.028*	-0.026*	-0.030**	-0.031**
	(0.016)	(0.016)	(0.015)	(0.015)	(0.015)	(0.015)	(0.015)
Court dep. FE	No	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	No	Yes	Yes	Yes	Yes	Yes
Laymen cov.	No	No	No	Yes	Yes	Yes	Yes
Case cov.	No	No	No	No	Yes	Yes	Yes
Country FE	No	No	No	No	No	Yes	Yes
Weekday*Court FE	No	No	No	No	No	No	Yes
Adjusted $R^2$	0.005	0.023	0.046	0.047	0.061	0.080	0.082
F-test	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Observations	15555	15555	15555	15192	15192	15192	14823

Note: All regressions include year\*court FE. Standard errors are clustered on judge. \*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ .



Table A.9: Approval rate, only unanimous cases

	M+S reference			M reference		
	(1)	(2)	(3)	(4)	(5)	(6)
V	0.013 (0.009)	0.013 (0.009)	0.018** (0.009)	0.016* (0.009)	0.016* (0.009)	0.022** (0.009)
Mp	0.015* (0.008)	0.016** (0.008)	0.018** (0.008)	0.019** (0.009)	0.020** (0.009)	0.024*** (0.008)
Kd	0.015* (0.008)	0.017** (0.008)	0.019** (0.008)	0.018** (0.008)	0.020** (0.008)	0.022*** (0.008)
Fp	-0.011 (0.007)	-0.012 (0.007)	-0.008 (0.007)	-0.008 (0.007)	-0.008 (0.007)	-0.004 (0.007)
C	0.020* (0.011)	0.019* (0.011)	0.020* (0.011)	0.024** (0.011)	0.023** (0.011)	0.024** (0.011)
Sd	-0.037*** (0.011)	-0.036*** (0.011)	-0.034*** (0.011)	-0.033*** (0.011)	-0.033*** (0.011)	-0.030*** (0.011)
Svg	-0.017 (0.015)	-0.016 (0.014)	-0.020 (0.014)	-0.015 (0.015)	-0.013 (0.014)	-0.017 (0.014)
S				0.015** (0.006)	0.015** (0.007)	0.018*** (0.007)
Court dep. FE	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	Yes	Yes	No	Yes	Yes
Laymen cov.	No	No	Yes	No	No	Yes
Case cov.	No	No	Yes	No	No	Yes
Adjusted $R^2$	0.021	0.043	0.075	0.022	0.044	0.075
F-test	0.001	0.001	0.000	0.001	0.001	0.000
Observations	14065	14065	13745	14065	14065	13745

*Note:* All regressions include year\*court FE. Standard errors are clustered on judge. \*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ .

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