

Between morality and the law: negotiating protection for queer asylum seekers in Niger's asylum administration

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ABSTRACT

Moral economies of asylum can be shaped by conflicts between legal norms to protect queer refugees and dominant heteronormativity. Beyond bureaucrats' own moral subjectivities, this article suggests that organizational designs and procedures importantly shape the way they resolve such moral conflicts. In contrast to the single-agent decision-making familiar in the Global North, many states in the Global South use inter-ministerial eligibility committees composed of multiple (non-)state actors for the asylum decision-making. This article provides the first ethnographic research on such a committee in Niger. I argue that when the first queer migrants sought asylum in Niger, this organizational structure allowed for the active negotiation of procedures with UNHCR, further investigations on an applicant's sexual orientation and gender identity by laypeople in the 'morality check,' and the weighing of normatively loaded evidence in the deliberation. Despite hegemonic heteronormativity, this organizational structure made protecting queer refugees to an object of negotiation and institutional emergence between these diverse actors, rather than precluding it from the outset. This suggests a relational, processual perspective on moral economies that centers procedures as a means of conflict resolution and their effects on the knowledge production of asylum seekers.

KEYWORDS

Moral conflict; LGBT refugees; national eligibility commission; externalization

1. Introduction

In 2018, Nigerien asylum officials were shocked when they were approached by queer migrants who wanted to apply for asylum. It was the first time they processed such cases. The officials wondered why they submitted their applications in Niger rather than in one of the more liberal countries in the region. Some officials feared contagion with what they considered a 'disease'. Queer asylum seekers told me that they had ended up in Niger, an important transit country between West and Central Africa and the Maghreb, after violent deportations from North Africa or getting stranded in the Sahara. Formally, protection for Lesbian, Gay, Bisexual, and Transgender (LGBT)

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refugees was possible in Niger. As one of few Muslim-majority states in Africa, it has not criminalized same-sex sexual activity (Mignot 2022, 121).¹ The country has also signed the Geneva and Organization of African Unity (OAU) Refugee Conventions and other international human rights treaties in support of LGBT protection (Koko, Monro, and Smith 2018, 161f; Mudarikwa et al. 2021, 14).² Nevertheless, as officials' initial reactions demonstrate, the state and society have largely taken to conservative gender and sexuality norms in the wake of the rise of political Islam (Manoël-Florisse 2023). Confronted with this moral conflict between dominant heteronormativity and international law, Nigerian asylum officials struggled to process the protection requests of the first queer applicants.

This article examines the role of the organizational structure and procedures for resolving the conflict between morality and the law in the asylum processing. Little is known about how global refugee law interacts with local norms in African asylum administrations (Maple et al. 2023, 3). Following the conceptual work of Didier Fassin (2015a, 9), a research perspective on moral economies can shed light on the way actors produce, circulate, and appropriate norms regarding asylum (Stielike et al. 2025). However, research on moral economies and the conflicts that structure them has centered individual agents' 'moral subjectivities' (Fassin 2015a, 9). This focus on the individual has largely neglected how multiple actors participate in the knowledge production and negotiation to resolve moral conflicts, for example between legal protection norms and heteronormativity. For the field of asylum research, the primary concern with the individual can be attributed to a Eurocentric bias in the case selection (cf. Bianchini 2021, 799). In many of the thoroughly studied Northern asylum decision-making models, individual agents adjudicate cases and, concomitantly, also deal with moral conflicts. In contrast, a report by the United Nations Refugee Agency (UNHCR) found that '[i]n many countries in Africa, Asia and Latin America' inter-ministerial eligibility committees are responsible for making asylum decisions. These committees include delegates from different state departments and often non-governmental organizations (NGOs) and civil society (Van Hövell et al. 2014, 37). UNHCR usually provides funding to these committees and has staff observe and accompany their everyday work (Van Hövell et al. 2014, 3). Given the lack of research on these organizational designs, little is known how these different (non-)state actors shape the asylum process. By providing the first in-depth study on such an inter-ministerial committee – Niger's National Eligibility Commission (*Commission Nationale d'Éligibilité au Statut des Réfugiés*, CNE) –, this article highlights the organizational dimensions of moral conflict resolution through multiple actors' knowledge practices. It renounces the 'individualist bent' in analyses of bureaucracy and morality (Eckert 2020, 10) by addressing organizational set-ups and procedures as means of conflict resolution (Elwert and Schlee 2015).

Furthermore, research on queer mobilities has called for destabilizing the racist trope of 'homophobic Africa' (Awondo, Geschiere, and Reid 2012) by examining practices of belonging, survival, and becoming in African states and societies (Cammaing and Marnell 2022, 13). Qualitative studies have addressed migrants' everyday practices of temporarily achieving 'eroticism, joy, and agency' in oppressive spaces (Marnell 2022, 49) and navigating the tension between discrimination and protection (Cammaing 2020; Gouyon 2022). A survey has portrayed the diverse views that African civil servants hold on LGBT issues, but qualitative research on their practices of interacting with and

protecting queer service users remains to be done (Meyer 2023, 189). Accordingly, this article moves the focus to civil servants' practices of resolving moral conflicts inside organizational structures and procedures. By portraying the Nigerien asylum administration as a complex site of negotiation and emergence, of protection and discrimination, it thus contributes to 'more nuanced theorizations' of queer South-South mobilities that challenge the trope of homophobic Africa (Camminga and Marnell 2022, 3).

Set in the Sahel in a period of substantive changes, the study narrows down on 2018–2019 when I conducted ethnographic research on the transformations of asylum in Niger linked to the European Union (EU) externalization of migration control and refugee protection (Lambert 2022, 2023a). These hardened Euro-African borders marked the beginning of queer asylum seeking in Niger, as queers sought refuge in Niger when their journeys were blocked or forcibly shifted South. While most migrants identified as gay or lesbian, the umbrella term 'queer' allows the inclusion of an array of non-heteronormative sexual orientations and gender identities (Camminga and Marnell 2022, 5). The fragile constellation of formal protection and anti-queer discrimination that I observed in this emergent situation may have substantially changed in the meantime, especially after the public ostracizing of queers in 2022 and the 2023 military coup that provisionally ended constitutional democracy.

This research approaches the relations of knowledge production and moral economies (Stielike et al. 2025) from a relational and processual perspective. I argue that the organizational set-up of the Nigerien asylum procedure integrated morally loaded evidence by different (non-)state actors into the making of procedures and the asylum decision-making process. This opening allowed asylum officials to do three things: to actively negotiate the procedures for new applicant profiles with legal experts and UNHCR, whose staff closely observed and accompanied everyday work processes; to include neighbor testimonies on an applicant's sexual orientation and gender identity in the police investigation of 'the morality check'³ (*Enquête Administrative (de Moralité)*); and to weigh conflicting evidence in the collective deliberation that preceded the majoritarian asylum decision. In a context of hegemonic heteronormativity, this organizational structure made protection for queer asylum seekers to an object of negotiation between these diverse state and non-state actors, rather than precluding it from the outset.

The article first discusses theories and methodologies to study moral conflicts in the asylum processing (2) and situates Niger's asylum procedure in its historical and political context (3). It then places migrants' evolving knowledge practices of (in-)visibilization in relation to borders and anti-queer discrimination (4). The article then examines how (non-)state actors negotiated the procedures for the first queer applicants (5), further investigated their queerness in the morality check (6), and weighed conflicting norms in the deliberation (7). The conclusion situates the results in wider discussions on moral economies and queer mobilities (8).

2. Investigating moral conflicts in asylum procedures

The organizational structure of asylum provides an important link between the moral economy of asylum and the knowledge production on queer migrants in asylum procedures. This section develops the central theoretical argument that the organizational structure of asylum shapes who can contribute which evidence and how it is processed

in the asylum decision-making and, ultimately, how moral conflicts are resolved. An anthropological perspective allows examining these negotiations and their underlying moral considerations as the process unfolds.

This article therefore extends the literature on the ‘moral life of the state’ (Fassin 2015). Rather than ‘rule-bound automatons’ (Eckert 2020, 9), asylum officials are influenced by moral sentiments, emotions, and affects (Affolter, Miaz, and Poertner 2019; Fassin and Kobelinsky 2012). As Fassin (2015b, 256) suggested, state practices toward marginalized groups are necessarily bound up with moral judgments and affects regarding the (il-)legitimacy of their marginalization. In the asylum procedure, eligibility staff assess whether applicants are deserving of refugee status and the associated rights and assistance (Stielike et al. 2025). Their moral judgements are embedded in the wider moral economy, which organizes ‘the production, circulation, and appropriation of values and affects regarding a given social issue’ in a specific historic and social context (Fassin 2015a, 9). In European moral economies of asylum, important values are refugee law, organizational rules, and moral sentiments like suspicion, compassion, or heteronormativity (Affolter, Miaz, and Poertner 2019; Fassin and Kobelinsky 2012).

In a perspective informed by the sociology of knowledge approach, these different norms are carried by the evidence produced by different actors that officials import into the asylum procedure (Schittenhelm and Schneider 2017). Such evidence can be asylum officials’ own professional knowledge, the refugee law, applicants’ asylum narratives, medical certificates by doctors, and country-of-origin reports by anthropologists. Confronted with such different norms, civil servants actively appropriate them. Ultimately, they may decide to act against widespread norms. These individual ethics or ‘moral subjectivities’ are situated within wider societal structures and play out particularly when different sentiments clash (Fassin 2015a, 9f.).

In global comparison, however, individuals may not be the ones to resolve moral conflicts. They may do so in single-agent decision-making models. In contrast, inter-ministerial eligibility committees – the dominant model in postcolonial and post-socialist states – integrate multiple (non-)state actors into the making and implementation of asylum procedures (Van Hövell et al. 2014, 37). This organizational structure points to two theoretical considerations for resolving moral conflicts.

First, organizational structures and procedures provide a framework in which actors negotiate moral conflicts through the evidence they mobilize. As anthropological studies of conflicts (Elwert and Schlee 2015) have suggested, procedures are important means for resolving them. In contrast to daily interactions, procedures have a clear form, sequence of action, and consequences. They require social embeddedness and tend to suspend physical violence (Elwert and Schlee 2015, 621f.). I suggest that organizational set-ups and procedures shape the way state officials negotiate moral conflicts, because they structure which morally loaded evidence is imported into the procedure and how it is processed.

Second, the organizational structure suggests a processual and relational perspective on institutional responses to moral conflicts. In the past four decades, case law and international negotiations have challenged the heteronormative character of international law, which largely excluded queer refugees from international protection. One outcome of these struggles was UNHCR (2012) guidelines. As a donor and ‘moral authority’ (Loescher, Betts, and Milner 2008, 94), UNHCR lobbies and socializes states like

Niger into applying these new legal norms, but cannot sanction them. When new applicant profiles arise, state actors might experience uncertainty and find little guidance in existing procedural rules. In such emerging situations, the involved actors mobilize and interpret global refugee law and local norms to determine the resulting procedures. Rather than explaining institutional stability and patterns as it is done in most bureaucracy studies, examining the making of institutional responses thus requires an attention to the ongoing negotiations between actors and their underlying moral and political considerations. This resonates with a relational perspective on the state as a ‘web of relations’ between actors with different resources who constantly negotiate power through representations and practices (Thelen, Vetter, and von Benda-Beckmann 2014, 7).

This interest in the emergent and its messiness can be captured by an anthropological approach. During a more expansive ethnographic study⁴ in the capital Niamey and the transit town Agadez in 2018–2019 (Lambert 2022, 2023a), officials and queer migrants brought up queer asylum in our conversations. While my positionality as a white female researcher from Europe invited liberal discourses, officials’ diverse stances on LGBT refugees drew a complex picture of protection and discrimination (cf. Camminga and Marnell 2022). I was there for over 13 months, and the palpable conservatism of Nigerien society, with its undercurrent of non-normative desires and practices, grew on me, allowing for a dual estrangement from the grand narratives of heteronormativity and ‘homophobic Africa’. Instead, I became attuned to subtlety, complexity, and emergence in the negotiation of moral conflicts on queer asylum.

The analysis draws on a participant observation in the CNE’s technical secretariat – the Refugee Directorate – and over 300 interviews with asylum officials, UNHCR staff, and asylum seekers processed under individual Refugee Status Determination (RSD). The data were updated with remote interviews in 2020–2021. While I remained barred from directly observing the asylum decision-making, I used interviews to reconstruct committee deliberations and the negotiation of procedures. All data were transcribed, anonymized, coded with MaxQDA, and subsequently triangulated. To further protect migrants’ identities, I use pseudonyms and omit identifying details such as their country of origin.

A relational and processual reading of moral economies as proposed in this article sensitizes researchers to the organizational mechanisms for resolving moral conflicts through multi-actor negotiations. To further illustrate this point, the next section introduces Niger’s asylum procedure and the multiple actors involved.

3. A multi-actor organization of asylum in Niger

Although Niger had signed the Geneva and OAU Refugee Conventions shortly after gaining independence from France in 1960, UNHCR had initially acted on its behalf. Only when refugee numbers and funding dwindled throughout the Sahel in the mid-1990s, did the UN agency seek to step back by holding Niger responsible for its international commitments. UNHCR persuaded the Nigerien administration to adopt domestic refugee laws (Assemblée Nationale 1997; Ministère de l’Intérieur et de l’Aménagement du Territoire 1998) and create institutions (Lambert 2023b). Around 2000, the CNE was created as an impermanent committee to adjudicate asylum claims and was attached to the Interior Ministry. Its technical secretariat – the Refugee

Directorate (*Direction des Réfugiés*) – continuously assures management, budgeting, and street-level contact with applicants.

The following procedure applies for individual asylum seekers.⁵ Upon presentation in the Refugee Directorate in Niamey (and since 2017 also in Agadez), an applicant completes a brief initial interview, composes an application letter, and is registered as an asylum seeker. Later, a police unit summons the applicant for a ‘morality check’ (see Section 6). Afterwards, eligibility staff in the Refugee Directorate conduct an eligibility interview with the applicant and evaluate the case. They then submit the complete asylum file to the CNE for decision-making. After studying the file individually, the 17 CNE members convene in a committee meeting to jointly discuss the case and then take a majority vote whether the applicant is deserving of refugee protection. A rejected applicant can file an administrative appeal at the four-member Administrative Review Committee (*Comité de Recours Gracieux*). A subsequent judicial appeal at the High Administrative Court (*Conseil d’État*) has not yet been implemented (for legal and procedural details, see Lambert 2023b). This organizational structure has two important implications for queer applicants. First, multiple (non-)state actors contribute their normatively loaded evidence to the processing. Second, judicial control of this hitherto purely administrative process is limited. Both factors facilitate the inclusion of extra-legal norms into the decision-making, including heteronormativity, but as I demonstrate in my analysis, also the balancing of conflicting norms.

Despite the handover in the 1990s, UNHCR has maintained and recently expanded its influence on the administration. It contributes about 90% of the budget, observes the decision-making, and diffuses its refugee protection norms through trainings and counseling. In 2016/2017, UNHCR established two EU-funded programs – the Mixed Migration policy and the Emergency Transit Mechanism – to reinforce refugee protection in Niger as a part of wider EU externalization policies seeking to curb African migration to Europe, here by providing refugee protection and assistance already upstream in Niger before migrants reached the Sahara. Despite increased resources, these programs had many unintended consequences on the ground. Nigerien asylum officials felt overcharged with an annual caseload that had spiked from 100 to above 1000 and they criticized UNHCR for undermining state sovereignty and for pressuring them into aligning with international norms (cf. Lambert 2022).

In this period of immense administrative change linked to the EU outsourcing of borders to Africa, the first openly queer applicants sought asylum in Niger. The following section addresses their evolving knowledge strategies of (in-)visibilization in the asylum procedure in relation to borders and anti-queer discrimination.

4. (In-)visibilizing queerness

Invisibility is often the default strategy for queer migrants in discriminatory contexts and expected from them, but not all queer migrants can or want to conceal their sexual orientation and gender identity in all contexts (Cammainga 2020). Based on the cases of two queer asylum seekers in Niger, I argue that concealing one’s queerness might prevent discrimination, while weakening the asylum claim. In contrast, visibilization risks violence and discrimination, but might improve the chances for resettlement.

Societies in present-day Niger have historically known queer identities, homosexual practices, and sexual fluidity (Gaudio 1998; Njoku 2022). Nevertheless, reports have documented the strong stigmatization of LGBT people in Niger today (Canada Immigration and Refugee Board 2017). Only eight percent of citizens and civil servants reported that they would accept having a homosexual neighbor (Meyer 2023, 186). This can partly be attributed to the prominence of political Islam since the 1990s. In their move for a (re-)Islamization and moral reordering of society, Salafi and Sunni actors of change have particularly targeted gender and sexuality norms (Masquelier 2020; Sounaye 2018). Despite the marginalization of non-normative sexual orientations and gender identities, the state has so far maintained the decriminalization of same-sex sexual activities for adults from French colonial rule (Mignot 2022, 130; Manoël-Florisie 2023).

In this paradoxical setting of formal legality and anti-queer discrimination, concealing one's queerness was a major social expectation. A Nigerien eligibility officer claimed that queers who locals identified as such were 'beaten up and threatened' (fieldnotes Refugee Directorate, 2019). His colleague similarly assessed: 'The society – if they find out, you might get problems. But there are many gays living in Niger' (interview Refugee Directorate-2). A UNHCR protection officer also assumed that queers could live securely in Niger if they did not 'shock the host population by disclosing their sexuality, by claiming rights' (interview UNHCR-2). This happened in 2022 when about 15 queer asylum seekers organized the first-ever LGBT rally in Niger. According to the journalist Moïse Manoël-Florisie (2023), their protest in front of UNHCR sparked 'public outcry' because the protesters were 'refusing to bow to local discretion'. Like in Western asylum systems (Wessels 2021), the heteronormative discretion requirement was a powerful logic in Niger that forced queer migrants into invisibility.

Among them was Patrick, whom I met in an NGO guesthouse for asylum seekers in Agadez. He quickly disclosed to me that he was gay. A few months ago, he had been violently deported from Algeria, where he had worked as a petty trader and been part of the local queer scene. Upon arrival in Niger, UNHCR staff informed him about the option of claiming asylum. He agreed, because a return to his country of origin or Algeria felt dangerous. In Patrick's view, Niger was safer, but did 'not know gays'. He thus decided to hide his queerness to stay safe. The concealment weighed heavily on him: 'What bothers me is that I don't live what I am. I don't live. [...] I live in prison.' The insecurity precluded making plans: 'I don't know the future, I am here.' In his asylum application, he explained, he had foregrounded a violent family quarrel, but left out that it was stirred by anti-queer sentiments (interview Patrick). Stripped of its legally legible content, his case seemed at risk to me. As another strategy of producing non-knowledge (Perkowski 2025), concealing one's queer identity and related persecution experiences could prevent anti-queer sanctions and violence in a moral economy dominated by heteronormativity. However, it also threatened Patrick's asylum case and exacted a heavy toll on his psyche and future-making.

In contrast to Patrick, Sylvie shifted from invisibilization to visibilization to escape sexual and homophobic violence via resettlement. She had fled severe anti-queer persecution in her country of origin and experienced sexual violence on the escape route. 'I made do', she fiercely stated. In a migrant ghetto in Agadez, NGO staff asked her whether she wanted to apply for asylum. She agreed, because she 'could not go further' as she lacked the means to pay for the journey to North Africa. In the eligibility

interview, she hid the reasons for her persecution and instead claimed affiliation with a minority religion. UNHCR transferred her to Niamey where she integrated into its small queer scene. When her asylum application was rejected, she filed an appeal again on the grounds of religious persecution. Then, she was threatened and beaten when she was seen in public with her female partner. After being raped in public, she was certain about leaving. 'I cannot stay here', she told me. She thus disclosed her homosexuality to the eligibility officer in the Refugee Directorate to ask for resettlement. In our interview, she recounted his strong emotional reaction: 'He was scared. I could see it in his face. He asked me to wait for the result of my appeal and hid inside his office room. He just left.' At UNHCR, she was several times denied a meeting with expatriate protection staff, who were the only ones she trusted to deal with queers (cf. Gouyon 2022). Having lost her hope in the asylum procedure, she worked long night shifts in a bar to save up for an irregular journey to Morocco or Algeria. With a monthly salary of 85 euros, making savings was difficult (interview Sylvie). When Sylvie shifted from invisibility to visibility to receive resettlement, she experienced administrative discrimination which barred her from including this new evidence in the appeal application. Remaining inaccessible, UNHCR was unavailable as an external moral authority to appeal to in order to rectify her rejection.

As these narratives suggest, queer asylum seekers adapted their strategies of knowledge production in the asylum procedure in relation to the materiality of Euro-African borders and the moral paradox between formal legality and anti-queer discrimination in Niger's moral economy of asylum. In contradistinction to Western imaginaries of queer African migrants (Camminga and Marnell 2022, 3), Sylvie and Patrick were not *en route* to Europe to escape homophobic Africa. They aimed for Algeria or Morocco with their promising economic opportunities and queer scenes, despite the existing anti-LGBT laws (Gouyon 2022). Both claimed asylum in an impasse in Agadez that resulted from hardened Euro-African borders. The EU-supported criminalization of migrant smuggling in Niger in 2015 had escalated the costs for migrants to reach North Africa and Algeria's illicit mass deportations pushed thousands of them back to Niger (Boyer, Tinni, and Mounkaila 2020). As an EU-funded 'humanitarian border', asylum in Niger presented a protection alternative and further containment mechanism in these border spaces (Lambert 2023a). The humanitarian border meant queer migrants applied for protection in a paradoxical setting of formal legality and rampant anti-queer discrimination with limited safety. As a default strategy for such conflict-ridden moral economies, concealing one's queerness weakened the asylum narrative and livability. Visibilization as its alternative could facilitate an escape via resettlement, but risked discrimination. In shifting the view to the knowledge practices of state officials, the following sections address their attempts of resolving the moral conflict between morality and the law linked to queer asylum applications.

5. Negotiating asylum procedures

When the first queer applicants sought asylum, civil servants in the Refugee Directorate hesitated to register them. In contrast to South Africa (Mudarikwa et al. 2021), Nigerien refugee law (Assemblée Nationale 1997) does not explicitly mention sexual orientation and gender identity as grounds for granting asylum. In this legal uncertainty, the

supervisors in the Refugee Directorate informally asked legal experts from their networks for advice. One of them recalled: ‘They hesitated a lot before they submitted these cases to the CNE. Some wanted to find a solution for these cases already at their level’ (interview jurist-1). In other words, some supervisors considered informal non-admission practices by not registering the applicants. Through informal consultations with legal experts, however, the supervisors ‘understood that they would risk breaking the law’ (ibid.). They ultimately decided to recognize the procedural rights of queer applicants to file an asylum application and have the CNE decide this moral conflict.

In parallel, UNHCR diffused LGBT refugee protection norms. Its protection staff lobbied state officials for implementing the UNHCR (2012) guidelines on LGBT protection and they trained and supervised them on the matter. However, they did not have sanctions at hand. To the regret of one UNHCR senior protection officer, UNHCR ‘could not do much about’ LGBT discrimination in the administration ‘except for sensitization and country of origin information’ (interview UNHCR-1). As Nigerien citizens, his colleague explained, asylum officials were ‘influenced by a cultural criminalization of homosexuality’ associated with Islam. They would have to exercise ‘exceptional detachment’ to bracket cultural norms in the eligibility work, and, as the UNHCR protection officer pointed out, ‘that’s not always possible’ (interview UNHCR-2).

UNHCR trainings strengthened legal arguments, but did not erase heteronormativity from the moral economy of asylum. Having received the UNHCR training, one eligibility officer reiterated what Sylvie and Patrick had told me: that queer applicants, when interviewed, would hide their histories of persecution for fear of discrimination. Therefore, this officer said, neutrality and open-mindedness were important qualities in an interviewer. When interviewers dressed as Islamic teachers (*ustaz*) with a beard and prayer beads – as did three out of twelve interviewers in the Refugee Directorate headquarters in Niamey – queer applicants surmised that they ‘might have a problem’ with their case. The eligibility officer also said he asked the applicant whether they had ‘a girlfriend or boyfriend’ to show ‘that I am open-minded’. Despite this awareness, he described homosexuality as ‘a disease’. Several other interviewers expressed such anti-queer sentiments to me (fieldnotes Refugee Directorate, 2019). One UNHCR senior protection officer also reported that queer asylum seekers felt stigmatized during the eligibility interviews (interview UNHCR-5). Such UNHCR trainings thus introduced and circulated LGBT (soft) law and interviewer ethics in Niger’s moral economy of asylum, but they would not destabilize hegemonic heteronormativity per se.

After eligibility officers had evaluated the first queer application, they submitted the file to the CNE in 2018. When the commission convened, protection staff from the Refugee Directorate and UNHCR opened the session with a briefing on queer asylum seekers and their legal and political context. Such briefings were a frequent practice when new applicant profiles had to be adjudicated. In the ensuing deliberation on the queer asylum seeker, as one CNE member reported, colleagues suddenly fell silent and closed their eyes in shock. Other CNE members expressed fears of contamination, moral consternation, and incomprehension as to why the applicant chose Niger as the host country. The CNE member I interviewed regretted the anti-queer course of the deliberation but felt powerless to defend the law in view of these strong emotive reactions. In the following vote, a majority rejected the case (interview CNE-1). In this first deliberation on an openly queer asylum seeker, adjudicators drew on a moral and

affective register that demonstrated their support for heteronormativity and silenced dissenting moral subjectivities in support of the law.

UNHCR protection staff closely monitored the CNE decision-making on queer applicants to develop an own response. Waiting for the first two appeal decisions, a UNHCR protection officer explained to me that if these appeals were rejected, then UNHCR would ‘be enlightened on the tendencies of the authorities’ to reject such cases ‘in violation of the conventions’. Then, ‘every time this profile appears’, UNHCR would conduct its own RSD under its ‘mandate to be able to resettle them’ (interview UNHCR-2). Instead of presupposing that Niger’s asylum administration would violate LGBT (soft) law, UNHCR protection officers carefully watched the emerging decision-making process and developed their own procedural rules in response.

In the following, UNHCR recognized select applicants under its mandate and submitted them for resettlement (interview UNHCR-4). As a scarce solution, resettling queers from African host countries produces new tensions (Camminga 2020; Gouyon 2022; Menetrier 2021). In Niger, some state officials supported resettlement to protect queer refugees (interview Refugee Directorate-1; fieldnotes Refugee Directorate, 2019). Others saw it as a disorderly procedure that subverted Niger’s sovereignty (interview Refugee Directorate-2) and incentivized deception in the asylum procedure for the purpose of traveling to Europe (fieldnotes Refugee Directorate, 2019). In the words of one UNHCR officer, resettling queers ‘facilitated the decision of the state’ of not granting them asylum (interview UNHCR-3). By removing queer applicants from the Nigerien jurisdiction and resettling them to allegedly queer-friendlier countries, UNHCR could appease the effects of hegemonic heteronormativity on the individual without transforming its dominance over the law in Niger.

The processing of the first queer applicants in Niger was a volatile process, because senior state officials perceived a challenging conflict between morality and the law. Their external interlocutors at UNHCR and among legal experts engaged in norm diffusion on LGBT protection and procedural rights, but barely got to the core of individual officials’ heteronormative sentiments. As an external protection alternative for limited cases, resettlement maintained the dominance of heteronormativity over refugee law in Niger’s moral economy of asylum. These moral economies of Niger and UNHCR remained complementary, if not competing (Stielike et al. 2025). Inside the asylum administration, registration, rejection, and potential resettlement remained tenuous and discretionary practices. As later cases suggest, some queer applicants received the refugee status (see Section 7). Others remained subject to informal non-admission and rejection, as they criticized at their 2022 rally (Manoël-Florisse 2023).

6. The morality check: investigating queerness

Applicants like Patrick kept their queerness invisible in the asylum application. A specific procedure with presumably colonial roots – the morality check – facilitated the exposure of their sexual orientation and gender identity against their will. In the morality check, an intelligence unit of the National Police collected further evidence about an applicant’s private life from their neighbors. Thereby, moral assessments by laypeople about someone’s sexual orientation and gender identity entered the asylum procedure.

The morality check occupies a central position in Niger's political life. Based on a bureaucratic assessment whether someone's morals are deemed 'good' or 'bad', it distributes rights like the refugee status and citizenship and regulates access to high political offices and the magistracy. In 2016, four out of 16 candidates were excluded from the national elections after the police had accused them of hypocrisy, egoism, resentfulness, difficult social relations, or vulgar language. This prompted the Constitutional Court to caution the police to properly establish facts, avoid vague conclusions, and reason coherently (ActuNiger 2016). These moral classifications directed at senior politicians testify to the moralization of politics and the policing of privacy in Niger.

I obtained permission to interview the police unit responsible for the morality check, the Central Service for Administrative Inquiries (*Service Central des Enquêtes Administratives*), via friends in the police. Its head unit, the General Intelligence Directorate (*Direction des Renseignements Généraux*), belongs to the National Police and is responsible for collecting intelligence to protect fundamental state interests, internal security, and defense. In a small office, a friendly officer explained to me that he first interviewed the asylum seeker about his or her past and collected police reports on them. In a next step, the officer visited the indicated vicinity to interview neighbors about the applicant. 'If you live somewhere, after a certain time your neighbors will know you and judge your behavior', the officer explained while he showed me an exemplary report adorned with a large stamp 'confidential'. The report condensed these findings to three pages and drew a conclusion whether the person under review 'had good morals' (*être de bonne moralité*). I saw a morality check expressing a 'favorable opinion', because the asylum seeker's social behavior was 'beyond reproach'. He enjoyed 'the esteem of those around him', was 'considered discreet', and showed 'respectful behavior'.

In contrast, the officer explained, he attested bad morals to an asylum seeker whenever he discovered a record at the Judiciary Police, or found an asylum claim to be unfounded. The same applied 'if you are a fighter or if you have difficulties integrating, like girls who do not dress correctly' (interview police-1). Several CNE members also mentioned homosexuality as a criterion for a negative morality check. Other reasons were conflicts with neighbors, violence, excessive drinking, theft, serious or repeated crimes, and gang membership (interviews CNE-4–CNE-6, CNE-8, CNE-11–CNE-13, CNE-23, CNE-26, CNE-27). While some of these practices fall under Niger's penal code and the exclusion factors in refugee law, neither homosexuality nor alcohol consumption, clothing styles nor quarrels are criminal activities. As moral offenses, however, they could still foreclose access to rights and status.

A second report I saw drew a 'medium conclusion' (*à toutes fins utiles*) as the officer explained. Their superior had asked them to avoid such ambiguous determinations, he added, and instead to opt for either good or bad morals. I later saw several of these vague classifications for male asylum seekers (fieldnotes Refugee Directorate, 2019). They testified to the difficulties that police officers faced when assessing someone's morals after a few interviews and archival checks in the context of constantly lacking police resources. In the face of such uncertainty, the officer could favor a third, less formal, and hence less consequential category.

Historically, the morality check presumably originated in French colonialism. At that time, the ruling Lieutenant Governor in Niger applied a similar procedure to assess indigenous staff (interview researcher-1). Similar examinations continue to regulate access to

offices, rights, and status in various former French colonies (Frère 2000; Nyama Ngam 2018). In our discussions, some asylum officials saw the morality check as going against the refugee law, undermining the quality of the decision, causing procedural delays, and intimidating applicants (fieldnotes Refugee Directorate, 2019; interviews CNE-5; CNE-6; CNE-11; CNE-13; CNE-23). Earlier initiatives to abolish it had been blocked by senior officials in the Interior Ministry (interview ex-Refugee Directorate-1). In 2021, the Ministry held onto it, to the consternation of UNHCR protection staff. They saw it as one of the ‘large flaws’ where the Nigerien asylum procedure did ‘not conform to international standards’. It presented an ‘obstacle’ for accessing asylum because it introduced moral values, especially around gender and sexuality, into the procedure (interview UNHCR-6).

Although partly considered legally problematic, the morality check represents an adaptation of a global refugee protection model to its local context in which third-person knowledge on applicants’ social conformity is valued. As a hitherto under-researched procedure common in states exiting French colonial rule, the morality check translates neighbors’ emotionally charged evaluations of an applicant’s morality into formal, anonymized asylum file knowledge, stripped of both authorial attribution and contexts of production. These bureaucratic classifications distribute rights differentially, but, as confidential assessments, remain inaccessible to the classified. As is the case for some naturalization procedures (Manser-Egli 2025), the morality check gives a formal place to moral sentiments in the procedure to determine an applicant’s fit with hegemonic societal norms. It further draws on laypeople’s testimonies whose expertise derives from spatial proximity and the insights it allows into an applicant’s everyday life with its routines and little escapes.

7. Deliberation in the CNE: weighing evidence

A negative morality check does not automatically result in a rejection. Instead, it is subject to deliberation in the CNE. The UNHCR report on such inter-ministerial eligibility committees suggested that the diversity of members could enhance pluralism and impartiality, while their complex set-up, frequent turnover, and members’ multiple responsibilities risked reducing the efficiency and quality of asylum decision-making (Van Hövell et al. 2014, 37). Some UNHCR practitioners and researchers have expressed doubts that collective deliberation enhances the decision-making (fieldnotes workshop, 2023). In contrast, I argue in the following that, as an autonomous procedure, the deliberation could change the outcome of the asylum decision-making. In the case of a queer applicant with a negative morality check, it allowed decision-makers to collectively weigh competing, normatively loaded evidence against each other and thus make their protection possible.

In comparison to other states (Van Hövell et al. 2014), the Nigerien CNE was indeed very diverse and large. Its seventeen members came from nine state departments, the Nigerien parliament, two humanitarian and two civil society organizations. They were jurists, police officers, decorated military servicemen, doctors, administrators, politicians, educators, and managers. These mostly senior officials had in-depth professional knowledge from their fields. In contrast to single-agent decision-making models, asylum adjudication was only a side activity for them (interview UNHCR-6). The CNE members

valued this diversity of views. For them, the CNE represented ‘all layers of the state’. They saw members as having different ‘sensibilities’ that contributed specific angles to the deliberation and thus enhanced the quality of the assessment (interviews CNE-1–CNE-29).

In the collective decision-making, the morality check was weighed against other evidence. Two CNE members spoke with me about the deliberation on the same asylum seeker. The applicant, in his own narrative and in line with Nigerien refugee law (Assemblée Nationale 1997, § 2), mobilized the generalized violence in his country of origin as a criterion for seeking refugee protection. In his morality check, however, the police attested him bad morals because his neighbors had claimed he was ‘gay’. In the deliberation, one CNE member therefore proposed rejection, as they had recently done with the first queer applicant. For my two interviewees, however, this case was different. One argued, in line with the discretion requirement, that the applicant had ‘hidden his state of whatsit’ in his narrative and therefore should not be rejected for something he had not disclosed himself (interview CNE-11). The second interviewee recalled intervening and foregrounding the criterion of generalized insecurity from the applicant’s narrative to argue for his refugee recognition (interview CNE-9). The violent conflict in the applicant’s country of origin caused concern and empathy among adjudicators. ‘It is not okay there!’, several CNE members exclaimed in our interviews (interviews CNE-6, CNE-9, CNE-13, CNE-15). Although some members seemed upset during the discussion, a nearly unanimous majority ultimately agreed with this reasoning and granted the refugee status (interview CNE-11). Only the initial contestor voted for rejection (interview CNE-9).

In this reconstruction of a deliberation, asylum adjudicators weighed various, morally loaded evidence, namely the applicant’s narrative and the morality check, to resolve the moral conflict between heteronormativity and refugee (soft) law. Without challenging the morality check’s claim that the asylum seeker was gay, most CNE members subordinated its relevance for the decision-making in relation to the applicant’s strong persecution claim based on country-of-origin evidence and backed by refugee law. In contrast to single-agent decision-making models, the organizational structure of the CNE thus supported deliberation and majoritarian tendencies as tools to resolve the moral conflict between refugee (soft) law and heteronormativity. These could be reconciled here because the applicant presented himself as a war victim and complied with the discretion requirement. His recognition ultimately also implied that the adjudicators, as part of the country’s political elite, accepted the presence of queer lives in Niger as long as they remained discreet.

8. Conclusion

For civil servants in Niger, the first openly queer asylum seekers posed a conflict between morality and the law, between heteronormativity and refugee (soft) laws on LGBT protection. Like in Kenya (Camminga 2020) and in contrast to Morocco (Gouyon 2022), LGBT people are not legally criminalized in Niger, but discriminated against. In this contentious context, civil servants, queer migrants, and UNHCR staff negotiated the procedures for queer asylum seekers.

By ethnographically tracing the making and evolution of this institutional response, I argue in this article that resolving this moral conflict did not only happen on the level of

individual bureaucrats' moral subjectivities. Instead, the organizational structure of the Nigerien asylum procedure drew many actors into negotiating the procedures and protection for queer applicants.

Queer applicants used (in-)visibilization as knowledge strategies in relation to borders and anti-queer discrimination, both weakening or securing their case, depending on the presence of an alternative strong persecution claim. When processing the first visible cases, senior protection staff in the Refugee Directorate reflected on adapting the procedural rules and consulted legal experts from their networks and UNHCR. In Niger's organization of asylum, UNHCR was not a distant United Nations body. Its protection staff closely observed, accompanied, and shaped everyday work in instances of norm diffusion. In case of rejections, UNHCR could resort to resettling a few and thereby secure their protection individually without undermining the dominance of heteronormativity over the law. In the morality check, a police intelligence unit introduced moral assessments by anonymized laypeople into the asylum file that could out queer applicants against their will and prevent their protection. Nevertheless, the decision-making CNE provided an instance of deliberation where seventeen adjudicators from different (non-)state institutions collectively weighed the different evidence from the asylum file and the norms they carried against each other, followed by a majority vote.

Beyond individual bureaucrats' ethical decisions, organizational set-ups and procedures constitute institutionalized means of conflict resolution. The materiality of asylum procedures facilitates the production and processing of specific, normatively loaded evidence, which can stabilize, transform, or evade moral economies. Accordingly, procedures direct the attention to the thus far marginalized role of central state officials in resolving conflicts in African bureaucracies (cf. Bierschenk 2017, 118). Inversely, organizational structures and procedures are the outcomes of earlier moral and political economies at a time when actors deemed their creation relevant. They or others might reconsider them, as in the case of the morality check, with evolving moral and political concerns. This dialectical relationship between moral economies and bureaucratic (asylum) procedures requires further investigation. A relational and processual reading of moral economies and their interaction with knowledge production in procedures as proposed in this article suggests an attention to the actor negotiations, uncertainty, and procedural innovation during emerging or intensifying moral conflicts.

This article therefore contributes to destabilizing the trope of homophobic Africa by pointing to the complex relations of discrimination and protection in an African asylum bureaucracy (Camminga and Marnell 2022, 13). Nigerien bureaucrats' fraught quest for navigating the moral conflict between morality and the law led both to practices of identifying and excluding, but also sometimes protecting queers. This complexity was mirrored by queer migrants' strategies of (in-)visibilization to navigate borders and anti-queer discrimination.

The article provides the first empirical insights into the RSD and organizational particularities of inter-ministerial eligibility committees. In light of their prevalence, researchers can draw relevant conclusions on refugee recognition in the postcolonial and post-socialist world from their organizational designs and decision-making practices, including the size and composition of the committee (notably regarding the inclusion of UNHCR observers and non-governmental, human rights, and security actors as members), its departmental affiliation, and the structure of the appeal.

Beyond the case of Niger, these results attune researchers to attend to the knowledge production, for instance on morality and the law, by specific actors that the organizational set-up of the asylum procedure facilitates. Investigating someone's queerness against their will might be easier in the Nigerien morality check, while single-agent decision-making models do without deliberation to countermand individual officers' stereotyping and societal power relations. Further research can also address the role of laypeople in formal morality assessments, such as the morality check, to differentiate rights and resources.

The volatile constellation of protection and discrimination that I witnessed in 2018–2019 in Niger came under attack in 2022 when queers were made hyper-visible in public discourse. Reminiscent of the 'threat entrepreneurs' in Germany (see Nieswand 2025), a Muslim student association publicly mobilized against the impunity of a lesbian couple and sparked a moral panic dominated by fears of contagion. In response, then-President Bazoum – during my study, the Interior Minister overseeing the asylum administration – announced draconian anti-LGBT laws in an alleged decolonization of adapting the current French-inspired penal code to the 'economic and social realities' of Niger (Manoël-Floris 2023). In 2023, the Bazoum government was ousted by a military coup. This departure from constitutional democracy has made human rights-based approaches to the protection of LGBT people ever more uncertain. With the majority of queer refugees living in the Global South (Camminga and Marnell 2022, 13), their partly deteriorating (in-)formal protection requires further critical attention by human rights advocates outside and inside of academia.

Notes

1. However, the minimum consent age for same-sex sexual activity is 21 years compared to 13 years for heterosexual acts (Manoël-Floris 2023).
2. Among them are the International Covenant on Civic and Political Rights, the Convention on Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, and the African Charter on Human and Peoples' Rights.
3. UNHCR (2012) used this English term. Nigerien refugee law alludes to an "investigation conducted by the president of the commission" (Ministère de l'Intérieur et de l'Aménagement du Territoire 1998, § 6).
4. Niger's Ministry of Higher Education, Research, and Innovation issued a permit to research 'the protection and assistance of refugees and migrants in Niger' between June 2018 and 2019.
5. Those numerous protection seekers from neighboring Mali and Northern Nigeria are recognized *prima facie* with group recognition procedures (Lambert 2023b).

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