

AALBORG UNIVERSITY COPENHAGEN

GLOBAL REFUGEE STUDIES

MASTER'S THESIS



ASYLUM SEEKERS AND THE DANISH SYSTEM

A POLICY EVALUATION

KANG NGITE NNOKO: 20130073

Supervisor: VIBEKE ANDERSSON

DECEMBER 2014

ABSTRACT

Denmark as another European nation facing the issue of immigration has a heated debate an issue as well as the refugee crisis. Denmark as a signatory to the 1951 refugee convention has to deal with the issues of asylum seekers flooding into its territory due to the wars, the spread in human rights violations, disasters occurring and spreading in our world today. This thesis addresses Denmark's policies towards asylum seekers in terms of protection. And no better tool to measure protection for asylum seekers than the Universal declaration of human rights.

This has been done through the examination of Danish asylum policies in protecting asylum seekers with respect to the right to seek asylum, freedom of movement, family life and family reunification, employment as well as non refoulement as a right to return them to a place of persecution with the use to Agamben's biopower theory to explain.

Also, this thesis addresses the recent influx of asylum seekers into Denmark according to the numbers in 2014 which rose dramatically as compared to the previous years. With the high debate and action on immigrations and securitization of borders both in Denmark and across the European Union, what factors are there that influence these asylum seekers to prefer Denmark as a destination to lounge an application to seek protection. Another theory, Anthony Giddens' structuration is applied to explain refugee movements as such explaining their destination to Denmark.

Keywords: asylum seekers, refugees, human rights, policies, destination.

TABLE OF CONTENTS

CHAPTER ONE: INTRODUCTION.....	5
1.2 Seeking Asylum in Denmark (Brief Overview).....	6
1.3 Significance and Justification of the Study.....	10
1.4 Problem Statement.....	11
CHAPTER TWO: METHODOLOGY	
2.1 Research Design.....	15
2.2 Structure.....	16
2.3 Limitations and Delimitations.....	17
CHAPTER THREE: LITERATURE REVIEW	
3.1 Rights Of Asylum Seekers.....	19
3.2 Policy	21
3.3 Destination.....	23
3.4 Citizenship.....	24
3.5 Denmark and the Dublin II Regulations, (an overview).....	25
CHAPTER FOUR: THEORITICAL FRAMEWORK	
4.1 Giorgio Agamben’s Biopower Theory.....	28
4.2 Anthony Gidden’s Structuration Theory.....	31
CHAPTER FIVE: ANALYSIS	
5.1 European Union Security Discourse and Policies on Migration.....	33

5.2 Refugee Rights In Denmark.....	35
5.3 Danish Asylum policies relative to the Refugee regime law.....	39
5.4 Disparity between the Treatment of Nationals and Refugees in Denmark.....	41
5.5 The Relationship between Public Opinion and Refugee Policies.....	44
5.6 Denmark and Non Refoulement.....	44
5.7 Denmark as A Preferred Destination for Asylum Seekers.....	45
CHAPTER SIX: CONCLUSION.....	50
BIBLIOGRAPHY.....	53

CHAPTER ONE: INTRODUCTION

The increased and widespread of instabilities across the globe since the last decade have sparked in the rapid increase of asylum seekers in recent times. Every year, millions and millions of people around the world are forced to flee their homes for either religious or political persecution, race, gender or ethnic conflicts as well as social status. Asylum seekers are persons who are seeking international protection but whose claims for refugee status have not yet been determined¹. According to the United Nations, the 1951 Geneva Refugee convention describes a refugee as someone “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership to a particular social group or opinion, is outside the country of his nationality and is unable or owing to such fear is unwilling to avail himself to the protection of that country: or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. People who have arrived in countries who are signatories to the refugee convention of 1951 regardless of their methods of entering that particular country are entitled to seek refugee protection².

Several potential host countries for Asylum seekers and Refugees (including Australia, Denmark, United Kingdom, and United States, among others) are institutionalizing policies that restrain the flow of these so-called migrants into their societies due to safety and security concerns. The European Union also resolved into securing its borders through tougher immigration policies and extraterritorial zones and regional protection plans by its member states.

There is much debate on what type of security discourse and policies affect migration in the EU. With many debates around the world and crisis especially with reference to how the events of 9/11 have had direct effects on EU asylum and refugee regime raising the issue of extraterritorial

¹ Definition of an asylum seeker available on <http://www.unhcr.org/pages/49c3646c137.html> accessed 10/11/14 at 19:21pm.

² Definition of a refugee according to the Geneva Convention of 1951 available on <http://www.unhcr.org/3b66c2aa10.pdf> accessed on 10/11/14 at 20:02pm.

processing/zones. Today most especially in European politics, issues such as immigration, war on terror and citizenship are hot issues which have further brought about extraterritorial zones and regional protection plans by various governments through policies.

Europe accounts for 80% of asylum applications in the industrialized world. The peak period for asylum applicants in Europe was in 1992(670,000 applicants) but fell in 2001(424200 applicants) and 2006 (200,000 applicants). After this period the numbers started increasing in successive years through 2012 and 2013 with the number of asylum seekers in 28 EU countries rising to almost 450,000, that's 100,000 a year before (i.e. 2012). Mainly due to the conflict in Syria (12%) which accounted for a high number of applicants and to a lesser extent Russia (10%), Afghanistan (6%) some western Balkan countries particularly Serbia (5%), Kosovo as well as other areas like Somalia, middle east countries like Egypt Pakistan and several African countries which were characterized by unrest and deteriorating situation for human rights namely Mali, Nigeria, Gambia and Eritrea. These applicants vary considerably across the EU with the highest asylum seekers in 2013 reported in Germany (about 127 000) then France (66 000), Sweden (54 000), United Kingdom (30 000), Italy (27 000) and Belgium (21 000). These six EU member states in 2013 accounted for close to $\frac{3}{4}$ of the total asylum applications in the region.³

1.2 SEEKING ASYLUM IN DENMARK (A BRIEF OVERVIEW)

Like other Scandinavian countries, Denmark is a small, highly developed nation based on cultural homogeneity and social trust. Unlike in 2005, with the reputation left by the Mohammed cartoon affair, Denmark has cultivated an image of tolerance with a universalistic welfare state with high levels of public provisions (education, pension, holiday money health care unemployment benefits etc.) to all its citizens and other residents in Denmark including refugees and immigrants. Over the last 35 years or more, Denmark's population can be accounted for by immigrants and descendants of immigrants. Coupled with both World Wars which brought many refugees around Europe and especially in the 70's seeing Denmark accepting some 1000 refugees annually then the Cold War and continuous conflicts in the Middle East led to the

³Asylum statistics from Eurostat:
http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Asylum_statistics
accessed 15/09/14 at 14:09

arrival of many refugees in more recent times especially from countries like Afghanistan, Iran and Iraq. Over time, both policy and perception have been changing today becoming more difficult for refugees and immigrants to gain residence in Denmark yet the growth rate has increased steeply every year since the 90's⁴.

Denmark is a member of the EU with a population of approximately 5.5 million people and its official language is Danish. Every foreigner has the right to apply for asylum when present in Denmark as established by EU law as well as Danish Law. The Immigration Service (Udlændingetjeneste) - a department within the Ministry for Refugee, Immigration and Integration Affairs is responsible for processing asylum applications. Two prominent NGOs involved in the asylum procedure in Denmark are the Red Cross (Røde Kors) and the Danish Refugee Council (Dansk Flygtningehjælp) as well as The National Aliens Division of the Danish Police are also involved (with the registration of asylum seekers and responsible for rejected asylum seekers)⁵. These spotlights about the country present Denmark like a safe haven for anyone who wants to escape danger in their home country for protection abroad. How these factors (good or bad), interweave to influence refugee related issues in the country and their impact on refugees from the time they make Denmark as a choice to seek refuge to the time they receive the final decision on their case from the Danish Authorities constitutes another knowledge that will be further observed in the analysis.

1.2.1 Procedure:

This section is to give an overview of the asylum process in Denmark. How it works and is practiced. There are various forms of protection any one can receive in Denmark. An asylum seeker must meet up with the conditions of the UN Refugee Convention or of the Danish Aliens Act for Protection Status. These forms of protection include:

- i. **Refugee status** (Asyl/konventionsstatus): In accordance with the UN refugee convention, an asylum seeker has a well-founded fear of being persecuted in his/her country of origin for reasons of race, religion as well as political group or opinion; the Danish authorities

⁴ Hedetoft, Ulf. 2006, Denmark: Integrating Immigrants into a Homogeneous Welfare State.

⁵ Dublin national asylum procedure in Denmark.

may grant him/her protection as a “refugee”. In the Danish alien’s Act in paragraph 7(1), this status by the convention is known as the K status⁶. The refugee convention involves the principle of non- refoulement which means no one should be returned to persecution. The Danish government has signed several conventions to prohibit torture, death penalty inhumane and degrading treatment. The immigration act which protects this is in the Alien’s Act paragraph 7(2) known as the B status.⁷

- ii. **Subsidiary protection** (Beskyttelsesstatus): If an individual is at risk of a death penalty, torture, degrading as well as inhumane treatment or punishment if he/she returns to the country of origin- due to other reasons than the ones defined by the refugee convention he /she can be granted “protection status”. The Danish government as defined in section 7 of the Danish Alien Act is required to do so in line with International Conventions such as the UN Convention against torture and the European Convention on human rights.

- iii. **Humanitarian residences permit** (Humanitær opholdstilladelse): Lastly, if the asylum seeker suffers from a serious psychological or physical illness and cannot receive the required treatment in his/her country of origin or in another scenario, if the applicant concerns a family with young children who come from a country at war. He/she can be granted a humanitarian resident permit as defined in the Danish aliens Act in section 9b 1.⁸

Below is a diagram to better illustrate the asylum process in Denmark⁹

⁶ Facts on refugees in Denmark available on <http://refugeeswelcome.dk/en/facts/> accessed 03/10/14

⁷ Ibid

⁸ Dublin II national asylum procedure in Denmark.

⁹ Flyers from refugees welcome Denmark also available on <http://refugeeswelcome.dk/en/facts/> accessed 03/10/14

THE ASYLUM PROCEDURE IN DENMARK

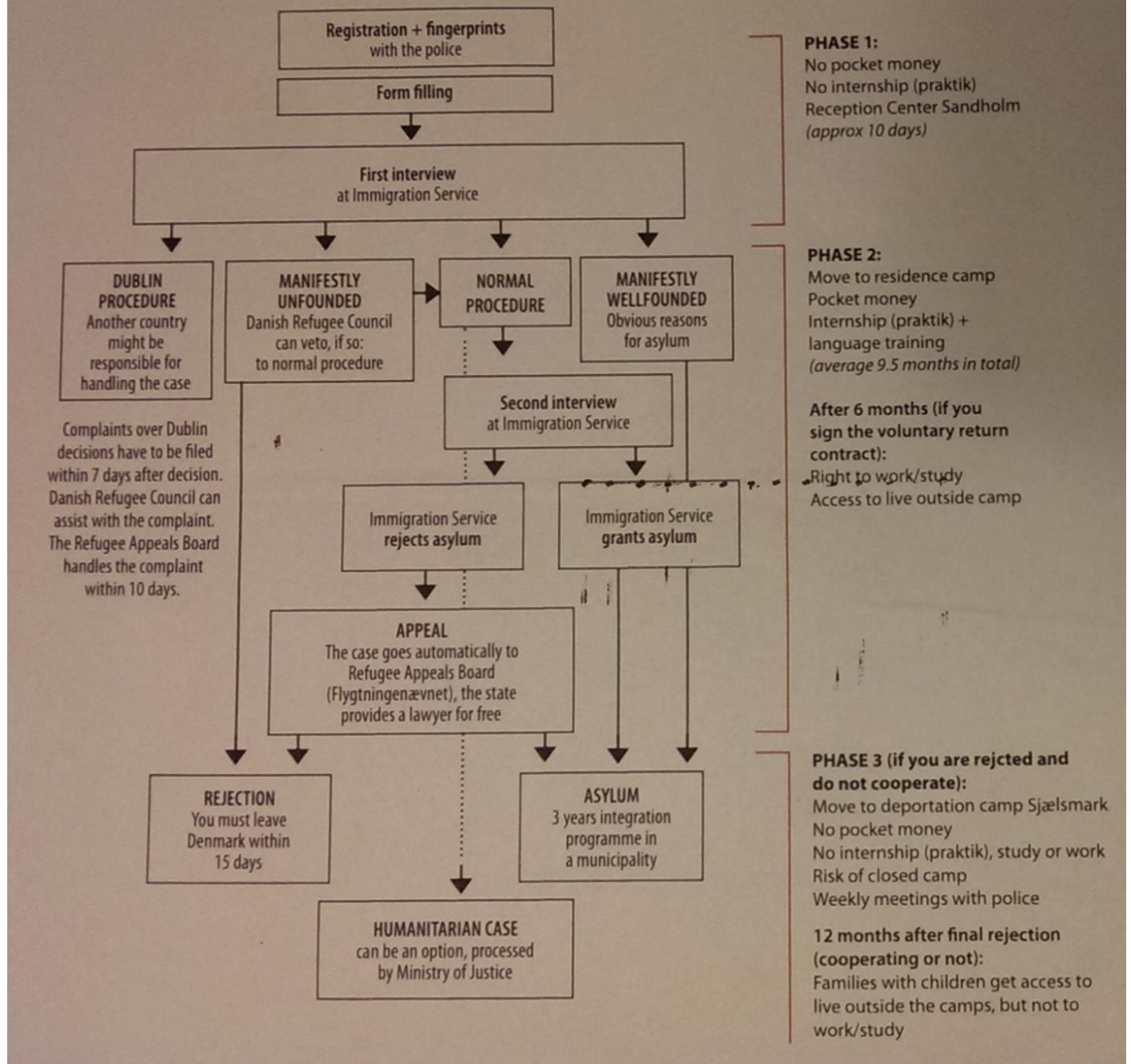


Fig1:

When the asylum seeker wishes to apply, he /she will be transported to the Sandholm Accommodation Centre where the police will interview him/her mainly about his/her identity and travel route into Denmark assisted by an interpreter. The applicant will be photographed as well as fingerprinted. After this registration with the immigration authorities the applicants will receive a card with their picture on it and an alien ID number (udlændingenummer).

Denmark as a member of the EU has adopted the Dublin Regulation meaning if the applicant has been in contact with any other authorities of the EU before coming to Denmark he/she will be transferred to the country he/she was first registered. Hence the immigration service will first check if any other country is responsible for examining the applicant's asylum application.

1.3 SIGNIFICANCE AND JUSTIFICATION OF CASE STUDY

Besides the primary aim of this study which consists of providing plausible answers to the thesis' questions, this thesis also highlights its significance in that it could contribute towards the adoption of a fresh polity on the management of refugees in Denmark. Moreover, bearing in mind the increasing presence of Denmark on the world stage and her drive to be one of the world's future major destinations (be it for business, tourism or academics), such study might enable Denmark to set the pace for an entire new framework for handling migration related issues in general and refugee-related dynamics in particular. In addition, this study area is a highly debated issue and still provides plenty of room for research; especially considering that refugee receiving countries are continually being presented with new challenges in terms of security, globalization, socio-economic crisis and political upheavals. These new dynamics therefore create a scientific vacuum that needs to be filled in a bid to uncover new challenges faced by refugees in order to raise awareness and for the government to adopt adequate measures that seek to provide satisfactory answers to fresh dilemmas without breaking national and international rules.

1.4 PROBLEM STATEMENT

These recent times, the question of immigration refugees and asylum seekers has occupied the minds of both educational discourse as well as states. While the politics of fear concerning these groups of people is a major tool for their dehumanization, as such most of them find themselves in detention centers, camps where their rights are being stepped on¹⁰. On the other hand, despite these harsh immigration laws and the aspects of extraterritorialisation, liberal and humanitarian discourses of citizenship portray refugees and asylum seekers as victims, being human beings in need of help and who have to be taken care of.

The problem with refugees and asylum seekers is an example of what Social scientist term “wicked problems” and at the same time “tamed problems”. Wicked problems because of their interdependent and complex nature meaning any actions put forward to tackle them often lead to important unintended consequences, as opposed in some cases to “tamed problems” whereby though technically complex to solve but however these problems can be tightly identified and defined and solutions to them developed. Often policy makers bear in mind, vital interest their states have in maintaining as well as strengthening the rules(international rules) governing these issues bearing in mind human rights, their relationships between states as well as liberalization of the global economic system¹¹.

¹⁰ ZEMBYLAS M (2010) Agamben’s Theory of Biopower and Immigrants/Refugees/Asylum Seekers. Discourses of Citizenship and the Implications For Curriculum Theorizing

¹¹Douglas B and Wodak J.2013. Refugees and asylum seekers: Finding a better way. Contributions by notable Australians

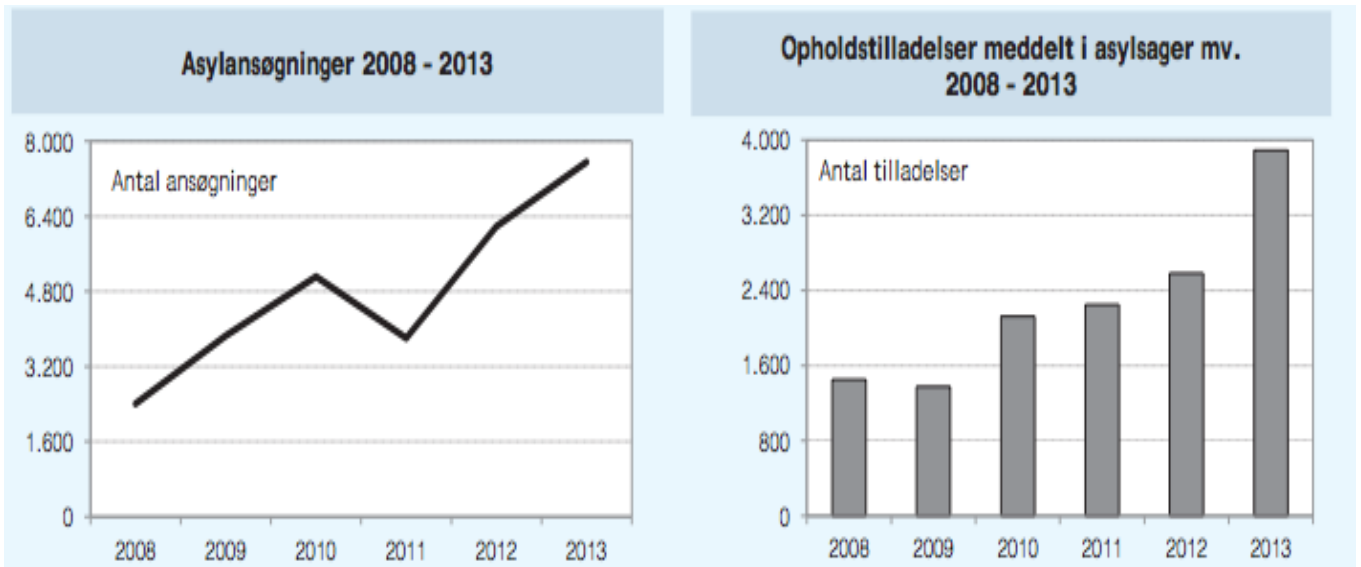


Figure 2: Statistics of Application and residence permit/Asylum in Denmark (2008-2013)¹²

From the figure above, it shows the steep rise in asylum applications in Denmark and according to Jylland post asylum seekers in 2014 have risen more steeply and are expected to rise to 20,000 as with the view of Attorney General Karen Hækkerup (S), who says “that’s why we’re tightening up significantly in asylum policy” due to the unexpected increase in the number of asylum seekers mainly from Syria. The statistics below show the monthly asylum numbers in 2014:

¹² Slides from lecture at Trampoline house. Copenhagen, Denmark by Michala Clante Bendixen on 03/10/14 at 17:00 pm

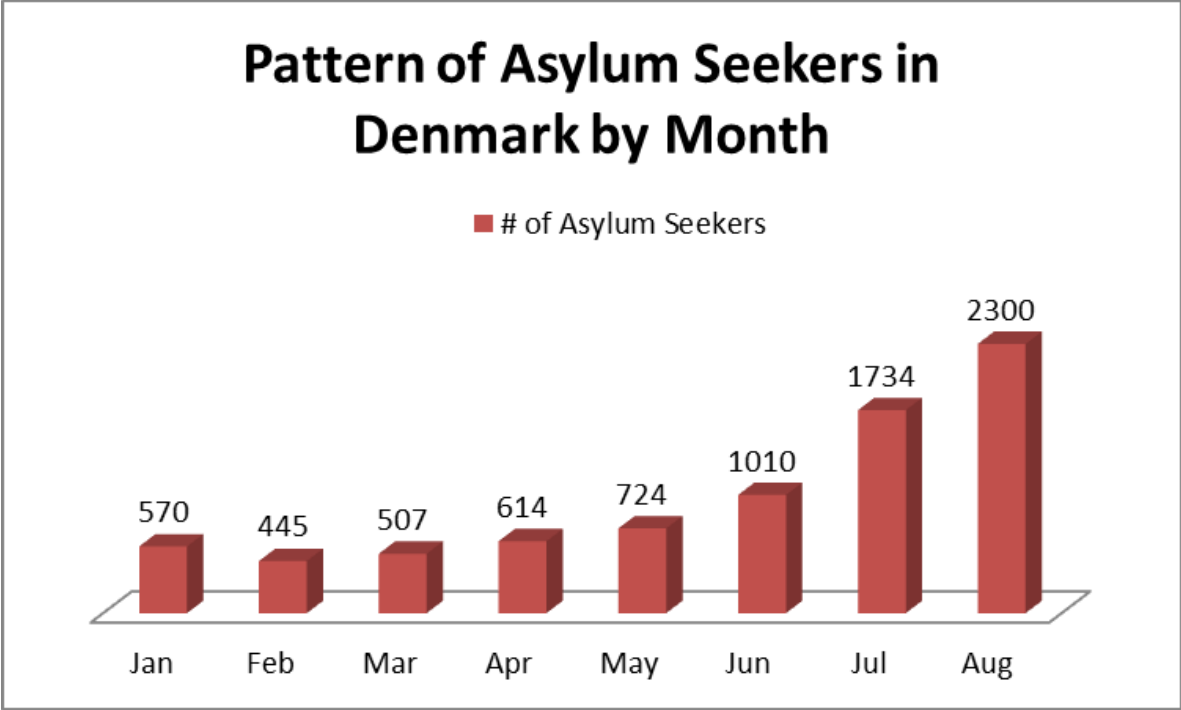


Fig 3. August: approximately 2300 (1135 from Syria)¹³

Considering the above rational, the purpose of this thesis is to analyze the Danish asylum policies and procedures considering the incentives, timeframe, requirements with respect to the asylum seekers themselves and in the process answer the following questions including the motives of seeking asylum in Denmark (if there is any):

¹³Kongstad, A, F., Cordsen, C and Jørgensen, S, A. 2014. Jyllands-posten online newspaper

1. How does the Danish Asylum system stand in terms of providing protection for asylum seekers?
2. Why do asylum seekers prefer Denmark as a destination?

When states implement security measures as well as immigration laws, there's no distinction between refugees, asylum seekers as well as other migrants. Refugees fleeing their countries of origin are individuals whose human rights have been violated and are in need of protection especially internationally. This thesis is intended to put forth a comprehensive analysis that will look at the rights available to asylum seekers as indicated by the Universal Declaration of human rights as well as other human rights conventions and how through these rights the Danish asylum policies have been able to offer protection to the asylum seekers in Denmark. Also with the above statistic and information put forward above: steep increase in asylum applications yearly and the expected rise in the number of asylum seekers in 2014, more asylum applications in other Scandinavian countries like Sweden, how come asylum seekers will still want to come to Denmark and lodge an application, what could be the factors for their destination to Denmark.

CHAPTER TWO: METHODOLOGY

This chapter presents the methodological reflections of this thesis. Trying to explain the asylum seeker in the Danish System and policies for their protection under the UDHR as well as explaining why asylum seekers will want to come to Denmark.

2.1 RESEARCH DESIGN

Since my thesis was of a political nature trying to examine policies towards asylum seekers here in Denmark and time was of the essence so as to carry out a more qualitative approach in order to get in touch with many asylum seekers as possible to get them to trust me and open up about the topics of my investigation. This reason swayed me to concentrate more on secondary data with the use of the Desk review research method as the main method for this thesis, using a combination of critical literature review on knowledge of citizenship in order to identify the legal status of asylum seekers, policy towards asylum seekers, destination which explain movement of asylum seekers as well as refugees and the rights of asylum seekers as prescribed by UDHR and Refugee Convention of 1951.

The desk review method of research entails mostly the use of secondary data, most especially so as to familiarize with the background knowledge of the topic. Data acquisition from books, reviews, and analysis of statistical data, review of literature and review of relevant websites.

Chris Hart 1998¹⁴ considers a review of literature as carried out in this thesis as important because without it, the researcher cannot acquire an understanding of the topic, especially what the important issues are as well as what has already been written and done on it. He describes the review as a part of academic development of becoming an expert in the field, which demonstrates the researcher has studied the work with insight. In the analysis, the ideas of the literature review are identified and analyzed. For this reason, Chris Hart 1998 describes the review as it is not a continuous piece of writing, though having several sections with different concerns and structures, the main challenge is to enable the reader flows from one set of ideas to the next providing a systematic reasoning of the topic, I have identified as well as addressing the research question for my thesis.

¹⁴ Hart, C. 1998. Doing a Literature Review: Releasing the Social Science Research Imagination.

Apart from the main desk review research method for this thesis I also attended talks, seminars and met some amazing people (asylum seekers) in the process. Michala Clante Bendixen of refugees welcome Denmark gave me much needed insight and background and a feel of the Danish asylum system from the stereotypes to the complexities of system and a lot more information which is not included in the thesis. I would have loved to do an interview with her she was willing but we could not find the time.

2.2 STRUCTURE

This thesis consists of 6 chapters. Firstly, the introduction highlights the widespread in violence around the globe which has brought about the rising number of refugees in need of protection and with the 1951 Convention of refugees that defines a refugee. These refugees are in need of protection and define an asylum seeker who is someone seeking protection and is awaiting a decision. With the general view of many countries instituting policies that restrain the flow of asylum seekers due to safety and security concerns highlighting facts from Eurostats with the EU accounting for the majority of asylum applications launched across the globe and the ever increasing nature of these asylum applications. Also in the introduction, the procedure of seeking asylum in Denmark is explained especially with the grounds and statuses to obtain asylum in Denmark (including a diagram from refugees welcome to better illustrate the process), then the research question is brought to light.

Secondly, chapter two contains the literature review. The literature review which will be used in the analysis looked at the rights of asylum seekers as defined by the Refugee Convention and the Universal Declaration of human Rights and elaborating on issues such as Citizenship, policy and Destination as concerns refugee movements. Anthony Richmond's Reactive Migration model is explained to describe refugee movement.

Chapter three entails the methods used to carry out this thesis and chapter four consist of two theories which seek to help understand and answer the research questions. Giorgio Agamben's Bio power theory will be explaining the first research question and with his concepts of bare life, inclusion/exclusion, ideas on human rights and state of exception will describe how politics affect human rights. The concept of sovereign power and its decisions in the state of exception

and the idea of modern politics of today. With this theory, I will be describing the aspect of fearism whereby the asylum seekers are seen in a fearsome light and bring the notion of security with the state politicizing their lives thereby reducing them to bare life. Agamben concludes with the idea of a call for politics beyond human rights. Also the second theory in this thesis will be Anthony Giddens' structuration theory to seek to explain the second research question on the choice of Denmark as a destination for asylum seekers. His ideas on the recursive nature in which human actors carry out social activities. As agents of their own actions, they produce these activities themselves making their activities possible. He also highlights the aspect of human knowledgeability and its involvement in action. Humans as actors know their surroundings and as well are knowledgeable of the conditions and social reproductions of their activities. Finally Giddens brands humans as purposive agents saying they have reasons for their activities and can give accounts of these activities. These ideas help to understand why asylum seekers will purposefully decide to move to a particular destination (Denmark). Concluding chapter four, Richmond's reactive migration model is described to throw more light to explain refugee movements.

Moreover, chapter five will be using the literature review together with the theories to analyze and answer the research question and lastly the conclusion chapter with my views.

2.3 LIMITATIONS AND DELIMITATIONS

This thesis as earlier mentioned is carried out with the use of the desk research method using mostly secondary data which includes using already available texts and sources from both books and the internet. The limitations associated with it. Researching without moving from a desk sounds like a reasonable limited activity. With the age of the Computer and internet has opened up a vast amount of data and information available to everyone as well as going to the library to physically extract information. This method of research is cost effective. Concerning the data most literature available focused on Denmark but gathering data on destination or refugee movement was not easy because little has been previously researched on this particularly in Europe so with guided ideas of great minds I used in my literature review on destination, policy, influence of family friends and compatriots I bring my own analysis of why I think asylum

seekers will want to still come to Denmark. On the protection of asylum seekers as prescribed by the UDHR, a lot of data was at my disposal, with all liberal governments in the EU especially Denmark signatories to many conventions and their policies with the Danish Act, newspaper articles on day to day and party debates on policies related to asylum seekers. I had much to select through since immigration is a hot topic and as established in this thesis securitization of borders was a great issue and debate.

Agamben's theory of bio power is used to explain the first research question of examining Danish policies in the protection of asylum seekers in Denmark as prescribed by the UDHR. With his concept of bare life, inclusion /exclusion, state of exception and sovereignty explains and relates to asylum seekers in the Danish approach to asylum seekers in Denmark and using this theory fits well in Agamben's ideas as elaborated in chapter four. The second theory, Giddens's structuration theory which explains the second research question uses agency, knowledgibility, purposefulness to explain why asylum seekers will resort to Denmark as a destination. Giddens feels humans are knowledgeable; meaning have information of things especially in the surroundings and can account for their actions. With my reasons outlined in the analysis as to why asylum seekers will come to Denmark are backed up by Giddens's structuration theory.

CHAPTER THREE: LITERATURE REVIEW

In this section of literature review which I will use in my analysis will be looking at the rights of the asylum seekers as defined by the Refugee Convention and most importantly the Universal Declaration of Human rights. Also, elaborating on policies towards asylum seekers themselves since this thesis intends to look at how Danish asylum policies have protected these asylum seekers. Again though this thesis is not about citizenship, it is difficult to separate the state activities towards asylum seekers without establishing their legal status in their host countries and how differently they are treated from the citizens of their host countries. Also destination, as concerns refugees movement is looked into with reference to Anthony Richmond's reactive migration model, all of these subsection will be used in my analysis. Lastly an overview of the Dublin II Regulation.

3.1 RIGHTS OF ASYLUM SEEKERS

The right to seek asylum is not only backed by moral force but goes unchallenged in international law and such right is a fundamental human right and as such affirms it a binding international principle. States have been granting protection to many people and groups fleeing persecution for decades. The very essence to protect refugees is to protect human rights, asylum seekers as well as refugees are supposed to be treated appropriately not only with the refugee regime law but most importantly with human rights values. The refugee crisis after the World Wars gave rise to the Universal Declaration of Human Rights¹⁵ especially article 14(1) which guarantees the right to seek asylum in other countries which was adopted in 1948. In 1951, the UN and its members gave birth to the international convention relating to the status of refugees known as the Geneva Convention and in 1967 the protocol relating to the status of refugees in New York. However, both treaties came after the end of the two world wars which had plagued the world with rising number of refugees but the first international treaties on behalf of asylum seekers was made in the seventeenth century in 1648 with the Peace treaty of Westphalia.

¹⁵ UDHR document including Article 14(1) available at <http://www.un.org/en/documents/udhr/index.shtml#a14>

Article 33(1) of UN Convention relating to the Status of Refugees covers the prohibition of expulsion or return (refoulement) of refugees or asylum seekers. This is a basic principle of refugee law, it states that no contracting state shall expel or return a refugee in any manner whatsoever to the frontiers territories where the life or freedom of a refugee would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion¹⁶. This does not however mean the refugee or asylum seeker is guaranteed to be granted asylum in any particular country¹⁷. Non-refoulement is universally acknowledged as a human right as well as stated in several human rights treaties such as in the American Convention on Human Rights in Article 22(8)¹⁸ and also the Convention against torture in Article 3¹⁹. Amnesty international recognizes Denmark's efforts in observing the non refoulement principle²⁰.

The inability to return to one's country is the basis of an asylum claim. Freedom of movement for the asylum seeker is another right. Article 13 of the UDHR states "Everyone has the right to freedom of movement and residence within the borders of each state" and "Everyone has the right to leave any country, including his own and to return to his country. As such asylum seekers can leave their countries but are not entitled to enter other countries which require movement across international borders which are restricted. But however when they do enter their host country, they are required freedom as stipulated in Article 26 of the 1951 Refugee Convention that states shall afford refugees the right to choose their place of residence within the state and move freely within the state while Article 28 obligates states to provide travel documents to refugees permitting them to travel outside the state unless for reasons of national security or public order is otherwise required.

Right to family life this extends protection to refugee families who have been separated and wish to reunite. In Denmark, the rules to family reunification is quite different from other EU member states like the provision of the 24year rule, the association requirement, housing requirement and

¹⁶ UN Convention relating to the status of refugees Article 33.

¹⁷ Article 8 of Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol* available at <http://www.refworld.org/pdfid/45f17a1a4.pdf>

¹⁸ Article 22(8) of the American convention of human rights available on http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm

¹⁹ Article 3 of the Convention against torture available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

²⁰ Denmark: Amnesty International recognizes commitment to observe the non-refoulement principle available at: <http://www.amnesty.org/en/library/info/EUR18/001/2011> accessed 08/11/12

other special Danish requirements in order to obtain family reunification. In other EU states, members' family reunification requirement is 18 years but other members also impose a 21 year rule. This means foreigners including refugees who have been granted a permanent resident status can demand family reunification status and a range of other rights as Danish citizens²¹

Other rights of refugees and asylum seekers include right to education, access to justice, employment and other privileges and freedoms similarly enshrined in both international and regional human rights treaties. Refugees are to be granted equal treatment with nationals as concerns wages (Article 17), property rights (Article 13) and Article 16 stipulating refugees are to be granted equal access to courts.

3.2 POLICY

Lavenex 1999 is with the view that many domestic regimes held the liberal view on migration rooted in the belief of a citizen's right to choose freely where he or she wants to reside and it is this liberal approach that established an international regime for the protection of refugees within the framework of the UN designed to provide relief for peoples whose basic human rights and fundamental freedoms were being violated in their own countries. At the domestic level these were implemented as asylum laws and many western nations enshrined the right to asylum in their national constitutions. With the events of the cold war, many persons emigrating from central and eastern Europe were all welcomed by the West as fighters of liberty and were accepted as refugees under the asylum scheme, today western regimes have undergone a profound transformation²² .

The "about turn" in the west's migration policies can be traced to the economic recession in the mid -1970's with many nations revising their approach to economic migration in light to rising numbers of asylum seekers and changes to asylum policies. Since the mid-1980's efforts to

²¹ Miles L., Wivel A. 2013. Denmark and the European Union P73

²² Lavenex S 1999, Safe Third Countries: Extending the EU Asylum and Immigration Policies to Central and Eastern Europe. p 1-2

combat illegal immigration and to reduce the number of asylum seekers have been coordinated at the EU level and now Asylum policies are an integral part of EU policies²³.

Asylum policies in Scandinavia countries since the 1980's have gone through a series of changes. Particularly in 1983 Danish foreigners' law was considered "the most liberal law in the world". Since then Denmark has repeatedly tightened asylum and immigration policies. From an EU perspective, Sweden has the most liberal asylum policies currently while Denmark the most restrictive while Norway sits somewhere in-between these two countries. The difference is clear with the amount of refugees accepted into their respective countries. Frøy Gudbrandsen in KorKut U et al, 2013 continues with the opinion that there is a relationship between public opinion and refugee policies to account for these numerous changes in asylum policies in various countries. This comes to the impact of public opinions on immigration where governments respond to public opinion such as immigration issues is less predominant in Norway and Sweden while in Denmark it is been a persistently important issue. This analysis suggests that the probability of asylum policy restrictions is higher when public opposition toward immigration increases²⁴.

The opt out²⁵ presents Denmark with its freedom to pursue their own policies from other EU member states and however Denmark has used this freedom with regards to shaping its own asylum and immigration policies. The Danish People's Party explains the value of the opt-out: "No supranational or international body should impose a particular refugee and immigration policy on Denmark. Who and how many we wish to let into our country are to be entirely the internal affairs of Denmark. The Danish People's Party will fight to ensure that refugee and immigration remains an area where the Folketing is sovereign". (Dansk Folkeparti 2004)²⁶.

²³ Ibid

²⁴ KorKut U et al, 2013. The Discourses and Politics of Migration In Europe P136-137

²⁵ In response to Danish no-vote in Maastricht referendum in 1992, Denmark was granted four opt-outs from European cooperation including defense policy, Economic and Monetary Union, justice and home affairs and union and citizenship. Available in http://www.eu-oplysningen.dk/emner_en/forbehold/ accessed 10:00am on 9/11/14

²⁶ Miles L, et Wivel A. 2014 Denmark and the European Union P72

3.3 DESTINATION

With the ever increasing globalizing world with millions of people not leaving out refugees are constantly on the move. The asylum policies in the various countries could play a role as to the destination of asylum seekers. Amelie F, Constant A. and Zimmermann K (2013) put forward this notion after asylum applications were analyzed from the perspective of receiving countries around the globe. This view went to examine if filing asylum applications went hand in hand with policies or rather if asylum policy influences the volume of asylum applications. Although other factors do influence the destination of asylum applications such as the presence of family and friends in the destinations countries, asylum policies as well as labor market conditions have a big effect on their destinations. In some studies focused on major asylum policy reforms in a single country using time series analysis found that policy reforms in Switzerland(1990) had an adverse effect on applications, Germany policy reform in 1987 and in 1993 when the Basic Law was revised both had a huge negative effect on applications. Also with the tightening of asylum policies in Australia in late 2001 reduced asylum applications by more than half²⁷.

The decision to move may be arrived at after due consideration of all relevant information, well examined including both material and symbolic advantages and on the other hand an asylum seekers decision to move may be made in panic during crisis that does not give them too many alternatives but a route to escape the situation at hand as explained by Anthony Richmond in his concept of reactive migration, is one of the several attempts to explain refugee movements. Here he differentiates underlying causes from proximate conditions and triggering effects with an important addition of the fact that not all conflicts results in refugee situations. Richmond argued that refugees could resemble migrants by anticipating trouble and getting out early, his framework of proactive versus reactive migration explained his ideas. At the end of the proactive spectrum conditions for refugees to move were based on all relevant information and rational calculations to maximize the best possible advantage and are taken with so much freedom while the reactive end refugees make decisions in a state of panic this type of situations leave few choices but an escape from intolerable threats²⁸

²⁷ Amelie, F., Constant A. and Zimmermann K 2013. International handbook on the economics of migration

²⁸ Van der erf, B., Heering L, 1995. Causes of International Migration p 204

The crucial role of agent or smugglers (who are often highly knowledgeable) in asylum seekers journeys and destination is important to be highlighted. From the aspect of greatly influencing the destination of asylum seekers in relation on even deciding on the particular destination for them (their destinations chosen for them). This varies greatly on financial resources available to the asylum seeker, their capacity to pay and the time available to plan (such as travel documents for those who have and those who do not given access to alternative routes)²⁹.

Gallagher A.T et David F 2014 are of the view human smugglers play a critical role in assisting refugees reach safety. Escape from persecution is only possible with the help of smugglers. States characterize smuggling as a criminal act as well as migrants/refugees as criminals who are a threat to public order and the state's security. Who are(the state) are inevitably preventive towards it in the sense that they seek to ensure by all possible means the migrants as well as asylum seekers do not enter the state of destination this is justified and explained by the externalization of border controls. This fear is not without foundation since asylum can only be sought once the asylum seeker reaches his/her destination(outside their country) so states have the effect of continuously strengthening border controls which are detrimental to asylum seekers since they close off the chance to reach a country they can claim and receive protection³⁰

3.4 CITIZENSHIP

According to T H Marshall in Dwyer 2003³¹, citizenship is a status bestowed upon those who are full members of a community and all those who possess the status are equal with respect to the rights and duties with which that status is endowed. The main focus of this thesis is not about citizenship or nationality. The idea of human rights which governs the rights of asylum seekers as well as refugees focuses on persons and not citizens' rights but it is important to illustrate the political nature of being a refugee or an asylum seeker and to note that however the legal doctrine of sovereignty links refugees and asylum seekers rights to the nation through principle

²⁹ Pinks H. 2013. Destination anywhere? Factors affecting asylum seekers' choice of destination country. Research paper available at http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1213/13rp01

³⁰ Gallagher A.T et David F 2014, The International Law of Migrant Smuggling. p11- 13

³¹ Dwyer P, 2003. Understanding Social Citizenship. Themes and perspectives for policy and practice

especially in the refugee convention denoting their rights and legal obligations of states towards asylum seekers. As established that it is a right to seek for asylum, this at the same time does not mean the state on its part has to permit entry for refugees and asylum seekers or an obligation to process them. Kneebone 2009 continues with the notion that the right to freedom of movement is a qualified one, in which international law privileges nationals and individuals lawfully within the nation ahead of non- nationals. This territorial sovereignty states exercise over outsiders ensures the notion of a boundary is a practical obstacle to exercise the right to seek asylum. The legal status of refugees and asylum seekers as illegal immigrants or non- citizens are often central to any states response. Many states refer to them (refugees, asylum seekers as well as immigrants) as “aliens” or non-citizen aliens. The legal status of these illegal immigrants and asylum seekers as non-citizens is often central to state responses in many countries with policies which run counter to the rights of asylum seekers directed at border controls and the problems associated with illegal migration. Kneebone 2009 continues to explain that this means through these policies asylum seekers and refugees are defined into any national legal system as outsiders by way of exclusionary inclusion (as non-citizens they are defined by way of exclusive rather than inclusive)³²

3.5 Denmark and the Dublin II Regulations, an overview

The Dublin II Regulation is a framework for determining States responsibility for investigating asylum applications. Originating in 1985 along with the Schengen Agreement which created a single territory of five States without internal borders among member states, but only a single external border where all scrutiny relative to immigration would be carry out; the Dublin II Regulations in ensuring free movement of persons also highlighted measures that consider asylum and immigration as key components apart from border control. The convention that set the regulation into force also highlights the need for rules relative to the determination of the responsibility for processing asylum applications, and was signed in mid of 1990 by the then 12 members States, which excluded Denmark³³.

However, due to the duplication of provisions in both the Dublin convention and chapter 7 of Title 2 of the convention that was implementing the Schengen Agreement; led to the signing of

³² Kneebone S 2009, *Refugees, Asylum Seekers and the Rule of Law: Comparative Perspectives*

³³ The Dublin II Regulations, A UNHCR Discussion Paper (April 2006) by Laura Kok

the Bonn Protocol by the latter. Similarly, during the Amsterdam treaty of 1999; issues concerning visa, asylum and immigration and in general free movement of persons were highlighted. This led to the adoption of specific asylum instruments including the criteria and mechanisms through which to determine the responsible Member State to handle asylum applications submitted by national of third country. Nevertheless, following a long debate concerning the approach of the Dublin Convention, and the resistance to the change of approach; the Council proposal which is termed Dublin II Regulations was adopted on February 18, 2003. The Regulations was entered into force on March 17, 2003; and covers all applications lodged as of 1 September 2003. However, Denmark was not bound to it because it did not participate in the adoption. Nevertheless, it was only on April 1, 2006 after the European Community agreed through majority votes that the Regulations became binding on Denmark, Finland and Norway³⁴.

With three key objectives - to ensure that Asylum Seekers have effective access to procedures for determining refugee status, to prevent abuse of procedures in the form of multiple applications for asylum submitted simultaneously or successively by the same person in several Member States; and to determine as quickly as possible the Member State responsible for the examination of an asylum claim – the responsibility criteria were set in an orderly manner to the examination of claims for asylum. Under the criteria, member State responsibility to examine lies with:

- Where a family member of an unaccompanied minor is legally present provided that this is in the best interest of the minor.
- Where a family member of the applicant is residing as a refugee or as an asylum seeker whose application has not yet been the subject of a first decision regarding the substance
- That has issued a residence document or visa
- Where the Asylum seeker has entered the territory of the Member State illegally
- Which allow a third country nationals into its territory without a visa
- Where the asylum claim was lodge in an international transit area of an airport

³⁴ The Dublin II Regulations, A UNHCR Discussion Paper (April 2006) by Laura Kok

- Where the first asylum application was lodged, if none of the above-mentioned criteria apply³⁵
- Which is responsible for the largest number of asylum seeker family members or for the application of the oldest of them, if applying the other criteria would result in the family being separated³⁶.

Also, article 3(3) of the regulations provides member States the right in pursuant of their national laws, to send an asylum seeker to a third country in accordance with the provision of the 1951 Refugee Convention. However, several concerns have been raised by international agencies including the UNHCR regarding the regulations in general; specifically the responsibility and deportation clauses, and the credibility of system in member states that handles claims³⁷. There allocation for applications is imbalanced, with few countries taking large portion of the total number. Also, it places those countries on the frontier at risk of being responsible for more applications as they are the entry points of most illegal migrants.

Similarly, there are concerns about the unfair examining of asylum claims in order to deprive applicants all because of the provision that retained their right to send back as provided under Article 3(3) of the regulations. However, this very aspect contravenes the non refoulement principle which majority are signatories of. The Regulations overlay assumed that all Member States have the same standard of systems that would ensure the fair and speedy examination of applications, which is far from the reality. Also issues relative to what constitute family link, marital status, and status of family members varies according to national practices. These unsystematic approaches among Member States could be avenues for wrongly rejecting and sending an Asylum Seeker to a safe third country³⁸.

³⁵ Ibid

³⁶ The Dublin II Regulations, A UNHCR Discussion Paper (April 2006) by Laura Kok

³⁷ Ibid

³⁸ Ibid

CHAPTER FOUR: THEORITICAL FRAMEWORK

OVERVIEW OF THEORITICAL FRAMEWORK

In this section of the theoretical framework, the following two theories are being considered to help answer our research questions: Agamben's theory of bio power and the Giddens' theory of structuration. The Agamben's biopower theory will be looking at the rights of refugees with his contributions on the debates of effects on politics in human rights to explain my first research question on how the Danish asylum policies have been able to protect the asylum seekers. On the other hand, Anthony Giddens' structuration theory will explain the movement of refugees as well as draw on Anthony Richmond's model for migrants to seek to explain why asylum seekers still come to Denmark. As such, each theory is discussed below in depth in order to examine their relationship to the theme and research questions.

4.1 GIORGIO AGAMBEN'S BIOPOWER THEORY

Giorgio Agamben's analysis of bio power that builds on Foucault's previous writings is a theory which highlights how liberal and humanitarian ideas earn acknowledgement for the logic of abandonment, which he articulates in his concept of bare life and the camp. He describes when life is placed at the center of politics. This theory invokes addressing liberal and humanitarian perspectives in relation to issues of belonging, inclusion/exclusion, subjectivity of immigrants, refugees as well as asylum seekers. Also suggesting the breakdown of the distinction between human and citizen is at the heart of the problem faced by refugees as well as all other bearers of human rights. By engaging in this theory I will be analyzing Danish policies in the appropriation of protecting the rights of the asylum seekers as well as their policies towards them. With the aspect of fearism whereby this fear is not a personal emotion towards immigrants, refugee as well as asylum seekers it goes as far as political sentiments that are manipulated by politicians. This gives rise to a particular sense of belonging separating "US" (citizens of a particular nation) and "Them" (including immigrants, refugees and asylum seekers). This fear works by enabling some bodies to inhabit and move in public space and restricting "Them" such as when governments create policies to prevent illegal migration, as well as fraudulent asylum seekers from entering their countries. The media nowadays plays a crucial role in enabling this fear

aspect to the idea of these groups posing a threat to the wellbeing and security of a nation. Once they are seen in this threatening light, citizens and politicians tend to desire and demand their exclusion from the sphere of human values, moral values and civic rights³⁹.

Agamben's analyses is based on "Homo Sacer" a figure we are constantly told is obscure- the roman figure of the Homo Sacer or sacred man who is excluded from the laws, protection and hence may be killed without any consequences but may not be sacrificed ritually. He shows bare life as a status nothing more than a corpse, which is subject to external control still under the juridical but with no protection. Agamben's notion of bare life describes as those stripped from political significance and exposed to murderous violence saying bare life is both the counterpart of the sovereign decision on the state of exception and the target of sovereign violence. Simply he says bare life is the capacity to be killed⁴⁰. He argues that refugees can be seen as the ultimate bio political subjects, those who can be regulated and governed at the level of population in a state of exception outside the normal legal framework (the camp). Here these refugees are reduced to bare life, humans as animals in nature without political freedom⁴¹.

Agamben's state of exception includes situations where the state and its policies act exceptionally or are determined to be exceptional thereby requiring exceptional measures that are not provided by the existing public law. This is a paradox of modern politics where the law is suspended for the purpose of preserving the state and its system of laws from grave internal as well as external danger (the law is suspended so that the law could be defended). This modern way of doing politics Agamben describes has become a normal feature with even liberal states equally suspending rights and engaging in extra legal actions when the states determines its existence is at risk. He draws from Carl Schmitt's political ideology with the idea that it is the sovereign who decides on the state of exception.⁴²

Agamben argues that we continue to live in the auspices of a classical state which such characteristics of the state with the capacity to erase the boundary between normal and emergency and the tendency to transform society into a camp with its citizens reduced to bare life

³⁹ ZEMBYLAS M (2010) Agamben's Theory of Biopower and Immigrants/Refugees/Asylum Seekers. Discourses of Citizenship and the Implications For Curriculum Theorizing pg. 4-5

⁴⁰ Agamben, G. 1998. Homo Sacer. Sovereign Power and Bare Life

⁴¹ Betts A et Loescher G, 2011. Refugees in International Relations

⁴² Atasoy Y, 2009. Hegemonic Transitions, the State and Crisis in Neoliberal Capitalism pg 233

he gives an example with the growing tendency towards biometric registration of migrants at border crossings which he describes as tattooing of concentration camp inmates⁴³

Again, he is of the opinion that whenever refugees, asylum seekers and other disadvantaged groups of non-citizens are represented as a group rather than individual cases international organizations as well as governments have failed to find a solution to their plights notwithstanding all the declarations of their human rights. Differences are clear and singularizing or placing all immigrants/asylum seekers in the same category as if they all experience the same things.⁴⁴To get a proper insight of Agamben's ideas of human rights in his theory, we have to understand his notion of sovereignty and bio politics. He is of the opinion sovereignty has the decision (power) over life and this decision always produces bare life which can be exposed to violence⁴⁵

On the other hand according to Hannah Arendt as quoted by Ayten Gundogdu, Human right concept has been undermined from the very beginning by those who professed to uphold it. This is shown in their consideration of certain group of people (immigrants/ asylum seekers) to have lost all other qualities relative to relations except being a human being. This undermining of human rights have increasingly being questioned for masking a political power which present the immigrant/asylum seeker as a subject in need of political protection thus undermining the political project of collective empowerment⁴⁶.

Human rights have been criticized as a new form of power within the contemporary political environment where the focus of hegemony still dominates. This is assumed to constitute the "subjects in need of protection". However, this also undermines the efforts for collective empowerment which is embedded into concept of democratic governance. To this, Giorgio Agamben (as quoted by Atyen) claimed that this contribute to the production of lives exposed to violence, and subjected to sovereign power. This originates from the Universal Declaration of Human Rights which endorse the nation-state as the product of natural life. As such, it politicizes every aspects of life encompassing 'who is to be included in and excluded from citizenship';

⁴³ Heins V, 2005 Giorgio Agamben and the Current State of Affairs in Humanitarian Law and Human Rights Policy.

⁴⁴ ZEMBYLAS M (2010) Agamben's Theory of Biopower and Immigrants/Refugees/Asylum Seekers. Discourses of Citizenship and the Implications For Curriculum Theorizing pg. 8

⁴⁵ Gundogdu A, 2015. Rightness in the age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants. Pg 43

⁴⁶ Ibid. pg 40

resulting to “bare life” which is a life that is exposed to unpunishable violence as a result of being left at the mercy of ‘politics and nature, law and life, rights and facts.’ However to break the link of this human life from sovereign power; Agamben concludes with a call for politics beyond human rights to act as a link that holds human life in the grip of sovereign power⁴⁷

4.2 ANTHONY GIDDEN’S STRUCTURATION THEORY

Migrating is a bewildering process to understand. There is no limit of theories to use to explain why and where people migrate. Since migration differs for different groups of people over time and space and a particular theory cannot explain all of them. In this section Anthony Giddens’ Structuration theory will be used to examine the movement of refugees and later explained in the analysis their reasons why they end up in Denmark to seek asylum. One of the main ideas of this theory is the idea of social practices ordered across space and time. These social practices also human social activities are produced by human actors and are recursive in nature meaning they are not brought into being but are continuously recreated by them through the means by which they express themselves as actors. By so saying through their activities agents produce and reproduce the conditions that make their activities possible. This he describes as the concept of human knowledgeability and its involvement in action, which humans are actors and they are knowledgeable of the conditions and social reproductions of their everyday activities and surroundings. Giddens continues to say to be a human being is to be a purposive agent who has reasons for his or her activities and is able if asked to elaborate discursively about these reasons including lying about them but stressing on the fact that terms such as purpose motives as well as intention should be treated with caution because their use in the philosophical literature has very often been associated with a hermeneutical voluntarism and also because they disengage human action from the context of time and space. These reasons he calls the rationalization of action⁴⁸

Giddens consistently links agency to structure through his idea of rules and resources. When actors create society or activities they do not do so from scratch they take from or draw up from

⁴⁷ Gundogdu A, 2015. Rightness in the age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants.

⁴⁸ Giddens A, 1984. The constitution of Society: Outline of the Theory of Structuration Pg. 2-3

pregiven resources such as things known, as well as from the information available to them (stock of knowledge), morals (value systems) and lastly power also described as patterns of domination and divisions of interest⁴⁹

Richmond also uses Giddens' structuration theory to explain the movements of refugees. Richmond based his notion that individuals are social actors and at the same time the creators of social systems yet created by them. Richmond uses Agency in his model. He explains that social structures such as the nation state both compel and enable human agents. He describes the decision to migrate is subjected to the structuration process like all human behavior and with this view refers to refugees as expellees, that they are knowledgeable agents who are not simply expelled or forced to migrate as a result of the way society evolved but rather had choices and decided to move or act on it even if their acts were limited. Richmond explains two extremes in the migration process, at one end the decision to move may be made due to consideration of all relevant information, carefully calculated to maximize net advantage both material and symbolic rewards and at the other end the decision to move may be made in a state of panic facing a crisis situation which leaves the individual with few choices but just to escape from the intolerable situations. Proactive migrants have a choice and can decide on the destination, purpose length as well as timing of their moves while reactive migrants on the opposite end respond to social, political and economic and environmental where they have little control in choosing their destination. He places refugees as reactive migrants.⁵⁰

⁴⁹ Waters, M, 1994. Modern Sociological Theory p4 41

⁵⁰ Maeder P, 2011. Forging a New Heimat. Expellees in Post- War West Germany and Canada p 30-31

CHAPTER FIVE

ANALYSIS

The analysis that follows in this section of the study is completely based on secondary data. A number of key areas have been identified and put in the form of themes for a comprehensive analysis while focusing on the problem that the study aims to address.

5.1 European Union Security Discourse and Policies on Migration

In recent years, With the events of the train bombings in Madrid in 2004 and the London bombings in 2005 as well as other failed bomb attempts in Germany and other EU member states the EU has engaged severely in the fight against terrorism as well as organizing its resources to deter migration by establishing exclusion practices at its borders as well as within its territory. Jef huysman is of the opinion that migration is politically constructed to address the issue pertaining to the security of European citizens where it is seen immigration policies are politicized which see asylum seekers as well as migrants identified as a challenge to the protection of EU identity. Presenting immigration as a security issue therefore results in the feeling of insecurity and establishing it as insecurity. Migration has more increasingly been presented as something bad for public order, cultural identity as well as for job stability with these process political actors in the EU migration policies tend to be restrictive in deciding the criteria for membership in European societies.⁵¹ This type of mindset therefore presents asylum seekers not as people in need of help but as a tsunami of desperate people and a potential danger to the public and social order. The outcome of such conception does not only arguably defeat the purpose of seeking asylum even before a formal application is filed but has the tendency to transform good intentions to bad when given the barest opportunity. The one reason which could help to explain such transformation on the part of the refugees is based on their understanding that they are viewed as foes not friends. The need for survival or the desire to be recognized as equal humans could help explain why some refugees or asylum seekers sometimes resort to violence, mob, protest or various acts that go against the law.

⁵¹ Karolewski, I. P, 2010. Citizenship and Collective Identity in Europe

The EU created a number of specialized agencies⁵², agreements and regulations that handle immigration as a security issue in the domain of immigration control. On the path to more restrictive migration policies the EU steps in doing so was the Council Directive 2001/40/EC on mutual recognition of the expulsion of third country nationals. This directive was enacted in 2001 which notes the expulsion decision made by an EU member state can be implemented in any other state within the EU. Despite human rights rhetoric by EU decision makers they still lend towards restrictive policies.⁵³ While adopting common rules and regulations generally sounds good, some flexibility might produce different results when various countries are given allowance to take separate measures on very sensitive issues like asylum and refugee. The reason behind this thinking comes from the basic understanding that different countries have different dynamics that come into play; for instance the way nationals respond to foreigners differs from one country to another in the same way as the way refugees respond to challenges in their host countries differs from one country to another.

Moreover, this trend in the politics of migration sees the EU using biometric technologies to strengthen their search for migrants and asylum seekers. With this notion brings us to citizenship as “others”- aliens attempt to enter the EU. Agamben’s notion of the state of exception applies here to describe this aspect of migration policies towards migration and asylum seekers. The politics of citizenship as the state of exception includes the differentiation of qualified and unqualified persons and uses bio metrication for authenticating the legitimate and illegitimate migrants⁵⁴. It is worthwhile to recognize the importance of new discoveries in information technology and their crucial role in security. However, the one thing these technological innovations fail to do is being able to identify asylum seekers with legitimate intentions from those with ill-intentions without any shadow of doubt. Such reality has the tendency to transform the initial intentions of even the most legitimate asylum seeker from good to bad because once tagged as illegitimate in one European country, the same information is shared within the EU community, leaving little or no room for them to apply elsewhere without prior misconception.

⁵² Such as the Europol to monitor its policies with emphasis on cross border crimes which is believed to be situated in illegal immigration networks, smuggling as well as Frontex known as the agency for the Management of operational Cooperation at the External borders with it main objective to control EU borders.

⁵³ Karolewski, I. P, 2010. Citizenship and Collective Identity in Europe

⁵⁴ Ibid pg 148

This can sometimes times lead to frustration and how such frustration could transform weak-minded persons to become members of extreme groups is another story on its own.

Sandra Lavenex pinpoints the two faced migration discourse the EU portrays. She says the EU asylum and immigration policies are characterized by two policy frames that contradict themselves. On one hand, there is security as highlighted above and the other humanitarianism, while the security policies stress the importance to restrict migration into the EU and deter illegal immigration and asylum seekers from reaching their borders the humanitarian frame embodies the human rights principles of freedom of movement as well as refugee protection⁵⁵. Be it for security reasons or for humanitarianism, the bottom line of such contradictions as rightly noted by Lavenex makes such policies sound like pushing asylum seekers to a journey of no return with nothing but a map, but without a host.

5.2 Refugee Rights in Denmark

Human beings inherent human rights just because they are human beings, whatever the nationality, race, sex, place of residence, colour, or any other status. Everyone is equally entitled to human rights without discrimination and these rights are interrelated, interdependent as well as indivisible (the improvement of one right facilitates the advancement of the other as well as the deprivation of one right negatively affects the others). Universal human rights is expressed and guaranteed by law in the form of treaties, international law and Governments act in certain ways or refrain from certain acts in order to ensure and protect human rights and fundamental freedoms of persons or groups⁵⁶. While enacting laws that guarantee rights to human and their free movement sound great, the rights have to be implemented by humans. In contrast, counter laws get enacted that work against those meant to protect asylum seekers and refugees. This further complicates the plight of this group of persons especially when it comes to undeniably sensitive legislations on issues like national security.

The primary source of refugee rights here is derived from the Universal Declaration of Human Rights which Denmark is a signatory to as well as a signatory to the 1951 Convention of

⁵⁵ Ibid pg. 148

⁵⁶ <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>: accessed on 25/11/2014 at 22:58pm

Refugees⁵⁷. As specified in the case of refugees the responsibility to ensure their rights are upheld resides on the country of asylum.⁵⁸ It is interesting to note that this universal declaration was made at an epoch when there were no serious threats as witnessed today. With new international dynamics, a new world order, globalization, population growth, various crisis and other socio-cultural and political concerns, it might be proper to consider a revision of some legislations to fit in the present world context that guarantee the protection of asylum seekers and refugees without undermining public safety and national security.

Right to freedom of movement as stipulated in UDHR as well as article 26 of the 1951 Refugee convention. This right is subject to any regulation applicable to aliens in a particular territory. Kneebone 2009 is with the opinion of sovereignty creating boundaries especially for non-national to move freely in another state. Describing freedom of movement as a qualified right by so being an obstacle to right to seek asylum altogether. Most refugees are often forced to arrive Denmark as well as any destination illegally, unlike national or any other migrants many asylum seekers do not have and cannot obtain passports or visas for free movement so they are detained. Detention does not require being jailed but it is confinement within a narrowly bounded or restricted environment which includes prisons, camps etc. this detention occurs when resolutions to asylum applications are pending as well as rejected asylum seekers awaiting deportation.⁵⁹ It is important to note that taking a decision to leave one's usual place of abode is not an easy one. It is also important to note that such decisions generally come in times of intense insecurity and political instability that leaves no room for any formal planning. Besides, the process to obtain travel documents is often lengthy and therefore strenuous in some countries, even in times of relative calm. Thus rejecting an asylum application on grounds of non-legal travel documents may be legally binding but humanly unsound.

⁵⁷ Denmark is a signatory to the 1951 Convention of Refugees document available at: https://treaties.un.org/pages/ViewDetailsII.aspx?&src=TREATY&mtdsg_no=V~2&chapter=5&Temp=mtdsg2&lang=en accessed on 25/11/2014 at 23:15pm

⁵⁸ Feller, E et al, 2003. Refugee Protection in International Law: UNHCR's Global Consultations on International Protection on pg 35

⁵⁹ Jastram K et Achiron M, 2001. Refugee Protection: A Guide to International Refugee Law also available on http://www.ipu.org/pdf/publications/refugee_en.pdf accessed on 28/11/14 at 22:00pm

In Denmark, the Aliens Act⁶⁰ does not specify a maximum length of detention but it does require a court to revisit the detention orders whether to extend it and if so the court will again determine the time limit for continued detention. Independent observers have criticized Denmark on their detention policy⁶¹. When one flees from danger, their aim is to seek refuge but when long sought sanctuary is replaced with detention or imprisonment, it sounds more or less like running from death to death. Such understanding serves to underpin criticisms from independent humanitarian groups.

There are quite a few detention centers in Denmark with a concrete example being Sandholm Centre which is run by the Red Cross since 1986. However the Sandholm press department kindly reiterates the fact that the center should not be described as a prison or detention center but a reception and departure center for asylum seekers and refugees⁶². While others wait at the center while their asylum applications are being processed, others wait to be deported while others are caught up in bureaucratic purgatory⁶³. Also, according to police guidelines some categories of persons are exempted from detention e.g. women asylum seekers with minor children but maybe asked to report to the police at fixed times and only when the asylum seekers fail to comply with instructions from the police then detention will be imposed.⁶⁴

The right to family unity is essential particularly for asylum seekers (that has been granted refugee status) as well as established in international law. The respect for family life is widely respected across the EU. Most restrictions on family reunification often relate to the length of residence, employment status, access to housing and other requirement. In Denmark an

⁶⁰ The Aliens Act was originally passed in 1983 but has been amended several times since then. Its contains Denmark's principle immigration rules, including grounds for expulsion and detention of non-citizens because of their status

⁶¹ Denmark Detention Profile available on:

<http://www.globaldetentionproject.org/countries/europe/denmark/introduction.html#c2859> accessed 28/11/14 at 22:30pm

⁶² <http://www.cafebabel.co.uk/society/article/refugees-and-fllesskab-in-denmark-ales-from-sandholm-camp-for-asylum-seekers.html> accessed 02/12/14 at 1854pm

⁶³ No response yet from the authorities on the status of their asylum applications and the waiting periods is not specific some individuals have spent up to 10year in waiting

⁶⁴ Hughes j, Liebaut F. 1998. Detention of Asylum Seekers in Europe: Analysis and Perspectives. p 317

individual with permanent residence can apply for family reunification after three years of permanent resident status (including refugees who have been granted refugee status).⁶⁵

Back in 1983 the family reunification policy was very liberal not only to asylum seekers but to all immigrants with legal status in Denmark with an automatic right to family reunification. This changed in 1992 with the automatic right being removed and the family reunification law tightened with the “bread winner” condition introduced (this was in terms of money and size of residence) and other requirements to the couple’s affiliation to Denmark, number of siblings as well as children from previous relations⁶⁶

Moreover with regards to employment in Denmark, the asylum seeker is over 18 years of age and he or she can apply to the Danish Immigration service to grant and offer of employment which he or she can hold up till they are granted a residence permit or leave Denmark or deported. They are entitled to be granted full or part time employment in any ordinary job with no public subsidy and their salary should be the standard salary under employment rules in the Danish Labour market (nondiscriminatory policy) but asylum seekers however are not allowed to run businesses on their own. The asylum seeker has to sign a contract with the Danish immigration service before they can begin any work and if they start working before signing this contract he/she may be fined or sentenced to about a year in prison and the employer may also be fined or go to jail for up to two years. Through an offer of employment the asylum seeker can apply for a resident permit if the job covered is on the positive list (jobs experiencing shortage of qualified professionals) he/she can apply for a resident permit on the grounds of obtaining this job as also if the asylum seeker is offered a highly paid job he/she can apply for a resident permit under the Pay Limit Scheme.⁶⁷ Though this may sound as a lengthy and complex process, it encourages hard work, ingenuity, integrity and loyalty and this could be a major reason that pushes asylum seekers to seek sanctuary in Denmark. When viewed as a fat cat that needs to be milk-dry, it probably accounts for the expression of suspicion by nationals towards asylum seekers as well as crimes associated to refugees once they are granted legal status. The reason behind such mischief on the part of refugees could also come from the failure to consider Denmark as their permanent

⁶⁵ Documents: Working Papers, 2003 Ordinary Session (second Part), 31 March - 4 ... - Council of Europe: Parliamentary Assembly - .P 178

⁶⁶ Hedetoft U, 2006. Denmark: Integrating immigrants into a homogeneous welfare state

⁶⁷ Job prospects for asylum seekers available on: https://www.nyidanmark.dk/en-us/coming_to_dk/asylum/conditions_for_asylum_applicants/job_prospects.htm accessed on 01/12/14 at 00:29am

place of abode. Considering the above narrations, the issues of “belonging, subjectivity and inclusion/exclusion in citizenship” as highlighted do portray the scrutization of liberal and humanitarian perspectives that are presented in Agamben’s theory of biopower. The theory reflects that State desire to maintain control over its territory and population. In so doing, it employed International laws to legitimize its action relative to the execution of such control. Despite the resounding calls by those international laws for the respect of human rights, we still see the upholding of sovereignty as embedded in the notion of the Nation-state being used as the basis for the violation of these international instruments⁶⁸.

Similar to the liberal and humanitarian concept, the Politics of fear has led to the increased control and exclusion (such as isolation/detention, prevention of access to work, and basic services that are levied against migrants in general) are the results of negativities attributed toward migrants by the media and other public discourses. And these actions are being justified through the very international legal instruments that are supposed to protect the rights.

On the other, these stringent regulations and control are giving raise to the emergence of new practices and actions by migrants seeking asylum or refuge as presented in the “Duality of Structure” concept of Gidden’s Structuration Theory; which states that “rules and resources drawn upon in the production and reproduction of social action are at the same time the means of system reproduction”. This also implies that the treatment levied toward Asylum Seekers and Refugees, particular the high chances of rejection by immigration authorities have led to the increased in underground (illegal) activities which in terms do create issues of security⁶⁹.

5.3 Danish Asylum policies relative to the Refugee regime law

As mentioned earlier, upholding the rights to asylum is in essence subscribing to the Universal Declaration of Human Rights from which the refugee law originates. The current Asylum policies of Denmark aligned in part with the Dublin II Regulations which focuses on issues regarding security and crimes within the territorial borders and the concerns from the Danish people via public discourses which inform government policies formation. However, with the

⁶⁸ Chantal Thomas (Melbourne Journal of International Law) Vol 14

⁶⁹ Loshini Naidoo (2009)

concern for security and crimes; the Danish system has given particular interest to asylum rights through the framework of the Dublin II Regulations which seems to provide a way out for member states relative to the UDHR. Notwithstanding, the concerns from the Danish People's Party as explained above could be considered the bedrocks of the current asylum and immigration policies of the Danish State. Thus, owing to the relationship of human rights to power and sovereignty as highlighted by the biopower premise; Hannah Arendt argued that the very proponents of the concept of human rights are those who are likely to undermine the upholding. Thus, the Danish policies in comparative to the refugee law is said to be undermining the very rights they claimed to advocate for. Conversely, the undermining of the Human Rights concept; according Agamben contributes to the production of lives exposed to violence and subjected to sovereign power. The restrictions and violence levied against asylum seekers and refugees fulfills what Agamben called the placing of politics beyond human rights that exposed human life at the grip of sovereign power⁷⁰.

On the other hand, owing that humans are actors who are knowledgeable of the conditions and social reproduction of their everyday activities (Giddens, 1984) confirms the efforts by migrants to avoid being expose to those inhumane treatments. In so doing, the engagement in criminal activities in order to meet their livelihood becomes the only available option. Similarly, the agency concept as presented in Richmond's work on Structuration also explains the action of refugees.

⁷⁰ Gundogdu A, 2015. Rightness in the age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants. Pg 41

5.4 Disparity between the Treatment of national and refugees in Denmark

Traditionally everyone living in Denmark enjoyed being treated as equals citizens with the same political and social rights. But in recent years this traditional tendency of equal treatment vanished. It is equally important to draw attention on how and why Danish authorities began to treat refugees differently. The outcome from these treatments of refugees is social exclusion.

Firstly, the Danish law regarding decreased economic benefits for newly arrived refugees and immigrants known as Start Help or Introductory benefit. This law went under a series of changes⁷¹ as of the opinion of Frøy Gudbrandsen in KorKut U et al, 2013 who says public opinion influences asylum policies is visible with changes in the Start help law where the constant change of government which was democratically elected brought about the changes in the introductory benefit over time, these alternations to this law showed open economic discrimination towards newly arrived refugees in Denmark highlighting the insecure status and social citizenship of refugees in Denmark despite being a welfare state. The law gave social workers certain instructions to deal with newly arrived refugees such as how to establish job training, introductory programs, and language education and the benefits these refugees received from the government was much lower than the benefits for Danish citizens,⁷² reintroducing the idea of citizenship (in this case Danish citizenship) as an entitlement criterion for social benefits.

This law came as a result of tightening immigration policies as it is believed refugees migrate to Denmark so as to benefit from the generous social benefits the Danish welfare state is characterized with. And also with the continuous influx of many migrant from the 70's under the guest worker scheme due to labor shortages in Denmark. These guest workers didn't leave Denmark after that period as it was assume and as time went by their families joined them. Added to these immigrants which quickly grew, was the intake of many refugees into Denmark from Iran, Iraq and from Bosnia at the time and it became clear to Danish authorities something needed to be done since unemployment grew especially among ethnic minorities rather than the

⁷¹ In 1999 the law was implemented and lasted till February 2000 with a change and the same government reverting to equal benefits for all including Danes. The Liberal – Conservative government again changed the law in 2002, then the Social democrats came to power and reintroduced equal treatment for a second time.

⁷² Dominelli, L et Moosa-Mitha, M. 2014. Reconfiguring Citizenship: Social Exclusion within Inclusive Citizenship Practices pg 75

Danes themselves so the government felt the remedy was stronger incentives to work, so as to reduce their benefits and send them to work for it⁷³. The fact that humans generally tend to easily forget the generosity they have received alongside the fact that when people find themselves in extreme situations with no hope in sight, they resort to unorthodox means in order to create new avenues for survival stands as a justification for unwanted behavior from refugees. Similarly, a breakup of society often comes from the understanding or feeling by one community that they are unequally treated by the system that be. Whether intended or not, the end result of such observations have proven to lead to divisions, mutual suspicion, unruly behaviors and even the rise of right-wing nationalist groupings.

Also negative stereotypes of immigrants as well as refugees have been so common. They are branded “welfare scroungers” as well as “refugees of convenience” who just benefit from the Danish welfare state which is unfair since the benefits the welfare states provide was not intended for their benefits. At the same time both politicians and citizens are exaggerating the financial burden newcomers place on the welfare state. The annual fiscal burden is more than 500 billion Kroner while the cost for caring for asylum seekers is in the range of 10-15 million kroner, which is relatively small as compared to the fiscal budget which one third is spent on welfare programs⁷⁴. Public characterization of different peoples within the same society with a stereotype undertone is arguably unhealthy to social order, social justice and public security. When such laws come from the EU or New York, the blame can be shifted abroad but when it comes within, the first step in the right to take would be to acknowledge that a mistake has been done with a firm will to make corrections. It goes without saying that with the breaking of national boundaries and globalization, stereotyping or racial profiling is not sustainable.

Again there is this dichotomization of Danes and refugees in Denmark. A clear illustration was the case of the Bosnian refugees in Denmark during the Balkan war and the Danish media coverage of the war. This dichotomy increased even further during the war. On the political front it created big divisions especially when the law granting Bosnians to seek asylum in Denmark was passed in January 1995. The Danish population didn't want it, other politicians trying to sell

⁷³ Ghosh F et Jul S, 2008 lower Benefits to the Refugees in Denmark: Missing recognition available at <http://www.socwork.net/sws/article/view/94/383> accessed 27/11/14 at 6:30 am

⁷⁴ Hedetoft U, 2006. Denmark: Integrating Immigrants into a Homogeneous Welfare State available on <http://www.migrationpolicy.org/article/denmark-integrating-immigrants-homogeneous-welfare-state> accessed on 27/11/14 at 18:17pm

the idea on a referendum on the issue arguing more money for Bosnian refugees will mean less money for the elderly, homeless and other poor people in the Danish society. This division did not end with the Bosnians later was the Somali refugees dominating the political discourse and media coverage⁷⁵

There was a campaign against foreigners as well as refugees. In the spring of 1997 Ekstra Bladet (newspaper) initiated a campaign about the presence of immigrants and refugees in Denmark. According to the chief editor at the time, Svend-Ove Gade the idea was to create a debate on the presence of immigrants and refugees in Denmark which the paper saw as a salient topic for the Danes. He went further to justify and called for a referendum on the issue of whether Denmark should become a multi-ethnic society saying the Danes were never asked if they preferred immigration but the immigration trend as continued to happen. The newspaper described Denmark as a peaceful society which is being transformed into a multi- ethnic one and a crime by the politicians against its citizens. This was a clear indications of declaring the non-citizenship of foreigners⁷⁶

This does not end only on a mere campaign against foreigners and refugees but politicians and political parties against immigrants and refugees. In 1995 the leader of Fremskridtspartiet, Pia Kjærsgaard and other party members separated to form the Dansk Folkeparti on two major political differences. Firstly, EU opposition and secondly opposition to ethnic minorities and refugees in Denmark. Together with the Ekstra Bladet the break away party members and their leader Pia Kjærsgaard with the Dansk Folkeparti viewed themselves as protector of the voice of the ordinary Danes and called for a referendum. They were actually supported by people in the form of letters to the editor and played an important role in the campaign. Denmark however witnessed a growing anti-immigrant and refugee sentiment in this period (the 90's)⁷⁷. The actions above aligned with the concept of “political life and biological life” as posited in Agamben’s theory of biopower. From a democratic perspective these actions are considered appropriate, but at the same time considering the liberal and humanitarian perspectives of those international

⁷⁵Gingrich A et Banks Marcus, 2006. Neo-nationalism in Europe and Beyond: Perspectives from Social Anthropology p 98

⁷⁶ Ibid

⁷⁷ Ibid p 99

instruments; they contravene the Universal Declaration of Human Rights (UDHR) that asylum seekers and so-called illegal migrant are entitled.

5.5 THE RELATIONSHIP BETWEEN PUBLIC OPINION AND REFUGEE POLICIES

With the constant changes in asylum policies especially in Denmark as seen with the example above of the introduction benefits for new refugees, the changes to the law as with the changes in government portrays the relationship public opinion has on refugee policies. These changes overtime in public preferences corresponds to the changes as well as lack of changes to public policies including refugee policies. The government represents the people who are elected democratically (in the west including Denmark) and reflect the views of the people with their policies these politicians sell to them that get them voted into office and also politicians are well informed about movements in public opinion through various sources including opinion polls, town hall meetings, direct contact and most importantly the media. To increase their chances of being reelected politician go with the policies that will please their constituencies so as to get reelected (however politicians try to satisfy the majority of their electorate)⁷⁸.

A concrete scenario to better illustrate the influence of public opinion on refugee policies could be seen with the series of Gallup polls taken between 1985 and 1997 indicated an average of 67 per cent of respondents wanted immigration to be restricted and the anti-immigration Danish People's party (Dansk Folkeparti, DF) which was founded in 1995 thrived on the popular discontent with immigration policies⁷⁹

5.6 Denmark and Non-Refoulement

In respecting the principle of non-refoulement, Denmark has been applauded by Amnesty International⁸⁰ and for not resorting to diplomatic assurances to prevent it from observing this principle. Specifically the human right principle of non- refoulement stands out as a strong and

⁷⁸ KorKut U et al, 2013. The discourses and Politics of Migration in Europe p 137

⁷⁹ Christoffersen H et al, 2014. The good society: A Comparative study of Denmark and Switzerland p241

⁸⁰ <http://www.amnesty.org/en/library/info/EUR18/001/2011>

practical means of ensuring human rights are respected. This was a result of Danish courts halting an extradition to India with the court stressing that diplomatic assurances did not assure sufficient protection against torture for the individual.

Nevertheless, owing to the Dublin II procedure; Denmark is allowed to reject an Asylum Seeker if he/she resided in a country that is considered safe before arriving in Denmark. Also, the credibility of the Asylum seeker testimony could serve as a basis for being granted or rejected protection in Denmark. This means that the asylum seeker has to be consistent and not change his/her statement during the process. However, rejection on such basis could be misunderstood and viewed as violation of the principle of non-refoulement; which only refers to the rendering of a true victim of persecution to their persecutor. Notwithstanding, if it is proven that the Asylum Seeker does not have a well-founded fear of persecution; rejection is possible in this case. In concluding the relation between the Danish system and the principle of non-refoulement, Agamben's biopower premise which highlights the issue of belonging as rights of every human does affirm the Danish recognition of human rights as proclaimed by Amnesty International.

5.7 Denmark as a preferred destination for asylum seekers.

Refugee movements are towards the developed countries to apply for asylum. In the context of the ever increasing number of asylum seekers arriving in Denmark in recent years and with the information in the introduction of this thesis where we see the numbers are expected to rise even more, there is much debate about the impact of certain criteria influencing their arrivals from policy, reputation, presence of friends and family, as well as the role of smugglers/traffickers/agents. It is important to highlight the fact that there is overall lack of research being carried out in the choice of destination countries for refugees while explanations are considered inter related and relatively significant in pull versus push factors in influencing Denmark as a preferred destination for asylum seekers.

Firstly, although established above about the policies towards the treatment of asylum seekers changed over time in Denmark were discriminatory especially with regard to the UDHR on the

other hand as a welfare state and the provision of such welfare benefits is attractive to asylum seekers who need protection and support to start new lives and such help however small is better than the human rights abuses and atrocities they escaped from to arrive Denmark. Although discriminatory the start help as benefits towards asylum seekers was seen as an incentive that attracted asylum seekers to lounge applications here in Denmark. The media and politicians in Denmark were of the opinion refugees come to Denmark to get generous benefits. The media reported on cases whereby the asylum seeker did not want to work so as to stay home and receive social benefits making Denmark an attractive place to seek protection and enjoy benefits from the welfare state⁸¹.

Zimmermann K et Constant A, 2013 share the same opinion as the politicians and media in Denmark that asylum policies go hand in hand with the volume of asylum applications. In a number of countries including Switzerland, Germany when asylum laws were changed it had a huge effect on asylum application and the same could be said in Denmark with favorable social benefits and policies to accommodate asylum seekers pulls them towards Denmark to lounge an application and the applications for asylum seekers keep rising.

In 2013 through to 2014, the number of asylum seekers making their way to Denmark has risen its highest for the past 12 years as also reported by the Copenhagen Post. This trend is attributed to some government policies which introduced more humanitarian living conditions for asylum seekers as well as refugees (indicating the relationship between state policies and the asylum applications as described by Zimmermann K et Constant A, 2013). Both Dansk Folkeparti and Venstre blamed the government for these policies, this view of improved living conditions of asylum seekers with the introduction of the right to live and work outside asylum centers after six months as long as the asylum seeker demonstrates the willingness to cooperate with repatriation if their application is not granted. While the opposition attributes this rise to the government policies with number of asylum applications in Denmark rising by 61% between 2011 and 2012 the number of asylum seekers being granted refugee status also rose by 15% the

⁸¹ Dominelli, L et Moosa-Mitha, M. 2014. Reconfiguring Citizenship: Social Exclusion within Inclusive Citizenship Practices

government simply rejected these claims and attributing the rise to the wake of the Arab spring and the rise of arrivals of refugees across Europe in general⁸²

Also, the policy of granting Syrian refugees temporal resident permits saw an influx of Syrian refugees into Denmark. This policy granted Syrians who came to Denmark a resident permit for a year with a possibility of two years. After this was announced by the Justice Minister Karen Haekkerup the number of Syrian application quadrupled⁸³

Again, Denmark reputation around the globe as the happiest people on earth goes a long way not to only attract ordinary migrants but refugees and asylum seekers as well. Coupled with the widespread of conflicts nowadays the world enjoys technological advancements of unimaginable sophistication, the world economy is at a bad time with many people unemployed, human needs are difficult to be met, citizens confidence in their governments worldwide are at an all-time low from the Arab uprising experienced in the middle east, to protests in Hong Kong , Burkina Faso and many other countries in the Developed world. With these difficulties nowadays one could think the high income families and countries are free from problems but affluence also brings about its own sets of afflictions such as obesity, tobacco related illnesses,, shopping addictions, gambling bringing to the loss of community, loss or decline in social trust as well as illnesses not covered by health insurance especially with the case in the United States. This show the citizens in rich countries are not happier just simply because of a higher economic growth. With the idea or notion that when incomes rise (Gross National Product per person is a route to happiness) with the effects or rather what I will term rich people problems.⁸⁴

Most people will agree society should foster the happiness of their citizens from the US with the founding fathers recognizing the inalienable right of the pursuit of happiness yet most people will also agree happiness is for each and every individual to determine. It should be and individualistic choice rather than a matter of national policy. The world happiness report is a 156 page report published by the Earth institute at Columbia University. Discovered the happiest countries with an average life evaluation score of 7.48 on a scale of 0 – 10, this report also

⁸² <http://cphpost.dk/news/highest-number-of-asylum-seekers-in-over-a-decade.5288.html> accessed 03/12/14 at 23:00pm

⁸³ <http://english.al-akhbar.com/node/21613> accessed on 03/12/14 at 23:40

⁸⁴ Helliwell. J et al. 2012. World Happiness Report available on: <http://www.earth.columbia.edu/sitefiles/file/Sachs%20Writing/2012/World%20Happiness%20Report.pdf> here accessed on 01/12/14

indicated the major side effect of being the happiest citizens which showed happy people live longer, are more productive, earn more and are generally better citizens.

Danes have been awarded the happiest people on earth, a prestigious title since 1973, with characteristics of Danes being very trusting especially to people they don't know. Trust makes people very happy and the Danish society is also known not to judge other people's lives, it allows everyone to choose the kind of life they want to live which adds to the satisfaction of people living here. Moreover Danes have a different attitude towards money, they feel money is not as important as social life and unlike in other countries they do not buy big houses, big cars they prefer to socialize with one another.⁸⁵

With this reputation it only makes sense for asylum seekers to come and seek protection in Denmark, where they feel can get a sense of belonging, decide on their lives with no one judging them and feel welcomed among happy people and get a fresh start from the horrors and traumas encountered by them. This serves as a pull factor not only to asylum seekers but for other migrants as well.

Furthermore, friends, family and compatriots present in Denmark serves as another factor to influence asylum seekers to come to Denmark. With the increasing number of asylum applications being lounge in Denmark as establish in the introduction as well as asylum seekers application being granted serves as a connection one way or another between one asylum seeker and another, majority of granted asylum seekers from our graph in the introduction showed many Syrians keep flooding to Denmark to lounge applications. With the ongoing crisis in Syria and other Syrians being granted refugee status in Denmark has given rise to an increased influx of Syrian to seek protection in Denmark and with the policy put in place Syrians have easy accessed to be granted protection as explained above. The previous years could see Afghans as well as Iraqis due to the conflicts in those countries and the same trend could be seen in those periods.

Added to the above the role of smugglers and traffickers cannot be ignored. It is so difficult to migrate to the developed world with the ever increasing restrictive immigration policies and

⁸⁵ Danes as happiest people in the world available on <http://denmark.dk/en/meet-the-danes/work-life-balance-the-danish-way/happy-danes/> accessed on 01/12/14 at 18:50pm

securitization of borders. This has resulted with even refugees and asylum seekers seeking the help of human traffickers as well as smugglers to reach their destinations to seek protection. Smugglers act as intermediaries between these refugees and fortress Europe. Smuggling can be very necessary and it isn't something new this could be traced as far back as during the Nazi occupation of Denmark, Danish Jews were rescued and today it is believed many of the houses along the Danish coast were built with the money the fishermen demanded from the persecuted Jews they help smuggled out of Denmark⁸⁶. Here we see Gallagher A.T et David F 2014 agrees with the notion that smuggler's play a vital role in aiding refugees escaping persecution like with the case of the Danish Jews.

We bring in Giddens's notion of knowledgeability to explain the aspect of smugglers who are very well versed of asylum policies of various countries, their relative accessibility and chance event during the journey in order to best provide a better service to the refugees so as to get them to their destinations. These refugees are very vulnerable taken into account their experiences they have been put through and revisiting Richmond's reactive migration as reactive migrants these refugees just want to leave and as such without any consideration they are left at the mercy of the smuggler who decides their destinations for them.

Using smugglers does not come cheap and to afford these expensive means to travel to obtain protection can come mostly from friends and relatives especially who are already abroad (influence of friends, compatriots and families as discussed above). Recently the Danish government halted the granting of asylum to Eriteans until human trafficking concerns were addressed since the number of asylum seekers from Eritea went from an average ten to more than 500 in July. This sudden jump up in the numbers was too much in just a month and it raised red flags for Justice Minister Karen Hækkerup. This sudden rise in asylum seekers especially from a particular country to Denmark was a sign of human trafficking with this travel pattern of a particular group of asylum seekers changed radically without any real explanations⁸⁷

⁸⁶Council of Europe.Parliamentary Assembly Official Report of Debates 2000 Ordinary session Pg 830

⁸⁷<http://www.thelocal.dk/20140814/human-trafficking-feared-to-be-behind-asylum-boom> accessed 04/12/14 at 20:00pm

CHAPTER SIX

CONCLUSION

With the aim of analyzing the Danish asylum policies and procedures relative to the incentives, timeframe, requirements for asylum seekers; this research was undertaken to explore the current literatures on the subject, and utilized the information in the discussions and the analysis of the problem using two prominent social theories (Agamben's Biopower and Giddens's Structuration) from the field of migration studies. As such, this conclusion is structured as follows: summary of findings, discussion of the main problems identified, presentation of links between the main problems and the research questions vis-à-vis the literatures, and some suggestions for future research.

My first research question looked into the Danish policies towards asylum seekers and their protection according to the Universal declaration of human rights. Learning of an increased number of asylum seekers coming to Denmark this year I decided to examine the policies towards them and how it provides them protection. And the reasons they will want to come to Denmark to seek protection. These policies influence the well-being of asylum seekers in both a positive and negative way. With regards to detention (which restricts the movement of asylum seekers) it costs the Danish government lots of money to maintain camps year in year out. In 2006 the amount the Danish government spent on detention of asylum seekers amounted to 34million Danish kroner⁸⁸ this doesn't benefit the Danish government to spend these large amounts of money.as mentioned all these violate human rights and are costly as well. Other asylum seekers are at limbo in the camps awaiting decisions of their applications from the Danish authorities and go through adverse effects as a result of prolonged detention.

⁸⁸ http://www.detention-in-europe.org/index.php?option=com_content&view=article&id=176&Itemid=210
accessed on 06/12/14 at 20:08pm

Also, family unity as prescribed as a right has been a contentious aspect for the Danish authorities as regards immigration concerns. Unlike asylum seekers who can get to be as a family again by reuniting with them the Danish authorities were concerned that some ethnic groups were disproportionately using the family reunification rules to expand overall immigrations off their peoples within Denmark from their respective countries this was seen especially between 80-90 % of Turks and Pakistani's who marry outside Denmark and seek to bring them to Denmark , also another concern was to examine if the Danish family reunification rules enabled forced marriages as well as arranged marriages. This resulted in family reunification rules being tightened as earlier mentioned above⁸⁹.

With respect to employment and enabling asylum seekers to get a job after six months was a step in the right direction although criticized by the opposition here in Denmark. The importance of a job cannot be under looked. Even in the best scenarios full integration for asylum seekers cannot be arrived at overnight, but the objective of policies is to speed up the process as it was done with respect to asylum seekers being allowed to work. Helping them economically to fully integrate was an excellent policy towards protected them.

Another important aspect to highlight as established in the analysis was the continuous changes in policy towards asylum seekers, with a concrete example with the start help or introductory benefits. These constant changes to policies bring about a lot of consequences on the asylum seekers from meaning internal differentiation of the asylum seeker population, more difficulties to integrate in Denmark especially when refugee status is acquired, less benefits monetarily as well as increased levels of marginalization.

This study shows the difficulties this asylum seekers face from policies in the Danish system, from disparities in treatment between asylum seekers and Danish citizens raising the question of citizenship and belonging as well as the influence public opinion has on asylum policies. Asylum seekers are seen as economic migrants and immigration is a hot issue nowadays not only in Denmark but in the western world. Asylum seekers are seen as migrants who want to seek a better life rather than protection from the atrocities they escape from. Using agamben's biopower theory and literature review on various issues as citizenship, policy as well as the Universal

⁸⁹ Roseveare D et Jorgensen M. 2005. Migration and Integration of Immigrants in Denmark Economics Department working papers no. 386

Declaration of Human Rights, I came up with the notion that the policies from the Danish Government do not do enough to protect the rights of asylum seekers. There are so many positives as to why an asylum seeker will want to come to Denmark to lodge an application which is also examined in this study, Denmark is attractive for any asylum seeker through the factors examined but however asylum policies are becoming more stricter and these policies put in place do not do enough to protect the asylum seekers.

The problem with policy restrictions for asylum seekers is that it differs from country to country. However not all restrictions are unjustifiable but are spreading with a follow me effect which could be seen as when one country imposes a new restriction on asylum seekers others follow suit. With all most of these destination countries for asylum seekers who are all signatories to the Refugee convention all nearly have different methods of dealing with asylum seekers.

Conclusively, my chosen theories of Agamben's biopower and Anthony Giddens' structuration in answering both research questions prove to explain them explicitly. It is important to stress the need to balance Denmark's reputation with the attitude towards refugees, policy changes towards asylum seekers and more acceptances of refugees and their integration into the Danish society.

BIBLIOGRAPHY

- Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. California: Stanford University Press, 1998.
- Amelie, F., Constant A, and Zimmermann K. *International Handbook on the Economics of Migration*. United Kingdom: Edward Edgar, 2013.
- Amnesty, International. *DENMARK: AMNESTY INTERNATIONAL WELCOMES COMMITMENT TO OBSERVE THE PRINCIPLE OF NON-REFOULEMENT BUT REGRETS UNWILLINGNESS TO REFORM LEGISLATION ON ANTI-TERRORISM AND RAPE*. September 23, 2011. <http://www.amnesty.org/en/library/info/EUR18/001/2011> (accessed November 8, 2014).
- Anders Wivel, Lee Miles. *Denmark and the European Union*. London: Routledge; 1 edition (July 31, 2013), 2013.
- Atasoy, Yildiz. *Hegemonic Transitions, the State and Crisis in Neoliberal Capitalism*. New York: Routledge, 2009.
- CAFEBABEL. *Refugees and 'fællesskab' in Denmark: tales from Sandholm camp for asylum seekers*. February 21, 2012. <http://www.cafebabel.co.uk/society/article/refugees-and-flesskab-in-denmark-ales-from-sandholm-camp-for-asylum-seekers.html> (accessed December 2, 2014).
- Council of Europe. *Documents: Working Papers, 2003 Ordinary Session (second Part), 31 March - 4 April 2003*. Strasbourg: Council of Europe Publishing, 2003.
- "Denmark to introduce temporary residence for Syrian refugees." *Alakhbar English*. September 19, 2014. <http://english.al-akhbar.com/node/21613> (accessed December 3, 2014).
- Dwyer, Peter. *Understanding social citizenship (Second Edition). Themes and Perspectives for Policy and Practice*. Great Britain: Policy Press at the University of Bristol, 2010.
- EU-Oplysningen. *Danish Opt-Outs*. n.d. http://www.eu-oplysningen.dk/emner_en/forbehold/ (accessed November 9, 2014).
- Eurostats, European Commission. *Asylum statistics*. July 2014. http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Asylum_statistics (accessed September 15, 2014).

Fabrice Liebaut, Jane Hughes. *Detention of Asylum Seekers in Europe: Analysis and Perspectives*. The Hague: Martinus Nijhoff (1998), 1998.

Fiona David, Anne T Gallagher. *The international Law of Migrant Smuggling*. United States of America: Cambridge University Press, 2014.

Frances Nicholson, Erika Feller, Volker Turk. *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection*. United Kingdom: Cambridge University Press (August 11, 2003), 2003.

Giddens, Anthony. *The constitution of Society: Outline of the Theory of Structuration*. Cambridge: Polity Press, 1984.

Gil Loescher, Alexander Betts. *Refugees in International Relations*. New York: Oxford University Press, 2011.

Global, Detention Project. *Denmark Detention Profile*. March 2010.
<http://www.globaldetentionproject.org/countries/europe/denmark/introduction.html#c2859>
(accessed November 28, 2014).

Gündogdu, Ayten. *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*. Oxford: Oxford University Press (January 8, 2015), 2015.

Hart, Chris. *Doing a Literature Review*. London: SAGE Publications Ltd, 1998.

Hedetoft, Ulf. "Migration Policy Institute." *Denmark: Integrating Immigrants into a Homogeneous Welfare State*. november 1, 2006. <http://www.migrationpolicy.org/article/denmark-integrating-immigrants-homogeneous-welfare-state> (accessed september 15, 2014).

Heins, Volker. "Giorgio Agamben and the Current State of Affairs in Humanitarian Law and Human Rights Policy." *German Law Journal*, Vol. 06 No. 05:
http://germanlawjournal.com/pdfs/Vol06No05/PDF_Vol_06_No_05_845-860_Articles_Heins.pdf.

Human Rights Library, University of Minneasota. *Convention relating to the Status of Refugees, 189 U.N.T.S. 150, entered into force April 22, 1954*. n.d.
<http://www1.umn.edu/humanrts/instate/v1crs.htm> (accessed November 8th, 2014).

"Human trafficking feared behind asylum boom." *The Local dk*. August 14, 2014.
<http://www.thelocal.dk/20140814/human-trafficking-feared-to-be-behind-asylum-boom>
(accessed December 4, 2014).

Jeffrey Sachs, John Helliwell, Richard Layard. *World Happiness Report*. n.d.
<http://www.earth.columbia.edu/sitefiles/file/Sachs%20Writing/2012/World%20Happiness%20Report.pdf> (accessed December 1, 2014).

- Jesper Kong City, Christine Corden, Steen A. Jørgenssen. "The government fears 20,000 asylum seekers this year." *Jyllands-Posten Politik*. July 10, 2014. <http://jyllands-posten.dk/politik/ECE7089791/Regeringen-frygter-20.000-asylans%C3%B8gere-i-%C3%A5r/> (accessed October 10, 2014).
- Karolewski, Ireneusz Pawel. *Citizenship and Collective Identity in Europe*. New York: Routledge; 1 edition (May 12, 2011), 2010.
- Kneebone, Susan. *Refugees, Asylum Seekers and the Rule of Law: Comparative Perspectives*. New York: Cambridge University Press, 2009.
- Kok, Laura. "The Dublin II Regulations, A UNHCR Discussion Paper" April 2006
- Lavenex, Sandra. *Safe Third Countries: Extending the EU Asylum and Immigration Policies to Central and Eastern Europe*. Budapest: Central European University Press (September 15, 1999), 1999.
- Maeder, Pascal. *Forging a New Heimat. Expellees in Post- War West Germany and Canada*. Göttingen: Vandenhoeck & Ruprecht, 2011.
- Marcus Banks, Andre Gingrich. *Neo-nationalism in Europe and Beyond: Perspectives from Social Anthropology*. New York: Berghahn Books (August 29, 2006), 2006.
- Martin Paldam, Henrik Christoffersen Michelle Beleyer, Peter Nannestade, Reiner E. *The good society: A Comparative study of Denmark and Switzerland*. New York: Springer; 2014 edition (December 11, 2013), 2014.
- Mehmoona Moosa-Mitha, Lena Dominelli. *Reconfiguring Citizenship: Social Exclusion within Inclusive Citizenship Practices*. Surrey: Ashgate Pub Co; New edition edition (June 28, 2014), 2014.
- Naidoo, Loshini "A Structuration Theory Analysis of the Refugee Action Support Program in Greater Western Sydney". *Australian Journal of Teacher Education*, Volume 34, Issue 4, Article 5, 2009
- Newtodenmark.dk. *Job Prospects*. n.d. https://www.nyidanmark.dk/en-us/coming_to_dk/asylum/conditions_for_asylum_applicants/job_prospects.htm (accessed December 1, 2014).
- Office of the High Commissioner for Human Rights, United Nations Human Rights. *What are Human Rights*. 2014. <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>: (accessed November 25, 2014).
- Office of the High Commissioner for Human Rights, United Nations Human Rights. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984 entry into force 26 June 1987*. n.d. <http://www.ohchr.org/en/professionalinterest/pages/CAT.aspx> (accessed November 8, 2014).

- Organisation of American States, Washington D.C., Department of International Law. *AMERICAN CONVENTION ON HUMAN RIGHTS "PACT OF SAN JOSE, COSTA RICA" (B-32)*. n.d. http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm (accessed November 7, 2014).
- Refugees, Welcome. *facts on Refugees*. n.d. <http://refugeeswelcome.dk/en/facts/> (accessed october 3, 2014).
- . *see diagram of procedure in our flyer*. n.d. <http://refugeeswelcome.dk/en/facts/> (accessed october 3, 2014).
- Søren Juul, Flora Ghosh. "Lower Benefits to the Refugees in Denmark: Missing Recognition?" *Social Work and Society International Online Journal*, Vol 6, No 1 (2008).
- Spinks, Harriet. "Destination anywhere? Factors affecting asylum seekers' choice of destination country." *Parliament of Australia*. February 5, 2013. http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1213/13rp01 (accessed November 16, 2014).
- Stanners, Peter. "Highest number of asylum seekers in over a decade." *The Copenhagen Post*. May 16, 2013. <http://cphpost.dk/news/highest-number-of-asylum-seekers-in-over-a-decade.5288.html> (accessed December 3, 2014).
- The UN Refugee Agency, UNHCR. *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol*. n.d. <http://www.refworld.org/pdfid/45f17a1a4.pdf> (accessed november 04, 2014).
- Thomas, Chantal "Sovereignty and the New International Law of Migration: What does the Emerging International Law of Migration Mean for Sovereignty." *Melbourne Journal of International Law*, Volume 14, 2013
- Treaty Collection, United Nations. *CHAPTER V. REFUGEES AND STATELESS PERSONS. Convention relating to the Status of Refugees*. n.d. https://treaties.un.org/pages/ViewDetailsII.aspx?&src=TREATY&mtdsg_no=V~2&chapter=5&Temp=mtdsg2&lang=en (accessed November 25, 2014).
- Umut Korkut, Gregg Bucken-Knapp, Aidan McGarry, Jonas Hinnfors and Helen Drake. *The Discourses and Politics of Migration in Europe*. New York: Palgrave Macmillan, 2013.
- UNCHR. *asylum seekers*. 2014. <http://www.unhcr.org/pages/49c3646c137.htm> (accessed november 10, 2014).
- . *Convention and Protocol relating to the status of Refugees*. december 2010. <http://www.unhcr.org/3b66c2aa10.pdf> (accessed November 10, 2014).

- UNHCR, Kate Jastram, Marilyn Achiron. "REFUGEE PROTECTION:A Guide to International Refugee Law ." n.d. http://www.ipu.org/pdf/publications/refugee_en.pdf (accessed November 28, 2014).
- United, Nations. *The Universal Declaration of Human Rights*. n.d. <http://www.un.org/en/documents/udhr/index.shtml#a14> (accessed November 1st, 2014).
- Van der erf, B., Heering L. *Causes of International Migration*. Luxemborg: Netherlands Interdisciplinary Demographic Institute (NIDI), 1995.
- Waters, Malcolm. *Modern Sociological Theory*. London: Sage Publications Ltd, 1994.
- Wivel, Lee Miles and Anders. *Denmark and the European Union*. London: Routledge, 2014.
- Wodak, Bob Douglas and Jo. *Refugees and asylum seekers:Finding a better way. Contributions by notable Australians*. Australia: Australia21 Limited, 2013.
- ZEMBYLAS, MICHALINOS. "Agamben's Theory of Biopower and Immigrants/refugees/asylum seekers. Discourses of Citizenship and the Implications For Curriculum Theorizing." *Journal of Curriculum Theorizing*, Volume 26, Number 2, 2010.