

February 2024

# Discourses of Legitimacy: Refugees in the Danish Asylum System

Master Thesis

MSc Development & International Relations  
Specialization in Global Refugee Studies

Name: Enver Viktor Gegovski

Student number: 20216371

Characters with spaces: 96.109

Supervisor: Malayna Raftopoulos

## Table of content:

<b>Abstract:</b>	<b>3</b>
<b>Introduction:</b>	<b>4</b>
<b>Contextualisation of the legal process for asylum claim in Denmark:</b>	<b>6</b>
<b>Conceptualisation the Refugee Appeal Board/Flygtningenævntet:</b>	<b>7</b>
<b>Aim for this study:</b>	<b>7</b>
<b>Research question:</b>	<b>9</b>
<b>Structure of research paper:</b>	<b>9</b>
<b>Theory:</b>	<b>10</b>
<i>Queer Theory:</i>	10
<i>Homonationalism:</i>	11
<i>The closet:</i>	13
<i>Rainbow-splash:</i>	14
<i>Heteronormativity:</i>	16
<b>Literature review:</b>	<b>17</b>
<b>Methodology:</b>	<b>19</b>
<i>Ethical consideration:</i>	23
<i>Limitations and strengths:</i>	24
<i>Collection of data:</i>	25
<b>Analysis:</b>	<b>26</b>
<i>Case one:</i>	27
<i>Case two:</i>	28
<i>Case three:</i>	30
<i>Case four:</i>	31
<i>Case five:</i>	33
<i>Case six:</i>	35
<i>Shaping the discourse:</i>	36
<b>Discussion:</b>	<b>41</b>
<i>To be or not to be queer:</i>	42
<i>So what now?</i>	43

Conclusion: .....	45
Bibliografi .....	48
Appendix 1:.....	52
Appendix 2:.....	53
Appendix 3.....	54
Appendix 4:.....	55
Appendix 5:.....	56
Appendix 6:.....	58

## Abstract:

This study investigates the structured discourse for the idea of self-disclosure and authenticity of LGBTQ+ individuals, in Danish asylum cases. Creating and analysing an understanding of the credibility and narratives that exist within the assessments of queer asylum cases in the Refugee Appeal Board. Outlining from the theoretical frameworks of homonationalism (Puar, 2007), the closet metaphor (Sedgwick, 1990), rainbow-splash (Akin, 2016), and heteronormativity (Herz & Johansson, 2015), this analysis critically studies how the Refugee Appeal Board constructs the concept of a genuine LGBTQ+ refugee in Denmark. The analysis challenges and problematizes the perception of a pre-determined and non-context on how the investigation of LGBTQ+ refugee cases is processed for the conclusion of the subject to be identified as a rightful claimant of refugee status. A discourse analysis has been concocted with the empirical data from 6 cases. These 6 cases have been selected from the Refugee Appeal Board's own database. The discourse analysis is built from Norman Fairclough's (1991) theory of the 3 dimensions of discourse. It additionally, focuses on the nature of the legalities when addressing concepts of refugeeness and explores how refugeeness is created through discourse in a particular ideological, political, and cultural context. When immigration authorities are making decisions, they may incorrectly have an assumption that all LGBTQ+ individuals behave like the opposite gender and belong to the same social group with comparable cultural interests. Hence they will disclose their sexual orientation openly and publicly as soon as they enter the country where they are seeking asylum (Jansen, 2013).

## Introduction:

In 1951, Denmark was one of the first countries to sign the Refugee Convention. Denmark quickly became an active player in the world as an international protection state system with a highly receptive outlook and an inclusive mindset (Kreichauf, 2020). In year 1983, the Aliens Act was introduced in Denmark and was recognised as being "one of the world's most humane laws (Brochmann, 2012, p. 113).

Previously, there were two distinctive categories of refugees: those whom were qualified under the United Nations Convention on Refugees and those who were considered *de facto* refugees meaning this group did not meet the criteria set by the UN Convention. However, their conditions implied that they should not be sent back to their home countries, such as civil war. Recently, the law was amended to give both categories of refugee's equal legal status. Additionally, foreign citizens who had acquired permanent residence permits or refugee status in Denmark had the right to bring their families to join them. However, this right extended not only to their children and spouses but indeed also to parents over the age of 60. Through the adoption of this law, Denmark went beyond the requirements of the UN Convention (N. Wium Olesen, 2019)

This also meant that there were liberal requirements to gain access to residence permits and citizenship, "[...]the regulations for gaining a residence permit were simplified, and the requirements for family reunifications were specified in §9 of the act for both refugees and immigrants with a permanent residence permit" (Ibid p.115). In the 1980s, migration numbers rose to 30,000 people. Along with this increase, a public debate emerged and there was a sudden fear that this liberal immigration policy would result in an abuse of the welfare system (Kreichauf, 2020).

The 1951 UN Refugee Convention states that asylum can be granted to a person who has a "well-founded fear of persecution on account of race, parentage, nationality, membership of a particular social group or political opinion" (UNHCR, 1951, p. 3). In accordance with the Convention, the Danish Aliens Act, section 7(1), acknowledges sexual orientation and gender identity as grounds for persecution and therefore as grounds for asylum under the category "belonging of a particular social group" (Udlændingestyrelsen, 2023). The asylum procedure in Denmark follows a set procedure, it

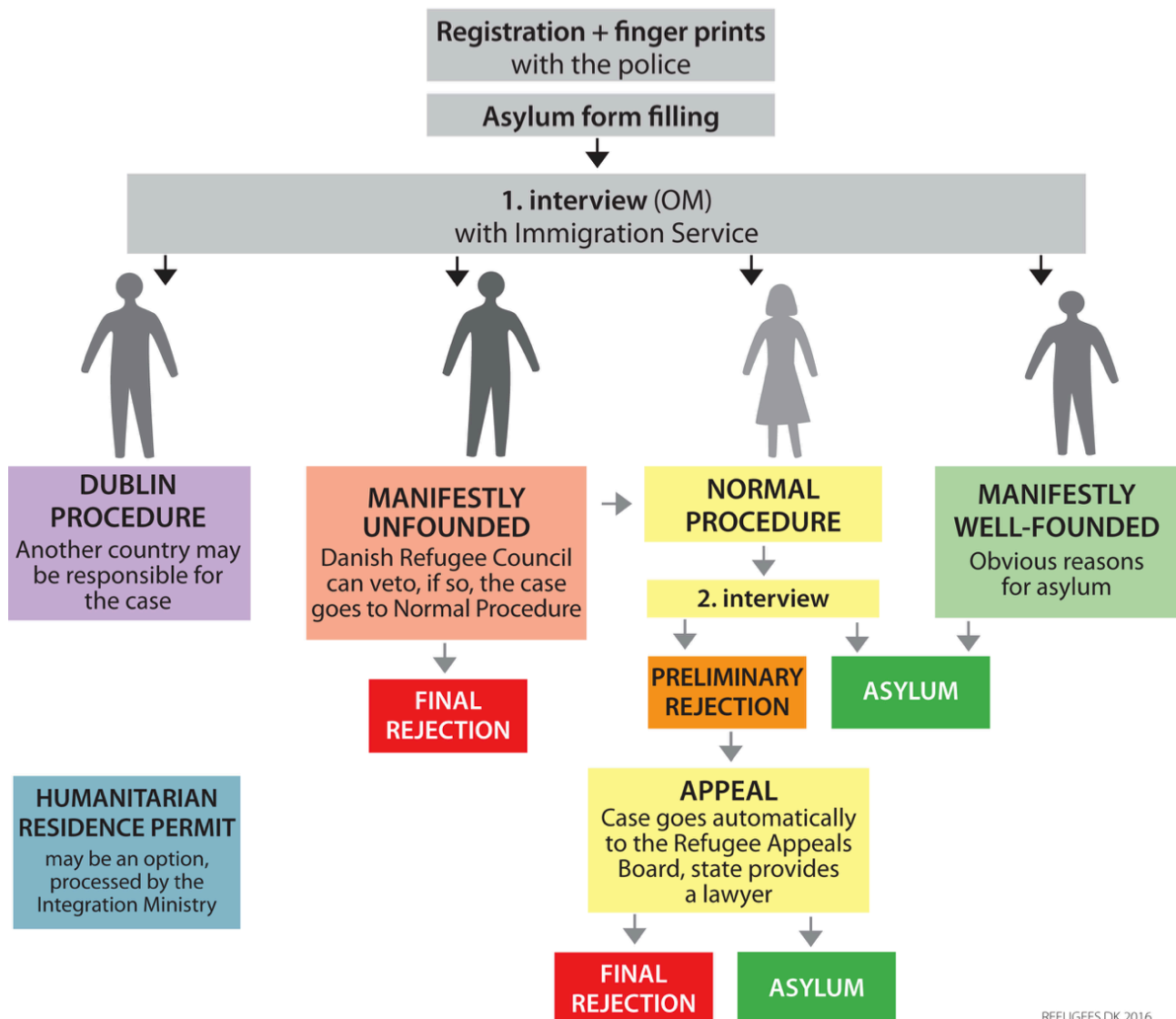
starts with the applicant being registered by the police followed by a first interview conducted by the Immigration Service. During this interview, the applicant can provide the information and grounds, for seeking asylum (LGBT - Asylum, 2015). At this point, the applicant could be granted asylum, though a second interview or more could be required. For those applicants that get rejected their cases will reflexively without intervention automatically be proceeded to the Refugee Appeals Board. Within this procedure, the state provides a lawyer on behalf of the asylum seeker. Should this procedure also result in rejection, the applicant must leave Denmark within 15 days(ibid).

Due to the relatively recent recognition of a sexual orientation and gender identity as being valid as reasons for seeking political asylum, it is often difficult for LGBTQ+ refugees to express and translate their experiences of persecution into a narrative that immigration authorities can easily understand and thereby accept as valid asylum claims (Lewis, 2013). In scrutinizing and evaluating the legitimacy of a political asylum applicant's story, immigration authorities sometimes use predetermined thoughts and expectations that are based on stereotypes of the sexual identity. For instance, when immigration authorities are making decisions, they may inaccurately assume that all lesbians and gay men follow the same pattern of behaving like the opposite gender. Furthermore, that they are also part of the same social group with similar and comparable cultural interests, and that they will reveal their sexual orientation openly as soon as they enter in the country where they are seeking asylum (Jansen, 2013). Whereas other refugees don't have to visibly manifest their identity in the country they are seeking refuge in, LGBTQ+ asylum seekers often face the narrative and expectation that they have to follow the general norms of this social group within their sexual identity. They are often obligated to conform to the principles of open manifestation in the public sphere, consumerism, and a specific notion of sexual citizenship in order to be considered eligible for asylum in the country (Lewis, 2013). To acquire political asylum, LGBTQ+ refugees have to prove equally that they have a well-founded fear of persecution and that they are members of a particular social group. Nevertheless, some countries, including the United Kingdom, Australia, Netherlands, and the Czech Republic, have rejected the discretion argument – due to, the notion that LGBTQ asylum seekers can readily return to their country of origin and keep their sexual orientation privately and discreetly (Ibid).

## Contextualisation of the legal process for asylum claim in Denmark:

Figure 1

*The asylum procedure in Denmark*



Note: This figure is from refugee.dk (Bendixen, 2023).

REFUGEES.DK 2016

## Conceptualisation the Refugee Appeal Board/Flygtningenævnet:

As shown in the previous section on the legal process of the asylum claim, the refugee appeal board is the final legal instant that can either uphold or overturn the conclusion of an asylum case. In the context of someone seeking asylum due to their sexual- or gender identities, the Refugee Appeals Board assesses whether these individuals meet the circumstances for gaining a residence permit under section 7(1) or (2) of the Aliens Act (Flygtningenævnet, 2019, p. 516). To make this evaluation, the Board deliberates the asylum seeker's statement and other data that might be available about them and their home country, especially the circumstances for people with similar sexual- or gender identities. Founded on this data, the Board concludes if the asylum seeker fits into the categorisation of a particular social group under Article 1A of the Refugee Convention (Ibid. p. 516). When evaluating a case, the refugee appeal board will conclude which facts are reliable. If the applicant's explanation is faultless and consistent, the refugee appeal board will use it as a foundation for the case. On the other hand, inconsistencies, changes, or absences of details will be investigated and considered. Additionally, it is stated that the board takes the applicant's circumstances into consideration and gives special attention to vulnerable groups (Ibid.).

## Aim for this study:

My aim for this study is to shed light on some structural issues for LGBTQ+ asylum seekers and their experiences with the Danish immigration system. Furthermore, I will analyse if there are any underlining narratives to be a 'genuine queer refugee' and if so, how are these narratives constructed and used. To better conduct an in-depth analysis of this issue, I have built a theoretical framework with the use of four theories and concepts as outlined below. These theories will be further elaborated on in the theory chapter.

This thesis takes as its starting point the *Epistemology of the Closet* by Eve K. Sedgwick (1990). Homosexual, as a word did not exist in the Western world or Europe, until the last part of the 19<sup>th</sup> century. However even before the conceptualization of the terminology 'heterosexual', the term 'homosexual' already existed. Evidently the sexual relations and behaviors for the same sexual



orientation, and hereby also self-identifications individuals associate with the terminology 'homosexual' were proven to be established way before the terminology 'heterosexual' gained recognition, with its long history (Sedgwick, 1990). Furthermore, the concept of the genders male and female was abruptly noted as something that may and could be linked to homosexuality or heterosexuality: "it was this new development that left no space in the culture exempt from the potent incoherence of homo/heterosexual definition." (Sedgwick, 1990, p. 2). To understand the political picture in the Western world and its perception of LGBTQ+ sexual identity, I will also use Jasbir K. Puar's theory on 'Homonationalism' (Puar, 2007). For a nation to recognize and form acceptance for a particular group, in this particular case, the incorporation of homosexual vocabulary it most likely relies on invalidating people who is associated within a different sexual or racial category. Meaning that the recognition of one particular group may lead to the devaluation and exclusion of another within the cultural national representation (Ibid). In the case of people having a different citizenship status or racial background than the Western community, the consequence might be not gaining the same amount of acceptance or recognition as "the privileged (white)gay, lesbian, and liberal subjects" (Puar, 2007, p. 2).

Furthermore, I implement two other concepts: heteronormative and rainbow-splash. These two concepts are applied to analyze and understand what the narratives of a genuine queer refugee are like. Thus, it will be possible to create substantial knowledge and understanding of LGBTQ+ asylum seekers' experiences of the encounter with the Danish immigration authority. "The concept of heteronormativity is sometimes used to describe a body of lifestyle norms as well as how people tend to reproduce distinct and complementary genders (man and woman)" (Herz & Johansson, 2015, p. 1011). Like others comprehensive concepts such as homosociality, hegemonic masculinity and heteronormativity helps as an instrument to be able for investigative the systems of discrimination. This can help us to understand how hierarchies and gender norms are shaped and created in a society (Herz & Johansson, 2015). Rainbow-splash is a concept that is demonstrating the indication how queer asylum seekers are expected to be openly and loudly display their sexual identity (Akin, 2016).

## Research question:

How are narratives of credibility within LGBTQ+ asylum cases discursively constructed?

## Structure of research paper:

Chapter 2 sets out the theoretical framework for this research paper which in its benign point will set the context for sexuality and queer theory. As presented in the introduction, the theories and concepts are the closet- metaphor, rainbow-splash, heteronormativity and homonationalism. After the section on the theoretical framework, I will then dive into the already existing literature on this topic under the headline literature review. This will build a solid foundation for my knowledge of queer study and the Danish asylum system. In chapter 3 I will outline the methodology. In this part, I will elaborate on aspects concerning topics such as the methodology I will use in my analysis, my ethical considerations, the ontological and epistemological positions, and the limitations of this research.

After the methodology, we will move on to the analysis chapter. I will hereby analyze my cases using my chosen methodology and theoretical framework to produce results and findings. These findings and results will then, be former a foundation for the next section which will be the discussion. In this section, I will discuss my findings with references to previous research and possible implications. All of these subjects and parts of my research will form a conclusion in the end and further answer my research question.

## Theory:

### Queer Theory:

When discussing queer and feminist theories, a highly relevant philosopher is Michel Foucault (1926)—especially his concepts of 'biopower' and sexuality. The different forms of sexualities were objectified as sexualities when the discourse of sex stopped being only about reproduction as a headline (Foucault, 1978). According to Foucault, sex life is something that has been structured and regulated through “[...]canonical law, the Christian pastoral, and civil law. They determined, each in its own way, the division between licit and illicit” (Foucault, 1978, p. 37). Courts could hereby reproach acts and performances of infidelity, bestiality, and homosexuality, as they were seen as unlawful, with the act ‘contrary to nature’ seen as an extreme violation of the law and moral (Foucault, 1978, p. 38). In the time period of the 18<sup>th</sup> and 19<sup>th</sup> centuries, there was a shift, this shift was regarding the concept of exclusive heterosexual monogamy. This raised also the questioning of the sexual orientation of the individuals that might experience attraction towards the opposite gender (Ibid).

Foucault portrays biopower contemporary concept of control, which fundamentally has an effect on the human existence “ [...]for achieving the Subjugation of bodies and the control of populations, marking the beginning of an era of “bio power.” (Foucault, 1978, p. 140). This practice of power requires methods such as surveillance and discipline, which have the goal of regulating the lives within the society, predominantly the ones that differ from the ‘normal’ order(Ibid). Additionally, this should not just be seen as a limitation of physical control, but also through discourse and language. There for it is crucial to understand in what way institutions, like governmental authorities perform their power, and furthermore analyze the narrative and language that gets employed(Ibid).

The organization of life is the principle of biopower. This implicates the handling of different aspects like threats, potentials, opportunities for life, health, the environment, and the general quality of life. The government's attention is thereby no longer only limited to preventing death, but indeed, now aspirations to preserve life. In biopower, fostering and maintaining living takes superiority over everything else (Puar, 2007). “[...]the deployment of sexuality would be one of them, and one of the most important” (Foucault, 1978, p. 140).

In other words, biopower regulates life, also including sexuality. Queer identities were normalized in a way to fit the collective norms of the society. Additionally, medical practices are also linked with biopower, for the reason queer individuals are at a possibility of getting labelled as medical or psychologically sick, due to their sexuality. Biopower interconnects with queerness across the regulation and structure of sexuality, i.e. in medical practices, reproductive rights, visibility, and as a crucial factor the continuing battle for recognition and equivalence (Foucault, 1978; Puar, 2007). I see these junctions as being essential to be able to analyze power and indeed advocate for social rights when addressing this topic.

When Addressing bio-power it is particularly relevant to mention homonationalism, which investigates and explores the connection between queer identity and nationalism. Homonationalism examines the methods through which specific queer identities are assumed to be appropriated to be serving a nationalistic agenda, thereby fostering fundamental and important questions about inclusivity, power dynamics and the complications of biopolitical strategies on LGBTQ+ communities. With no further to do, this leads us to the first theory for this study, homonationalism.

### Homonationalism:

The theory of homonationalism, coined by Jasbir Puar (Puar, 2007) provides a solid tool, for us to be able to navigate and analyse legal and political processes. Homonationalism builds its fundament on the idea that there is only one accepted version and form of homosexuality, this version has been created nationally additionally, homosexuality is set off to have a meaningful function in the process of nation-building, in the global north. Sexual subjects are not only influenced and affected by heterosexuality and homosexuality, but indeed these subjects also get shaped by reinforcement from the government and nation-state (Ibid). Narratives and terms, such as 'closeting' and 'coming out' has for long been getting critic by poststructuralist scholars, for being validating and emphasizing the stories of the privileged queers, especially for those who are white liberal subjects (Ibid). The expression 'homonationalism' indeed helps us to draw a connection with the acknowledgement of the uniqueness of the American empire. This type of homosexuality establishes norms not only for queerness and homosexuality but also for racial and national

standards that support such ideas. Puar argues that the term homonationalism marks arrangements of U.S. sexual exceptionalism in relation to the nation (Ibid).

Puar's terminology aims to analyse the relationship between recognition of the inclusion of homosexuals within a nation, and the exclusion of other groups that are victims of marginalization based on race and other sexualities in the nation's imaginary (Petersen, 2016). Homosexuality is not an inherent or natural identity but a discursive construction formed through repetitive norms, as seen in homonationalism. Thus, homosexuality is not an inherent essence or identity, but rather a product of the constitutive aspects of heterosexuality that create both homosexual and heterosexual subjects who conform to specific gender norms (Ibid). According to Puar, there appears to be a relation between the acceptance of LGBTQ+ rights and the exclusion of other groups, particularly and predominately the Muslim community, who are portrayed in a way that challenges gender and sexual norms. Puar argues additionally that advancements in the realm of LGBTQ+ rights, however frequently result in the marginalization and pathologization of previously unrecognized communities, precipitated by their sexual and gender identities (Ibid).

In the light of this context, a great example of the premisses mentioned is how Western representations of Muslim men often being seen as excessively masculine (perceived as violent, rapist, and patriarchal) and inadequately masculine (hinting at gender-separatist connections to homosexuality and animal sex). Meaning hereby this aspect follows a heteronormative strategy that subjects the 'Other' (Muslim community) to a similar queering process as homosexuality has historically faced (Ibid).

Puar views the incident of 9/11 as a fundamental catalyst for the emerging of homonationalism. Looking at the time, after 9/11 there was a specific emergence of terrorist agencies targeting queer subjects (Puar, 2007). The events of 9/11 are often viewed as a central moment that either brought about significant changes or maintained the status quo. There appears to be a continuous debate about whether it represented a complete break or a continuation of pre-existing conditions. As a metaphor, 9/11 represents specific narratives about space and time, influencing discussions and shaping our perspectives on both the physical and temporal aspects of the world (Ibid p.xxvi).

## The closet:

In the present study, I am using the concept of 'the closet metaphor' as a concrete tool to analyze how queer refugees meet and navigate when being faced with the Danish asylum system. The metaphor/phrase 'the closet' is generally interpreted as a symbol of issues or obstacles in relation to being gay. Hereby underlining, the act referring to 'coming out of the closet'. Not until the late 19th century that the word homosexual first found its way into Western vocabulary, but the social interaction between same-sex couples has been happening since the beginning of time. However, as Sedgwick explains, In the decades around the 20th century, new taxonomic discourses related to medical, legal, literary, and psychological fields emerged. These discourses focused on the definition of homo/heterosexual identities (Sedgwick, 1990). Meanwhile, other aspects of culture were also undergoing significant restructuring, although less suddenly. Aspects, such as gender power relations, as well as nationalism and imperialism, were in visible crisis during this period. It is impossible to draw lines and define boundaries around what constitutes proper sexuality, making it difficult to predict the impacts of shifting sexual discourse (Ibid p. 2-3).

[...] new from the turn of the century was the world-mapping by which every given person, just as he or she was necessarily assignable to a male or a female gender, was now considered necessarily assignable as well to a homo- or a hetero-sexuality, a binarized identity that was full of implications, however confusing, for even the ostensibly least sexual aspects of personal existence (Sedgwick, 1990, p. 2).

Additionally, it is explained in Sedgwick book, how Individuals generate contrast and distinctions between private and public, inside versus outside, subjects versus objects in their personal involvements. These contrasts are important, and the term of the "open secret" doesn't essentially break down the binary divisions and their associated principles. Instead, it actually does the opposite, it shows how these divisions are still profoundly rooted in our imaginary restoration(Ibid). The idea of the implication in the refugee process can blend us on how we comprehend an individual's story. With the assumption that by the time these individuals are seeking refuge or asylum, they must have had solved their subjective battles and can hereby be open and share their 'coming-out' encounter or experience. However, this implication cannot be seen as a general

assumption, and could mostly have consequences for their asylum cases (Berg & Millbank, 2009). Moreover, this an individual makes the decision of 'coming-out' for others within the social sphere, they must reflective (however for some, it happens spontaneously) method and approach for the concern of hypothetical negative imports or positive benefits (Mason, 2003). Within the closet, a gay or lesbian has Individuals can protect and guard their privacy concerning their sexual identity by adjusting how much and when they "reveal" about themselves. Additionally, this can serve the purpose for them to avoid discrimination or hostility for identifying as gay or lesbian person (Ibid).

As previously mentioned before, in the introduction in relation to conceptualizing and defining heterosexuality and homosexuality there are additional differentiations separately from only the just the gender classifications. These additional differentiations implicate labels that are in conflict with one and other, but however still considered as being fundamental for our culture and society: "masculine/feminine, majority/minority, innocence/initiation, natural/artificial, new/old, growth/decadence, urbane/provincial, health/illness, same/different, cognition/paranoia, art/kitsch, sincerity/sentimentality, and voluntarity/addiction" (Sedgwick, 1990, p. 72).

### Rainbow-splash:

With the reflection of the closet metaphor, in our mindset, we now continue on the further into of how queers manifest their sexual identity, in a public area and also towards the immigration authorities. The scholar Deniz Akin (Akin, 2016) conceptualizes how the queer asylum seekers are most likely required to translate their sexual identity and display of it in their lives, hereby a so called 'Rainbow-splash. This manifestation happens for the conformation, that there are intelligible members of the queer community in the eyes of the Norwegian authorities. The study for this concept builds its empirical data on 10 semi-structured interviews, that were conducted in Oslo and Trondheim of during 2013 -2014 (Ibid). Hence it will serves a great understading for the conceptulisation, that takes place in this study.

[...]translate their sexuality appears to be a Western style of loud and proud sexual identity. On the one hand, use of this style can be considered embracing of a lifestyle that was denied to informants in their country of origin. On the other hand, the sudden

‘rainbow splash’ on their lives, as I call it, can be a strategy used to fit in. (Akin, 2016, p. 463).

Similarities can be found in Denmark and will be shown in the analysis of this study. This concept is vital for the understanding of the queer asylum seekers within Denmark. Most often LGBTQ+ individuals rapidly learn how to hide their sexual orientation to avoid sanctions or end up in any unpleasant circumstances. For instance, an asylum seeker might have an upbringing from a country where it is not possible to show their sexuality without serious negative consequences. Relatedly, an asylum seeker most likely lives in a Danish asylum center where hiding one's queer-sexuality is necessary to avoid social isolation or sanctions. The vital aspect of using rainbow-splash in this context is that when an LGBTQ+ asylum seeker has to present their asylum motive to the asylum authorities in Denmark, the exact opposite is required, meaning that they have to manifest their sexual orientation and identity clearly (asylum, 2015).

There are many ways of the use of ‘Rainbow-splash’. The strategy creates power for the LGBTQ+ individual and gets expressed via, when individuals intentionally decide to publicly disclose their sexual orientation through newspapers, social media or interaction with queer-organisations in order to be able to externally communicate their sexual orientation, and hereby also generate proof for their sexual orientation as well (Akin, 2016).

Nevertheless, this exposure needs to be well thought through. It needs to be taken into consideration that once an individual honestly declares their homosexuality, there will be no opportunity to control or regulate how others interpret that knowledge and may leave a small space to be able to contest other perspectives (Mason, 2003).

The closet is a social construct and so is being *out of the closet*. However, when used repeatedly as a sign of genuineness, being out of the closet (or willing to be out of the closet) and pursuing social visibility in various arenas creates the illusion that that is the only genuine way to be a LGBT individual (Akin, 2019, pp. 38-39).

This leads us back to (Jansen, 2013) statement about authorities creating stereotypes for the queer individuals.



Akin's concept of rainbow-splash consists of three layers: (Akin, 2016)

- Going public: This is the layers where an individual uses for example social media, for disclose their sexual orientation.
- Organisational support: Here individuals will engage in queer organisations and socialise within the queer community and culture, within the host country. Though this has its geographic difficulties, if you find yourself not living in larger cities and therefore can be costly.
- Born this way: This layer paints the picture symbolically of queer asylum seekers being able to navigate between two components. On one hand, it is to debunk the stereotype of their home country to appear as suitable citizens. On the other hand, it's all about displaying the validity of their asylum claim and underlining the consequences of being queer back home.

### Heteronormativity:

Both the closet metaphor and rainbow splash are created with heteronormativity as a fundamental component. "Since the early 1990s, heteronormativity has become one of the key concepts within gender and queer studies" (Herz & Johansson, 2015, p. 1009). While applying the concept of heteronormativity in our regular life, a tendency occurs, the tendency to compress an abstract range of genders and lifestyle topics under one category. That's why this concept serves as a critical tool for not only the traditional genders detachments and hierarchies but indeed also the way in which sexuality, lifestyle, and family are structured, within the society (Herz & Johansson, 2015).

"The dawning realization that themes of homophobia and heterosexism may be read in almost any document of our culture means that we are only beginning to have an idea of how widespread those institutions and accounts are." (Warner, 1991, p. 6). We see that even in the theoretical literature, where we have discursive discourses about modernity it is still an ignored aspect that the most profound distinction between homosexuality and heterosexuality is made with structures within the modern world (Warner, 1991).

Additionally, Marcus Herz and Thomas Johansson, (2015) argue further about how we should understand and implement heteronormativity as a concept when trying to understand a specific

structure in society. Seeing heteronormativity as a concept it's implicated that we are not just focusing on how the different sexualities are demonstrated, but indeed also focusing on examining the border system in the societal structures. Meaning, that heteronormativity not only trying to shift and challenge the circumstances for homosexuals but furthermore also influencing and reshaping the structure of the society and culture regarding heterosexuality (Herz & Johansson, 2015).

To sum up the concept, heteronormativity grasp on the idea of heterosexuality being the naturel and the fundamental unquestioned norm and values in the society. The research being done within the topic brings in to question of the individual's sexualities with the assumption that heterosexuality being the orthodox and standard structure in society(Ibid).

heteronormativity has to do with the conception of heterosexuality as something natural and unquestioned on different societal levels. The studies in question show how sexuality, on a more individual level, is affected by societal norms and how, in turn, society is organized on the basis of heterosexuality (Toomey, 2012, p. 188).

## Literature review:

This study covers subjects within the areas of refugee- and sexuality research. In this part, I will evaluate and review the literature on LGBTQ+ refugee- and queer theory.

Until recently the 'hypotheses' was repeatedly discussed that in the event a queer refugee could remain inside 'the closet' in their home country and they would not fear persecution, and hereby not be granted with asylum; [...]return to their country of origin and be discreet about their sexual orientation [...] (Lewis, 2013, p. 178) and specifically in Denmark up till the year 2012-2013 (Lindholm, 2014, p. 328). The narrative for this argument was that sexual orientation was specific behaviour or sexual practices, and you as an individual could choose not to engage in (Mole, 2021) Additionally, we have seen examples of this hypotheses actually being a reality, as mentioned before in this thesis, in the article from (Lewis, 2013).

However, it is also seen as a contradictory expectation, as studies also point out that queer refugees are most likely expected to have been hiding their identity in their home country. Meanwhile, it is required from them simultaneously to openly embrace their sexual orientation, 'out and proud' when arrive in their host countries. Furthermore, it is expected from them, that they need to show more or less that their orientation of gender identity and sexual attraction has not changed and is still the same part of their identity (Lunau, 2019; Shakhshari, 2014). This gets further elaborated with the expectations of the queer refugees and their credibility, "queer migrants must perform according to the diktats of truth being expected of them" (Abbey, 2022, p. 5; McKinnon, 2009).

According to Moira Dustin and Nina Held (2018), how queer refugees express their gender identity, sexual orientation and also how they live their lives is a fundamental role for the determination of the success, for them to be approved (Ibid). Vítor Lopes Andrade (Andrade, 2018) noticed in his study of Refugee Status Determination and Local Integration of Asylum Seekers and Refugees on the Basis of Sexual Orientation in Brazil and Spain, that if the queer refugees were active and participated in pride parades, they would have enhanced chance of getting their asylum claim approved(Ibid). Moreover, Dustin and Held emphasize the clarity and importance that this group of individuals is not treated or seen as a homogenous identity (Dustin & Held, 2018).

Dustin and Held address further the need for much more research within this subject of framework (Dustin & Held, 2018). With that being said, Ari Shaw, Kate Mackintosh and S. Priya Morley (2022) argues how research regularly has its attention predominantly on the components such as individuals and institutions that encounter contact with LGBTQ+ migrants at border patrol agents and asylum officers. Additionally, it gets inferenced the importance of other key stakeholders involved in the asylum process has not been thoroughly examined yet. Contributors to their rapport, underline the necessary a more comprehensive investigation of judicial decision-making and the role of judges is necessary to gain a better understanding of their decisions-making on immigration cases interconnected to sexual and gender minorities. Specifically, there is a need to examine the impact of preconceived perceptions and stereotypes on the application that finds a place within refugee law. Such an investigation will provide valuable insights and understanding into the factors that influence legal outcomes and conclusions and hereby help to identify potential biases that might occur or exist in the legal system (Ibid p.6).

Rikke Andreassen's (2021) research showed that social media plays a crucial part in queer refugee's asylum cases. The Danish Refugee Appeals Board believes in a specific online behavior and performance, for the determination of the queer refugees are/were genuinely queer applicants. Components like low visibility, sexual fluidity, and the absence of 'out & proud' can have an effect regarding their authenticity and genuineness from the narrative of the authorities(Ibid). In matter of this subject, it is relevant to mention Marie Lunau (Lunau, 2019). Her research illustrates the gap between the definition of the 'Truth' that queer refugees are confronted with in the Danish asylum system. She further focuses on queer refugees' personal narrative and the expectations from the authority, about their narratives during asylum interviews (Ibid).

Recently Rieke Schröder published her newest research (Schröder, 2023). She explores how queer refugees within Scandinavia navigate with the concept of 'the closet', using it a strategic tool for where and for whom to be 'out and proud'. Queer refugees often choose carefully for what context to be out and disclose their sexuality, this is a reaction for being able to balance the expectation of the society and the asylum system (Ibid).

The primary objective and purpose of this thesis is to study and foster a comprehensive understanding of the discursive framework that underlies the Danish asylum system's approach concerning queer asylum seekers. Additionally, I aim to identify the beneficiaries and non-beneficiaries of the Western free mindset, along with the reasons behind such disparities.

## Methodology:

In this chapter, I will discuss the methodology, and elaborate on the ontological factors and the use of discourse analysis. An explanation of my data will take place under the headline primary data, here I will explain how I have acquired my data/cases and provide a justification for how specific cases have been selected. As an ending point of this chapter, I will discuss my ethical considerations and the limitations that might occur while doing my research.

This research study builds its ontological foundation mostly from social constructivism and partly from post-structuralism. Hence my theoretical framework takes its baseline from heteronormativity, a concept that implies the use of when trying to analyze specific structures, within a society “Social constructionism is an umbrella term for a range of new theories about culture and society” (Jørgensen & Philips, 2002, p. 4). My subjective considerations of sexuality and gender are socially constructed by factors, such as culture, media, and society. This construction can be challenged and changed. As mentioned in the theoretical part of this study, “sex life is something that has been structured and regulated through “[...]canonical law, the Christian pastoral, and civil law. They determined, each in its own way, the division between licit and illicit” (Foucault, 1978, p. 37). Meaning I share the same narrative and thought of the social construction of ‘licit’ and ‘illicit’. Foucault considers knowledge not to be a simple reproduction of reality, but relatively a discursive construction. Meaning, that truth is in its way determined by different established regimes of knowledge. The definition of what is considered true or false is not fixed and can change over time. Foucault's objective is to examine the structure of various established knowledge regimes, hereby also including the rules governing what can and cannot be said, for the creation of the true or false (Jørgensen & Philips, 2002).

Moving on to the subject of discourse analysis, I will first discuss the determination and the understanding of a discourse, and then elaborate on my choice of analysis method.

Discourse is a form of social action that plays a part in producing the social world – including knowledge, identities and social relations – and thereby in maintaining specific social patterns. [...]That the social world is constructed socially and discursively implies that its character is not pre-given or determined by external conditions and that people do not possess a set of fixed and authentic characteristics or essences (Ibid p.5).

Our understanding of the world around us is created by social practices. Knowledge is therefore constructed and maintained through social interaction and practices where we establish mutual truths and participate in what is true or false in the world around us. We should therefore not see

the world as objective truth but indeed a product of our ways of categorizing or classifying it. Meaning that knowledge and representations of the world are products of the specific discourse, shaped through our own perspectives and biases. Hence it is necessary to approach our knowledge and understanding critically to expand a more accurate interpretation of the world (Ibid). Foucault describes further, the power to not be limited to specific individuals, state authorities, or groups with certain interests. Instead, it is scattered throughout several social practices, much like discourse (Ibid).

Critical Discourse Analysis (CDA) is set to be an interdisciplinary approach that analyzes texts in the context of social and political environments and specific paradigms. CDA intends to study the structural relations of discrimination, dominance, control, and power (Huckin, Andrus, & Clary-lemon, 2012). Language is hereby not just a simple tool for delivering information about conceptual states, behaviour, or facts about the world. Instead, it is a 'machine' that manufactures and consequently shapes the social world, including social identities and relations (Jørgensen & Philips, 2002, p. 9). The field of rhetoric and composition delves into the role of language in shaping public opinion. These fields investigate how communication can form our perception and picture of the world by analyzing credible language and effective communication (Huckin, Andrus, & Clary-lemon, 2012). With the help of CDA are we able to dive into specific social circumstances or incidents to find patterns that generate, distribute, emphasize, and reproduce societal norms and ideology (Ibid).

For this study, I have chosen to make use of Norman Fairclough's (1991) three-dimensional model of discourse (Simpson & Mayr, 2009). Fairclough's critical discourse analysis is a way to study and investigate how language use changes by drawing on earlier discursive structures through intertextuality. This means that, when people use language, they are building on what is already there, hence earlier discourses play a role in determining new meanings. Through the combination of elements from different discourses, certain language use can change and adjust both individual discourses and the broader public and cultural context (Jørgensen & Philips, 2002). Fairclough's three-dimensional model focuses on "discourse as *text*, written or spoken, as *discourse practice* and

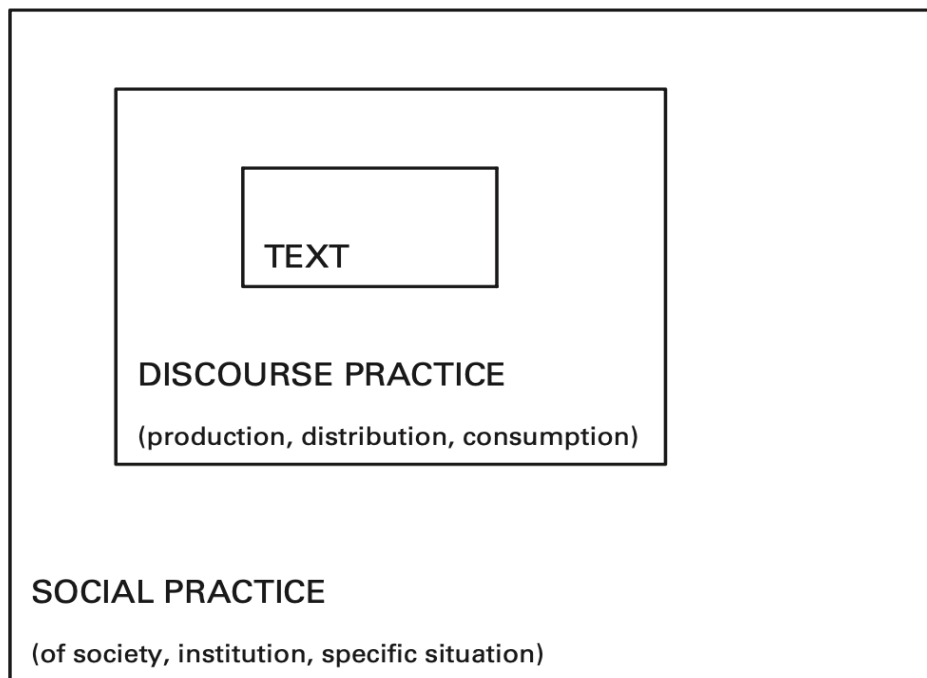
as *social practice*” (Simpson & Mayr, 2009, p. 62). In the following, I will explain the three dimensions.

- Dimension 1 – Text:
  - The first of these three dimensions **text** covers the field of linguistic structures within a text (Jørgensen & Philips, 2002). That includes factors such as the vocabulary, words, and grammar in sentences. This could come as an exasperation in passive verbs and metaphors in a text (Simpson & Mayr, 2009). In the TV news, these tools get used in the process of creating a certain discourse “e.g. a welfare discourse or a neoliberal discourse” (Jørgensen & Philips, 2002, p. 69).
- Dimension 2 – Discourse practice:
  - The second dimension is named the **discourse practice**. The dimension of "discourse practice" describes how text is generated, shared, and consumed within a society. When examining discourse through this specific lens, scholars do not only analyze the vocabulary, grammar, and structure of the text but also the spoken language. To refer to different types of words, the predominant term ‘word classes’ is regularly used. This approach allows for a comprehensive knowledge of how language shapes and reflects societal norms and values (Simpson & Mayr, 2009). This means that Fairclough's second dimension focuses on how we arrange or create words within sentences and how we select and choose specific language to address a subject/matter.
- Dimension 3 – Social practice:
  - The last and third dimension is **social practice**. Refers to the social structures and norms. Furthermore, that language is a huge factor in creating social relationships and practices. Other aspects that get emphasised is that “[...]this dimension deals with the issues important for social analysis, such as the power relations and ideological struggles that discourse (re)produce, challenge or transform in some way” (Simpson & Mayr, 2009, p. 63). The connection between texts and social practices is prejudiced by the way people and society use language to create and interpret texts. It is therefore only through discursive practices that texts can have a

certain impact and be influenced by social practices. To rephrase, language is an essential factor in shaping and being shaped by these social practices (Jørgensen & Philips, 2002).

Figure 2

*A three-dimensional model of discourse*



Note: (Simpson & Mayr, 2009, p. 62, then adapted from Fairclough, 1992 p.73)

For this study, I will be focusing on the second and last dimension of Fairclough's model since this aspect will help me with findings within the cases I am investigating and what/how narratives are created for these LGBTQ+ asylum cases.

### Ethical consideration:

For this part of the research project, an elaboration of the ethical considerations will be presented. Studies and research project related to the subject of refugees, demands a careful and thoughtful approach. For this reason, is vital to consider and reflect on the ethical aspects and difficulties that



might arise from doing such research. When doing an investigation on this topic, it is important to demonstrate integrity and respect for the involved individuals/groups, due to the possibility of marginalisation and stigmatisation of them. The alpha and omega approach for this is the conceptualisation of “Do No Harm” (Krause, 2017, p. 3). Refugees might have been the victims of a huge loss and traumatising experience and events (Krause, 2017). When conducting a study on the topic of refugees and forced migration, scholars should always pay attention towards doing research with the those in subject instead of doing about them in the subject, meaning the individuals of refuge and forced migration. The benefit of such is the creation of more symmetry of power (Ibid). Therefore it is crucial to remember aspects as such when doing the research; “The ethical principle of justice poses the questions of who will carry the research’s burden and who will benefit from the research.” (Zapata-Barrero & Ricard and Yalaz, 2020, p. 6).

“Thinking beyond the research arena implies thinking about the social and political impact of the research, about the influence our research may have on social change and on the impact it may have in modifying particular migrant circumstances.” (Zapata-Barrero & Ricard and Yalaz, 2020, p. 3). My motivation for doing this study lies in the ambition to be able to make a meaningful impact and contribution to the topic with the attention and knowledge being brought through this research. There exists a vast lack and gap in awareness regarding this topic, especially within Denmark. Consequently, there is a reason for conducting further research and investigation on this topic.

### Limitations and strengths:

In any kind of study, it is a fundamental principle to be able to reach a recognition of the limitations that are prior to the study or being considered throughout the study. This is an essential aspect of gaining the best possible knowledge and being transparent in your study. I will start with my own position and identity that hypothetical can create limitations. As this study is set from a post-structural approach, I acknowledge the fact that I do not possess a neutral position for this study with my own background as being a descendant of an immigrant family and holding Danish citizenship.

One of the biggest limitations of this study would be its time frame. My first and original intention for this thesis was to conduct qualitative interviews with queer refugees. However, due to the circumstances such as the limited time frame to conduct this study, I focused on the information the Danish Refugee Appeals Boards Database could provide me with. Additionally, there does not exist a database, with the concrete numbers of queer refugees within Denmark and therefore neither any indication of what sexuality or gender people identify as. There is only one organisation that works with queer asylum seekers/refugees, called LGBTQ+ Asylum, which also narrows the possible information for such a vulnerable topic. When addressing the limitations of a study, it is also important to emphasise one strength for the context of the research. An essential factor for this study is my knowledge of the Danish language as a native speaker. I can understand the case clearly and I therefore will not get into a situation of translation conflict or any linguistic difficulties as such.

### Collection of data:

As mentioned at the beginning of this study, I intended to collect qualitative interviews with my target group (LGBTQ+ refugees). Since this was not possible, I made use of the Refugee Appeal Board's (flytningenævnet) database. In this database, there is open access for anyone who wants information about the cases that come through the Refugee Appeal Board. There is a filter function on the database, which I made use of in relation to the specific category of refugee cases I wanted to investigate, i.e. I entered my search field with the LGBTQ+ category. Since I only wanted cases from the Middle East and North Africa, I had to read through the individual cases that appeared on the database, as it is only possible to search for specific countries that the refugees come from. When selecting cases, I only picked cases from North Africa, the Middle East and Iran. This is because there are huge cultural commonalities, including language and religion. Furthermore, Iran is labelled as being part of 'The greater Middle East' (Dietl, 1999; Marçais, 1955; Ahmed, 2014).

I want to start by stating that I believe all cases are generally relevant and do not try to discriminate in any way. My argument for only examining the cases from the Middle East is based on the idea that masculinity from that part of the world is very static, heterogeneous, and homogenous. We can call this terminology 'Male Arabness' (Turner, 2019). In an article from 2019 written by Frances

Hasso, she argues that there are different masculine identities within the Arab world and Muslim culture, that are challenging and go against the perception that they are static and essentialized (Hasso, 2019). Like her, I believe that we must put an end to these categorisations and representations, but this is only possible if we create an understanding of how they are created. She describes, among other things, that the main factors that have contributed to the creation of this notion of masculinity in the Arab world are capitalism, colonialism, and imperialism. Furthermore, she emphasizes the necessity that masculinities need to be conceptualized as plural and changing (Hasso, 2019). Following on from this, Jennifer Allsopp discusses in her study how men and boys in particular were received in Europe during the so-called refugee crisis of 2014. There was a significant emphasis on masculinity and age, particularly in the perspective of unaccompanied male minors. These individuals were and still are often painted as a 'threat,' specifically concerning their sexuality and adherence to gender norms founded on their cultural background (Allsopp, 2017).

I have selectively chosen 6 cases after applying the filter of LGBTQ+ and country categories. These cases are chosen based on the different aspects expressed in each case, from the sexual nature to the use of specific words and phrases. And finally, an even distribution of people who identify as the male gender and position themselves differently on the sexual spectrum of queer identities. It was possible for me to collect qualitative information and data from my cases. I used the theories and concepts as mentioned in the chapter of theoretical framework to categorise this data, by coding it so that I could find relevant information that could be used as indicators for theoretical frameworks.

## Analysis:

For this chapter of the study, I will conduct an analysis of my cases to develop and create a more comprehensive understanding of my chosen topic. This section has been organized in an approach that allows for a chronological examination of each case. This will facilitate the possibility for me to incorporate and implement the theory and concepts that were previously reviewed into the individual cases, thereby systematizing how they reference theory and concepts.

Eventually, at the end of this chapter, the discourse that occurs and is shaped in these cases will be analyzed in a separate section, with the title 'Shaping the discourse. This final analysis will incorporate examples from all cases.

Before I start with each of the cases, a remark needs to be emphasized. This is only one side of the story, the resume and what is stated on the cases is from the narrative of the Refugee Appeal Board. It occurs quite quickly to me that asylum applicants from the beginning need to build their cases very consistently and accurately due to the underlying assumptions that they might be lying and are not trustworthy or credible. As an example of this can be that upon arrival in Denmark asylum seekers might get their phones confiscated by the Danish migration authorities. These confiscated phones are then proceeded to copy the contents, including, videos contact lists, photos, and other things. The official justification for this data assembling is to verify and confirm the identities of those asylum seekers who may be in lack and absent of the necessary and passable documentation (Mathias Koch Stræde, 2016).

### Case one:

For this first case, I have decided to delve into a case regarding a male who identifies as homosexual, from Algeria. It is stated at the beginning of the case that:

“As a motive for asylum, the applicant has referred to the fact that his uncle or other persons will kill him or he will be subjected to degrading treatment. In support of this, the applicant has stated that he is homosexual and that in Algeria he dated a man for eight years whom he wanted to marry, which is not legal in Algeria. No one was aware of the relationship”(Case 1) (please refer to appendix 1).<sup>1</sup>

This is a perfect example of the closet metaphor and closet-strategy. The closet creates a capability for, individuals who identify as gay or lesbian to gain the power to camouflage their sexual identity in a strategic way. This hereby allows them to manage the level to which they might be subjected to hostility or discrimination founded on their identification as gay or

---

<sup>1</sup> My own translation

lesbian (Mason, 2003). On one hand, he wants to be open about his sexual identity and get married, which is not possible due to Algerian law. On the other hand, his 'closet-strategy' has more or less vanished since he will not have the power to control who has the knowledge of his sexual identity and therefore can be subjected to hostility at any time e.g. from his family. It is also stated halfway through the case that he actually has been a victim of physical and sexual abuse. However, the Refugee Appeal Board found this information inconsistent because he did not reveal these stories at his first interview with the authorities.

We also gain information about a relationship he has had with his neighbour for 8 years without anyone knowing about it and that he has not been in contact with him since he departed from Algeria. This piece of information, the Refugee Appeal Board find very strange and remarkable, hence it could indicate homonationalism and heteronormativity, due to the reason of the constructed assumption of a specific way of having a relationship. Many questions could be asked in this situation, perhaps they broke up or they did not want a long-distance relationship. When using these ideas and concepts in everyday life, it is noticeable that these ideas start to cover much more than just the gender differences. They also touch on other social aspects, such as how families are arranged, how do we express love, and nevertheless how we choose to live our lives (Herz & Johansson, 2015).

Eventually, his asylum application was rejected due to the lack of credibility and trustworthiness. The argument for this conclusion was that the conflicts he had with his family were not severe enough, even though his uncle locked him in a room for days, due to his sexual identity, and it is not illegal to be homosexual in Algeria. Hence "[...]the applicant has not demonstrated that he or she would be at risk of persecution or abuse upon return to Algeria[...]" Case 1.<sup>2</sup>

#### Case two:

This second case is regarding a male asylum seeker from Kuwait who identifies as homosexual. His motive for his asylum application is his fear that the authorities will imprison him due to his sexual

---

<sup>2</sup> My own translation

identity and his pro LGBTQ+ rights views. This case is quite short, nevertheless it contains some relevant and interesting aspects and elements for this study.

He during his teenage years and until his departure, he was in a homosexual relationship with [X] alongside his marriage. Meaning he was flexing in and out of the closet also in-between the different identities which most likely created space for him to be in power. And satisfy societal norms and expectations regarding his sexual identity. He is further making sure of normative standards are being reinforced.

Later on in the case he provides evidence of his sexual identity. This evidence is in the form of images, videos and communication of a sexual nature. This presentation is apparently completely unsolicited and of the applicant's own free will.

The Refugee Appeal Board emphasizes that the applicant, from the first document he filled out, stated his sexual identity as homosexual. His relationship with person X, appears ongoing for 40 years besides his marriage to his wife. This postulation finds the refugee appeal board credible as he presented the compelling material of images and communications etc. This shows a great example of Akin's concept of 'Rainbow-splash' within this case, there is an expression of the layer categorized as 'born this way'. As mentioned in the theory chapter, this layer refers to the queer person navigating between two components. Debunking the stereotype of their country of origin to appear as a suitable citizen, but also displaying the validity of their asylum claim and emphasizing the consequences of being queer in their country of origin.

The applicant gets his asylum claim approved in this case however, at the end of the case we see an expression of homonationalism; "The Board further emphasizes the applicant's explanation that if it would have been possible in Kuwait he would have lived openly as a homosexual in his relationship with [X] (Case 2) (please refer to appendix 2)."<sup>3</sup> Putting in to reference the idea that there is only one way to be a queer, as loud and proud.

---

<sup>3</sup> My own translation

What is really interesting about this case and the previous case is the fact that in the first case, the legal conditions for queer identities in the country of origin get emphasis but not in this one. However, both of them claim asylum with the same motive; fear from the authorities and their family/community. As a final remark for this case, I would like to mention a phrase that has been used in this case 'homosexual activity', this phrase draws reference to heteronormativity, as an activity that is far and separate from the 'natural activity' of a male and a female. A further discussion of this phrase and terminology will take place in the last section of this analysis, under the headline of 'Concluding Thoughts of the Discourse'.

### Case three:

This case is regarding an asylum seeker from the city called Meknes, which is located in Morocco. It is a male that identifies as homosexual, his asylum claim was not approved. This asylum claim covers a lot of aspects and factors, however, the only ones that will be investigated here in this study are the ones regarding his sexual identity.

At the beginning of the case, it is stated that the applicant found out he was homosexual seven years ago when he travelled to Belgium, and during his trip, he visited different gay bars. Furthermore, he tells the Refugee Appeal Board he wishes to live in a country where he will not be discriminated against or oppressed due to his sexuality. These aspects draw on the concept of heteronormativity and the theory of homonationalism from the perspective of heterosexuality as the natural sexual identity. Homosexuality is thus not understood as an inherent essence, rather it is constituent as the essential 'Other' of heterosexuality. This association produces individuals who categorize as either homo- or heterosexual which is followed by specific gender norms. With the action of this determination and imagining of non-heterosexual subjects and populations, the 'natural heterosexuality' is constructed and materialized (Petersen, 2016).

As we continue down this route, there are further examples of sexuality being considered as a fixed terminology on the subject, which in this case is the asylum applicant. This is done by expecting him to remember specific names of men he has been in contact with/had some form of sexual endeavor

with. Furthermore, it is perceived as an ambiguous explanation that he has stated different numbers of men he has been with.

[...]that he has been with a man named [B] and that he knows [B] very well. The applicant has also explained to his lawyer that he has been in a relationship with 4 men in Denmark, while he has explained to the Danish Refugee Council that he has been in a relationship with 5-6 men and to the Danish Immigration Service that he has been with two men in Denmark (Case 3) (please refer to appendix 3).<sup>4</sup>

The underlying reason for these ambiguous explanations can be many, such as a cultural divide or that the applicant and the Refugee Appeal Board have different narratives for when to know a sexual partner's name and where is the fine line between what is "just" a sex partner and what is a life partner. Another significant and highly essential factor can be the following; "Lesbian and gay applicants from countries in which homophobia is state sanctioned or encouraged may find it hard to imagine that state officials could be anything other than hostile to discussion of homosexuality" (Berg & Millbank, 2009, p. 199).

#### Case four:

Case four (please refer to appendix 4) concerns a male who identifies as homosexual, his country of origin is Iraq. Asylum motive for his asylum claim is that he fears if he returns to Iraq he will be killed by the Iraqi authorities or his family due to his sexual identity.

The applicant explained that he recognized that he was homosexual at the age of 20-22 years old, but that in Iraq it was not possible for him to openly live out his sexuality. At the age of 12, he became interested in women's clothes, and growing up he realized that he liked boys, as he did not like kissing girls. Furthermore, it is mentioned that the applicant had relationships with several men, often older than the applicant, and for a long period of time he worked as a prostitute. Viewing these statements in the light of heteronormativity, it is as if the applicant is placed in a stereotypical gender

---

<sup>4</sup> My translation.



role of the female gender, as being the feminine and fragile creature, by emphasizing that he likes women's clothes and stressing that he dates older men than himself. In the same section of the case, it is stated that he felt freer upon his arrival in Denmark and has been more open about his sexual identity.

He is in a relationship with a Danish resident Iraqi man. However, this relationship is kept a secret as the man is married to a woman. During his stay in Denmark, the applicant has also made contact with the organisation named LGBT-Asylum and has participated in some of their events. The applicant feels like a woman, although due to his fear, he is reluctant to be open about his gender identity. Hence he has participated in Aarhus pride and Copenhagen Pride, this is a clear indicator of the concept Rainbow-splash, “which refers to the fashion in which informants translate their sexuality with reference to the Western style of loud and proud identities, characterized by high visibility and linear stories of liberation[...]” (Akin, 2019, p. 38). All three layers of Rainbow-splash are covered within the specific contest, ‘Going public, Organisational support, and Born this way. The Refugee Appeal Board also states why the applicant gets his asylum, the applicant has a sexual relationship with another man in Denmark and that he cannot live in an open homosexual relationship without risk of persecution and/or abuse upon return. It is noted in this regard that the applicant has made it probable that he secretly had homosexual relations in Iraq prior to his departure. Again, this should be seen as an expression of Rainbow-splash, The Closet Metaphor, and Heteronormativity, constructing a testimony or evidence based on the perspective of being out of the closet holds a substantial factor, not just for the clarity of the individual's claimant but also remaining to the fundamental belief that those who are open with sexuality, such as being gay are more predisposed to be a victim for persecution than those who keep their sexual identity in the closet (Akin, 2019). Narratives and presumptions such as this, commonly result in unfair treatment for particularly for masculine gay individuals, due to juries that might undertake the assumption that ‘feminine’ men draw attention in public due to the heteronormative traditional gender norms (Ibid).

### Case five:

For this fifth case, I will investigate and analyze how bisexuality is expressed in these cases and what role it plays in the decision to grant or deny asylum to a refugee. The case is about a man who identifies himself as both homosexual and bisexual, the argument for this is that a mix of different statements are made within the case. He originally comes from Iran. The applicant has as a motive for asylum referred to the fact that he fears being executed by the authorities if he returns to Iran.

It is explained in the case that at the age of twelve, he had a female girlfriend. However, it is stated that he was also interested in boys of the same age.

One day, when the applicant was out on a football pitch with one of his classmates, [A], they started touching each other. Two other boys came and raped [A] while the applicant watched. The two boys were subsequently expelled, while the applicant was allowed to continue at the school. The applicant subsequently did not show his bisexuality in practice(Case 5) (please refer to appendix 5).<sup>5</sup>

If we take a closer look at the last sentence in the paragraph of the quote it says “[...] did not show his bisexuality in practice”, It can be understood in the context of a concrete construction of this sexuality, meaning that there is a notion of it being lived/lifestyle only in one way. This idea and structure can be understood as the following, as an institution, that governs and controls the lives of those within its boundaries through aspects, such as norms and practices that range outside heteronormativity. Meaning the influence is fixed and embedded in everyday activities, making these practices heteronormative. Hence creating ‘how things are normally done.’ With that being said, the influence of heterosexuality on individuals is not just theoretical but essentially is part of their daily lives and routines (Pollit, Mernitz, Russell, Curran, & Toomey, 2021).

It is later explained in the case that after arriving in Denmark, the applicant first started dating the woman [E]. However, shortly afterwards, the applicant met the man, [F], with whom he also started dating. When the applicant got to know [F], it is described that he felt very attracted to him and

---

<sup>5</sup> My own translation.

therefore broke off his relationship with [E]. The applicant has subsequently characterized himself as homosexual. Furthermore, the Refugee Appeal Board also emphasize the applicant's appearance in an article in [named magazine] in [autumn] 2016 together with both his then female and male partner. This could be seen in the perspective that sometimes bisexuals and gay men may have to downplay their sexual orientation to be able to control and manage stigma. In the asylum-seeking process, they might minimize opposite-gender relationships, hence presenting a more credible identity labelled as homosexuality (Berg & Millbank, 2009).

With the clear statement in the case that the applicant was not hiding his sexuality if he had to return to Iran, the Refugee Appeal Board granted the applicant refugee status. This connects with the metaphor of being 'out of the closet,' representing a need for protection because of the risk of persecution by the authorities in his home country. Furthermore, this also resonates with rainbow-splash, the statement is a clear indication of out and proud and goes under the categories of every layer of the concept (Akin, 2016). In the framework of homonationalism, the applicant associates with several heteronormative norms broadly established in the national context. Acknowledging and accepting the complicities does not necessarily mean a defeat in the fundamental, resistant, or divergent nature of queer identities. It can instead additionally be seen as a beneficial response that opens up opportunities for empowerment and understanding (Puar, 2007) with such a clear statement of his intentions for not hiding his sexuality in his home country.

Lastly, it is quite clear that biometrics<sup>6</sup> has been a curational factor in the determination of grand/no grand of asylum in this case. In many ways, his sexual identity is validated by the data that appears on his Facebook profile, such as pictures and his activities with different originations with the clear indication of heteronormativity being used as a fundament for the acceptance of the data, on his social media.

---

<sup>6</sup> Biometrics are biological measurements — or physical characteristics — in this study context it the use of social media that is used to identify individuals sexuality.

## Case six:

This sixth and final case I will review for this study is about a man from the Alegria who identifies as a homosexual. The applicant's motive for seeking asylum is that he fears that if he returns to Algeria he will be ostracized by society or that society will not accept him because he has rejected Islam, and because he likes freedom and exhibits behavior that is different from that of other young people.

Expressions of homonationalism are evident from the start of the case. The applicant fully assimilates to Western values and way of life; [...]because he has opted out of Islam, and because he likes freedom and exhibits behaviour that is different from that of other young people”(case 6) (please refer to appendix 6)<sup>7</sup>. Further, in the case, it is elaborated that he was once expelled from school, because he had plucked his eyebrows and because of his ‘homosexual appearance’. This indicates the existence of a normative expectation and beliefs regarding the behaviour of homosexual individuals. The phrase ‘homosexual appearance’ definitely reflects a perspective embedded in heteronormativity, emphasizing a conventional understanding of queerness.

The Refugee Appeals Board disbelieved his homosexuality, due to a picture that appeared on Facebook, in this picture he is with a woman named [A]. Additionally, there is a comment on the photo from [A]’s mother quoting “sweet son-in-law”(case 6)<sup>8</sup>. In doing so, the Appeal Board centered its consideration and concern on his social media content and information, however, this information dated back almost two years. Consequently, this material became the foundation for describing the applicant's sexuality, hence this led to the description of his asylum case as fraudulent and missing credibility. It seems that there is a fixed framework for what the applicant actually does not fulfil in terms of his sexuality as if there is only one valid way to express one's sexual identity. It should be understood that homosexuality is not considered an inherent or natural identity but rather the inherent counterpart to heterosexuality. Therefore, It constructs individuals who align with both homo- and heterosexual norms, while on the other hand referencing specific gender norms. The fundamental perspective on ‘homosexuality’ is not a fixed or natural identity; rather, it becomes a

---

<sup>7</sup> My own translation.

<sup>8</sup> My own translation.

discursive construction that is materialized through the repetition of specific norms from a heteronormative perspective (Petersen, 2016).

### Shaping the discourse:

For this section of the analysis, I will investigate the discourses that might exist in the selected cases from the Refugee Appeal Board. With the use of my findings as indicators for Fairclough's model of discourse. First, I would like to state the following; Discourse analysis focuses attention on investigating the discourse itself, rather than uncovering the 'true' intentions and reality behind it. This is because reality is constructed and composed through discourses, making them the subject of analysis. The purpose is therefore not to unveil the truth behind the words as a main object, but rather to examine the language used in the discourse (Jørgensen & Philips, 2002).

Looking back on Fairclough's model of discourse it is based on his understanding of the sociopolitical and ideological processes that may appear in a society. Additionally, discourse is a reflection of the changes in hegemony and discourse practices within a given society (Jørgensen & Philips, 2002). It should be stated that critical discourse analysis advocates that language is used as a component to legitimise social inequality and imbalance of power. It scrutinizes power relations and perceptions that are visible in a given discourse. Furthermore, analyzing linguistic practices and understanding the complex interplay between language and power in various contexts, makes the possibility to reveal how language is used to reproduce social hierarchies (Wodak & Meyer, 2001). For this specific study that means having a concrete glance and diving into the implicit assumptions, sentences, indications and abstraction within the cases (Fairclough, 2003). As mentioned earlier in the methodology section, it is relevant in this context to focus on the last and second dimensions of Fairclough's model, i.e. social practice. The second and third dimension is **discourse practice** and **social practice**. Refers to the social structures and norms (Jørgensen & Philips, 2002).

The most prominent pattern that arose from the cases I have analyzed is the perception and view of sexuality as a fixed and heterosexual structural construct. The data shows that it was obvious that the categories of the sexual identity were connected in a way that the authenticity, highly focuses

on the consistency and homogeneity of the narrative that is predicated on homosexual experiences and involvements, with statements such as; “The explanation therefore seems constructed for the occasion”(Case 3)<sup>9</sup> and "The applicant did not subsequently show his bisexuality in practice" (Case 5)<sup>10</sup>. Moreover, the credibility of the identity was associated with the well-founded fear exhibited by the applicant.

Ideologies are systems and ways of thinking that demonstrate how people create, retain, and change relationships of power, exploitation or mistreatment. Some people see ideologies as just a way of unfolding people's philosophies and attitudes, without reflecting on how power and control are involved (Fairclough, 2003). “Moreover, if ideologies are primarily representations, they can nevertheless also be ‘enacted’ in ways of acting socially, and ‘inculcated’ in the identities of social agents” (Fairclough, 2003, p. 9).

After an overall assessment, the Refugee Appeals Board finds that the applicant has made it probable that he is a homosexual and that he feels like a woman, even though the applicant has explained in detail and on some points divergently about the asylum motive (Case 4)<sup>11</sup>

The ideological structure is maintained by putting statements and explanations into a box of either approved or disapproved ideas about the identity of queer, as expressed in the previous quote, i.e. “some points divergently” and "made it probable that he is a homosexual". The power dynamics within these cases are very clear, we must consider the decision makers of the Refugee Appeal Board as agents, and they must make a decision based on an existing ideology and policy that is in power in the country. Furthermore, they have to validate whether the untruths the asylum seekers make fit into their narratives and assumptions. The cases show clear signs that there are no other possible alternatives to pre-existing structures of narratives and fundamental heteronormativity. This may be due to the clearer power structure between the correspondent and the respondent.

---

<sup>9</sup> My own translation.

<sup>10</sup> My own translation.

<sup>11</sup> My own translation.

The respondent (i.e. the asylum seeker) is not given the opportunity to express and manifest their narrative of a sexual identity,

The people who are doing the interviews, they expect you to look and act like a women, if you are a gay man. But everybody has a style. I look very straight, and if you appear straight, they think you are lying. But being gay does not have to mean that you should appear feminine (LGBT - Asylum, 2015, p. 5).

Hence, social practices are fundamentally mechanisms and instruments that regulate the variety of specific structural preferences while excluding others. Practices as such also guarantee that these selected preferences are retained over time in particular domains of social existence (Fairclough, 2003). This idea is shown in multiple places in every one of the cases, however, an example of this could be;

The Refugee Appeals Board cannot rely on the applicant's explanation of the event that triggered the escape, as it appears to have been constructed for the occasion and is thus unreliable. The applicant's explanation that he and [B] had sex in [B]'s home without securing themselves against the risk of discovery thus seems striking and unlikely - also considering that they did not know each other very well(case 5).<sup>12</sup>

Emphasizing that there is only one way of how this scenario should happen and a set of conditions and rules the applicant should have taken into consideration.

There are some specific words and phrases that I find extremely eye-catching. Therefore, I will point them out; his eyebrows and because of his "homosexual appearance".This indicates the existence of a normative expectation and beliefs regarding the behavior of homosexual individuals. The phrases "homosexual appearance" and homosexual relationship, definitely reflects a perspective embedded in heteronormativity, emphasizing a conventional understanding of queerness(Case 6)(Case 2). The essential concern is the progression by which specific objects are transformed into generalizable and universal concepts, and how specific identities, interests, and representations and actually becomes a universalized understanding. This examination can be contextualized within the

---

<sup>12</sup> My own translation.

outline of hegemony - A practice by which certain social groups establish, and maintain their social dominance. To achieve hegemony is to achieve a certain degree of accomplishment in promoting and endorsing specific ideas as universal (Fairclough, 2003).

Subsequently, it appears that on certain occasions, immigration officers practice the use of stereotypical or heteronormative narratives and conceptualizations of the LGBTQ+ group, as well as static assumptions of sexual practices, during the decision of asylum cases. The normative assumptions regarding both sexual practices and social aspects get expressed within the authorities' evaluating cases through the lens of their individual knowledge and experiences, formed by normative heterosexual patterns (LGBT - Asylum, 2015).

As discussed in the first part of the analysis section, a clear picture is created of the concept of rainbow-splash is expressed in large parts in all the cases in question, for example; "The Board further relies on the applicant's explanation that, if it would be possible in Kuwait, he would have lived openly as a homosexual in his relationship with [X] [...] presented communications, photos and videos containing homosexual activities. The Refugee Appeals Board accepts the applicant's explanation of his homosexuality [...] The Board emphasizes that the applicant already stated in his application form that he was homosexual and that he has subsequently submitted extensive material to substantiate this. The Refugee Appeals Board therefore assumes that the applicant has lived in a homosexual relationship with [X] for almost 40 years in addition to his marriage (Case 2)." The applicant visited several different gay bars. The applicant wants to live in a country where he is not oppressed because of his sexuality(Case 3)<sup>13</sup>. There seems to be a preconceived notion of how sexuality should be realised and thus also expressed in the public space. It is only through the fulfilment of these preconceived notions and implicit frameworks that a legitimate foundation for one's sexuality as queer can be created. Implicitness is a common characteristic of i.e. textual communication, which has a substantial social importance. The existence of mutual bonds, social ties, and collective identities profoundly relies on the shared meanings that are taken for granted. The nonattendance of a mutual understanding of implicit meanings would reduce any form of social communication or interaction impracticable (Fairclough, 2003). Nevertheless, the capability to use social power, domination, and hegemony is indeed closely associated with the ability to form the

---

<sup>13</sup> My own translation.



nature and content of this mutual understanding, which emphasizes the importance of implicitness and assumptions regarding ideology(Ibid).

[...]political discourse in the case of the assumption that anything which enhances 'efficiency and adaptability' is desirable. Existential and propositional assumptions may also be discourse-specific – a particular discourse includes assumptions about what there is, what is the case, what is possible, what is necessary, what will be the case, and so forth (Fairclough, 2003, p. 58).

Significant example of this is the pre-assumption and implicitness notion of how queers cannot be in heterosexual marriages, in order to actually hide their 'real' sexuality and thus satisfy the social and cultural sphere of their background is:

In this connection, it is also noted that a printout from the applicant's Facebook profile from 1 December 2016, where he is seen together with a woman named [A], and that on [A's] Facebook profile there is a comment from [A's] mother, [B], who refers to the applicant as her sweet son-in-law(Case 6)<sup>14</sup>.

If you have kids, they ask you: 'How did you get those kids, since you are a lesbian?' They don't understand that in our country, even if you start being a lesbian when you are young, you are forced to get married. If you tell them this, they tell you that you are lying. They tell you that if you have been married you cannot be with a woman. They don't understand how life can be (LGBT - Asylum, 2015, p. 5).

The standpoint on 'homosexuality' is not a natural identity; rather, it enhances a discursive construction that is occurred through the repetition of specific norms from a heteronormative perspective (Petersen, 2016)."[...] did not show his bisexuality in practice"(Case 5), 'Homosexual activity' (Case 2), Words and phrases like these indicate that there is a structural understanding of what and how sexuality is, and especially something that is radically different than heterosexuality. There is indeed a relationship between the way language is used and the context it is used in. However, the question that arises is, how does a variant in the way language is used relate to the political and institutional power dynamics that we have defined? Critical Discourse Analysis is

---

<sup>14</sup> My own translation.

concerned with how society and institutions in positions of power use particular forms of language. However, this does not indicate that all forms of language used, are inherently negative or influenced by particular ideologies (Jørgensen & Philips, 2002).

## Discussion:

In this discussion chapter, I will examine how the experiences of refugees overlap with their LGBTQ+ identity and how their credibility is being questioned. Furthermore, this chapter represents the centre of awareness and knowledge, postulating a summary of findings that not only highlights the complexities of their experiences but also investigates and explores the larger picture for implications in policy, thinking, and further study.

On the Refugee Appeal Board's own website it is stated the following:

In cases concerning persons who refer to their sexual orientation, gender identity or similar as a reason for asylum, the Refugee Appeals Board makes a decision based on a specific and individual assessment of whether the asylum seeker in question fulfils the conditions for obtaining a residence permit [...] This assessment includes, among other things, the asylum seeker's statement compared with the other information in the case, including the background material in the Refugee Appeals Board's possession concerning the asylum seeker's home country, and[...] the information contained therein about the conditions for persons with the sexual orientation, gender identity or similar (Flygtningnævnet, 2022, p. 245).

A particular group is considered to constitute a particular social group, in particular when "members of that group share the same innate characteristics or a common background that cannot be changed" (Flygtningnævnet, 2016, p. 476).

This statement gives a clear indication of how the refugee appeal board works when making decisions in these cases. However, it is noticeable that it is not explicitly stated what evidence makes an individual's queer identity sufficient to be granted asylum.

## To be or not to be queer:

As mentioned in the last section of the analysis chapter, a specific pattern occurred in the cases I had a look at, sexuality is very much viewed upon from a heterosexual and binary 'male/female' structure. The LGBT Asylum report from the year (2015) and the report from Ari Shaw, Kate Mackintosh and S. Priya Morley (2022) are consistent with my postulate of the underlying structures of heterosexual normative and binary foundations within the Danish asylum system.

Asylum seekers must provide detailed information about their persecution or risk of it, along with their motive for seeking asylum, to appear as credible as possible. However, for LGBT asylum seekers, this also means publicly 'coming out' as LGBT in front of the officials and authorities, which is a significant obstacle for many applicants to overcome (LGBT - Asylum, 2015). Some of the contributing informants say the following;

They don't believe that you are LGBT. They think we lie, and that we are making it up. It gives me a feeling of doing something wrong.[...]The interview is very intimidating, because at home you can never say to police that you are gay, so you hide it, and Danish authorities do not understand that (Ibid p. 3).

If a person who identifies as queer notices that the interviewer/authority might not be open to their sexual identity or orientation, it might have an influence on their choice to reveal it during an interview. Moreover, the applicant's decision to reveal their sexuality may also be influenced by the interviewer's own sexual identity or cultural identity (Berg & Millbank, 2009). "I would like to be interviewed by a gay immigration officer, or someone who is sensitive and knowledgeable about these issues. At least somebody in the panel doing the interview needs to understand LGBT – and all four letters." (LGBT - Asylum, 2015, p. 4).

The report 'Knowledge gaps and research priorities on LGBTQI+ Refugees and Asylum Seekers' (Priya Morley, Mackintosh, & Shaw, 2022), was conducted by the Williams Institute and the Promise Institute for Human Rights at UCLA School of Law. This report addresses the gaps and data priorities on LGBTQI+ refugees and asylum seekers, with specific consideration to connections with marginalization based on race. Contributors to the report include academics, researchers, community members, advocates, and leaders from international refugee and asylum agencies. The

contributors of the report discuss one subject among others, the sub-difficulty of specific LGBTQI+ migrants who are at a high risk of deportation without even the possibility to request of appeal, because of inherent biases within the asylum screening process. Additionally, the treatment of transgender persons who possess identity documents that are not associated with their gender identity and are consequently suspects of document fraud.

This leads me to a new section for this discussion chapter, what can be done? Questions and aspects I find crucially relevant for this study.

### So what now?

The moral compass has always been a question in the subject of refuge, in mankind. The question of the credibility and the degree of authenticity of the asylum seeker has become an increasingly important question and factor for the 'real asylum seeker'. In the article 'The Precarious Truth of Asylum' from 2013 the French anthropologist and sociologist Didier Fassin addresses and sheds light on the topic and matter of the present refugee subject (Fassin, 2013). In his article he further elaborates:

What is the truth of asylum? And how are the accounts of asylum seekers recognized to be true? These interrogations raise significantly different issues. In the first one, the emphasis is on the substance of asylum, on the way it is permanently transformed through international debates and national jurisprudence as well as by the daily work of officers and magistrates confronted with concrete cases. In the second one, the focus is on the evidence of the asylum seekers, on the relations between what is told and what really occurred, and between these alleged facts and the legal definition of the refugee (Fassin, 2013, p. 40).

Fassin addresses the question of refugees currently and nowadays comprises both the moral obligation for giving asylum, as definite in the Refugee Convention and those who meet the legal description of a refugee. The truth of asylum defines which stories are determined as truth when being told by asylum seekers. According to Fassin, the truth of asylum is not an inflexible reality, but

nevertheless a creation of a product from history. The authenticity of refugees is hereby always being redefined and modified based on the changes in the truth of asylum (Fassin, 2013).

The historical construction of a growing normativity, homonormativity, connects the acknowledgement of homosexual subjects, both from a legal perspective and also a representative aspect. This takes place on both the national and transnational political levels of U.S. imperialism. Homonormativity can be seen as conjoining with and welcoming into the light founded on established by heterosexual norms (Puar, 2007).

So where does this lead us we might ask? The society that existed during the creation of the Refugee Convention (UNHCR, 1951), is not the same as the one we live in today. LGBTQ+ was not mentioned back then, and therefore I would agree with the Fassin's argument of the truth of asylum being a product of our surrounding history and narrative. So the time has changed however, there seems to be an underlying contradictory aspect of postulating freedom and acceptance in the Western world, but even with these two reports (LGBT - Asylum, 2015) and (Priya Morley, Mackintosh, & Shaw, 2022) with almost 10 years apart, conclude that the same fundamental problems still exist.

It can be concluded that immigration officers tend to have a lack of culture-sensitive attitude and approach when dealing with LGBT-related subjects and cases, this could be due to inadequate knowledge. They most often use stereotypical ideas and sexual practices when handling these cases. This matter is demonstrated in several ways and aspects. For illustration, some applicants have described that their credibility as a lesbian or gay man has indeed been questioned simply because they have children or were beforehand in a heterosexual marriage (LGBT - Asylum, 2015).

Sometimes they don't accept certain things. For example, if you have children, the authorities don't understand or believe you are LGBT. When you come from a place, where it is taboo to be LGBT, you try to change your behaviour, pretend you are not LGBT, and it can be hard for authorities to accept you have been forced to live in the closet (LGBT - Asylum, 2015, p. 5).

There is a necessary and essential must for Danish authorities to handle LGBT issues with extreme sensitivity and more understanding as crucial information regarding their entitlement to protection

from persecution, is not provided to the applicants. Enriching the authorities' ability to successfully address LGBT-related issues, purchases impose related training and knowledge programs. Only hereby can LGBT issues be handled efficiently (LGBT - Asylum, 2015).

I think it is fair to say that the Danish methodology of LGBTQ+ rights deserves a closer examination and analysis from a legal perspective. While Denmark is broadly known for its non-discriminatory policies concerning the LGBTQ+ community, it is important and indeed crucial to reflect that such policies may not automatically assure an entirely inclusive environment. The intersection of LGBTQ+ policies with immigration policies creates grounds for potentially placing queer migrants in a vulnerable position where their rights may not be fully protected and safe. With my findings in the analysis chapter I can expose gaps in acquaintance and knowledge amongst asylum authorities regarding the distinctive challenges faced by queer migrants, just to mention the use of phrases such as "[...] did not show his bisexuality in practice" (Case 5), 'Homosexual activity' (Case 2).

## Conclusion:

As I have reached this final phase of this study, the conclusion chapter serves the purpose of being the terminating of reflection on the in-depth and comprehensive investigation made within this thesis. During the previous chapters, we have investigated and examined the complexities of queer identities and what discourses shape the credibility of asylum seekers, with an intense perceptiveness for detail and an obligation to discover new knowledge and insight into this subject. In these final and concluding pages, I will reevaluate the primary objectives that were conducted and the investigation, revisit the key findings that occurred from the analysis section, and additionally reflect on the implications of this thesis discovered for equal practice and concept.

This study aimed to investigate the following; How are narratives of credibility in LGBTQ+ asylum cases discursively constructed? In light of the previous analysis of the six asylum cases, the following can be drawn:

There is a specific approach to these cases that I allow myself to conclude, asylum seekers are deemed to be 'liars' until proven otherwise. This means that they must be able to provide as much counter-evidence as possible to prove that they are not lying about their asylum claim. I would postulate that through the analysis we have been able to get a concrete picture of the working method for these cases and the underlying structure, both of discourse and the basic narratives that exist in order to appear as an authentic queer in the Danish asylum system.

The reports used in the discussion chapter can also be used to support this argument. In the report from LGBT asylum, first-hand sources are used, namely the asylum seekers themselves. In contrast, the six cases from the refugee appeal board are summaries of the meetings/interviews that took place between the asylum seeker and the decision-maker, the authority. Both sources of evidence indicate that a heteronormative discourse exists when deciding whether a queer asylum seeker is granted asylum or not. The pre-assumptions play a crucial role in this context, as it is these pre-assumptions that asylum seekers must meet in order to fit into the 'categorization' that has been formed and thus be granted asylum.

This discourse is formed from both social practice and language. The linguistic dimension occurs in the way certain phrases and words are used in these cases. The social dimension must be considered in light of the basic consensus that exists and that plays out in the acceptance of the use of these words and phrases in the publication of these cases. As previously mentioned in this study, a social agent is an individual or a collective group of people who contribute to a social practice and have the capability to affect or be influenced by communication. Social agents have an important impact on the construction, distribution and forming of the interaction in a specific social setting. In other words, they create the foundation for the standard narrative. Hence the autochories are the social agents.

As an accumulation of all these thoughts, conclusions and knowledge creation, I believe that further studies and investigations could be made on how the Danish asylum system creates concrete knowledge on the topic of sexual and gender identity. Furthermore, the follow-up question is, will these discourses and narratives be utilized for the country's own citizens? In other words, does this

questioning happen elsewhere in society, and if so, does it help to form the normative narrative and discourse for queer asylum seekers?



## Bibliografi

- Abbey, M. (2022). Truths, fakes and the deserving queer migrant. *Sexualities*.
- Ahmed, R. A. (2014). North Africa and the Middle East. In M. H. Bornstein, *Handbook of cultural developmental science* (Vols. 359-381). Psychology Press.
- Akin, D. (2016). Queer asylum seekers: translating sexuality in Norway. *Journal of Ethnic and Migration Studies*, 43(3), pp. 458-474.
- Akin, D. (2019). Discursive Construction of Genuine LGBT Refugees. *Lambda Nordica: Tidskrift om homosexualitet*.
- Allsopp, J. (2017). Agent, victim, soldier, son: Intersecting masculinities in the European “refugee crisis”. In *A gendered approach to the Syrian refugee crisis* (Vols. 155-174). Routledge.
- Andrade, V. L. (2018). Refugee status determination and local integration of asylum seekers and refugees on the basis of sexual orientation in Brazil and Spain. *Genius-Rivista di studi giuridici sull'orientamento sessuale e l'identità di genere*, 5(2), pp. 88-103.
- Andreassen, R. (2021). Social media surveillance, LGBTQ refugees and asylum: How migration authorities use social media profiles to determine refugees as ‘genuine’ or ‘fraudulent’. *First Monday*.
- asylum, I. (2015). *lgbt asylum applicants in denmark*. lgbt asylum.
- Bendixen, M. C. (2023, June 23). *refugee.dk*. Retrieved Januar 2024, from <http://refugees.dk/en/facts/the-asylum-procedure-in-denmark/the-three-phases-of-the-asylum-procedure/>
- Berg, L., & Millbank, J. (2009). Constructing the personal narratives of lesbian, gay and bisexual asylum claimants. *Journal of Refugee Studies*, 22(2), pp. 195-223.
- Brochmann, G. a. (2012). *Immigration policy and the Scandinavian welfare state 1945-2010*. Springer.
- Dietl, G. (1999). *Iran in the emerging greater Middle East*. København: Copenhagen Peace Research Institute.
- Dustin, M., & Held, N. (2018). In or out? A queer intersectional approach to ‘particular social group’ membership and credibility in SOGI asylum claims in Germany and the UK. *Genius-Rivista di studi giuridici sull'orientamento sessuale e sull'identità di genere*, 2, pp. 74-87.
- Fairclough, N. (2003). *Analysing discourse: Textual analysis for social research*. Psychology Press.

- Fassin, D. (2013). The precarious truth of asylum. *Public Culture*, 25(1), pp. 39-63.
- Flygtningenævnet. (2016). *Flygtningenævnet*. Retrieved Januar 2024, from <https://fln.dk/-/media/FLN/Publikationer-og-notater/Publikationer/Beretninger/Beretning-2016-WEB.PDF>
- Flygtningenævnet. (2019). *Flygtningenævnet.dk*. Retrieved Januar 2024, from [https://fln.dk/da/Publikationer/Publikationer/Beretninger/28\\_beretning\\_2019](https://fln.dk/da/Publikationer/Publikationer/Beretninger/28_beretning_2019)
- Flygtningnævnet. (2022). *Flygtningnævnet.dk*. Retrieved Januar 2024, from <https://fln.dk/-/media/FLN/Publikationer-og-notater/Publikationer/Beretninger/1060074-Beretning-2022.pdf>
- Foucault, M. (1978). *The History of Sexuality Volume I: An Introduction*. Pantheon Books, New York.
- Hasso, F. (2019). Decolonizing Middle East men and masculinities scholarship: An axiomatic approach. <https://dukespace.lib.duke.edu/dspace/bitstream/handle/10161/19498/Decolonizing%20Men%20and%20Masculinities%20Scholarship%20ARAB%20STUDIES%20JOURNAL%20Hasso%20October%202018.pdf?sequence=2>.
- Herz, M., & Johansson, T. (2015). The normativity of the concept of heteronormativity. *Journal of homosexuality*, 62(8), pp. 1009-1020.
- Huckin, T., Andrus, J., & Clary-lemon, J. (2012). Critical Discourse Analysis and Rhetoric and Composition. *College composition and communication*, pp. 107-129.
- Jansen, S. (2013). *Introduction: fleeing homophobia, asylum claims related to sexual orientation and gender identity in Europe*. Routledge.
- Jørgensen, M., & Philips, L. (2002). *Discourse analysis as theory and method*. Sage.
- Krause, U. (2017). Researching forced migration: Critical reflections on research ethics during fieldwork. *Refugee Studies Centre. Working Paper Series*, 123.
- Kreichauf, R. (2020). Legal paradigm shifts and their impacts on the socio-spatial exclusion of asylum seekers in Denmark. *Geographies of asylum in Europe and the role of European localities*, pp. 45-67.
- Lewis, R. (2013). Deportable subjects: Lesbians and political asylum. *Feminist Formations*, pp. 174-194.
- LGBT - Asylum. (2015). *lgbt asylum applicants in denmark Applying for asylum on the grounds of sexual orientation and gender identity*. LGBT - Asylum. Retrieved August 2023

- Lindholm, J. (2014). *Danske asylafgørelser : baggrund, kontekst, analyse*. Jurist- og Økonomforbundet.
- Lunau, M. (2019). The Trouble with 'Truth': On the Politics of Life and Death in the Assessment of Queer Asylum Seekers. *Kvinder, Køn & Forskning*, 28(3-4), pp. 12-23.
- Marçais, P. W. (1955). Peoples and cultures of North Africa. *The Annals of the American Academy of Political and Social Science*, 298(1), pp. 21-29.
- Mason, G. (2003). *The spectacle of violence: Homophobia, gender and knowledge*. Routledge.
- Mathias Koch Stræde, S. G. (2016, februar 17). Hundredvis af asylansøgere mobiler kopieret af politiet. *Information*.
- McKinnon, S. L. (2009). Citizenship and the performance of credibility: Audiening gender-based asylum seekers in US immigration courts. *Text and Performance Quarterly*, 29(3), pp. 205-221.
- Mole, R. (2021). *Queer migration and asylum in Europe*. UCL Press.
- N. Wium Olesen, A. E. (2019, 7 November). *Nordic.info*. Retrieved 23 November 2023, from Nordic.info - Aarhus University: <https://nordics.info/show/artikel/danish-immigration-policy-1970-1992-1>
- Petersen, M. N. (2016). These are queer times indeed": en introduktion til homonationalisme i en dansk kontekst. *Kvinder, Køn & Forskning*, 16(4), pp. 55-66.
- Pollit, A., Mernitz, S., Russell, S., Curran, M., & Toomey, R. (2021). Heteronormativity in the lives of lesbian, gay, bisexual, and queer young people. *Journal of homosexuality*, 68(3), pp. 522-544.
- Priya Morley, S., Mackintosh, K., & Shaw, A. (2022). *KNOWLEDGE GAPS AND RESEARCH PRIORITIES ON LGBTQI+ Refugees and Asylum Seekers*. The Williams Institute, UCLA School of Law.
- Puar, J. K. (2007). *Terrorist assemblages: Homonationalism in queer times*. Duke University Press.
- Schröder, R. (2023). Scandinavian design. The continuous closet and queer refugees in Denmark. *Sexualities*.
- Sedgwick, E. K. (1990). *Epistemology of the Closet*. Univ of California Press.
- Shakhsari, S. (2014). The queer time of death: Temporality, geopolitics, and refugee rights. *Sexualities*, 17(8), pp. 998-1015.
- Simpson, P., & Mayr, A. (2009). *Language and power: A resource book for students*. Routledge.

- Toomey, R. B. (2012). Heteronormativity, school climates, and perceived safety for gender nonconforming peers. *Journal of adolescence*, 35(1), pp. 187-196.
- Turner, L. (2019). Syrian refugee men as objects of humanitarian care. *International Feminist Journal of Politics*, 21(4), pp. 595-616.
- Udlændingestyrelsen. (2023, 08 03). *nyidanmark*. Retrieved August 2023, from <https://www.nyidanmark.dk/da/Du-vil-ansøge/Asyl/Voksen-asylansøger>
- UNHCR, U. N. (1951). *UNHCR*. Retrieved August 2023, from <https://www.unhcr.org/media/convention-and-protocol-relating-status-refugees>
- Warner, M. (1991). Introduction: Fear of a queer planet. *Social text*, pp. 3-7.
- Wodak, R., & Meyer, M. (2001). *Methods of critical discourse analysis*. SAGE Publications Ltd,.
- Zapata-Barrero & Ricard and Yalaz, E. (2020). Qualitative migration research ethics: a roadmap for migration scholars. *Qualitative Research Journal*, 20(3), pp. 269-279.

## Appendix 1:

### **Emneord: Køns- og æresrelateret forfølgelse - LGBT+, Privatretlig forhold**

#### **Land: Algeriet**

Nævnet stadfæstede i februar 2021 Udlændingestyrelsens afgørelse vedrørende en mandlig statsborger fra Algeriet. Indrejst i 2019.

Flygtningenævnet udtalte:

"Ansøgeren er etnisk [X] fra [by], Algeriet. Ansøgeren har ikke været medlem af politiske eller religiøse foreninger eller organisationer eller i øvrigt været politisk aktiv. Ansøgeren har som asylmotiv henvist til, at hans morbror eller andre personer vil slå ham ihjel, eller han vil blive udsat for nedværdigende behandling. Ansøgeren har til støtte herfor oplyst, at han er homoseksuel, og at han i Algeriet var kæreste med en mand i otte år, som han ønskede at gifte sig med, hvilket ikke er lovligt i Algeriet. Der var ikke nogen, der var bekendt med forhold. Ansøgeren har videre oplyst, at han i 2. og 3. klasse blev voldtaget gentagne gange af tre drenge, der var nogle år ældre end ham, og at han efterfølgende blev kaldt skældsord, da drengene fortalte det til ansøgerens familie og venner. Ansøgerens morbror blev i 2019 bekendt med, at ansøgeren blev kaldt homoseksuel, hvorefter han slog ansøgeren og lukkede ham inde flere gange af nogle dages varighed. Ansøgeren har forklaret udbyggende om sit asylmotiv. Under asylsamtalen og under nævnsmødet har ansøgeren forklaret, at han blev udsat for vold af sin morbror, der også spærrede ham inde, ligesom han er blevet udsat for vold af befolkningen, senest ved en episode, afledt af en konflikt med en person ved navn [A], hvilket var årsagen til hans udrejse af Algeriet. Ansøgeren har ikke forklaret om disse konflikter og voldsepisoder under oplysnings- og motivsamtalen, uagtet han flere gange er spurgt til, om der var andre årsager til hans udrejse, men har under oplysnings- og motivsamtalen oplyst, at årsagerne til hans udrejse var, at han som barn var blevet udsat for seksuelle overgreb, og at han blev behandlet ydmygende og kaldt "vantro" og "søn af en prostitueret" af den øvrige befolkning. Ansøgeren har også først forklaret om [B] under asylsamtalen. Ansøger har om denne forklaret, at de var naboer og kærester gennem 8 år, men at ingen kendte til deres forhold. Han har ikke haft kontakt til [B] siden sin udrejse, heller ikke umiddelbart inden sin udrejse, og [B] var ikke bekendt med hans planer om at udrejse, alt dette fordi han ikke havde [B]'s telefonnummer, hvilket forekommer usandsynligt, henset til deres angivelige nære forbindelse gennem mange år. Hertil kommer, at ansøgeren til de italienske myndigheder har oplyst forskellige fødselsår og til de danske myndigheder har oplyst, at han er født i 2002, og at der efter en aldersundersøgelse er truffet afgørelse om, at ansøgeren er født i 2000. Efter en samlet vurdering af ansøgerens troværdighed finder Flygtningenævnet, at ansøgeren ikke har sandsynliggjort, at han har en asylbegrundende konflikt med sin morbror eller med den øvrige befolkning i sit bopælsområde. Det forhold, at ansøgeren er blevet kaldt ydmygende skældsord, er ikke forhold af en karakter eller intensitet, der kan begrunde asyl. Hertil kommer, at forholdene for homoseksuelle i Algeriet nok er vanskelige men ikke af en sådan karakter, at det at være homoseksuel og/eller have homoseksuelle forhold i sig selv er

asylbegrundende, idet det efter nævnets baggrundsoplysninger ikke er ulovligt at være homoseksuel i Algeriet, og idet de algierske myndigheder ikke i praksis strafforfølger homoseksuelle forhold. Det forhold, at ansøgeren som barn måtte være blevet udsat for seksuelle overgreb, og det forhold, at han ikke har noget sted at bo i Algeriet, kan ikke føre til et andet resultat. Efter en samlet vurdering finder Flygtningenævnet, at ansøgeren ikke har sandsynliggjort, at han ved en tilbagevenden til Algeriet vil være i risiko for forfølgelse eller overgreb, omfattet af udlændingelovens § 7, stk. 1 eller stk. 2. Flygtningenævnet stadfæster derfor Udlændingestyrelsens afgørelse.” Alge/2021/1/gdan

## Appendix 2:

### **Emneord: Køns- og æresrelateret forfølgelse - Anden forfølgelse, Køns- og æresrelateret forfølgelse - LGBT+**

#### **Land: Kuwait**

Nævnet meddelte i december 2020 opholdstilladelse (K-status) til en mandlig statsløs (bidoon) fra Kuwait. Indrejst i 2018.

Flygtningenævnet udtalte:

”Ansøgeren er etnisk araber og sunni-muslim af trosretning fra Farwaniya, Kuwait. Ansøgeren har som asylmotiv i genoptagelsessagen henvist til, at han frygter at blive fængslet af myndighederne i Kuwait, fordi han er homoseksuel og går ind for homoseksuelles rettigheder i Kuwait. Han har videre henvist til, at han frygter at blive forfulgt af lokalbefolkningen i Kuwait, idet homoseksualitet er samfundsmæssigt uacceptabelt i landet. Han frygter derfor at blive udsat for overgreb af lokalbefolkningen, og at myndighederne ikke vil have viljen til at beskytte ham imod dette. Til støtte for sit asylmotiv har ansøgeren oplyst, at han siden teen-age årene og indtil udrejsen har levet i et homoseksuelt forhold med [X] ved siden af sit ægteskab. Ansøgeren har uopfordret fremlagt kommunikation, fotos og videoer indeholdende homoseksuelle aktiviteter.

Flygtningenævnet lægger ansøgerens forklaring om sin homoseksualitet til grund. Nævnet lægger herved vægt på, at ansøgeren allerede i sit ansøgningsskema oplyste, at han var homoseksuel, og at han efterfølgende har fremlagt omfangsrigt materiale til belysning heraf. Flygtningenævnet lægger herefter til grund, at ansøgeren gennem næsten 40 år har levet i et homoseksuelt forhold med [X] ved siden af sit ægteskab. Nævnet lægger videre ansøgerens forklaring om, at han, hvis det ville være muligt i Kuwait, ville have levet åbent som homoseksuel i sit forhold til [X]. Efter baggrundsoplysningerne om forholdene for homoseksuelle i Kuwait finder Flygtningenævnet under de angivne omstændigheder, at ansøgeren risikerer forfølgelse som følge af sin seksuelle orientering ved en tilbagevenden til Kuwait. Flygtningenævnet meddeler derfor ansøgeren opholdstilladelse i medfør af udlændingelovens § 7, stk. 1”. Kuwa/2020/3/EHD

## Appendix 3

### **Emneord: Generelle forhold, Køns- og æresrelateret forfølgelse - LGBT+**

#### **Land: Marokko**

Nævnet stadfæstede i november 2019 Udlændingestyrelsens afgørelse vedrørende en mandlig statsborger fra Marokko. Indrejst i 2016.

Flygtningenævnet udtalte:

"Ansøgeren er etnisk marokkaner og muslim fra Meknes, Marokko. Ansøgeren har ikke været medlem af politiske eller religiøse foreninger eller organisationer eller i øvrigt været politisk aktiv. Ansøgeren har som asylmotiv henvist til, at han ved en tilbagevenden til Marokko frygter de socioøkonomiske forhold i landet, ligesom der ingen frihed eller rettigheder er i landet. Endvidere frygter ansøgeren at vende tilbage, idet han er homoseksuel, hvilket er ulovligt i Marokko, ligesom ansøgeren har en konflikt med politiet i Marokko i anledning af en erstatningssag. Ansøgeren har til støtte for sit asylmotiv oplyst, at han har boet i Casablanca i 19 år, hvorefter ansøgeren udrejste til Europa. Ansøgeren har boet sammen med sin mor og sine to brødre i Casablanca. Ansøgerens fader var soldat, men blev dræbt i ørkenen. Ansøgeren og hans familie fik ikke tilkendt en erstatning for faderens død, hvilket ansøgeren fortsat er frustreret over. Da ansøgeren rejste til Belgien for cirka syv år siden, fandt han ud af, at han var homoseksuel. Ansøgeren besøgte flere forskellige barer for homoseksuelle. Ansøgerne ønsker at leve i et land, hvor han ikke bliver undertrykt på grund af sin seksualitet. Ansøgeren har videre oplyst, at han udrejste af Marokko på grund af fattigdom, og ønsket om et bedre liv. Flygtningenævnet kan ikke lægge ansøgerens forklaring om sit asylmotiv til grund. Flygtningenævnet har herved lagt vægt på, at ansøgeren har forklaret divergerende og udbyggende om centrale forhold vedrørende sit asylmotiv. Forklaringen fremstår derfor som konstrueret til lejligheden. Ansøgeren har således blandt andet først under samtalen med Udlændingestyrelsen i 2019 forklaret, at han er homoseksuel/biseksuel. Ansøgeren forklarede i den forbindelse, at han først fandt ud af sin seksuelle orientering, da han var rejst til Europa, mens han for Flygtningenævnet har forklaret, at han allerede i Marokko havde et seksuelt forhold til en mand. Endvidere har ansøgeren forklaret divergerende om, hvor mange mænd, han i Danmark har haft et forhold til, og om hvornår han i Marokko havde et forhold til en mand ved navn [A]. Ansøgeren har endvidere forklaret divergerende om, hvordan hans venner i Marokko blev bekendt med ansøgerens seksualitet, idet han til sin advokat har forklaret, at han selv fortalte sin venner det, mens han for Flygtningenævnet har forklaret, at han ikke selv fortalte det. Ansøgeren har heller ikke over for hverken Dansk Flygtningehjælp eller Flygtningenævnet kunnet nævne navnet på bare en af de mænd, som han skulle have haft et forhold til i Danmark, men senere under mødet i Flygtningenævnet, kunne ansøgeren på sin advokats spørgsmål, der indeholdt angivelsen af et konkret navn, bekræfte, at han har været sammen med en mand ved navn [B], og at han kender [B] rigtig godt. Ansøgeren har endvidere til sin advokat forklaret, at han i Danmark har haft et forhold til 4 mænd, mens han til Dansk Flygtningehjælp har forklaret, at han har haft et forhold til 5-6 mænd og til Udlændingestyrelsen har forklaret, at han har været sammen

med to mænd i Danmark. Ansøgeren har heller ikke før for Flygtningenævnet forklaret, at han har været fængslet i 2 måneder Marokko på grund af en erstatningsretlig konflikt med politiet, idet han til Udlændingestyrelsen har forklaret, at han ikke har været anholdt eller fængslet i Marokko, men alene at han blev truet med at blive anholdt. Ansøgeren har også forklaret meget divergerende og usikkert om, hvor længe der gik, fra han blev løsladt, til han udrejste af Marokko. Ansøgeren har generelt svaret meget usikkert og afglidende på de stillede spørgsmål. Flygtningenævnet har endvidere lagt vægt på, at ansøgeren har svækket sin generelle troværdighed ved oprindeligt at opgive falsk identitet, herunder om sit statsborgerskab. Flygtningenævnet kan således ikke lægge til grund, at ansøgeren er homoseksuel/biseksuel, eller at han har en asylbegrundende konflikt med politiet i Marokko. Det er indgået i Flygtningenævnets vurdering, at en ansøger, der som asylmotiv påberåber sig sin seksuelle orientering, efter omstændighederne kan være i en særlig sårbar situation, hvilket imidlertid på baggrund af ovenstående ikke kan føre til en anden vurdering. De socioøkonomiske forhold i Marokko er heller ikke asylbegrundende efter udlændingelovens § 7. Ansøgeren har således ikke sandsynliggjort, at han ved en tilbagevenden til Marokko vil være i risiko for forfølgelse eller overgreb omfattet af Udlændingestyrelsens § 7. Flygtningenævnet stadfæster derfor Udlændingestyrelsens afgørelse." [Maro/2019/15/YARS]

## Appendix 4:

### **Emneord: Køns- og æresrelateret forfølgelse - LGBT+, Trusler og chikane, Overgreb**

#### **Land: Irak**

Nævnet meddelte i marts 2018 opholdstilladelse (K-status) til en mandlig statsborger fra Irak. Indrejst i 2015.

Flygtningenævnet udtalte:

"Ansøgeren er etnisk kurder og sunni-muslim fra bydelen [A] i Kirkuk, Irak. Fra 1988 til 2003 boede han i Sulaymaniyah, hvorefter han flyttede tilbage til Kirkuk. Ansøgeren har ikke været medlem af politiske eller religiøse foreninger eller organisationer eller i øvrigt været politisk aktiv.

Ansøgeren har som asylmotiv henvist til, at han ved en tilbagevenden til Irak frygter at blive slået ihjel af de irakiske myndigheder eller sin familie, idet han er homoseksuel. Ansøgeren har til støtte for sit asylmotiv forklaret, at han blev bekendt med, at han var homoseksuel, da han var 20-22 år, men at han i Irak ikke kunne udleve sin seksualitet åbent. Som 12-årig begyndte han at interessere sig for kvindetøj, og under sin opvækst kunne han mærke, at han var til drenge, idet han ikke brød sig om at kysse med piger. Ansøgerens første seksuelle forhold med en mand fandt sted i starten af 1990'erne. Sidenhen har ansøgeren haft forhold til flere mænd, som ofte var ældre end ansøgeren, og i en længere periode arbejdede han som prostitueret. Ansøgeren frygter repressalier fra myndighederne og befolkning, herunder hans egen familie. Han har derfor kun fortalt to af sine venner, at han er homoseksuel. Efter sin ankomst til Danmark følte ansøgeren sig mere fri, hvorfor han turde fortælle om sin seksualitet, og han har haft et forhold til en anden beboer på [sit asylcenter]. På nu-værende tidspunkt har han et forhold til en herboende irakisk mand, men de holder forholdet hemmeligt, idet manden er gift med en kvinde. Under opholdet i



Danmark har ansøgeren fået kontakt til organisationen LGBT-Asylum, og han har deltaget i nogle af deres arrangementer. Ansøgeren føler sig som en kvinde, men på grund af sin frygt, er han tilbageholdende med at være åben om sin kønsidentitet. Under sit ophold i Danmark har ansøgeren modtaget en telefonisk trussel fra sin nevø, der fortalte ham, at han ville slå ham ihjel, idet ansøgeren homoseksuel. Flygtningenævnet finder efter en samlet vurdering, at ansøgeren har sandsynliggjort, at han er homoseksuel, og at han føler sig som kvinde, selvom ansøgeren har forklaret udbyggende og på nogle punkter divergerende om asylmotivet. Flygtningenævnet lægger vægt på, at ansøgeren under opholdet i Danmark løbende har været i forbindelse med LGBT Asylum, der i udtalelser af [begyndelsen af] 2017 og [begyndelsen af] 2018 har oplyst om ansøgerens forhold, herunder om ansøgers deltagelse i sociale arrangementer, som er afholdt af LGBT Asylum samt hans deltagelse i Aarhus Pride og Copenhagen Pride. Flygtningenævnet lægger i øvrigt vægt på en udtalelse fra Røde Kors Asyl om, at ansøgeren på grund af chikane som følge af sin seksualitet er blevet overflyttet til [en kvindeafdeling], hvor ansøgeren fortsat opholder sig. Nævnet lægger også til grund, at ansøgeren har et seksuelt forhold til en anden mand i Danmark, og at han ikke uden risiko for forfølgelse og eller overgreb kan leve i et åbent homoseksuelt forhold ved en tilbagevenden. Det bemærkes herved, at ansøgeren har sandsynliggjort, at han forinden udrejsen i hemmelighed har haft homoseksuelle forhold i Irak. Flygtninge-nævnet finder med henvisning til de foreliggende baggrundsoplysninger, at ansøgeren, der er kurder fra det nordlige Irak vil være i risiko for asylbegrundende forfølgelse omfattet af udlændingelovens § 7, stk. 1, hvis han vender tilbage til hjemlandet og der lever som homoseksuel. Flygtningenævnet meddeler derfor ansøgeren opholdstilladelse i medfør af udlændingelovens § 7, stk. 1.”

Irak/2018/35/SOL

## Appendix 5:

### **Emneord: Udelukkelse, Køns- og æresrelateret forfølgelse - LGBT+**

#### **Land: Iran**

Nævnet meddelte i oktober 2018 opholdstilladelse (K-status) til en mandlig statsborger fra Iran. Indrejst i 2015.

Flygtningenævnet udtalte:

”Ansøgeren er etnisk perser og ikke-religiøs fra Teheran, Iran. Ansøgeren har ikke været medlem af politiske eller religiøse foreninger eller organisationer eller i øvrigt været politisk aktiv. Ansøgeren har som asylmotiv henvist til, at han ved en tilbagevenden til Iran frygter at blive henrettet af myndighederne, idet han er homoseksuel. Ansøgeren har til støtte for asylmotivet henvist til, at han som 12 årig var kæreste med en pige, men at han også var interesseret i drenge. En dag, da ansøgeren var ude på en fodboldsbanen med en af sine klassekammerater, [A], begyndte de at røre ved hinanden. To andre drenge kom og voldtog [A], mens ansøgeren kiggede på. De to drenge blev efterfølgende bortvist, mens ansøgeren fik lov at fortsætte på skolen. Ansøgeren viste efterfølgende ikke sin biseksualitet i praksis. Ansøgeren har videre henvist til, at han forud for sin udrejse af Iran ved siden af sit job som produktionsmedarbejder lavede kortfilm i skjul omhandlende forskellige samfundskritiske temaer. På en for ansøgeren ukendt dato mellem den [nærmere angivet dato i efteråret] og den [nærmere angivet dato i efteråret] 2015 ringede en person ved navn [B] til ansøgeren. Han ønskede, at ansøgeren skulle lave en film om ham og hans

homoseksualitet til brug for en asylansøgning i Tyrkiet. En uge efter mødtes ansøgeren med [B] i hans hjem. Inden de gik i gang med at filme, begyndte de to at kysse, og det endte med at [B] udførte oralsex på ansøgeren. Midt i akten kom [B]s far hjem og opdagede dem, hvorefter ansøgeren flygtede ud af vinduet og tog hjem. Ansøgeren tog dagen efter til byen [navngiven by i Iran], hvor han modtog et telefonopkald fra sin ven, [C], der fortalte, at han havde givet [B] ansøgerens adresse, idet [B] ville returnere ansøgerens kameraudstyr til ansøgeren. Senere samme dag ringede ansøgerens bror til ansøgeren og fortalte, at ansøgerens bopæl var blevet opsøgt af militærfolk, der havde afleveret en retskendelse til ansøgerens familie og havde givet ansøgeren 24 timer til at melde sig til dem, hvorefter de ville iværksætte en efterlysning. Dette skyldtes, at [B]s far havde anmeldt ansøgeren for voldtægt. Ansøgeren opholdt sig i ti dage i [navngiven by i Iran], inden han udrejste af Iran. Ansøgeren har endvidere henvist til, at han i Iran har haft forhold til tre drenge eller mænd, hvoraf kun det ene forhold med drengen [D] var langvarigt. De var kærester fra ansøgeren var 13 år og cirka fem år frem. Efter ankomsten til Danmark blev ansøgeren først kæreste med kvinden [E]. Ansøgeren mødte imidlertid kort tid herefter manden, [F], som han også blev kæreste med. Da ansøgeren lærte [F] at kende, følte han sig meget tiltrukket af ham og afbrød derfor sit forhold til [E]. Ansøgeren har efterfølgende karakteriseret sig som homoseksuel. Ansøgeren har i Danmark været medlem af LGBT Danmark siden [efteråret] 2016, ligesom han har været aktiv for Aids-Fonden, hvilket fremgår flere steder på hans Facebook-Profil. Ansøgeren er i Danmark desuden blevet truet flere gange som følge af sin seksualitet, ligesom han er blevet overfaldet udenfor Diskotek [navngivent diskotek] i Danmark. Videre har ansøgeren figureret i bladet [navngivet blad] i [efteråret] 2016, hvor ansøgeren ses sammen med [F] og [E]. Endelig har ansøgeren givet råd og oplyst om homoseksualitet til brug for en biografilm, og ansøgerens navn fremgår af rulleteksterne.

Flygtningenævnet kan ikke lægge ansøgerens forklaring om den flugtudløsende begivenhed til grund, idet den fremstår som konstrueret til lejligheden og dermed utroværdig. Ansøgerens forklaring om, at han og [B] havde sex i [B]s hjem uden at sikre sig mod risikoen for opdagelse virker således påfaldende og usandsynlig – også henset til, at de i øvrigt ikke kendte hinanden særlig godt. Ansøgeren har endvidere forklaret divergerende om, hvordan [B] rørte ved ham, da han stod i [B]s værelse. Ansøgeren har således for nævnet forklaret, at [B] tog om ham bagfra og holdt om hans brystkasse og kyssede ham i nakken som indledning til sex, mens han under samtalen den [nærmere angivet dato i foråret] 2017 forklarede, at [B] startede med at tage ham på bagdelen. Ansøgeren har i øvrigt givet forskellige oplysninger om, hvornår politiet skulle have opsøgt hans bopæl efter den pågældende episode. Under samtalen hos Udlændingestyrelsen den [nærmere angivet dato i sommeren] 2016 har ansøgeren forklaret, at dette skete dagen efter, han ankom til [navngiven by i Iran]. Under samtalen den [nærmere angivet dato i foråret] 2017 har ansøgeren oplyst, at det skete samme dag, som han ankom til [navngiven by i Iran]. Nævnet lægger imidlertid ansøgerens oplysninger om, at han er homoseksuel, til grund. Nævnet har herved lagt vægt på, at hans forklaring herom støttes af oplysningerne om, at han i [efteråret] 2016 måtte flyttes fra sit daværende asylcenter, fordi de øvrige beboere havde opdaget, at han var homoseksuel. Nævnet har endvidere lagt vægt på ansøgerens optræden i en artikel i Bladet [navngivet blad] i [efteråret] 2016 sammen med både sin daværende kvindelige og mandlige kæreste, oplysningerne i erklæringen fra LGBT Asylum af [nærmere angivet dato i efteråret] 2018 og uddragene af ansøgerens Facebook profil, hvor han har postet opslag fra sine aktiviteter i bl.a. Aids Fondet og LGBT Asylum. Det må efter ansøgerens forklaring lægges til grund, at han agter at

leve åbent som homoseksuel også ved en tilbagevenden til Iran. På baggrund af baggrundsoplysningerne om straffen for seksuelle forhold mellem to personer af samme køn i Iran finder Flygtningenævnet herefter, at ansøgeren ved en tilbagevenden til Iran vil være i konkret risiko for asylbegrundende behandling omfattet af udlændingelovens § 7, stk. 1. Nævnet har efter en samlet proportionalitetsafvejning ikke fundet tilstrækkeligt grundlag for at udelukke ansøgeren fra beskyttelse i Danmark på grund af de handlinger, han har udført som værnepligtig i perioden fra [primo] 2008 til [foråret] 2009, hvor han var vagt i et fængsel. Flygtningenævnet har i den forbindelse lagt til grund, at ansøgeren en enkelt gang fra et andet rum oplevede en fange blive udsat for tortur, og at han havde til opgave at slå på fangerne, når de gjorde oprør, hvilket han også gjorde. Han har endvidere i tre tilfælde i perioden sammen med to overordnede fulgt fanger fra deres celle, når de var på vej til henrettelse og skulle tage afsked med deres familie i et andet rum. Ansøgeren har ikke overværet henrettelserne, og det kan ikke lægges til grund, at han på noget tidspunkt har udøvet andet end simpel vold i tilfælde af fangeoprør. Flygtningenævnet har i øvrigt lagt vægt på, at ansøgeren forsøgte at modsætte sig at følge personer på vej til henrettelse efter at have gjort det to gange, men at han som straf herfor fik 25 dages fængsel, 20 piskeslag og en bøde på 700.000 tuman. Flygtningenævnet meddeler derfor ansøgeren opholdstilladelse i medfør af udlændingelovens § 7, stk. 1." Iran/2018/357/MJM

## Appendix 6:

### **Emneord: Sur Place, Religiøse forhold, Generelle forhold, Køns- og æresrelateret forfølgelse - LGBT+, Køns- og æresrelateret forfølgelse - Seksuelle forhold**

#### **Land: Algeriet**

Nævnet stadfæstede i oktober 2018 Udlændingestyrelsens afgørelse vedrørende en mandlig statsborger fra Algeriet. Indrejst i 2016.

Flygtningenævnet udtalte:

"Ansøgeren er etnisk araber fra Tlemcen, Algeriet. Ansøgeren var oprindeligt sunni-muslim, men han har nu fravalgt islam. Ansøgeren har ikke været medlem af politiske eller religiøse foreninger eller organisationer eller i øvrigt været politisk aktiv. Ansøgeren har som asylmotiv henvist til, at han ved en tilbagevenden til Algeriet frygter at blive udstødt af samfundet, eller at samfundet ikke vil acceptere ham, fordi han har fravalgt islam, og fordi han godt kan lide frihed og udviser en adfærd, der er anderledes end den andre unge udviser. Han har videre henvist til, at han, da han var lille, blev seksuelt misbrugt af en magtfuld mand i hans tidligere nærområde, hvilket både hans familie og omgivelser var klar over, og at de derfor så ned på ham. Ansøgerens familie har udsat ham for vold, idet han blandt andet er blevet slået med et bælte og brændt med en ske.

Ansøgeren har endvidere henvist til, at han er homoseksuel, og derfor har været udsat for voldelige overfald og at blive smidt ud af skolen, ligesom han har henvist til de generelle forhold i Algeriet. Ansøgeren har til støtte herfor oplyst, at han praktiserede sunni-islam, da han boede i Algeriet, men at han nu tror på, at der er én gud, og at han ikke tilhører nogen bestemt religion. Ansøgeren mødte to kristne personer i Sverige, der fortalte ham om kristendommen, herunder at der er frihed i kristendommen. Derefter begyndte ansøgeren at læse i Biblen. Ansøgeren har i Danmark snakket med en præst én gang, men ansøgeren vurderede, at præstens historier lød som dem i alle andre religioner. Ansøgeren har videre oplyst, at han fortæller folk, at han er kristen,

hvis de spørger, fordi de så ikke spørger yderligere ind til ansøgerens religion. Ydermere har ansøgeren oplyst, at hans mor har udsat ham for fysiske overgreb, fordi han kunne lide at være fri og nyde sin frihed ved blandt andet, at ryge og drikke alkohol, og fordi han ikke ville passe sin skolegang. Derudover har ansøgerens morbror udsat ham for fysiske overgreb omkring fire gange. Endelig har ansøgeren oplyst, at han blev udsat for et eller to seksuelle overgreb, da han var tre til seks år gammel. Overgrebene blev udført af en mand, der var ven af ansøgerens familie og fandt sted i hans hestestald. Ansøgeren har ikke set manden, siden han var lille. Ansøgeren har også forklaret, at han er homoseksuel og har en homoseksuel fremtoning, og at han blev bortvist fra sin skole, fordi han havde plukket sine øjenbryn, ligesom hans morbror har afstraffet ham på grund af hans seksualitet. Også venner, naboer og andre har overfaldet ham både verbalt og korporligt på grund af hans homoseksualitet, og da han i et tilfælde blev overfaldet på gaden, fordi han bar makeup, gjorde politiet ikke noget for at følge op på hans anmeldelse. Flygtningenævnet kan ikke lægge ansøgerens forklaring om, at han er konverteret til kristendommen til grund, idet ansøgeren har forklaret, at han ikke er kristen men bare siger det til de personer, der spørger til hans religion. Den omstændighed, at ansøgeren ikke tror på noget, kan ikke føre til, at han meddeles asyl, idet der er religionsfrihed i Algeriet, så længe man ikke udøver sin tro på en måde, der uforenelig med Islam. Nævnet har videre lagt vægt på, at ansøgeren heller ikke var troende muslim, mens han boede i Algeriet, uden at dette har ført til, at han har været udsat for forfølgelse eller overgreb efter udlændingelovens § 7. Det bemærkes i den forbindelse, at de tilfælde af vold fra ansøgerens familie, venner og omgivelser på grund af hans anderledes måde at leve på, herunder hans manglende tro, ikke har haft en karakter eller intensitet, der falder ind under udlændingelovens § 7. Ansøgeren er ikke sikker på, om det er en virkelig hændelse eller en drøm, at han har været udsat for et seksuelt overgreb som lille. Selvom nævnet måtte lægge til grund, at dette skulle være tilfældet, kan det ikke begrunde, at han får asyl, idet der er tale om en afsluttet kriminell handling, der ligger mange år tilbage i tiden, og da ansøgeren ikke har haft kontakt til gerningsmanden, siden han og familien, da ansøgeren var syv år gammel flyttede fra det område, hvor overgrebene skulle have fundet sted. Nævnet kan ikke lægge ansøgerens forklaring om, at han er homoseksuel til grund, idet denne forklaring først er fremkommet i december 2017, efter at han var meddelt afslag af Udlændingestyrelsen. Nævnet har ved vurderingen taget hensyn til, at ansøgeren har haft psykiske vanskeligheder, og at homoseksualitet kan være et følsomt emne. Ansøgerens forklaringer har imidlertid været endog meget skiftende med hensyn til, hvad der var årsagen til udrejsen og med angivelse af en række forskellige nye asylmotiver. Nævnet har ved vurderingen tillige tillagt det betydning, at ansøgeren tidligere har været i stand til at forklare sig om seksuelle overgreb begået mod ham af en mand, uden at forklare om sin angivelige homoseksualitet. Det bemærkes i den forbindelse tillige, at der under behandlingen af sagen er fremlagt et print fra ansøgerens Facebookprofil fra 1. december 2016, hvor han ses sammen med en kvinde ved navn [A], og at der på [A's] Facebookprofil optræder en kommentar fra [A's] mor, [B], der omtaler ansøgeren som sin søde svigersøn. Nævnet har videre tillagt det betydning, at ansøgeren ved ankomsten til Danmark opgav falsk navn og nægtede, at det under sagen omhandlede visum vedrørte ham, ligesom han tilsyneladende bevis angav, at han var mindreårig, selvom dette ikke var tilfældet. Nævnet finder herefter ikke, at ansøgeren har sandsynliggjort, at han ved en tilbagevenden til Algeriet vil være i risiko for forfølgelse omfattet af udlændingelovens § 7, stk. 1, eller overgreb efter § 7, stk. 2. Flygtningenævnet stadfæster derfor Udlændingestyrelsens afgørelse." Alge/2018/6/EMU