

Categorization of LGBTI Refugees:
*Dutch Application Procedure as a Reflection of the Risk
Society*

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Abstract

This research aims to view the Dutch asylum procedure for LGBTI refugees in the light of the Risk Society. Firstly, analyses were done on interviews of LGBTI applicants and the IND to look into category- and Western narrative impositions on the applicants' lives.

Subsequently, the results were framed within the theory of reflexive modernity to showcase how the risk society is at the heart of the procedures and the categorization of individual identities.

Keywords: Refugees, Queer Migration, Reflexive Modernity, Risk Society

Imposed Categorization of LGBTI Refugees: Dutch Application Procedure as a Reflection of the Risk Society

Following the so-called refugee crisis of 2016, there has been an inflow of refugees to Europe and an overall increase of international migration. Each individual has their own reason for voluntarily or involuntarily leaving their country of origin. In light of this, it is important to consider how the rising number of LGBTI-refugees are being treated by institutions in a society shaped by reflexive modernity, because their livelihood depends on these decisions. Lives of minorities have long been overlooked in academic research, which is why paying special attention to minorities who are both migrants and LGBTI is especially important (Manalansan, 2006). The research question is the following: ‘How are categorizations in the asylum procedure in the Netherlands a reflection of the Risk Society?’

In recent years, there has been increase of SOGI (sexual orientation and gender identity) refugees applying in Europe, including the Netherlands (Dhoest, 2018). The IND (Immigratie- en Naturalisatiedienst) aims to validate the LGBTI identity of the refugee through interviews, rejecting or confirming their application based on whether the applicant: (a) is truly lesbian, gay, bisexual, transgender or intersex or another type of SOGI-minority and (b) is in danger in their country of origin for being LGBTI. Research by the Dutch COC has found that the process of both (a) and (b) by the IND are extremely influenced by stereotypes and narratives that a refugee ought to subscribe to in order to be found valid in their identity and concern for safety. Failures of the system are confirmed by applicants who were denied refuge in the Netherlands for not complying with stereotypes and whose advice was to live in the closet in their country of origin (Jansen, 2019, p. 41, 121). In the past, most rejections of refuge were based on suspicions of (b) not being the case, that the applicant

could reasonably be expected to return to the closet or find other means of safety in their country of origin. Jansen found that currently, 85% of rejections are because of suspicions of (a). The application process is taken very seriously for suspicions of fraud¹.

For this paper, the research will focus on category impositions used by the IND and consider them in the light of Queer Migration Theories, subsequently conceptualizing them in the Risk Society (within Reflexive Modernity) of Ulrich Beck and Anthony Giddens. The usage of the Risk Society framework aims to shed light on the way risk shapes the lives of these immigrants, because of the very real implications risk management has on policies, institutions and thus on immigrants' lives. Furthermore, the framework of reflexive modernity is especially helpful for looking into the matter of immigration, as it emphasizes the importance of transnationalism and globalization, both of which are very relevant to the existence of immigrants. The argumentation set-up will be the following:

1. The IND imposes a wide variety of Western narratives and categories on applicants for refuge that are stereotypical and lack insight into how an individual's subjective experience may shape their understanding of sexuality and gender.
2. The application procedure, including the aforementioned category impositions, are shaped by the age of reflexive modernity and exemplary of consequences of the risk society.

¹ ABRvS (Council of State) 20 March 2013, ECLI:NL:RVS:2013:BZ4986, par. 11.3: The State Secretary expects that if the approach is opted for that the mere statement of an alien about his sexual orientation is taken as a basis, aliens will feign a certain sexual orientation to obtain a residence permit asylum, given the interests for themselves, family members and others in the country of origin who depend on obtaining the permit.

Methodology

To address the research question, an in-depth literature review will be conducted on both Queer Migration Studies and Reflexive Modernity. A data analysis will subsequently be conducted on data gathered by COC (2019), on which Queer Migration concepts will be applied to create a set of categorizations. This will be done through inductive coding using the ATLAS.ti program. Lastly, these categorizations and its subsequent implications will be analyzed in the framework of the Risk Society. At the first stage of the research, the goal was to interview both the IND and refugees, however, due to difficulties in reaching certain figures digitally due to the outbreak of COVID-19, it was decided to conduct the research differently. Instead of contacting people, the research will be fully based on literary reviews and theoretic readings of a wide variety of relevant authors who will be discussed below.

Queer Migration Studies

Queer Migration is a new field within sociological migration studies that opens the way to challenging cis- and heteronormative prejudices that even – or particularly - academics suffer from. The importance of Queer Migration not only lies in its opportunities to challenge the aforementioned norms, but also in its relevance to the current day situation in which Queer Migration is larger than ever. Cultural shifts that accompany the influx of migrants have caused specific new judgements of the ‘Other’ relating to the acceptance of queer people, which deserve academic examination.

The relative newness of the field of Queer Migration means there are no overarching theories yet, but there are several frameworks and conceptualizations that have been borne

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out of the field. The interdisciplinary nature also makes it almost impossible to have one comprehensive theory that binds everything together, instead scholars from all differing fields use the topic either as a framework by itself or use frameworks that were borne from its research. As such, there are no consensuses on the 'right' framework to use or even on the relevance of certain concepts. Instead, the following information will showcase the current debates in the field.

Historical Background.

The appearance of Queer Migration studies came after the appearances of Feminist and Gender studies. A leading author in the field of Queer Migration is Manalansan, whose publications offer valuable insight into the conception of the field by offering a clear historical analysis. Prior to the enactment of the Immigration Act in 1990, gays and lesbians were legally unable to emigrate to the United States of America (Chavez, 2013). During this time, the AIDS crisis that had started in the eighties was still ravaging through all kinds of communities, but particularly those of the gay, the poor and immigrants. Medical scientists and social scientists found that valences and conceptions of ideas surrounding gender and sexuality were not at all as universal as they, particularly earlier feminist theorists, had previously thought (Manalansan, 2006). The idea of cultural situatedness began taking notion, as well as the realization that ideas on gender and sexuality had not necessarily only been imposed on non-Western communities, but had been accepted and transformed to create hybrid forms that encapsulate a community's own cultural values. Cultural situatedness is an important concept that explains how a person's geographical location and the accompanying cultural values are able to influence a person's respective identity formation.

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In the past, most research within migration studies focused on male migrants, because of the assumption that only men crossed borders in search of work or fleeing conflict. Feminist scholars such as Oliva Espin, Mary Romero and Lynn Fujiwara gave valuable insight into female migrants living in the United States as mothers, laborers and so on. As scholarships in the US grew from the 1990s to the early 20th century, scholars like Luibheid (2008) noted that immigrants were often assumed to be both heterosexual and cisgender, impositions that shape the implied structures of all aspects of their lives. Historically, the field of migration studies has been incredibly broad and interdisciplinary, allowing the same type of wide range of research for queer migration studies. Whether it is in connection to politics, culture, anthropology, and so on, Queer Migration Studies allow the scholar to take a specific aspect and focus on it.

Field Specific Concepts and Frameworks.

Chavez (2013) argues that a possible framework to use for the field of Queer Migration is ‘queer migration politics’, giving examples of the interconnectedness of queer migrants and fighting for rights, whether the right to have same-sex marriage or to allow emigration to the United States, queer immigrants have their own perspective that lends them a specific insight to political matters. His framework is political in nature with a focus on the importance of activism.

I define “queer migration politics” as activism that seeks to challenge normative, inclusionary perspectives at the intersection of queer rights and justice and immigration rights and justice. Queer migration politics may reflect a queer approach to migration politics. It may refer to politics by and for queer migrants. It may also include collaborations or connections among activists who predominantly identify as queer or with queer politics and those who primarily identify as or advocate on behalf of migrants.

-Chávez, K. 2013

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Another important, and slightly controversial, field-specific concept is that of ‘homonationalism’, a term originally coined by queer-theoretician Jasbir Puar. This concept has taken on many different facets after its first appearance in Puar’s (2007) article. The original meaning is the usage of LGBT rights to further a political agenda, particularly nationalistic in tendency, such as justifying Islamophobia based on the acceptance of queer people. Homonationalism seeks to portray the nation as one of safety and equality and to oppose it with the Other, usually in the form of an East-West dichotomy. It is the idea that certain lesbian and gay narratives are built on the back of the racialized Other, an effort to strengthen their cause by diminishing the morality of the Other. Since 2007, the term has been used by many scholars, both critically and as a framework for research. Puar responded in 2013 by further explaining her own position on the definition of the concept, defending herself from the criticism that homonationalism is an accusation, another identity politics or a way to divide the ‘bad queers’ from the ‘good queers’.

I have been thinking about it as an analytic to apprehend state formation and a structure of modernity: as an assemblage of geopolitical and historical forces, neoliberal interests in capitalist accumulation, cultural and material, biopolitical state practices of population control, and affective investments in discourses of freedom, liberation, and rights. Homonationalism, thus, is not simply a synonym for gay racism, or another way to mark how gay and lesbian identities became available to conservative political imaginaries [...] It is rather a facet of modernity and a historical shift marked by the entrance of (some) homosexual bodies as worthy of protection by nation-states, a constitutive and fundamental reorientation of the relationship between the state, capitalism, and sexuality.

-Puar, K. 2013

Even so, it is worth looking at some critical assessments of homonationalism, such as the one of Zanghellini (2012) who conducted literary reviews and critically assessed Puar’s arguments to develop his own academic critique. His argument is that some uses of the term

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have unnecessarily discredited LGBT rights and discourse, something he believes should concern all those who think that LGBT rights are important contributions to the life and empowerment of LGBT people (specifically, including Muslim and racialized ones). The concept should not be used as a means to discredit those who believe gay rights are important to fight for or as a means to portray queer activism as inherently Islamophobic or xenophobic. Puar's first essay on the topic has the following argument: 'mistak[ing] or transpos[ing] state repression for sexual repression, essentially denying any productive effect of juridical structures' (Puar, 2007: 14). This statement relates to the sharia-based sexual restrictions that are enacted in countries in the Middle-East, and she argues that these restrictions have caused a wide variety of 'culturally specific modalities of same-sex intimacy and relationality has developed which more than adequately takes care of same-sex desire' (Zanghellini, 2013). The idea is that the decriminalization or activism to decriminalize same-sex intimacy (specifically, sodomy) is unnecessary and culturally imperialistic, as it imposes Western concepts of liberation norms on the society in question. Overall, the idea that the enactment of human rights are Western impositions is a very dangerous argument. Zanghellini quotes his criticism of this argument succinctly:

The problem with this argument, as Habib (2010) points out is that it 'champions the right to not come out and to resist [LGBT] activist resistance as though these are culturally unique ways of existence, instead of seeing these as resultant from the impact that prohibition has on the individual's readiness to resist and protest dominant/oppressive social forces'.

-Zanghellini, 2013

Furthermore, scholars argue that we should be careful not to sweep statements made by queer immigrants who are positive about their experience in the receiving country and the subsequent rights they gained under the rug. An example is that of Murray (2015) and Dhoest (2018), whose respective ethnographic research on Canadian and Belgian refugees having

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confirmed asylum on SOGI claims found immigrants largely positive of their life in the receiving country and their ability to be open about their sexuality and partners. They themselves make East-West dichotomies in the form of before and after being allowed refuge in the receiving country. The qualitative interviews Dhoest conducted got very valuable and relevant answers such as:

Q: Is sexuality the reason why you moved to Belgium?

Peter: That's 100% why I moved. I didn't move here because of economic reasons, I know a lot of people do that. But I moved because **I know there's a future here for me.** (...) For me, I moved because I knew there is a place like this for me, there's a place **I can be able to live free as a gay person.** I never lived with a man all my life, but this is the first time I'm starting to do it and **I really feel happy,** I feel like: ah, **I think my dream is coming true.**

Dhoest, 2018, emphasis mine

For this paper, homonationalism will only be used as a concept by looking into how the IND applies it. Merely positing that the West differs from the East in LGBTI-acceptance is not considered faulty. However, using arguments that imply the applicants to have experienced their sociocultural surroundings because of their orientation in one expected way *is*, as well as the expectance that newfound freedom urges them to feel and do specific things².

Furthermore in the eye of these 'Othered' countries, homosexuality is often seen as a Western import product, but for this paper, emphasis will be laid on the fact that homosexuality and gender-nonconformity has existed in a wide variety of cultures and times. Therefore, I will make use of the term 'queer' to incorporate different sexual orientations and gender identities aside from LGBTI, because of the connotations and time-specificity of 'LGBTI' as a term.

² This will be further clarified in the data analysis, which will show that the IND expects certain narratives of people whose country of origin is largely negative to the LGBTI community. It also shows that homonationalism is tied to the expectation of immigrants to act a certain way once they are in the receiving country (see page 22).

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However, this does not mean denying the existence of LGBTI people in other times and other spaces or to see people with such orientations as heterosexual and cisgender by default. The aim is to realize that different times and spaces have different conceptions of their terminology and therefore have different connotations - a sin, a pathology or a lifestyle, to name a few (Aldrich et al, 2006; Manalansan, 2006).

There are also scholars who argue that Queer Migration studies is simply a conceptual framework in itself: the usage of queer theory can give valuable new insight to immigrant's lives by viewing their sexuality or gender identity as an important aspect of it (Rouhani, 2016) . Furthermore, the queer lens can be used as a ways of thinking about how to improve immigrants' working and living conditions by considering repressive social structures, not only in the form of gender and sexuality, but also in related and imposed cultural norms that are produced by the receiving country.

The Risk Society

Reflexive Modernity (also known as the second modernity or late modernity) is a framework for (sociological) research founded by Ulrich Beck and Anthony Giddens. The theory addresses how the shift from the second modernity – including all of its cultural, political and social shifts – has caused society to gain an increased awareness of risk and insecurity that is caused by advances in modern science and technology. This is known as the Risk Society. Beck himself explains how his thought differs from postmodernist thought, even while building on it, because postmodernism deconstructs and questions unjustifiable assumptions while reflexive modernity reconstructs from this deconstruction and offers answers to how society will continue.

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Within the risk society, most of the time is spent on assessing current and future risks, at the level of institutions, communities and individuals. The risks in question, as Beck argues, are mostly caused or strengthened by humanity's intervention through advancements in science and technology (rapid transportation and climate change, nuclear energy and radiation disasters), for which humanity now has to face the catastrophic results. Beck himself gives the Chernobyl Nuclear disaster of 1986 as a direct example of how humanity should reflect on these advancements that were mostly viewed as positive or necessary in the industrial age. This disaster also showcases an important aspect of reflexive modernity, namely the defiance of national borders. The radiation is a very literal example of an 'entity' that moves internationally, though social and cultural movements are also very much included. As a result, certainty and predictability have become important factors to limit risks at any level. 'A consequence of this lies in the overreliance on the sciences to assess and predict people(s), situations and the future. Certainty comes in the form of black and white measures, the ambiguity of gray areas are unpredictable and therefore unwanted, or even considered to be dangerous. Numbers and statistics, that which is quantifiable, become more important than the individual experience.' (Zwama, 2020).

The framework of the Risk Society often used as a critique of technological determinism and therefore is built upon earlier theorists who expressed their fears of totalitarian technology and the technological imperative (Horkheimer and Adorno, 1972). While Habermas himself does not write specifically about reflexive modernity, his words are echoed throughout the field. His theories on the scientization of society (Habermas, 1971) and the colonization of the lifeworld by the system (Habermas, 1984) are relevant to the risk society and this paper, in particular. These theories show how, in a modern society, citizens may become entrapped in a system that encroaches upon their social lives. They are no longer seen as individuals,

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but rather as clients of bureaucracies or even numbers in a machine. The 'system' as a concept refers to formal institutions and organizations on a market or governmental level. The system is able to penetrate into an individual's lifeworld by juridifying their surroundings or identities. For this paper, the way this juridification happens within the system of the IND will be examined. In order to gain a definitive conclusion to whether an applicant is truly LGBTI, the IND will make use of categorizations and narrative impositions that similarly disintegrates the individual experience until a filtered-out, objective conclusion is gained, the process of which denies the subjective humanity of the subject.

To give an example of such an encroachment, take professional athletes' sex testing as a way the system gains – in this instance - fairness at the cost judicialization and bureaucratization. Throughout the years, many forms of sex verification have appeared in athletic circles – from a look between the legs to a simple cheek swab, science has aimed to make the results certain and final. The risk in this setting were male imposters and fairness was the justification for allowing an encroachment on the lifeworld. To this day, sex-testing has only identified women with intersex conditions and subsequently shamed them for it (Samuels, 2014). The tests no longer recognize these women's self-identification or life-long female role, as most were unaware of their condition. Their identities boil down to something quantifiable, something that is certain and a *risk*. Not only is an institution encroaching upon the lifeworld, it also uses technological advances to more easily categorize human beings and to erase their individual experiences. For this paper, the IND's application procedure will be similarly checked for encroachments in the lifeworld.

While on one hand, risk is exacerbated by modern technology, it also comes in the form of the eradication of traditional social norms and values (Ekberg, 2007). The creation and

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formation of identity has become less established in culturally predisposed classifications, such as gender roles and life narratives: marriage, family, employment, retirement. This change, according to Giddens, is associated with increased individualization caused by the deconstruction of traditional social structures. Possibilities have opened up in ways the industrial modernity could not have imagined or allowed: the daughter in a lower economic class can become educated and gain a better work prospective, the son in that same family is no longer bound by tradition to follow in his father's professional footsteps. While this creates an individual freedom, it also creates uncertainty and disorientation. This freedom is a form of empowerment for many, but it also requires the individual to take risks in many aspects of their social lives. To summarize in Giddensian terminology, identity formation has become a reflexive undertaking because of the interlacing of 'extremes': increase of individualization and globalization.

Risk distribution, however, is still related to wealth – once again, on a governmental and institutional level as well as the individual level. While class was a staple of the industrial society, Beck argues that wealth (monetary, political and educational) and its relation to risk evasion is more important in the reflexive society than social class by itself. Wealth has the possibility to purchase safety from risk, while inversely poverty attracts an abundance of risk. An important identification of these risks is that they defy the borders of the nation. The concept of transnationalism and globalization is key to understanding Reflexive Modernity. The idea of cultural situatedness, while not used by Beck, is what his theory is getting at. Sociology in the past was conducted from a Western perspective, studies that were conducted in America would be generalized to the world. Now, differing perspectives and studies are used to create an organizational structure for social sciences. The rise of non-state political actors (think of the World Trade Organization or Amnesty International) are examples that

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show these transnational institutions. Furthermore, migration is heavily influenced by reflexive modernity. Rich nation states have the ability to export risk and dangers, either spatially or temporally, to future generations or poorer countries whose elites see it as profitable opportunities (Beck, 2014). This causes worldwide effects, such as global warming and pollution, which consequently forces citizens of poorer nations to flee from disaster and poverty. Thus, as Schiller et al. (1992) remark, ‘transnational migration is shaped by [...] the encompassing global capitalist system’ and ‘is becoming increasingly a global phenomenon as populations in capital-dependent countries are everywhere forced to migrate to centres of capital in order to live’.

Data Analysis

The data that will be analysed have been made publicly available by the COC, with researcher Jansen having created a comprehensive document regarding the current LGBTI asylum procedures in the Netherlands and the history of it. The research will be conducted using content analysis on Jansen’s work with inductive coding. Her work analysed 40 files (interviews, letters of rejection/confirmation) of SOGI refugee applicants. The files in question were from 2015-2016, sometimes stretching back to 2010 when it was relevant to a case. This work was chosen because it was the most comprehensive document available that included interviews and limited itself to the Netherlands. Using inductive coding, categories of Western impositions (whether stereotypical, narrative or otherwise) will be introduced. Coding units can be found in the appendix.

The Western Narrative

During the application process, it has been found that the applicants should conform to a certain narrative applying to their identity of being LGBT if they should succeed for

application. The Western sexual/gender development narrative is subdivided into three main stages: self-awareness, struggle and self-acceptance. This narrative is based upon the work of psychologist Vivienne Cass, though her work is based only on the experience of homosexual, white, middle-class, American men (Berg & Millbank 2009, p. 14). It is an essentialist point of view to believe that every queer person goes through the same stages, in the same order and ends up in the same way: having accepted themselves and coming out to the world. The narrative starts, preferably, at a young age at the stage of self-awareness: the applicant in question realises that they are, in ways of sexual- or gender identity, different than other members of their culture of origin. The resulting behaviour can be one of experimentation with gender nonconformity or same-sex relationships. In one instance, this moment is stated by an IND employee to be a 'tipping point' that an applicant should be able to describe in detail, which may point to stereotypical thinking that the awareness of one's identity is a one-time moment that causes a cognitive epiphany of sorts. In the following passage, it is clear the interviewer is basing his decision on a stereotypical idea that the realisation of one's sexuality occurs within one moment and is considered so impactful that the applicant ought to remember the exact age he realized.

From the person concerned, who has stated that he lived as a homosexual for many years in [country of origin] while homosexuality was a taboo in [country of origin], it could be expected that he could unequivocally speak about whether **he realised that he was homosexual at the age of fifteen or at the age of sixteen or seventeen**. After all, realising that one is homosexual is **not an everyday discovery and has major consequences**. That the person concerned cannot speak about this unequivocally is not consistent with what could be expected from the person concerned under these circumstances.

- IND on Joe, Africa, in the reason for rejection, 2015 (emphasis mine)

After this ‘stage’, to use the same terminology that the IND bases its decisions on, the struggle ensues: this phase is very important to the IND and if the applicant does not sufficiently describe their feelings of struggle with their orientation or identity, it becomes a possible reason for rejection, conform to IND work instructions WI 2019/17 (Immigratie- en Naturalisatiedienst, 2019, p. 5). The IND says the following about the credibility of a narrative: ‘When assessing the credibility of the LGBTI-orientation importance is placed upon the process of discovering the orientation and the way in which the applicant has stated to deal with these.’ (translation mine)³. Especially in countries in which the applicant’s orientation is discriminated and/or criminalized, the applicant will be expected to tell a narrative that reflects their cognitive process regarding this ‘obstacle’. The IND uses both the words ‘internal struggle’ and ‘process of self-awareness’ to signify the way an applicant deals with their internal and external emotions regarding their orientation, which includes their socio-cultural surroundings⁴. The more LGBT-phobic a country is, the more an applicant is expected to be able to formulate their internal struggle/process of self-awareness, while this does not take into account how a culture of exclusion may make it more difficult for the applicant to speak about the subject. They have not heard before of terminology like ‘self-awareness’ and ‘self-acceptance’, making the process of application also a process of learning how to formulate their identities from a Western-specific perspective.

³ Original text: ‘Bij beoordeling van de geloofwaardigheid van de lhbt-gerichtheid zal gewicht worden toegekend aan het proces van ontdekking van de gerichtheid en de wijze waarop de vreemdeling heeft verklaard daarmee te zijn omgegaan.’ The word ‘vreemdeling’ has been translated to ‘applicant’ instead of the more literal ‘stranger/alien’ to conform better to the overall word usage within this paper.

⁴ Evading the stereotype that all LGBT people should have a negative internal struggle, the IND still maintains the position that an applicant should have a ‘process of self-awareness’ when their country of origin criminalizes or otherwise discriminates against those with an LGBT orientation, this moves the internal negativity to an external negativity (Jansen, 2019, p 73).

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The statements of the person concerned that he had no difficulty accepting his homosexuality and that he only liked it, render insufficient insight into how he experienced his orientation and feelings.

- IND, 2016, about Arthur, Asia.

Contrary to Arthur's statements on his sexuality, there were also those who were able to explain in detail the processes they went through when discovering their orientation. Similarly to the findings of Dhoest (2018), the applicants that had a clear narrative that fit within the categorizations the IND had instated were more often believed in their LGBT-orientation, while those who were unable to express their personal processes of struggle and acceptance or those whose narrative did not fit the Western standard (for instance: no clear struggle, those who say their homosexuality brings them pleasure) were more quickly rejected⁵. Generally, applicants with higher education had more ease with expressing the processes than those who were uneducated, however some of the low educated applicants were still rejected on the basis of this one theme. This goes against the IND work instructions that clarify an applicant's educational and cultural background needs to be taken into account.

For the Western-narrative to be complete, a coming-out is expected. Linda from Africa is shown to be very sexually active, but had not until recently disclosed her sexuality to her friends and aid providers. The intention to reject is as follows: 'The person in concern realised that here everyone is free, but she has not informed any aid provider or personal friend about her sexual orientation. On the other hand, she has met other women for sexual affairs easily in spite of her strong restraint. In its entirety, the picture that is sketched in this

⁵ Such was the case for Joe, Africa, who had no schooling and was illiterate. Reason for rejection states he should have been able to tell more about his 'process of awareness' of his homosexuality. In the case of Dhoest (2018), all applicants who were confirmed for refuge had clear and Western narratives, while undocumented immigrants – those who had not applied to asylum on SOGI claims – did not show the same clear narratives.

way by the person concerned with respect to her restraint in the Netherlands is one that raises some eyebrows.’ (Jansen, 2019, pp. 75-76). In other words, the statement reinforces stereotypical ideas of a coming out as a one-time moment instead of a recurring subject because of the heteronormativity of society. It also does not take into account any personal reasoning of the applicant to keep her sexual activity private, which she had stated to find important in a previous interview. The LGBTI person is expected to be ‘open’ about their sexuality now that they have gained the possibility without legal repercussions, even though not everybody necessarily wants this. Not being open about one’s sexuality to friends can therefore even detract from an applicant’s credibility. The differing cultural ideas on sexuality, whether hetero- or homosexual, and the privacy that is expected is not taken into account adequately.

Furthermore, coming back to the responsibility of the applicant to narrate their life story within predetermined boundaries of Western categories, the issue of cultural situatedness comes into question. The IND specifies five possible categories for identification: lesbian, gay, bisexual, transgender or intersex. First of all, IND interviewers should be aware of the fact that these words can have different meanings or connotations in other cultures that an applicant may not feel comfortable ascribing to. For instance, one of the undocumented immigrants Dhoest interviewed stated he would not describe himself as ‘gay’, while he did imply in the rest of his interview to be homosexual.

Q: Would you call yourself gay?

Ahmed: No, not this term, for us it’s bad.

Q: So you wouldn’t use that term in Moroccan?

Ahmed: No, just a man.

The connotation to certain words and the inability to understand terminology regarding LGBT-matters (coming-out, self-awareness, etcetera) can be worsened by countries that actively discriminate against those who are LGBTQ. Discourse in the country of origin is often pervaded with themes of sin and deviance, which can make a life-narration even more difficult, considering the ensuing shame of being labeled 'LGBT' (Manalansan, 2006). Revealing group membership to a stigmatized community to a stranger can be a very daunting and negative experience. However, as mentioned before, the IND expects those coming from these types of countries to have even more to say regarding the awareness of their sexuality or gender identity against the forces of society. Moreover, Jansen notes that asylum seekers often see, for instance, homosexuality as something you *do* rather than *are*, while the IND expects more emphasis on feelings, processes and identities (Jansen, 2019, p. 74). This creates a difficult situation in which an applicant can give more information and put more emphasis on their sexual relationships (the physical aspects), while this is actually something that causes disbelief in the interviewers⁶. In this regard, cultural differences in the understanding of sexuality are not taken into account.

It should also be mentioned that in many cultures, however, the terminology of 'LGBT' is starting to gain traction and is being used transnationally in different countries and cultures (Manalansan, 2006). Their adaption is not merely one of imposition, but one that incorporates pre-existing cultural values to create hybrid forms of identity labels, which gives moderation

⁶ This is shown in the interview of John, Africa about relationships in which he defines 'a relationship' as 'having physical contact with someone'. George, Iraq, gives the same answer. (Jansen, 2019, p. 100). District Court of Amsterdam 19 July 2017, AWB 17/6305, appeal dismissed (Iraq): 'claimant primarily emphasised the physical aspect of his orientation. In no way did the claimant provide any insight into how, apart from the physical aspect, he has experienced his homosexuality.'

to the claim that ‘LGBT’ is a Western imposition. Luibheid (2008, p. 173) and other scholars use the word ‘queer’ instead of ‘LGBT’ to create a discourse that is ‘decentering [...] nationalist frameworks premised upon space-time binaries, developmental narratives and static models of culture, nation, race, gender, identity and settlement.’ This does not take away the fact that the IND uses Western-specific narratives: the ideas of a linear pathway that follows from awareness, struggle to liberation/acceptance still very much shows a stereotypical way of thinking about queer identities. Since the COC has started using LGBTI, including the intersex condition, the IND has also incorporated this change, though so far there has not been an application based on being intersex (Jansen, 2019, p. 9). In an appeal of an asexual man, the court stated: ‘All in all, the court has the impression that the indication of LGBTIs pertains at least partly to (the risk of) social discrimination for ‘not being heterosexual’, so there might be a more broadly described vulnerable group to which other gender identities or sexual orientations belong.’⁷ So far, it is unsure how the IND would respond to a queer identity that does not exist within the West, such as culturally specific genders or sexualities (Agarwal, 1997).

Homonationalism & Stereotyping

The application procedure shows signs of homonationalism by creating an East-West dichotomy based on the acceptance of queer people and assuming all LGBTI applicants should respond actively, in terms of sexuality and gender, to this newfound ‘liberation’. The East is viewed in a hostile manner, while the West is considered a ‘safe haven’, further repeating the ‘happy migrant’ myth and the narrative of ‘migration to liberation’ (Murray,

⁷ District Court of Utrecht 5 April 2017, ECLI:NL:RBDHA:2017:4449, appeal allowed. The case was about an asexual Algerian who had refused to marry his female cousin. Next, he was turned out of his father’s house and threatened by his father. The Court decided that asexuality should be considered included under ‘LGBTI’ and gave the defendant (State Secretary of Safety and Justice) the responsibility to show that Algeria was safe for this group, which defendant was unable to do.

2014). This reinforces the idea of the Netherlands as a free country without LGBTI-discrimination. It has the possibility of silencing voices concerned with social, religious and cultural discrimination that happens within the West and it also connects to a Western-specific stereotype that all queer people want to make use of and participate in the LGBTI-community (because of its possibility of existence here, as opposed to the East). This coincides with something called the *rescue narrative* which is also homonationalistic in nature (Bracke, 2012). The following intention to reject summarizes many stereotypes:

It is also surprising that the person concerned states that he has lived as a homosexual in [country of origin] for many years but that **he does not know of the existence of LGBT organisations in his country of origin**. Additionally, the person concerned stated that he **does not know about LGBT organisations in the Netherlands**, that he does not know about the rights of homosexuals in the Netherlands, that he does not know if homosexuals are discriminated against in the Netherlands, and that **he has not sought contact with other homosexuals in the Netherlands**. (...) The foregoing statements are not indicative of any interest in (the position of) homosexuals.

- IND on Anthony, Africa, 2016

The interviewer seems to create a list of what they deem 'the interest in homosexuals', including knowing about LGBT organisations in country of origin and the receiving country, knowing about laws and discrimination in the receiving country, and having contact with other homosexuals. In another interview, an interviewer states he finds it 'surprising' that the applicant cannot recall the name of the 'Amsterdam Pride' event, considering the fact 'that there is so much freedom in the Netherlands [as opposed to country of origin].' Further interviews showcase how it is expected for the applicant to become active in the 'gay scene', such as celebrating pride or intentionally getting to know other people with LGBT-orientations. In one case, superficial knowledge about gay bars was actually reason for the

IND to reject the applicant, however the court's response deemed there to be no objective reason for this to be the case⁸.

It is taken into consideration that the person concerned has had only one contact in his life with a man that was also sexual. Now that the person concerned has been in the Netherlands for five and a half years, it can be expected that he **has given expression to his stated orientation** more extensively and that he would have gone in pursuit of his identity, especially now that **homosexuality in the Netherlands is accepted** more than in Afghanistan and the person concerned could have moved more freely in this respect. **The person concerned has failed to do this**. The fact that the person concerned stated that due to **his feelings of fear** he has not undertaken anything in this field in the Netherlands, does not detract from the foregoing. The **passive behaviour** the person concerned, according to his own statements, has shown in this country with respect to his stated orientation, detracts from the credibility.

- IND, Walt, Afghanistan (emphasis mine)

In the above statement by the IND, Walt is not believed in his homosexuality because he has not yet pursued a (sexual) relationship with another man in the last five and a half years. This passage shows a concerning stereotype, relating both to the applicant being male and homosexual. Because the applicant is both, he is presumed to be sexually active insofar that it detracts from his credibility if he has not been. His personal statements regarding this 'passivity' emphasize his feelings of fear, but this is disregarded by the IND. No homosexual/bisexual women had any detraction from the credibility for not being sexually active. Moreover, in the case of Linda, her sexual activity plays into the reason to reject. She had been sexually active with other girls since she was ten until current day, the intention to reject argues that 'it is doubtful whether this can be linked to homosexuality, because it might

⁸ District Court of Amsterdam 19 April 2017, 17/6423, appeal allowed (Cameroon).

also be consistent with harmless games about exploring the body. Given the fact that girls at that age mainly play with girls, this is not considered odd or awkward.’ This shows a gender discrepancy in how IND interviewers regard the credibility of an applicant’s sexual behaviour based on their gender. The woman’s sexuality is not considered credible or ‘real enough’ when she has sexual intercourse with other women, while a men’s sexuality is not considered credible when he has not had sexual intercourse. This ties into a long-lasting historical stereotype of women as non-sexual beings and the inability of women to be (sexual) lesbians, caused partially by academic discourse in which lesbians’ sexuality is a sign of them not being women or that they are a third sex, as argued by Hirschfeld (1930).

Stereotypes in the form of physical or verbal expectations, the way an applicant looks, speaks and behaves, were not found, though this may be because the data only shows written accounts of the interviews and rejections. Furthermore, the IND employees are not allowed to base their reason for rejection on such aspects, which would mean they are not recorded and the rejection will be given another reason. There is still the risk of these stereotypes to gain their way into the application procedure, which Dhoest (2018) showed was the case in Belgium. An employee of an LGBT organization that assisted the Belgian application procedures said the following in his interview: ‘Sometimes I see it the day someone enters the asylum centre, I know I will have a talk with him the week after and I know he is going to get a positive result, just by the way he looks. But if a very sturdy guy walks in and tells the same story ...’

Confirming Identities in the Risk Society

To gain an understanding of how the application procedure is shaped by the Risk Society and how it subsequently affects SOGI refugees, it is crucial to find out in what ways ‘risks’ are perceived and by whom. There are three main subjects that we can focus on, firstly the individual applicant, the organization of the IND, and the individual employee of the IND. These three subjects each have their own perceptions of risk, risk-taking and risk-managing behaviors. Their interactions are a manifestation of their own reflexive perspectives.

The Individual Applicant

The applicant is an individual who has left their country of origin to find asylum in the Netherlands, based on the claim that they are unsafe in their country of origin for being LGBTI. This unsafety can come from legal repercussions, ranging from fines and imprisonment to the death penalty. Social discrimination is also unsafety, but the IND looks at each individual case to consider applicants from countries who have no formal legal punishments against LGBTI people⁹. Social discrimination can come in the form of (but is not limited to) verbal- and physical harassment. Social exclusion is also dangerous for the person in question, because it can lead to a severe deterioration in mental health, as well as financial instability and homelessness (Ray, 2006). Furthermore, LGBT people in Africa often become victims of blackmail and exploitation by people threatening to reveal their sexual identity (Thoreson & Cook, 2011, pp. 4-14). For the applicant, the legal and social dangers in their country of origin becomes a direct risk-situation when they want to express

⁹ Such is the case for Russia. The LGBT-activist Khattoev was denied refuge in the Netherlands, because the IND doubted whether he was actually in danger. When the activist went to court, the judge ruled in his favor, however, the IND immediately retracted their rejection, possibly afraid that the court’s decision would create a precedent for all LGBTI people from Russia (NOS, 2019).

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their sexual- or gender identity, for instance, in ways of physical contact or gender expression. Even without wanting to express their identity, being in a hostile environment can cause feelings of repression and minority stress.

Every country has a different culture regarding how or whether queer people are able to create a space for themselves, depending also on the region and city within that country. Because this is the case, there is no overarching risk that will be exactly the same for every applicant. Instead, each applicant is managing their risks by thinking of how to stay safe, (mentally) healthy and financially stable. The LGBTI refugees that apply for Dutch asylum have measured their risks through reflective thinking and taken the decision to take the journey from their country of origin to the Netherlands, or at least to Europe. For most of the applicants, their sexual- or gender identity was the reason they left their country of origin.

In the modern age, many possibilities have opened up in knowledge acquirement through the internet and the globalization of knowledge. However, Giddens' theory (1991, pp. 32-34) which poses that people are constantly reflecting on their identity in a post-traditional society is still limited to countries that truly are post-traditional in the sense that Giddens finds relevant. The Western world is often post-traditional¹⁰ and especially emphasizes these constant processes, as seen in the institutional work instructions of the IND. While knowledge about the LGBTI community can be found both online and terminology is used in hybrid forms, the reflexivity still requires an environment that is open to an individual questioning their identity and the social institutions that are hetero- and cisnormative. The applicants in question come from countries that are mostly not post-traditional and whose

¹⁰ In this instance, post-traditional implies the relevant aspects for this paper: the freedom to form one's own life-narratives. This can relate to jobs, marriage, family and sexuality/gender.

social environments respond negatively to such traditions being questioned. As such, to some applicants this can mean actively avoiding reflexive thinking to protect themselves from feelings of anxiety.

The IND's work instructions on applicants who have difficulty narrating their life is in line with what Giddens (1991, p. 54) writes 'a person's identity is not to be found in behaviour, nor - important though this is - in the reactions of others, but in the capacity *to keep a particular narrative going*'. As discussed in the previous chapter, the inability to 'keep the narrative going' is reason for rejection, but as was just posited: this reflexive thinking is much more difficult in cultures that are not (or not entirely) post-traditional. Very importantly, it also forgets the cultural differences of what identity is. Identity, in terms of gender and sexuality, are often viewed by the applicants to be about behavior instead of processes and narratives (see page 22). The IND handles the applications like reflexive thinking is the norm globally, but this is not the case. Moreover, the above is still only about the applicant's image of themselves, but the way they narrate their biography is what the IND bases their decision on. The step from self-identity to life narration requires (or is facilitated by) some form of reflexive thinking and educational background, as well as a specific vocabulary that is associated with being LGBTI.

The Organization of the IND & the Employee

The organization of the IND perceives risk in the shape of application fraud and an overflow of immigration to the Netherlands. The fear is that an applicant will claim to be a SOGI-minority when all other forms of application have been exhausted, thereby wrongfully gaining asylum at the cost of the IND's time and government funding. The rise of immigration and the European refugee crisis that started in 2014 has made society, including

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the IND as an institution, aware of negative consequences that arise when there is unlimited movement, including economic crashes and (negatively perceived) cultural shifts. Reflexive thinking has made institutions increasingly aware of these risks: a new vigilance has come into being that uses measures of prediction, certainty and identification to avoid as much negative consequences as possible (Ekberg, 2007). Modernity emphasized territorial integrity and state sovereignty, while reflexive modernity shows this era is over and instead risk management has become the main framework for spatial control and surveillance capabilities (Koulish, 2013).

The IND is part of the Ministry of Justice and Safety as an institution known as a ‘selectiebureaucratie’ (=selection bureaucracy), which distinguishes those who may and may not qualify for an asylum permit on the basis of hearings and interviews (Gastelaars, 1997). These types of institutions rely heavily on regulations within their department during their decision-making and tend to have a hierarchical structure in which tasks are carefully defined in procedures. In the case of SOGI-applicants, one can think of the work instructions laid out in WI 2019/17. There is also a matter of certainty that the IND requires from the applicants: who is coming to the Netherlands, what do we really know about them, are they qualified to be let in? The more regulation means more certainty: it means less space there is for grey areas, ambiguity and uncertainty.

The individuals working at these institutions are bureaucrats, who have specific identifiers that are key to their role: they are internally trained for a specific (sub-)task, legitimize their actions based on rules, their actions are checked by those hierarchically above them and their loyalty is primarily with the organization (Davies, 1983). The IND is the sole executor of immigration policies in the Netherlands, and IND employees also call themselves ‘executors

of policy' (Severijns, 2019). In Severijns' paper, an employee describes how the discretionary powers of employees have recently become tightly regulated: "Over the years, we have created a certain type of employee [...]. An employee who is led by detailed regulations and who asks for advice on policy at times of exceptions of rules. The decision over a request is subsequently entirely based on juridical arguments, under the guise of 'don't blame me'. Everything regarding procedures is tightly regulated. We have established everything so meticulously that the employees' voices have practically been silenced."¹¹ This quote also shows how, over time, regulations in institutions to limit risk will take over the freedom (and discretion) at the individual level.

For the employee there is a professional risk involved when they do not follow rules to the letter. This risk showcases how the IND as an organization tries to limit risk situations - at the level of the state, it requires certainty of knowing who is qualified for asylum and on the basis of what - by imposing these tight policies and regulations that certify every detail of the process. It is logical, then, that this same procedural thinking is applied to SOGI-applicants. The work instructions, while trying to emphasize an applicant's subjective experience *in theory*, ultimately fail *in practice* because the institution they are instated in fully rely on thinking in checkboxes and compliances to procedures. The SOGI-applicant is a possible risk and needs their identity confirmed before this risk is considered neutralized. The usage of the Western life-narratives and sexual and gender identity formation stages are examples of an institution juridifying a subjective identity. The cases where applicants were denied on the basis of one theme (inability to narrate sexual-identity formation, no knowledge of LGBT-communities, etc) are signs of this 'checkbox thinking' that entirely deny the possibility of

¹¹ Severijns, 2019, page 42: the employee uses Dutch words that have very negative connotations, such as 'dichtgeregeld' which would literally translate to 'closed by rules', but has been translated to 'tightly regulated'. However, the original word usage should be kept in mind for its importance by emphasis on the idea that freedom is limited by rules.

subjective differences in individuals in how they have experienced their sexual- or gender identity. The processes of self-awareness, feelings of struggles and expectations of a universal coming out are no longer suggestions, but requirements for credibility of their personal orientation. This, in turn, means the denial of ambiguous identities as well as identities that are not conforming to the pre-determined categories. The individual experiences of the applicant are filtered and juridified until certainty is achieved.

Conclusion

This paper aimed to answer the research question: ‘How are categorizations in the asylum procedure in the Netherlands a reflection of the Risk Society?’ Based on the data analysis, which has subsequently been incorporated into the theory of the risk society, there are notable signs of reflexive thinking and risk-management. Firstly, the data analysis has shown that the IND’s application procedure does, indeed, impose Western identity narratives on the applicants in order to confirm their identity. In the risk society, this is a way to manage the risk of applicants gaining unrightful entrance to the Netherlands. Overall, the asylum procedure is shaped by reflexive thought concerning economic, political and cultural shifts which in turn has given the IND a risk-managing position. This risk-management manifests in the application procedures for LGBTI applicants as a way to juridify their subjective identities to determine whether the applicant is credible in their application for needing refuge. The categorizations that are used include Western narratives of identity formation, stereotypes and checkbox-thinking, which is largely caused by the working culture that has manifested itself over the years from the requirement of certainty through policies and regulations. Furthermore, the IND incorporates reflexive thinking into the application

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procedure by assuming that the applicants have gone through their individual experiences similarly as Western queer people: namely, by thoroughly questioning themselves as interacting with their socio-cultural environments and the socio-cultural fundamentals of their society.

The data analysis was conducted only on Jansen's sample of interviews, which were conducted from 2015 to 2016 and the publicly available court hearings. This limits the generalizability, first of all, to within the Netherlands only, as all of these interviews were conducted by the Dutch IND. It also raises questions as to whether more recent samples would show different results. Research into these recent interviews and court decisions would be helpful to gain a better understanding on whether there has been a change in the methods of hearing and deciding on LGBTI applicants since 2015. Jansen's document also offered her own conclusions, however I focused on the available interviews themselves to create different categories that are relevant to signs of reflexive modernity. The research would have been especially interesting if I was allowed insight into the full interviews (preferably recent), however this was unfortunately not possible.

This research has offered new insights into the way reflexive modernity manifests in governmental institutions and how it affects application procedures. By combining the field of queer migration studies with the theory of reflexive modernity, new insights have been gained into how reflexive thinking is tied to sexuality and gender by assuming the applicants have all gone through similar stages regarding their orientations. This also shows how many of the assumptions of reflexive modernity on the individual and communal level are not (entirely) fitting for non-Western countries. Risk assessment and the globalization of

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knowledge are facts globally, but the way individuals and communities deal with these changes is still very much culturally dependent.

To better understand the implications of these results, future studies could be conducted by interviewing LGBTI applicants to understand their perception of the application procedure and the category impositions, similarly to Dhoest's (2018) research in Belgium. Dhoest also included the Belgian selection bureaucracy through interviews, which would offer a more balanced insight if such research were to be conducted. The way the application procedure shapes the expected narration of the applicant has been discussed, but the aspects of the procedures that are not written (the applicant's looks, behavior and way of speaking) could not be researched. This part of the application procedure would consider the applicant's visibility management, the way they portray themselves to the IND. To have research based specifically on the reactions to the applicant's visibility and how the applicant manages their own visibility would give a valuable extra dimension to the research.

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Cover page image:

Yasuyoshi Chiba / AFP (2019, May 17) Getty Images file:

LGBTQ refugees from South Sudan, Uganda and DR Congo walk to a protest to demand protection at the UNHCR office in Nairobi, Kenya

Appendix 1

Unit Code	Explanation
Western Imposition	This code clarifies that the thought/word usage in question is a Western category imposition.
Narrative Imposition <ul style="list-style-type: none"> - Self-awareness - Struggle/No struggle (internal/external) - Self-acceptance - Coming out - From repression to freedom/Migration to Liberation 	This code clarifies that the thought/word usage in question is a narrative imposition, with subcodes pertaining to the type of narrative. A type of self-awareness must become clear from the applicant, after which a personal struggle ensues. This struggle is thought to be a very negative experience, pertaining to religion and the social environment or culture. After that, a final stage of self-acceptance is expected as well as a subsequent coming-out (Luibheid, 2005; Berg & Millbank, 2009).
Homonationalism	This code clarifies that the thought/word usage in question shows signs of homonationalism: an East-West dichotomy on the basis of LGBT-acceptance that is built upon the racialized Other with the West as a 'safe haven' (Puar, 2007; 2013).
Cultural Situatedness	This code clarifies that the thought/word usage in question is related to cultural situatedness, usually meaning the lack of understanding about its existence and meanings. Cultural situatedness explains how a person's geographical location and the accompanying cultural values are able to influence a person's respective identity formation (Manalansan, 2006).
Stereotyping	This code clarifies that the thought/word usage in question is related to or is literally a way of stereotyping.
Connection to LGBT community	This code clarifies that the thought/word usage in question is related to the expectation that queer people will have connections to other queer people or the LGBT community as a whole, including interest in LGBT organizations.

Disbelief	This code clarifies that the thought/word usage in question is related to disbelief on the side of the IND interviewer. It shows that something is considered to be detracting from the applicant's credibility in their sexual orientation or gender identity.
Reason for rejection	This code clarifies that the thought/word usage in question was a reason for the IND to reject the applicant. It clarifies the specific themes related to disbelief.
Feelings	This code clarifies that the thought/word usage in question is related to the psychological feelings of the applicant, or the believed lack thereof.

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