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The Disparate Effects of Legal Violence:

Access to Family Reunification for Refugees in Denmark

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Abstract

This thesis is a case study on the family reunification procedure for refugees in Denmark, in the context of an increasingly restrictive environment. It sought to find out how structural facets of Danish immigration law interact with and influence the practices of navigating a family reunification process, for people with a refugee background. Two phases of semi-structured interviews were conducted in order to understand the socio-legal terrain and the possibilities for navigating the field. The respondents in the first phase consisted of experts who had perspectives on family reunification, mostly in relation to refugees. The respondents in the second phase consisted of individuals with a refugee background, who had undergone a family reunification procedure within the last three years. The theoretical framework was comprised of Bourdieu's fundamental theories on society, and his conceptualization of law and *symbolic violence*, which anchored the analysis at the level of social practices. Moreover, the extension of the theory as offered by Menjívar & Abrego's term *legal violence was* added for its applicability to immigration law. The analysis found that within an already restrictive legal environment, those with a refugee background are disparately impacted through several challenging mechanisms of the family reunification procedure. Simultaneously, *symbolic power* and *capital* also play a considerable role in enhancing access, and underline the pervasive arbitrariness in navigating this process. Employing the concept of *legal violence* enabled critically examining those systemic constraints with wide-reaching consequences that ultimately influence refugees' access to justice.

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List of terminology and abbreviations

The applicant = the individual abroad, applying to join a family member (*ansøgeren*)
The sponsor = the individual residing in the resettlement country, applying to be joined by a family member (*referenten*)

The Convention = The 1951 Convention Relating to the Status of Refugees
DIS = Danish Immigration Service/*Udlændingestyrelsen*
DRC = Danish Refugee Council/*Dansk Flygtningehjælp*
IOM = International Organization for Migration
UNHCR = United Nations High Commissioner for Refugees

I. Introduction

It is common that families are separated, as a conscious strategy or an unintended consequence, in the forced migration movements of today (Wilmsen, 2013, p. 242). Additionally, the gradual closing of Europe's external borders, has added high risks and large sums of money to smugglers to gain access to routes, making it difficult to make the dangerous and costly journey as a family entity (Bendixen, 2017a). Therefore, families often rely on one or two family members to reach a country and seek asylum, and thereafter, seek family reunification; an administrative immigration process that ultimately balances the individual's right for family unity with the states right to control immigration.

The long history of family-based migration reflects the widely-held norm of family unity (Legomsky, 2011, p. 850). In international law, there are several human rights instruments that place great weight on the primacy of the family and call for its protection (Nessel, 2008, p. 1276). However, in recent years, migration policies around the world have affected the family unit in numerous ways. In the EU member states, including Denmark, there has been a tendency to disregard the norm of family unity in favor of a focus on desirable immigrants (Nessel, 2008, p. 1273). Numerous restrictions affect the possibilities for Danish citizens and permanent residents to seek family reunification, with some restrictions also affecting the possibilities for refugee families to be united in Denmark.

Many organizations have highlighted the precarious situation of the family member(s) abroad, the *applicant* in family reunification terminology, and their need for protection. As most sponsors, the individual residing in the resettlement country, are men and most applicants are women and children, family reunification restrictions leave them in increasing situations of vulnerability (Beswick, 2015, p. 15). However, while there are international pledges to protect women and children from abuse in armed conflicts and forced migration contexts, often the same states' family reunification policy may disregard those commitments and endanger the applicants (ibid., p. 16). Naturally, such volatile predicaments for family members affect the mental health of the sponsors, and their socio-economic situation, with the pressure of having to support their families livelihood abroad (Wilmsen, 2013).

How accessible a just outcome is in the case of this particular group in Danish society is brought into relief by the surrounding features of reunification for refugee families. Due to the nature of a family reunification process, they need to navigate transnational socio-legal boundaries, and may need to involve different actors in their case. Meanwhile, the Danish family reunification procedure is a complicated landscape to navigate, especially for newcomers, who also often deal with considerable language barriers. There is no single entity in charge with helping people understand and fill out their application, nor is there for finding additional documentation if required, and making a complaint if the application was refused. These circumstances leave a considerable gap when it comes to the ability to navigate this legal and administrative procedure.

The socio-legal perspective of access to justice has long emphasized the mechanisms through which people seek legal aid and remedies (Felstiner et al., 1980). It concerns itself not only with access to the institutions of the law, but also with the quality of justice accessed (Purkey, 2014). Themes such as the rule of law, transparency, stability and predictability, arise through this perspective, and it is a useful lens to elucidate the wider socio-legal terrain of the procedure for family reunification. The focus of this study is on the available and possible actions of an individual in these circumstances.

This study is timely and relevant due to the dynamic and changing nature of forced migration movements, settlement contexts, and the *juridification* of immigration law. By *juridification*, I mean to highlight the proliferation of the law, which has been critically assessed through various theoretical traditions in Sociology, however the term is not always clearly defined (Teubner, 1998, p. 390). In this study, I use the term to focus on the complexity that accompanies the increase in law, as it impacts access to justice. These aspects will be explored through a case study of the Danish context of family reunification for people with a refugee background. To answer the research question and the aim, the empirical data consists of interviews with 12 experts with knowledge of the field, and 10 people with a refugee background who have undergone family reunification within the last three years.

Aim and research question

This study focuses on how the terrain of law and praxis affects the ability of refugees to gain family reunification in Denmark today, with special attention to how individuals experience and navigate potential barriers. Thus, the aim of this research is to examine the interplay between newly arrived refugees' possibilities of navigation vis-à-vis structural facets of Danish immigration law. The broader purpose of this research aim is to contribute new insights and knowledge to socio-legal research on refugees, and international migration literature in general, by conceptualizing how this interplay influences refugees' access to justice.

The research aim is embodied in the following research question:

How do structural facets of Danish immigration law interact with and influence the practices of navigating a family reunification process, for people with a refugee background?

This research question's concern with *navigation* has the essential anchoring to the perspective of access to justice. *Law* is understood in a broad, socio-legal sense. The research question guides the study towards revealing the potential for navigation, which will be investigated by interviewing relevant actors. Situating the question on available *practices* relates to Bourdieu's perspective on social practices, which will be further elaborated in the theoretical framework. Lastly, the research question sets the stage for a broader concluding discussion on how the findings from the empirical material relate to socio-legal research on refugees' access to justice. Such research is relatively limited, and will be further detailed in the literature review. The purpose of this discussion relates to the research aim of examining possibilities of navigation vis-à-vis Danish immigration law's structural facets, alongside its broader goal of contributing to a renewed conceptualization of refugees' access to justice.

Thesis disposition

In order to answer the research question, relevant legal and political background on the procedure of family reunification for refugees will be presented, where I will briefly situate the relevant international, regional and national features in relation to this topic. Thereafter, the literature review will assess previous research. Subsequently, the methodological steps taken in

this study will be outlined, with special attention given to the ethical considerations. Theory will then be presented, and situated in relation to the research design and research gap. Then, the results will be presented and simultaneously analyzed, followed by a discussion chapter that situates these findings in relation to the context, literature and theory already outlined. Finally, the thesis will conclude and provide suggestions for further research deriving from this study.

Background and context

The restrictive policies on refugees in Europe have been grouped in a wave of restrictions that started from the mid-1980's (Kjærum, 2002, p. 524). The territoriality of asylum is a key aspect that European states have met by increasingly exercising forms of power outside their own borders, *extra-territoriality*, to deter all migrants, preventing the arrival of people in the first place (Vedsted-Hansen, 1999). From this perspective, it is only the few who can claim asylum in Europe in the first place (Hathaway & Gammeltoft-hansen, 2015). Furthermore, in recent decades, a regional policy tendency affecting refugees has been the creation of a hierarchy of status', often called "complementary", "subsidiary" or "temporary" protection; often involving less obligations of the state, and in some cases not affording family reunification to those given that status (McAdam, 2006).

The word refugee is a legal construct, as the definition is central to the Convention Relating to the Status of Refugees (henceforth, the Convention) and it is an international status that entails certain obligations of the state. It is a declaratory status, meaning that it is understood to be fulfilled when the definition has been met, regardless of whether the person in question goes through an asylum process (Institut for Menneskerettigheder, 2016, p. 7). Yet, while there is a legal definition, the absence of any definitive treatment of central concepts in the *travaux preparatoires*[1] mean that the definition has repeatedly been subject to legal interpretation and debate, and there is a considerable body of legal academia devoted to this endeavor (Nicholson & Twomey, 1999, p. 5).

[1] the accompanying official record of a negotiation

The legal ambiguity surrounding the definition of the refugee, also extends to the question of how the refugee's family should be considered, since it was not included in the Convention. At first sight, the territoriality of asylum as enshrined in law appears to disregard individuals left behind. Yet, family unity and the reunification of separated refugee families was repeatedly stressed by the Executive Committee of the UNHCR Programme (Sztucki, 1999, p. 59) and as an "essential right of the refugee" by the Final Conference of Plenipotentiaries on the Convention (UNHCR, 2001, p. 3). Since then, the UNHCR has repeatedly stressed the importance of family unity, but as their role is advisory it has less coercive power, unlike The European Court of Human Rights (Costello et al., 2017, pp. 20-21). The Court has increasingly applied the European Convention of Human Right's Article 8 on "family life" and Article 14 on "non-discrimination" in cases of non-citizens, often concerning family separation in deportation cases, and only in recent years, increasingly in response to tight rules impeding family reunification (Czech, 2016). In Europe, many restrictive policies on family reunification in the name of integration have been deemed to be in violation of human rights (Huddleston, 2016, pp. 14–16). The weighing of competing interests by the Court especially concerns whether the family is able to have family life elsewhere (Czech, 2016).

Danish context

In Denmark, there is a long history of attempting to restrict immigration and shape integration through amendments to the Aliens Act, including by restricting and governing family reunification. Denmark is exempt from EU rules on immigration, including those on family reunification (European Commission, n.d.) and it has been found to have one of the strictest family reunification policies of Western states in recent times (Huddleston et al., 2011 & 2015) . As a subfield of law, immigration law encompasses a complex web of bureaucratic, judicial, and administrative processes (Enchautegui & Menjívar, 2015, p. 35). I will sketch the major contours of the judicial background, to provide context to the case, and to highlight the degree of *juridification*. Treating the laws as a body of law is important because they act in conjunction and together form specific obstacles (ibid., p. 37).

Over a period of three decades, Denmark moved from an Aliens Act considered one of the most open to one of the most restrictive in Europe (Hansen, 2016). With the new Aliens Act in 1983,

Denmark gave a "de facto" asylum status (§7.2) to those refugees not amounting to persecution within the meaning of the Convention, and family reunification with spouses, children and parents over 60 was a right for all refugees (§9) (Folketinget, 1983). In 2002, a comprehensive package of restrictions significantly tightened the rules from the original Aliens Act, including replacing the *de facto* concept with a protection status under §7.2, which had a higher threshold for protection, and including a list of requirements for family reunification (Folketinget, 2002). Among other things, these restrictions included the highest age requirement by any state for family reunification, 24 years of age and a criterion of attachment to Denmark (Huddleston et al., 2011). These requirements were introduced to limit arranged marriages, and in 2003, the government introduced additional laws to this end. These specified that marriages between individuals, who are also related, would be considered arranged, and that if another member of one's close family had previously undergone a family reunification, then the marriage under question was likely to be considered arranged (Folketinget, 2003). Since 2004, child applicants, above the age of 8 and below the age of 18, need to fulfil an integration requirement (*integrationskrav*), to show that they can integrate well into Danish society, which includes the level of attachment to Denmark, among other criteria (Udlændingestyrelsen, 2016). These "exceptionally restrictive" eligibility criteria led the large-scale study MIPEX to rank Denmark number 30 out of 31 western states on indicators related to family reunification in 2011, and number 35 out of a total of 38 four years later (Huddleston et al., 2011, 2015).

These requirements on family reunification covered everyone in Denmark, except refugees who were protected from them by international law. This fact is also noted in the Aliens Act as exemptions, with the repeated statement: "unless special reasons, such as the consideration of the family unity apply"[2]. Due to EU law, resident EU nationals in Denmark are not subject to the same restrictions as Danish nationals (Legomsky, 2011, p. 828), which also means that the rules can be circumvented if the couple seeking family reunification are able and willing to reside in another EU country for a period of time.

[2] "*…medmindre ganske særlige grunde, herunder hensynet til familiens enhed, taler derfor…*"

Meanwhile, there were other laws that encompassed refugees. In 1998, Denmark was one of the first countries in Europe to create an Integration Act (Kjærum, 2002, p. 522). The Act had a program for positive integration, which was focused on spatial dispersal and a reduced government welfare benefit called "start help" *(starthjælp)* (Fair, 2008). Spatial dispersal required that newly arrived refugees live 3 years in an assigned municipality (Larsen, 2013, p. 335). The explicit incentive was for people to work, however "start help" was a controversial political measure; the lowest benefit at the time in North Western Europe (Andersen, 2007, p. 263), and it was abolished in 2012.

In response to the large numbers of Syrian refugees, the laws were further tightened. Significantly, in February 2015, a new category of status was created; a so-called "temporary protection status" (*midlertidig beskyttelsesstatus*), meant for those individuals fleeing civil war, in conditions not amounting to persecution within the meaning of the Convention (Folketinget, 2015). This status did not allow for family reunification until a period of one year after the granting of a residency permit. A year later, the new right-wing coalition government passed a comprehensive package of restrictions, with the main goal of making Denmark less attractive as an asylum country (Støjberg, 2015). The government increased the wait years for those with a temporary protection status from one to three years, arguing that this was the limit of what was allowed according to international obligations (Heinskou & Skærbæk, 2015). A group of people affected by this limitation have petitioned before the Danish Supreme Court, where it was found that the three year wait did not interfere with the "right to family life" under the European Convention of Human Rights, and their case has now been appealed to the European Court of Human Rights (Bendixen, 2017b).

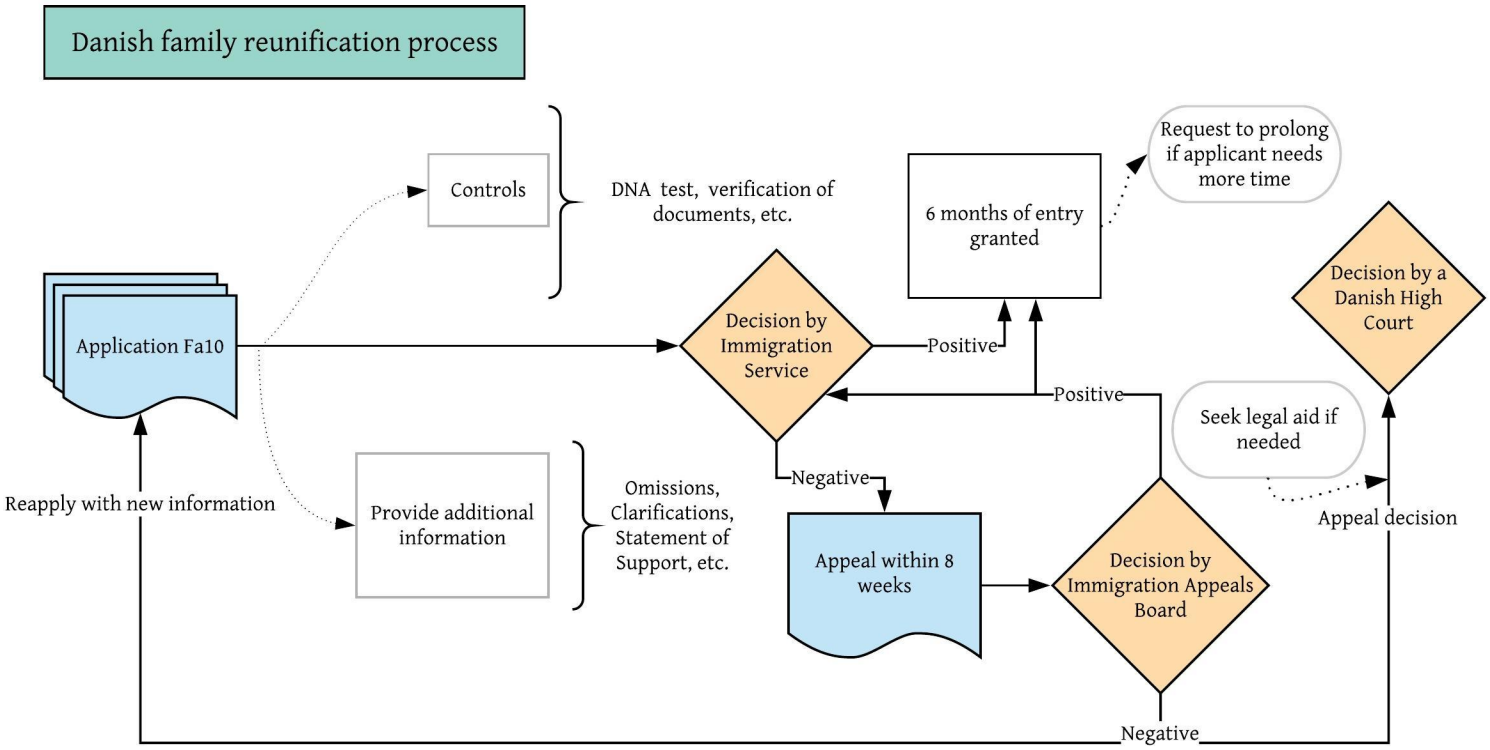
The package also contained a new social benefit called the "integration benefit" (*integrationsydelsen*); a lower government benefit, similar to "start help". Meanwhile, it ended the government support for the applicants' travel costs, which also meant that it would be up to the families to organize the travel. According to the NGO Refugees Welcome (n.d.), neither the municipalities nor the banks will give a person a loan to pay for travel. Furthermore, the amendment introduced and sanctioned that law enforcement officers confiscate personal property after a threshold of 10.000 kr of newly arrived refugees. This aspect was a controversial part of

the bill, and drew responses from international human rights organizations and was widely reported in the foreign media, although it has not been widely used (Larsen, 2018).
When seen in their totality, law pertaining to non-nationals is a highly *juridified* part of Danish law. In 2016, a study undertaken by *Information*, a Danish newspaper, found that substantial changes to the Aliens Act had been undertaken 68 times since 2002, which on average means a substantial change every three months (Mortensen, 2016). The rules for family reunification alone were changed for the 15th time in 15 years (ibid.). These numbers have gone up since then. The frequent law changes are intentional; in March 2017, Inger Støjberg, the Minister of Immigration, Integration and Housing, celebrated having completed 50 restrictions to the Aliens Act since taking office in 2015, by posting a picture on her Facebook profile of herself posing with a layer cake with the number 50 on it, sparking national controversy (Fancony, 2017). The immigration website *uim.dk* lists the number of restrictions put into place by the current administration, and as of May 17th 2018, this number is at 76.

The government has justified the degree of restrictions to be a necessary evil in order to respond to the refugee crisis (ibid.). As mentioned, the objective of these laws is to dissuade the number of newly arrived refugees and migrants. In other words, the legislation, including family reunification laws, has an aim of deterrence (Hathaway & Gammeltoft-hansen, 2015) and is what has been widely called "signal politics" (*signalpolitik*) (Kristensen & Haurslev, 2016).
According to Danish lawyers specializing in the field of refugee law, this reasoning has meant a profound shift in fundamental principles of the rule of law, because of the growing complexity of the body of law. Furthermore, they argue that reversals of decisions occurring due to widespread media or political controversy in response to specific stories of families being kept apart or family members deported, impacts the accessibility and predictability of the law for everyone (ibid.).

The process of family reunification has other procedural demands, such as a widespread need for documentation, that are worth mentioning in this context of forced migration. The process often relies on DNA tests when it comes to establishing family ties. In practice, this means that family members abroad need to travel to a Danish representation to have their DNA sample taken. Several cases have shown that some applicants were required to travel to other countries and

cross dangerous borders to comply with such requirements (Weile et al., 2016). The following diagram sketches what the process for family reunification commonly looks like.



If the marriage is not seen to be valid, based on the documentation offered, the couple must meet the requirements for permanent cohabitation (*samliv*), which are that the couple has lived together at the same address for at least 18 months (Udlændingestyrelsen, n.d) for a continuous time (Udlændingenævnet, n.d). The eligibility criteria for cohabitation also requires that the sponsor signs a document that they will provide for their partner; a statement of support. From 2014 to 2017, the average handling time to reach a decision in refugee family reunification cases increased from 147 to 437 days, in relation to the large number of applications (Pedersen & Jessen, 2017).

II. Literature Review

As the topic of this study intersects with many research traditions, I have arranged the research under four main sections as they add different perspectives and themes, before concluding the literature review with the contribution of the present study.

The first section pays heed to the interdisciplinary debates about the definition of the refugee, because it is important to acknowledge how it is not a neutral or unproblematic term. These contributions give way to a broader conceptualization of how the refugee is also a signifier of an international order, by briefly situating the broader philosophical underpinnings, before presenting empirical examples of the tension between international law and national politics. The second section presents aspects of post-settlement research. The study of acculturation reflects a long tradition in the sociology of immigration (Menjívar & Abrego, 2012, p. 1382). While it would not be possible to adequately reflect these debates, in the interest of how integration relates to the case of Danish immigration law, literature on spatial dispersal and family reunification will be presented. Thereafter, the only largescale psychological study that has looked at family separation and resettlement will be presented, because the findings are significant, and because the academic oversight represents the omission of systemic and legal factors. The third section will provide a brief overview of the concept of the family in a transnational context, because this builds on the ontological discussions of the refugee in the first section, and because it is important when considering a transnational process, such as family reunification. Finally, as a central theme is how individuals navigate the socio-legal sphere of the law, the final section focuses on access to justice and finishes with those contributions that have dealt with non-citizens and family reunification.

The refugee – definition and perspectives

By omission, legal studies devoted to the interpretation of refugee status often implicitly assume that legal status is intrinsic to individuals. On the other hand, scholars with a sociological perspective have called attention to how status is a legally constructed category. Simplified, one can say that legal categories influence social action, rather than the other way around. Such studies vary widely, yet many have been ascribed to the critical legal tradition. Tuitt (1999, p. 114) argues that sites of exile and asylum were exclusive sites, reserved for those with status and privilege, based in a genealogical analysis of the term *refugee*'s attachment to historical factors. Ultimately, Tuitt continues, this exclusivity is tied into the definition of the refugee as we know it today, and its fundamental focus on mobility across borders serves to discount women, the elderly, the young and the sick. Calling attention to the higher incidence of females' subjection to human rights abuses in forced migration contexts and their reduced access to asylum

compared to males, Tuitt (ibid., p. 116) concludes: *"The spatial construction of the refugee is meaningless to those to whom refugeehood is an ever present reality"*. Aleinikoff (1995, p. 259) notes that the legal status is based on the fundamental idea that the person has lost the protection of their state and that refugees represent a failure of the state system that needs to be met by other states, restoring trust in the system. Yet, this conceptualization of trust cannot be found in the way legal rules in the new state constrain and facilitate decisions, which does represent trust on an individual level (ibid., p. 270).

Scholarship has also shown how the term refugee has been subject to changing interpretations in different political contexts. For instance, states took a liberal interpretation in periods when foreigners were welcome as workers, and an excluding one when they were not (Carlier, 1999, p. 40). McAdam (2006) calls attention to the resulting erosion of the refugee definition when states created a hierarchy of status', even though such measures where initially meant to ensure that those people fleeing for reasons outside of the narrow definition of the Convention would also be met with protection.

From a different angle, some scholars have asked what the socio-political construction of the refugee means in practice for the individuals concerned. The immigration status has been conceptualized as a new axis of stratification, where the status granted often prevents family reunification (Enchautegui & Menjívar, 2015, p. 35). Menjívar & Abrego (2012, p. 1389) focus on the whole body of laws that make up an immigration regime, and argue that these make individuals in tenuous legal status' more vulnerable, while also influencing documented immigrants, who have also been losing rights at the hand of new laws and risk of deportation. Menjívar (2006) coined the term "liminal legality" to refer to the difficult legal, social, and psychological position of immigrants with temporary protection status and those waiting for asylum. Cabot (2016) argues that asylum law categorizes complex reality, by describing the length individuals within and outside the system go to preserve a state of categorical purity. On this basis, she highlights the need for a reflexive awareness of the production of knowledge, by drawing attention to how racial and cultural simplifications build up over time until they become a robust part of the system, including as forms of self-identification (ibid., p. 651).

On a more philosophical level, there is a notion among scholars in these fields that a conflict exists between human rights and the sovereignty of states, and that this conflict is most apparent when it comes to the status and treatment of refugees or stateless people. This perspective often builds on Arendt and/or Foucault. Since the nation-state remains the basis for rights claiming, the human rights of non-nationals expose a root paradox in the territorially-bounded international human rights order. This fact led Arendt to formulate the *"right to have rights";* the moral and political problem wherein being able to claim rights is contingent upon belonging to a political community (Benhabib, 2004, pp 57, 69). Benhabib (ibid., p. 6) draws attention to the feature that while sovereignty has decreased in economic and technological terms due to globalization, the assertiveness of the territorial borders in the name of sovereignty has increased. Agamben uses concept of *bare life* to account for people without political subjectivity (Vitus, 2011, p. 99). With a focus on the refugee camp as a state of exception, Agamben theorizes that the lack of political subjectivity means that they are excluded from "normal" law, while life in the camp exposes people to a life strictly regulated by law; a form of "exclusionary inclusion" (ibid.). Based on these premises, as refugees are fundamentally disadvantaged by the current political order, a conceptualization that does not call out the underlying systemic facets will fail to capture the scope of the problem.

Regardless of underlying philosophical premises, this tension between international law and national politics surrounding the question of non-nationals has been widely studied and highlighted through various empirical examples. Many scholars have called attention to a heightened focus on credibility, due to the negative presumption of the asylum seeker as a fraudulent claimant (Joly, 1999, p. 346). Especially in the UK, a "culture of disbelief" has described the policies and discourses of suspicion towards asylum seekers; often perpetuated by the media (Hynes, 2003, p. 6). The political tension has been examined through the portrayal by the media's of "flooding" imagery and discourse, representing refugees as a threat (Turner, 1995, p. 60). Family reunification has likewise been framed as a key issue at the center of this tug-of-war between international human rights and state sovereignty (Nuñez, 2016, p. 888).

Policy defenses often involve the cohesiveness of the nation-state and the threat of the *other*. Many defences of national restrictive policies have called attention to social cohesion (Castles,

2003, pp. 23–24). The securitization of immigration in the wake of 9/11, increasingly attaching immigration and national security, have also been widely studied, being predominately critical of state policy (Sales, 2007, pp. 215-216). Others have started more from the bottom up, paying attention to shifting norms and attitudes towards immigrants (Schmidt, 2013, p. 260). Such tension, represented by 'outsiders' in political, cultural and racial terms, and the nation-state, has also been a central parameter in the wide body of scholarship on acculturation.

Resettlement and Integration

When research has looked at the post-migration experience, it has often concerned the process by which immigrant groups adjust to different cultures, termed acculturation (Castles et al., 2002, p. 113). Such studies have often revolved around the contested concept of "integration" into the host society (ibid., 114-115). This concept is usually not defined clearly when used in political justifications in Europe and as such it is hard to measure and evaluate (Phillips, 2010, pp. 210-211). Yet, the term has recently been followed by policies of spatial dispersal, where new or settled minority groups are enforced or strongly incentivized to live at an assigned location, which are useful to take a closer look at, because they show the circumstances for newly arrived refugees.

Phillips (ibid., p. 212) reviewed practices and official policy in 15 EU countries, and found that spatial dispersal policies are a key political response to ethnic housing segregation, which is perceived as a problem across these countries. Meanwhile, the policies reflect a response to different understandings of integration; in Denmark, the goal is explicitly that of assimilation into the culture, unlike some states were the goal is to maintain multiculturalism or to tackle class based inequality (ibid., p. 213). Moreover, she highlights that the Danish tactic is based on a logic of integration that is backed by virtually no research (ibid). Based on qualitative research on housing decisions, Phillips argues that so-called ethnic clustering have been influenced by structural constraints and discrimination (ibid., p. 220). Therefore, it may follow that the underlying problems are not met by the policies, since they target the individual instead.

The conclusion that these policies may not achieve the desired effect, has also been offered by other social scientists studying the UK case (Griffiths et al., 2006, p. 882; Sales, 2007, p. 197).

Fair (2008, p. 225) conducted a series of interviews to assess the effects of the Danish spatial dispersal policy and its accompanying three-year introduction program, in relation to integration parameters. Half of her respondents had been spatially dispersed to towns with less than 6000 inhabitants, which created feelings of loneliness and anxiety for single men, and difficulty to find work, whereas some families reported faring well in such environments (ibid., p. 229). The accompanying "start help" meant that many could not travel out of the small towns to find or sustain work, yet somewhat paradoxically, work was understood as the principal factor for successful integration by the government (ibid., pp. 228-230).

Scholars have outlined an integration rationale for family unity in immigration contexts, which differs from the commonly used rights-based arguments. A utilitarian approach has highlighted potential benefits family reunification has on society, notably how it influences integration, the labor market, and options for social engineering (Huddleston et al., 2011; Abrams, 2013). Nessel (2008, p. 1276) has argued that family reunification is one of the best conditions for integration, and yet, governments in the EU and the US has sidelined the concern for unity in favor of screening immigrants in terms of integration ability, with language and civics tests and attention to skilled background, and so-called "point systems". Menjívar & Abrego (2012) focused on how restrictive immigration law has blocked access to society's goods and services that promote integration and success. In opposition to arguments in favour of restrictive policies on a basis of social cohesion, scholars have argued that family reunification fosters a greater degree of social cohesion and stability (Legomsky, 2011, p. 847).

There is a broad consensus among researchers, service providers and advocates that separation from family in refugee contexts involves a substantial degree of mental anguish (Miller et al., 2017, p. 27). Wilmsen (2013) interviewed people with a refugee background in Australia, and found that separation from immediate family members limits their ability to direct their own futures, and has profound influences on their life in the resettlement context. Separation has many consequences, for instance, people will commonly sacrifice their well being to send remittances to their family abroad and children can have difficulty adjusting to living again with their parents (ibid., p. 253; Enchautegui & Menjívar, 2015, p. 34).

However, studies on the mental health of refugees have only recently begun considering the impact of factors in the resettlement context, and have therefore only minimally focused on the sociological consequences of concrete policies that impact family reunification. It was only recently that a concrete study on post-migration trauma was undertaken, looking into the relationship between mental health, especially the presence and degree of trauma, and the circumstances in the resettled place (Miller et al., 2017, p. 34). The study was a comprehensive psychological mixed-methods study, with an experimental component and interviews with 165 participants. It found that family separation was repeatedly found as the most distressing factor of post-resettlement experience, and that it affected their mental health as well as their feelings of agency and self-efficacy (ibid., p. 32). This academic omission has been attributed to a fixation with "trauma" as being something past, rather than related to current stressors (Rousseau et al., 2001, p. 56). Therefore, this leaves an opportunity to address how restrictive legal environments adds to or exacerbates mental health and wellbeing in a post settlement context.

The transnational family

There have been sociological insights into how the concept of the family has been affected by transnational contexts of migration and forced migration. While there are many definitions of family worldwide, the process for family reunification in resettlement countries mostly define it in terms of the nuclear family (Nika, 2017, p. 19). Reviewing US legislative history, Maddali (2016) finds that immigration law has always privileged certain family forms over others, emphasizing the nuclear family model. By excluding certain family forms, hierarchies of privileges are built around what kinds of immigrants the US seeks to admit, ultimately excluding racial and ethnic groups, women and sexual minorities, and can be conceptualized as a form of social engineering (ibid., p. 162). In a legal argumentation, Holland (2011, p. 1640) finds that as DNA is used in US family reunification processes, it ends up defining the family through biological terms. Meanwhile, the UNHCR (2001, p. 1) advocates defining family ties in terms of dependency and considering extensive family, because the special situation of refugee families means that families are often reconstructed out of members of various households.

Other contributions to how the family is constructed in forced migration contexts, are questions of marriage and culture, which increasingly get defined by the state in immigration contexts.

Acceptable transnational marriage has been argued to often be based on Western ideas of romantic love and conflates arranged marriages with convenience marriage planned to secure settlement in the Western country (Sales, 2007, p. 196) and excludes polygamous marriages (Wilmsen, 2013, p. 243). As already outlined in the Danish context section, there has been a heightened focus on combating arranged marriages through family reunification legislation. An increased attention to limit arranged or forced marriages, has been defended as a tool for protecting Danish culture and *Danishness* (danskhed) (Schmidt, 2013). In response, some ethnic minority families have set up a "semi-legal" lifestyles to circumvent Danish transnational marriage policy, where they commute between Sweden and Denmark (Rytter, 2012). Additionally, Schmidt (2013, p. 268) found through interviews with ethnic minority groups that their arranged marriage was a *choice*, framing resistance to the discourse in the normative language of personal freedom. The transnational family is constrained by legal rules of who constitutes family members, and rests on similar mechanisms of being defined as *other* and in opposition to the nation state, as have been discussed in the first two sections.

Access to justice

The seminal and oft-cited study in the socio-legal access to justice tradition concerns itself with people's capacity to respond to problems and injustice, before gaining access to any kind of conventional justice system (Felstiner et al., 1980, p. 653). Importantly, this perspective firmly places an actor perspective into a sociology of law focused on legal disputes that has often started with the legal institutions. Many access to justice scholars have a background in legal aid and have tended to focus on improving access to legal aid, or structural impediments to it, instead of examining the social practices and experiences of the potential 'justice seeker' (Bedner & Vel, 2010, p. 11). Conversely, the standpoint of Felstiner, Abel and Sarat (1980) is that disputes are social constructs, and to address the gradual emergence of disputes into a legal form they provide a *transformation* framework, with stages of *naming, blaming* and *claiming*. Importantly, they use the transformation framework to suggest that the many legalistic attempts to improve access to the court system in the spirit of equality may backfire, since it paradoxically will accentuate the effects of inequality at earlier stages (ibid., p. 637).

Many definitions of access to justice focus on citizens instead of people, and individuals rather than groups. Marxist and critical scholars have seen *access to justice* as turning collective problems into the individual ones, and ignoring underlying power dynamics (Bedner and Vel, 2010, p. 15). As a perspective, it tends to restrict itself to questions of dispute resolution and questions outside of this conceived legal sphere may be relegated to a question of politics instead (ibid., p. 16). Bedner and Vel (ibid, p. 15) suggest allowing conceptual space for collective problems. They offer the following definition:

Access to justice exists if: people, notable poor and disadvantaged, suffering from injustices, have the ability to make their grievances be listened to, and to obtain proper treatment of their grievances by state or non-state institutions leading to redress of those injustices on the basis of rules or principles of state law, religious law or customary law, in accordance with the rule of law.

Researchers studying the Danish organization *Gadejuristen* ("the street jurist"), use the transformation framework to focus on naming (Olesen et al., 2017). They call attention to the need for forms of legal outreach tailored to the groups needs to ensure access to justice, since to seek legal aid presupposes that they have undergone an unlikely process of naming (ibid., p. 439). They highlight how naming, the most crucial step in the transformation framework, is related to the symbolic power of language, and is less easily triggered for vulnerable groups, as they may not identify an experience as injurious or as a violation of their rights (ibid.).

There have been limited access to justice empirical studies on the immigrant population (Mcbride, 2009, p. 7). However, legal aid and the non-citizen population have been a subject of attention to political scientists and lawyers. A US study found that asylum seekers without legal representation were almost five times less likely to win in immigration court than those with representation (TRAC, 2010). Having adequate legal counsel is of special significance to refugees who may be impaired by post-traumatic stress and memory loss, highlighting the additional need for holistic representation with medical professionals (Ardalan, 2015, p. 1002-3). Turner (1995, p. 61) has called attention to the UK asylum interview as the basis for important decisions, which is especially problematic for survivors of persecution, violence and torture by

state officials due to the interview situation. Instead of being neutral, Turner (ibid., p. 62) argues that they need to be positively designed to reestablish trust relationships. Sales (2007, p. 155) finds that the UK immigration rules are impenetrable to the non-legally trained, as it has increased in complexity. This situation, she argues, effects the quality of legal aid that immigrants received from lawyers unfamiliar with this specialist area of law (ibid., p. 156). Others have also highlighted the bureaucracy of immigration, where anyone with whom the individual comes into contact with can affect his or her prospects (Enchautegui & Menjívar, 2015, p. 35).

When it comes to family reunification and research which falls under the scope of access to justice, only few contributions were found, but due to their relevance they will be considered at length. A report by the British Red Cross found that gaining adequate information and legal advice were critical factors for the sponsors (White & Hendry, 2011). After the UK program for legal aid in family reunification processes was ended in 2012, two quantitative and qualitative reports by the British Red Cross reviewed the situation. One based on surveys reported that the application is so complicated that people won't even try for fear of making a mistake, and that those without professional support are unlikely to return a positive decision (British Red Cross, 2013, p. 19). Another, based on 91 cases handled by the British Red Cross and a control group of 7 who initially handled the case by themselves, argues that although refugee family reunification has been described as a straightforward immigration matter by the government, many are in fact affected by complexities that require legal support (Beswick, 2015, pp. 11-12, 17). They found that only 4 of the 91 cases could be considered straightforward and that in general: "Legal advisers were vital for their understanding of the law, their experience with similar cases and the professional networks available to them" (ibid., p. 36). Therefore, they recommend treating refugee family reunification like a policy area more closely in line with asylum rather than immigration.

The 2015 study also had a focus on the context of the applicant, and found that 51% of their applicants were exposed to security risks, and that out of those, 95% were women and children (ibid., p. 25). The report pays attention to the cross-national effects of family reunification, where the applicant is required to travel to a UK representation to submit their claim, often

needing to cross international borders and argues that legal advisors help facilitate such complex international logistics (ibid., p. 53-54). This transnational focus is also present in an argumentation by a US legal scholar, who highlights the difficulty the family reunification process poses to applicants (Haile, 2015). The process, he argues, does not acknowledge the precariousness of the refugee situation; to combat fraud, the reliance of evidence is high and may endanger applicants travelling to US representations (*ibid.,* p. 289). Therefore, he concludes that applicants with the most "self-advocacy tools" are the most effective at navigating these hurdles, while unaccompanied children are the most vulnerable (*ibid*., p. 292).

Research gap

As it has been developed through the literature, *access to justice* as a central perspective cannot be directly and unproblematically transposed onto the case of family reunification, because it is fundamentally concerned with disputes and has an individualistic notion at its core. Therefore, it does not lend itself well to assessing legal difficulties of a collective nature, which tend to become normalized in an environment such as immigration law. However, if one instead proceeds from the perspective of the practices rather than the individual actor, encompassing procedural and substantive aspects, an access to justice perspective will be able to address such questions.

This dual perspective will be able to add to the literature on resettlement, as it affects integration and mental health, in terms of how these factors relate to immigration rules. While many studies have focused on the past of refugees to explain their suffering as forms of trauma, this study will add to the little body of academic work on resettlement conditions that adds to or exacerbates suffering. While the British Red Cross reports outlined many of the challenges in the UK context of access to family reunification, it did so from a legalistic position that legal aid would solve the problem. In other words, it did not consider the legislation in a broader socio-legal sense, and treated immigration law as neutral or unquestioned. Moreover, the comprehensive 2015 report did not deal with aspects central to the family reunification procedure; those concerning refusals, appeals and reapplications, although significant complexities are known to arise at those stages too (Beswick, 2015, p. 12). This study will highlight the importance of all stages in the family reunification procedure.

This study thus presents a new way of looking at issues that are often considered from many disparate angles, since it adds to the perspective of access to justice, by taking into consideration the context of immigration law as it has been explored by the relatively few critical and socio-legal studies on the subject. To help fuse these approaches in this special case of access to family unity as it takes shape within restrictive immigration law, this study will be guided by the theory of Bourdieu, including how his theories have been furthered to inform the particular case of immigration law. Before I present the theoretical framework, the following chapter will present the relevance of interviewing civil society actors and refugees to arrive at findings on access to justice and the intricacies of immigration law, with family reunification as a detailed subset of those mechanisms. Taken together, the next two chapters, will situate the approach of this study, according to its ontological and epistemological underpinnings.

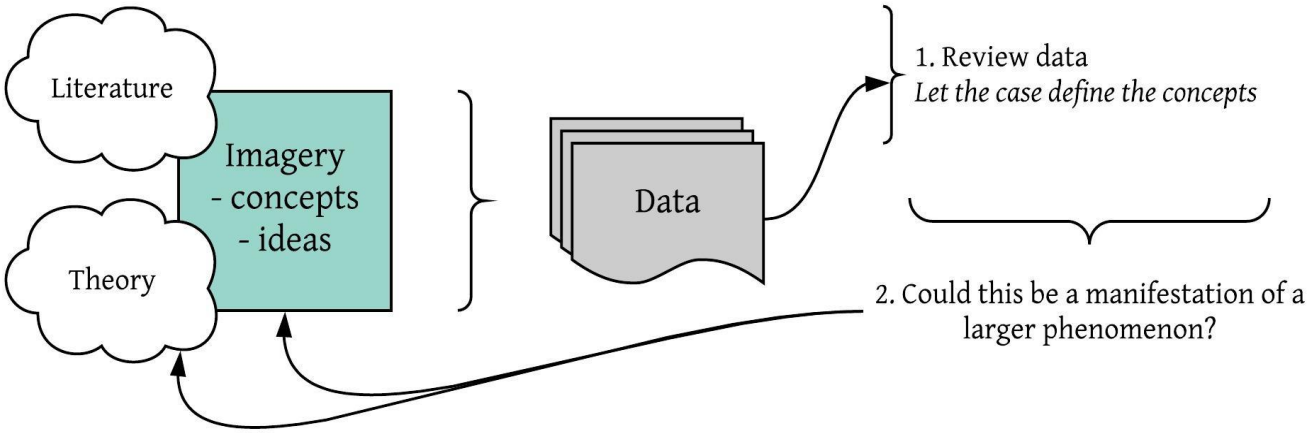
III. Methodology

The following chapter will outline the research design. Thereafter, the methodological steps taken will be presented, along with a presentation of the respondents. Since the expert interview has been subject to a lot of confusion and critique in the scholarly field (Bogner & Menz, 2009, p. 44), I will also clarify the role of the expert in this study. Then, I will present the delimitations of the study and the ethical considerations.

Research design

The research design is a case study of the Danish context of family reunification (Bryman, 2001, p. 47). It is structured through two phases of empirical data collection, with the aim of providing a multilayered approach to considering family reunification from an access to justice perspective. Phase one was designed to illicit nuancing perspectives on the case, through interviews with people who had expert knowledge on the subject, due to their work or volunteer role. In phase two, I interviewed people with a refugee background for insight into the experience of family reunification. Qualitative data based on interviews provides an in-depth look at how immigration law produces social situations, and how individuals navigate obstacles.

The epistemological basis of this study derive from the reflexive constructivist tradition, with the perception that one sees the social world from a point of view from within that social world (Bourdieu, 1998, p. 13). The research design uses an iterative inductive approach, acknowledging that theory guides, yet staying open to the direction that the data takes (O'Reilly, 2009, p. 105). This approach weaves back and forth between data and theory (Bryman, 2001, p. 10). Furthermore, during the process, I was comfortable changing my theoretical ideas whenever the empirical data pointed in a different direction (Creswell, 2015, p. 16). My approach to theory and data is intended to engage me in a reflexive process, and is illustrated in the following diagram.



The imagery is informed by previous research and contextual literature on the Danish case of family reunification, which influences the kinds of questions I am interested in asking; thereby influencing the data collected. The material then prompts two rounds of treatment; the first transcription and coding is marked by reviewing the assumptions within the material, rather than looking through a theoretical lens. I created mind maps for each transcription; a sort of skeleton of each interview[3], to dislodge the data from my preconceptions and to *"let the case define the concept"* (Becker, 1998, pp. 123). I transcribed all relevant parts, and left out repetitions and digressions. The second treatment of the data used theory to review the findings. Attention was on "thematic units"; passages with similar topics across the different interviews (Meuser and Nagel, 2009, p. 35). I reviewed all the mind maps and found 4 main overarching themes, and

[3] The transcriptions and mind maps are anonymized and available upon request.

then sorted all the thematic units under these. Finally, through analysis, the initial imagery and conceptualizations used to formulate the research question were reassessed.

Phase one: Interviews with experts

I used purposive sampling, as the study concerns the treatment of a specific group (Becker, 1998, p. 87). The criteria for sampling in phase one was diversifying my sources of data: so that the pool of responded represented a wide array of perspectives, prioritizing different epistemic cultures and contextual knowledge (ibid., p. 37). The respondents, or organization wherein the respondents worked, were mostly located through online research. Thereafter, I would contact the relevant organization or person by email and explain my project, and the reason why I was consulting them. A few respondents were suggested to me by colleagues and acquaintances. The following table shows the characteristics of each respondents in further detail and the details of the interview, organized by the date of the interviews.

Pseudonym	**Role**	**Organization**	**Interview format**	**Time of interview**
Anita	Volunteer advisor	DRC	Private at workplace	1:07 + 38 (2nd Interview)
Michala Clante Bendixen	Head spokesperson and trainer of legal advisors	Refugees Welcome	Telephone	1:04
Ammar	Director of legal firm	-[4]	Private at workplace	1:02
Lene	Social worker at municipality	-	Private at workplace	1:04
Ole	Activist	Bedsteforældre for Asyl[5]	Private at his home	1:57
Mads	Volunteer advisor	DRC	Private at workplace	55
Maria	Law student, volunteer legal advisor	Civil society legal aid	Private at school	57
Mikael and Sanne	Volunteer lawyer (retired) and Volunteer	Venligboerne[6] – grassroots organization	Semi-private interview with both at a public library	1:16
Maja	Professional representative of nationwide Voluntary Advisory Services	DRC	Private at workplace	1:02
Mogens	Volunteer advisor	DRC	Private at workplace	1:44

[4] Note than an – indicates an omission due to anonymization.

[5] *Grandparents for Asylum*

[6] *The Friendly Citizens*

Sofie	Volunteer	Independent – works for Danish Red Cross, but volunteers on her own capacity	Private at her home	1:55

The strength of the variety of respondents I met is that they represented different roles, which will be further presented in the Analysis section. Altogether the respondents were geographically spread across Denmark: Central Jutland (2), Southern Jutland (1), Fyn (1), Greater Copenhagen (5), North Zealand (3).

The interviews all proceeded as semi-structured interviews. The question guide can be found in Appendix III. The questions were inspired by an access to justice perspective, and they were influenced by the knowledge I had gained on the family reunification process by studying the law, the family reunification application as well as researching what was known on practical impediments, often described in newspaper articles. The questions started with the background of the individual, their contact with family reunification cases and the organization of their work. This was followed by questions of a general nature about family reunification for refugees. Then reflecting the stages of the family reunification process, we would move through the application stage, touching on different themes as they would arise, including DNA testing, documentation, and finally talk about the appellate stage, if the individual had something to add to that. Finally, I would ask their opinions on accessibility. Underway, if cases were mentioned, these would be allowed to be explored in full. To elicit the relevance structures of those interviewed, and not the researcher, it is crucial to use a flexible question guide (Meuser & Nagel, 2009, p. 33). Follow up question were used as suggestion of concrete examples of events or cases (ibid., p. 34). Moreover, questions included opportunities to insert some of my pre-knowledge into the interview situation, prompting more intensive and detailed answers (Christmann, 2009, p. 162).

Expert knowledge

Within this study, expert knowledge entails a denser understanding of the kinds of objective barriers in terms of legal praxis, common narratives of family reunification, or a possession of a professional perspective on the family reunification issue. It is their privileged access to information that is relevant, such as that which is gained through an activity, such as volunteering (Meuser and Nagel, 2009, p. 24). Taking in different forms of such knowledge, leads to a form of knowledge production which is more socially accountable and reflexive, as it

includes a *"wider, more temporary and heterogeneous set of practitioners, collaborating on a problem defined in a specific and localized context"*(Giddens quoted in Meuser & Nagel, 2009, p. 22). Since I am ultimately interested in the *practices* of navigation, they add to this understanding through their knowledge of other cases and individuals. I chose to focus on aspects of *technical* knowledge, which deals with rules and practices, often involving a high degree of technical qualification, and aspects of *process knowledge*, which is based on practical experience derived from one's own context of action (Bogner & Menz, 2009, p. 52).

Phase two: Interviews with sponsors and applicants

Purposive sampling was again the chosen method of selection. I asked relevant respondents from phase one if they knew anyone with a refugee background who had undergone a family reunification process in the last 3 years, who they imagine would want to participate in the research. In this way, the gatekeeper (n=3) allowed me to access the respondents in a practical and ethical manner (O'Reilly, 2009, p. 133). Two were exceptions to this selection: Faven was referred to me by another respondent of phase two, who had already completed his interview with me, and Muhammed was a friend of a personal contact, but we had not met before.

In several instances, I met the spouses and families of the respondents for interviews together with both spouses or for additional private interviews, because it was suggested or encouraged by the sponsor to also speak with their spouses, in the understanding that their experience from abroad was also significant. I reacted positively to this set-up, because I wanted to pay heed their ideas and allow them to influence the direction of the research, and because the many scholars have highlighted the need to go beyond methodological nationalism, as there are important transnational elements to consider (Castles, 2003). While these respondents pay testimony to the family reunification process in Denmark, methodologically it considers the characteristics that go beyond borders, highlighting the transnational spill-over effects of law.

The resulting respondents were either Syrian or Eritrean, reflecting the biggest groups of refugees in recent years (Udlændinge- og Integrationsministeriet, 2016, p. 15).
They live in different geographical regions of Denmark: Central Jutland (3), Southern Jutland (5), and South Zealand (2).

Pseudonym	Nationality	Gender	Applicant/Sponsor	Interview format
Muhammed	Syrian	Male	Sponsor	Private – at workplace
Marwa	Syrian	Female	Applicant – spouse of Muhammed	Semi-private – in their home
Amanuel	Eritrean	Male	Sponsor	Private – at a Danish school
Issac	Eritrean	Male	Sponsor	Private – in his home
Kidane	Eritrean	Male	Sponsor	Semi-private – in their home
Helen	Eritrean	Female	Applicant – spouse of Kidane	Semi-private – in their home, with Kidane translating
Hamid	Syrian	Male	Sponsor	Semi-private – in their home, with their brother translating
Sana	Syrian	Female	Applicant – spouse of Hamid	Semi-private – in their home, with their brother translating
Ghadah	Syrian	Female	Applicant – child of Hamid and Sana	Private – in their home
Faven	Eritrean	Female	Sponsor	Private – in my home

I interviewed six sponsors, which proceeded as a semi-structured format, and allowed me to give space to the participant to speak about what they found relevant, and for me to adapt and change my questions as I went along. This method was preferred to structured questions, which could risk the inclusion of sensitive issues that the respondents did not wish to speak about. It was imperative to me that I did not mimic a rigid interview process and instill a degree of informality into the interview, as all the sponsors have undergone an asylum interview upon their arrival in Denmark, and they may have also been interviewed by aid workers and medical examinations (Cabot, 2016, p. 652).

I had one overarching interest which was made known to them at the stage of contact and at the beginning of the interview I reiterated it: “the experience of the family reunification process”. In the beginning, I asked specific details about when they came, when they applied and when their spouse arrived so I had the overall timeline. Then I would ask about the process in general regarding the timeline we had just outlined and that I had just written down. My main questions would point towards the following themes: ability to navigate their own case, what steps they took, contact with civil society actors and other actors. I used the basis of our interview to

prompt a question, rather than having a question guide in front of me, as I found it could be an impediment and risk the informal situation I wanted to create (ibid.).

The case of the semi-private interviews proceeded differently. With Muhammed and Marwa, it was in their home, after I had interviewed Muhammed, and it was in the informal presence of their two older children and the informant as well. This proceeded more as an unstructured interview, which is more like a conversation and leaves room for the exploration of content (O'Reilly, 2009, p. 126). With Kidane and Helen, the interview was with the informant who knew the family well. With Hamid and Sana, we were joined by their brother, who translated between English and Arabic.

Methodological delimitations

Criticisms of a research design about a single case often concerns whether the findings are significant or generalizable (Bryman, 2001, p. 51). However, generalizability is not the goal in this case study research, but rather to critically examine a phenomenon (ibid.). Additionally, a reflexivist goal is to review assumptions by repositioning perspectives (Bourdieu, 1998, p. 13).

The pool of respondents informs the resulting empirical data in considerable ways. Some of the phase one respondents skew the data towards cases that are problematic, rather than cases that may pass under their radar because they were unproblematic. Michala, Maja and Mogens were aware that they would come to know more about cases where issues had arisen, due to their position as someone who is contacted when advice is sought. The only one who was part of a systematic role, rather than an advisor or helper, Lene, had insight of a more general nature, however, it only concerned unaccompanied minors. Sofie, Sanne, Mads, Mikael and Anita did also do broader volunteer work on the side, meeting many people with a refugee background, and hence not only contacted for advising. I did hope to get input from the Danish Immigration Service (hereafter, DIS), however they were not available for interviews.

Gatekeepers influence the direction of the research by selecting or choosing who they find to be good respondents (O'Reilly, 2009, p. 133). Since two gatekeepers were from civil society, it meant that four of the sponsors had in some form been in contact with a volunteer or a civil

society organization; in relation to filing the application (Amanuel and Hamid), and in relation to invention in relation to complications in their case (Kidane and Issac). The other two sponsors had to my knowledge not been in contact with a volunteer or a civil society organization in relation to their family reunification case (Muhammed and Faven). Meanwhile, the contact with organizations does not necessarily have a clear meaning; as it could both indicate that they are resourceful or that they are vulnerable and in particular need of help from civil society (Rousseau et al., 2004, p. 57).

Finally, the method of selection through family ties could influence the kind of answers that the applicants gave. The situation of Marwa together with her older children and the informant, and Helen and Kidane also with the informant, could have affected the answers. The same goes for the presence of the brother, in Hamid and Sana's case. It could also be that details got lost in the translation between us, and that their brother was able to influence the direction of the interview. However, it was my impression that they were speaking freely, and that it was a strength that we were speaking through someone who knew them well, rather than a stranger. Furthermore, my results could have been more diverse if I had also been able to interview people from other countries.

Substantively, there were other delimitations. While themes arrived across the data on unaccompanied minors, often referred to by their exceptions and special circumstances, I decided to delimit the analysis in the interest of exploring the wider field of family reunification. I have also not focused the study towards forms of resistance and protest, although this has also been studied in relation to refugee activism (see: Gosden, 2006; Toubøl, 2015).

Ethical considerations

Even though they did not all request anonymity, to address potential harmful consequences, I decided to change all names, except for one, who is a public figure (Michala). Also, distinguishing information was masked to ensure that identification of people was not possible through recognized details (Bryman, 2001, p. 480). All data was kept confidential, to ensure no breach of privacy (ibid., p. 483). The transcriptions were written out with pseudonyms and

brackets around potential signifiers, if deemed that those could give away the identity of the individual. The recorded conversations will be deleted upon completion of the research project.

I created two informed consent forms for each phase that addressed the following components: information about the research and how I would handle their data; the process by which I would ensure anonymity, that I would like to record, but that the recording can be stopped at any time, just as any question is voluntary to respond to, that they can withdraw at any time, and finally, that they give consent to understanding the form (ASA, 1999, p. 14). The forms were given prior to the interview, and sometimes also sent in advance, if I was corresponding with the respondent by email. Phase two had a slightly revised consent form, with an easier language. However, it was a limitation that it was not translated into English, Arabic or Tigrinya, but was in Danish. To make sure that the contents of the form were understood, I took great pains to explain the contents in the beginning.

Special considerations apply when interviewing individuals below 18 (ibid., p. 15). Apart from having the clear and unequivocal parental consent, I made sure that Ghadah indeed wanted to speak with me and understood all the aspects of informed consent, and my role as a researcher. I ensured that there were no unintended harmful effects, and to this end, I decided to let the interview proceed like an unstructured one.

The interview situation in phase two instills a certain power relation, as I am a Dane and a university student with an access and insight into the system we are talking about. Most likely the interviews would have proceeded differently if I shared their background. I paid attention to the language I used, and simplified as much as possible, since Danish or English was not their first language (Hammerslev et al, 2018, p. 155). Often, we mixed both Danish and English. I paid attention to not reinforce the power dynamics of the interview situation. To do that, I explained that I was independent, operating on my own, which meant that my work was not related to the state or any organization. Moreover, in the interview situation, I avoided reproducing a “neutral” response to their answers, which could be perceived as cold. When I asked about the timeline of events, I avoided asking insensitively to what they had experienced, for instance when they were separated or events happening on the journey to Denmark, as one

should be careful questioning past events as there may be instances of self-preservation strategies (Knudsen, 1995, p. 29). I also wrote down notes to show that I was interested in the words that they use to describe their situation; however, this could also have served as a reminder that it is not a natural conversation.

The approach deriving from these ethical considerations meant favoring informality over impartiality. At times my questions were leading instead of open-ended, as I reacted to something they had said, or as I tried to explain what I meant by a certain question. For instance, when I said: "This seems like a long time waiting. How did you think about that?". This question prompted a more detailed answer, as I was corrected that it was not so much the waiting, but the impossibility of the documentation demand that was relevant to Amanuel. As this example shows, even though leading questions can be troubling, it can also open the conversation, and involve the researcher more actively in the perspective of the respondent.

As many of the respondents of phase two were used to interaction with volunteers, and indeed I may have been a suggested contact by another volunteer, it was important for me to reiterate that I was there as a researcher. There is a risk that the researcher may be seen as a "helper" in a long line of "helpers" (Knudsen, 1995, p. 29). Mostly this was not a major concern, because we were speaking about something in past tense, where my knowledge in the context of this study could not be of further use. However, with my final interview (Faven), concerning a case that was still ongoing, I took pains to pay attention to not provide false expectations, by stating that I cannot influence her case, beyond providing potential contacts.

IV. Theory

As presented, this study addresses access to family reunification as it takes shape within an environment of restrictive immigration law, and the theoretical perspective of Bourdieu allows focusing in on that environment, by including ways to conceptualize limiting structural and institutional facets. Therefore, this theoretical framework adds a structural dimension to the socio-legal perspective of *access to justice*, by recourse to Bourdieu's conception of the law and *symbolic violence*. The reason for this choice of theory is manifold. First, as my research design was an exploratory process, my findings led me to underscore certain elements in the interplay

between actor and system, said simply, which could more adequately be captured by Bourdieu's concepts at the level of social *practices*. Secondly, as explored in the literature review, the actor perspective of *access to justice* falls short when describing systemic legal features, such as immigration law. Thirdly, when I read the theoretical application of Bourdieu's concept of symbolic violence by Menjívar & Abrego's on US immigration law, I saw many parallels to the case I was looking at, and I found their extension of Bourdieu's theory in *legal violence* to be a useful analytical concept to enhance the perspective of access to justice in an immigration/asylum context.

In the following theoretical framework, I will introduce Bourdieu's fundamental concepts, such as his understanding of *social practices*, the *field*, *habitus*, and *forms of capital*, which paves the way for an exploration of his notion of *symbolic violence* and *doxa*. Extending from Bourdieu's theoretical understandings, Menjívar & Abrego's concept of *legal violence* will be presented. Finally, the theoretical framework will be summed up with a statement and diagram of how the parts inform each other and fit the research question.

Bourdieu

Bourdieu's reflexive sociology can fit a perspective of access to justice through several points of junction. First, his ontological focus is on the relations between agents and structures. When describing his outlook, he wrote:

"…it is a philosophy of action designated at times as dispositional which notes the potentialities inscribed in the body of agents and in the structure of the situations where they act or, more precisely, in the relations between them." (Bourdieu, 1998, p. vii).

To him, an empirical case provides an example of possibilities, since social action is conceived as historically finite and contingent (ibid., p. 2). The focal point is the *practices*, and these are neither mechanical or deterministic, as if they were generated from structures, nor are they intentional or deliberate acts originating in the actors (Bourdieu, 1972, p. 73). Making up the social world are *fields*, which are sites of social struggle or competition (Bourdieu, 1987a, p.

852). Forces are exerted upon those in the field such as that of a mysterious magnetism (Terdiman, 1987, p. 806).

It follows that all agents internalize such forces in the field as stakes in conflicts, and thereby reinforce or give material force to those relations. In epistemological terms, the social world is a representation, yet these representations help constitute the world as we know it (Bourdieu, 1987b, p. 10). One of the ways in which the social fields exert collective influence over agents is through *habitus*; a system of socialized dispositions; patterned ways of thinking and behaving which are marked by social position, and in turn, habitus forms individual and collective practices which make up history (Bourdieu, 1972, p. 82).

The powers available to actors within the social universe of the field, Bourdieu organizes under the concept of *capital*, which he likens to aces within a game of cards (Bourdieu, 1987b, p. 4). Capital takes the form of *economic;* concerning income and resources (Anheier et al., 1995, p. 863), *social,* which consists of resources based in social connection or membership, and *cultural* capital, of which there are many kinds, including *legal* capital; the knowledge of and skills to use the law (Bedner & Vel, 2010, p. 15). These forms can all become *symbolic*, when they are perceived as legitimate, and, furthermore, symbolic capital refers to qualities such as authority, knowledge and prestige (Terdiman, 1987, p. 812). Individuals possessing juridical capital, such as lawyers and judges, have a large degree of symbolic capital (ibid.).

Conception of the law and symbolic violence

To Bourdieu, the law is fundamentally related to power. Through lawmaking, law is the quintessential form of the symbolic power of naming, through which it confers a permanence to social entities (Bourdieu, 1987, p. 838). The symbolic power of it relates to how once something is named through law, it becomes a given. It is not legitimate by itself, but through the social mechanisms involved in its creation, it eventually does. This transformation happens because of the fundamental social mechanisms described above; how actors ultimately see the social world through a lens of their social world, making social orders appear natural.

This special symbolic power of the law comes from its formalizing properties, which assists the generation of social consent through a masking of reality. As Bourdieu (ibid., p. 844) formulates it:

The tacit grant of faith in the juridical order must be ceaselessly reproduced. Thus, one of the functions of the specifically juridical labor of formalizing and systematizing ethical representations and practices is to contribute to binding laypeople to the fundamental principle of the jurists' professional ideology—belief in the neutrality and autonomy of the law and of jurists themselves.

According to Bourdieu, it is due to the form of law as a powerful discourse and the means to impose compliance, that the law becomes an instrument of normalization (ibid., p. 848). What happens, in his terminology, is that over time, law moves from *orthodoxy*, "proper belief explicitly defining what ought to happen" to *doxa*; "the immediate agreement elicited by that which is self-evident and normal", meaning that coercion as the form of power is no longer necessary (ibid.). *Doxa* is the undisputed; formulated as kinds of answers without questions (Bourdieu, 1977, p. 168) Therefore, the law has a particular form of legitimacy, since it does not even prompt the question whether it is legitimate (Bourdieu, 1987, p. 840). Even the ones dominated by the law will commonly accept it and act as agents in its reproduction. However, when the social world is noticeably not a natural state of affairs, or in times of crisis, *doxa* becomes something questionable. Bourdieu separates this struggle along the demarcations of dominated and dominant:

The dominated classes have an interest in pushing back the limits of doxa and exposing the arbitrariness of the taken for granted; the dominant classes have an interest in defending the integrity of doxa or, short of this, of establishing in its place the necessarily imperfect substitute, orthodoxy (Bourdieu, 1977, p. 169)

It is due to power shaping the social world, that certain forms of living become universalized, in their transformation from *orthodoxy* to *doxa*. This transformation is the result of the ethnocentrism of dominant groups (Bourdieu, 1987, p. 847). An example that he offers is how

family law has contributed to forming and accelerating a model of the family upon the world; one that may not be advantageous to all forms of living. In an effective visualization, Bourdieu writes that the forms and formulas of the law are like weapons in legal combat (ibid., p. 849). Therefore, those not skilled in this form of combat are condemned to submit to what he calls "the power of form", which is the symbolic violence of not having the knowhow to effectively wield the law (ibid., p. 850).

Furthermore, Bourdieu devotes a lot of attention to describing the technical language and properties of the law. The law subjects the intense realities of the present into ancient texts and time-tried precedents, with a resulting neutralizing distance to the social situation (ibid., Bourdieu, 1987, p. 830). As an example of the highly technical language of the law, Bourdieu mentions "false friends"; words that depart from their ordinary meaning in daily language, and which can create misunderstandings between juridical professionals and lay people (ibid., p. 829).

Legal violence

Menjívar & Abrego (2012) use Bourdieu's understanding of law as the quintessential form of symbolic violence to reveal the specific characteristics and consequences of this form of violence in an immigration context.

They frame their concept of *legal violence* in relation to the sociological insight of Jackman. She argued that most examinations of violence are guided by two dominant assumptions: that violence is motivated by intent, and that violence is social and morally deviant from mainstream human activity, which leads to forms of violence that are motivated by positive intentions or incidental by-products of other goals to tend to escape from our attention (Jackman, 2002 quoted in Menjívar & Abrego, 2012, p. 1383). Moreover, their concept is informed by previous investigations on structural violence, such as attention to forms of inequality that are made possible by specific laws (ibid., p. 1385). Yet, legal violence goes beyond the explicit and direct violent consequences of the law, as other socio-legal scholars have done, and instead it distinguishes the legal symbolic form:

Although their effect may be considered a form of both structural and symbolic violence, we refer to it as legal violence because it is embedded in legal practices, sanctioned, actively implemented through formal procedures, and legitimated—and consequently seen as "normal" and natural because it "is the law." (ibid., p. 1387).

It is the formal structures of power that are publicly accepted and respected that sets legal violence apart from other forms of symbolic violence (ibid., p. 1413). As Bourdieu highlighted, the law produces practices, which become normalized as part of the "cognitive repertoire of those exposed" (ibid.). These processes can be manifested as feelings of inadequacy, mutual recrimination, and exploitation of fellow victims, and in turn, divert attention away from the forces that created the conditions of violence in the first place (ibid., p. 1386).

Importantly, in their interpretation, legal violence purports to have the positive objective of protecting rights or controlling behavior for the general good, but it simultaneously gives rise to practices that harm a social group (ibid., p. 1387). The effects of legal violence are manifested in the intrusion into immigrants lives, through a body of law that makes itself felt at the local to the national level (ibid.). While the law has a naturalizing effect, this does not equate it to becoming natural for the social group:

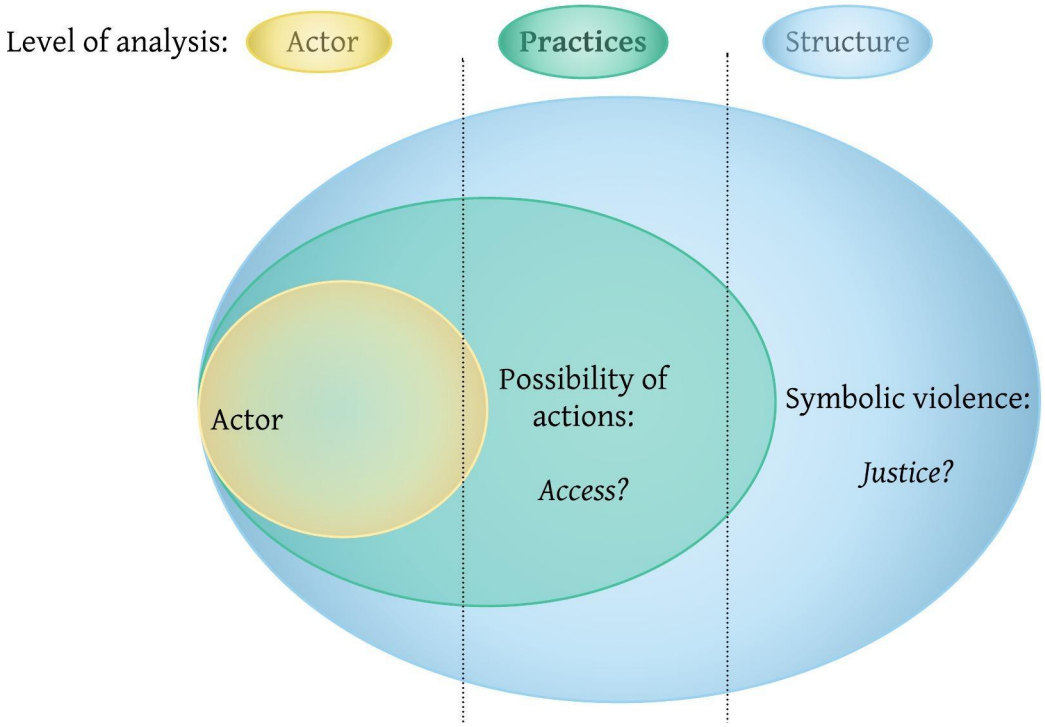
"Individuals who endure these power inequalities, however, are fully aware of the effects, but the conditions are so overwhelming and structures so omnipotent that there is little room for questioning this natural order of things" (ibid., p. 1386).

The concept of legal violence is equipped to address transnational consequences. They note that these laws in a regional center of power have a spillover effect that engulfs the lives of non-migrant relatives and communities in countries from which immigrants originate (ibid., p. 1385). Moreover, it can also capture the relations of power vis-à-vis the countries of origin (ibid., p. 1413). This attention to forces beyond the nation state are important as many scholarly traditions that study migration have been criticized for methodological nationalism, and blind spots in an analysis can be avoided by linking local research beyond the state level (Piper, 2006, p. 153; Castles, 2003).

The concept captures the cumulatively injurious forms of violence that the law makes possible, by questioning what is perceived as normal, and examining the law as it impacts practices in its totality. The legal violence lens also helps expose mechanisms of lawmaking that can have paradoxical effects. For instance, they pay attention to the contradictions within immigration law for undocumented immigrants, in that the various laws seek exclude certain behaviors, and yet in doing so through the law, it more forcefully pushes individuals towards those behaviors (Menjívar & Abrego, 2012, p. 1385).

Overview of theoretical framework

The following diagram shows how the theoretical framework is used to inform this study's perspective on access to justice.

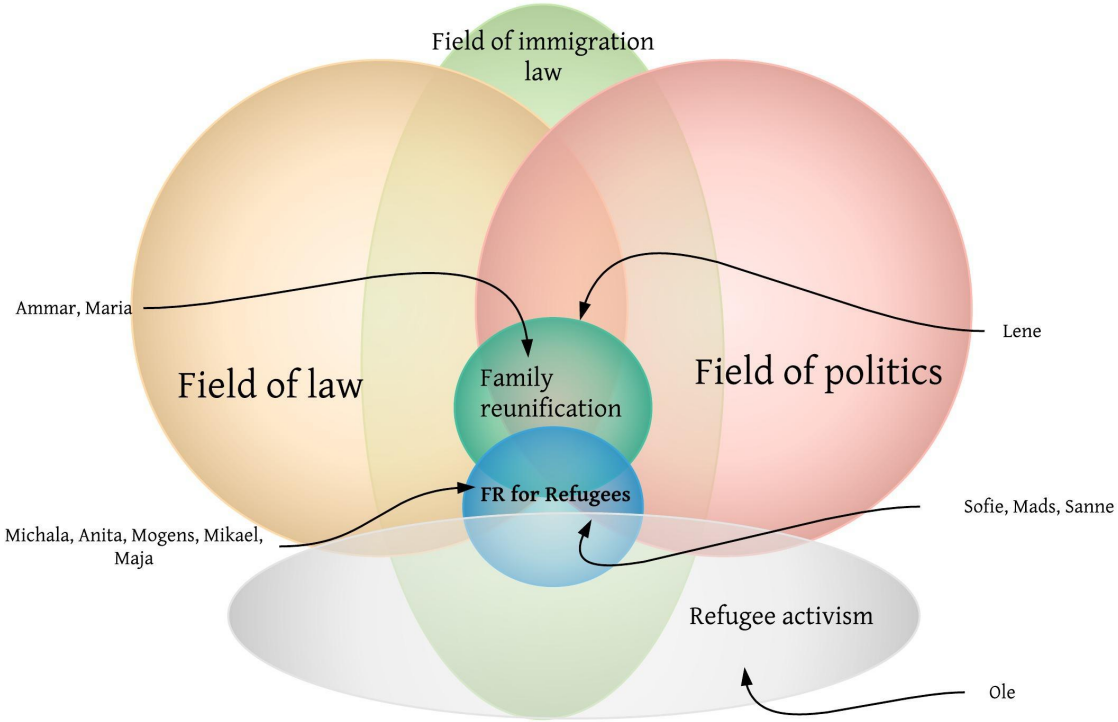


Based on the Bourdieu's conception, actors are embedded in certain practices, which consist of certain possibilities of acting. The backdrop to these possibilities, which constrains and informs possible actions, are the more hidden and often unquestioned forces of the law, which this framework pays attention to using the concept of symbolic violence; specifically, the subset that is legal violence. In cursive, I have added the investigative lenses of the access to justice

perspective. Even though they are intimately tied together as outlined in the definition, for analytical reasons when applied to Bourdieu's theoretical landscape, the 'access' part can be visualized in the actual potentialities in the *practices*, and the '*justice'* in the examination of structural facets.

V. Analysis

In the following diagram, I situate the twelve phase one respondents in the relation to the subject, illustrated against the backdrop of different fields. This diagram is by no means illustrative of their entire role, but rather demonstrates the capacity from which they were speaking to me, in relation to the topic.



As seen in the two arrows towards the blue circle, the majority were experts in family reunification process for refugees (*n*=8), but had gained this capacity through slightly different contexts. On the left were respondents who did legal advising in their work or volunteer role, and on the right, were those respondents who had come to know of family reunification processes from their wider involvement in refugee activism. Ammar and Maria, both from a legal background, confined themselves mainly to questions concerning the wider area of family

reunification. Lene brought the perspective of a municipal case worker, whose work with unaccompanied minors often touched on family reunification, but involved much more. Ole, spoke from a humanitarian concern from the wider refugee activism engagement.

The relatively more formal settings of some of the advisors meant that they had access to knowledge of specific parts of cases when people sought their help (Maja, Maria, Mogens). While this was also partially the case for volunteer advisors Anita and Mads, they also volunteered with more general tasks on the side and would therefore often be exposed and committed to cases in their full form, sometimes over many years, like the other volunteers as well (Sofie, Sanne, Mikael). Some would be vested with *power of attorney* to handle the application process, when considered necessary (Anita, Sofie), or to handle the appeal (Mikael). On the other hand, the DRC Voluntary Advisory Services, encompassing seven nationwide specialized volunteer clinics where migrants, refugees and others who may be assisting, can seek advice, emphatically do not seek power of attorney, citing the reason as the need for the individual's ownership over the process (Maja, Mogens)[7].

Four general themes were noted when analyzing the empirical material collected in both phases. *Access* concerns the procedural aspects that affects navigation in family reunification cases. *Justice* concerns substantive aspects concerning the rules, including the larger structural environment. *Transnational context* concerns the codes that are related to the broader transnational context. *Consequences* refers to the wider socio-legal ramifications of aspects addressed under all the previous headings, which influences the practices of navigation. Under these, all the relevant thematic codes were collected. Bourdieu´s theories and concepts, including Menjívar & Abrego's extension of legal violence, will be applied when relevant. Taken together, all parts of the analysis point to access to justice in a broad sense, which will be further examined in the subsequent discussion, which also provides an occasion to assess these aspects in their totality.

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[7] A note on the distinction: even though Anita and Mads were also volunteer advisors through the DRC, this was not in one of the 7 nationwide Advisory Services Offices. Anita and Mads are organized by the DRC, but not required to undergo as much legal training.

Recognizable cases have been anonymized, so some details have been changed when necessary, but without compromising the cogency. If it is unclear whether the respondent is from phase one or phase two, I will present the respondent with the corresponding number of the phase, and if I allude to statements that several made, I will include their names in footnotes.

Access

These thematic codes are central to the question of access, and concern the fundamental possibility for navigation when applying for family reunification and when appealing a rejected case.

The need

There is widespread agreement on the necessity of effective information and advice for family reunification cases. Each expert on family reunification for refugees (*n*=8) said that sponsors need help in general to process their case, and two sponsors mentioned that they needed help in filling out the application due to the language barrier (Issac) and due to wishing to effectively communicate their case (Amanual). Several who work with filing applications often, and have been working with it for several years, said that it was complicated to fill out an application even for them[8]. Mikael, the lawyer working in volunteer capacity, said he will use 2-3 weeks of thinking to prepare a single complaint. Several attributed this complexity to the changing legal environment[9], and some mentioned the accumulated knowledge of praxis, which cannot simply be read somewhere, and takes a while to understand[10]. Michala, who heads Refugees Welcome, said she had seen many applications that had been filled out to the best of their ability, where it was obvious that people had misunderstood the questions.

Moreover, some noted that the terminology during filing the application does not represent common sense, as it is the applicant abroad who is the principal subject, while it is often the

[8] Maja, Michala and Lene: 1

[9] Mogens, Maria, Anita: 1

[10] Anita, Mikael, Sofie, Maria: 1

sponsor filling out the entire application[11]. In other words, in the process of filing, the sponsor may be confused for the applicant. The words used for sponsor (*referent*) and applicant (*ansøger*), find their usage in Danish language also, but they deviate somewhat from their usual meaning in this legal form, and may function for the layperson as a "false friend" (Bourdieu, 1987, p. 829). Thus, you need to be extra careful when filing, to ensure that you write details of the applicant and sponsor appropriately. When I prodded Mikael whether this was the kind of mistakes he had seen others make, as this was an issue he had addressed earlier, he answered affirmatively, and added that even the DIS would mix up these terms when speaking with him.

Several of the respondents alluded to the importance of the municipality for effective help, however it is random whether the municipality helps with this[12]. Lene, who worked at a municipality, spoke of how they had chosen to take an advising role with the unaccompanied minors, yet other municipalities did not interpret their responsibility vis-à-vis the law in the same way. Two sponsors lamented the poor level of help they had received at the municipality[13]. Issac was waiting for the municipality to deliver vital records that he needed for the application, and consequently, this delay influenced his case negatively. Muhammed felt lucky that when he sought family reunification it was during the time when the municipality still provided information on the process, and the fact that his municipality was a "good municipality", compared to the testimony of others he has spoken with in other parts of Denmark.

The need is not surprising, when considering the lack of relevant economic, social and cultural capital to navigate Danish society as a newcomer (Bourdieu, 1987b, p. 4). A level of information and organization could address this preliminary need, which will be the focus of the next two thematic codes.

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[11] Mikael, Sanne, Mads: 1

[12] Kidane, Hamid, Issac: 1; Michala, Sofie, Mads, Mikael, Sanne, Lene: 2

[13] Issac, 2; Michala, Sofie: 1

The absence of aid

Many[14] said that the DIS did not provide sufficient information, and would often refer to their website. Meanwhile, it is not a given that people can read, and even if they can, it may be difficult to understand the level of technical language. Apart from the DRC's volunteer advisory services, where there are legal advisors present, I was not able to identify legal aid clinics that helped with refugee family reunification, even though I contacted several (*n*=5) when preparing the data collection stage. Michala mentioned that legal aid clinics did not have the specialist knowledge for this area of law, and would often send people their way. Ammar (1) would not take on cases pro bono, and therefore, since people with a refugee background will usually not be able to pay for legal aid, for reasons which will be highlighted in subsequent codes, he would transfer them to the DRC. Meanwhile, the representative of DRC, Maja, said that the demand is much larger than what the DRC can assist, and that in general, there is lack of information and an insecure foundation for knowing one's rights. Sofie (1) also mentioned that she was aware that sometimes only a lawyer would be able to push the case forwards:

Sofie: I think it is sort of difficult to say: "you can trust our system", and still the advice is this: I recommend that you now contact a lawyer to send an email that he wishes access to records. Knowing full well that they would never be able to pay for that legal aid. They would never have enough money to pay that lawyer.

When there are few options for advice and information, the consequences of the lack of economic capital become a hindrance for access to justice.

The poor quality of aid

Muhammed wanted his case finished as quickly as possible due to the predicament of his family abroad, so he sought the help from a lawyer, and yet, the application was still not effectively filled out, and it delayed his case 3 months further. Mikael also mentioned an appeal he helped with where a lawyer had looked over the application, but it had still been handed in with

[14] Lene, Anita, Sofie: 1; Amanuel, Issac: 2

important mistakes. These examples and the fact that many legal aid clinics do not help show that it is a specialist area that requires special attention.

All the volunteer advisors (*n*=4), and Maja who was employed to oversee the many volunteer advisors in their seven nationwide volunteer services, talked of the meticulous way they would help the filing of the application, ensuring and double-checking with the sponsor that all details were correct. Several respondents noted the randomness of who receives help and from where[15]. Maja and Sofie (p. 9) highlighted the immense responsibility of giving help in this specialist area, and how volunteers or regular people get relied on, which can easily fuel misinformation. Even when helping in the best meaning, if one lacks the experience of the field, the individual's case can be jeopardized due to a small oversight.

The power of the law and the symbolic power of its language (Bourdieu, 1987, p. 838) sets the individual with a refugee background at a disadvantage when procedural access is lacking. Any random person; an employer, a neighbor, a volunteer, can find their way around it more easily, due to language and basic knowledge of the system. This can become an impediment to the person, who ends up relying on people, who may not have the sufficient legal capital. On the other hand, those connected with lawyers with knowledge of the system, thus extending social and legal capital to their case, have a considerable advantage.

The legal form

The power of the legal form affects procedural access to justice in these cases. Those backed by a specialist or attentive lawyer have a form of power that is recognized by the volunteers who align with jurists when needed[16]. Sofie (1) said that she had experienced a handful of cases, which move more swiftly when a lawyer interjects in the case to demand access to records (even though anyone can ask for access to records in theory, if they get vested with power of attorney or have the individual sitting beside them when they call the DIS). Mikael would systematically ask for access to records to have all the information to make a complaint, and he would get

[15] Michala, Maja, Sofie: 1

[16] Sofie, Mogens, Anita: 1

vested with power of attorney, so that he could write the appeals in his name. There was one exception with an unaccompanied minor, where Mikael judged that it would indeed help the young boy more if it seemed as if he had written the appeal by himself. Here, the obvious lack of capital could be used for its empathic affect. Moreover, Mikael would draw on a competent network of lawyers and judges to look over his work, and thus access a considerable amount of juridical capital (Terdiman, 1987, p. 812).

Meanwhile, Sofie spoke about how it was not a fair process, because it disadvantages some people without volunteer helpers such as her, without money to pay for a lawyer, or without a connection to lawyers that will work pro bono. The principles of the rule of law move when people can effectively channel symbolic power to advance their case, for instance through social mobilization. These mechanisms show how law is not neutral; it is connected to power as it competes in and across fields and levels of capital (Bourdieu, 1987). Legally triggered acts, such as access to records or the power of attorney, are infused with a symbolic power, through their legitimate basis in law. It becomes a legal tool that activates an effect, potentially influencing the positive direction of the case; a weapon that some may not even know they have (ibid., p. 849). Ultimately, when there are no active attempts at reducing such discrepancies, access to justice remains unequally distributed by capital.

Timing

The DIS increasingly applies the criteria of when family reunification was sought, and if a period elapsed after the possible time to submit the application, they need to know why one did not apply earlier. Due to delays from the municipality over the summer holidays, Issac did not receive a social security number, which delayed his application. The DIS requested that he should explain why he had waited several months before applying. According to Maja (1), the timing demands presents a challenge, since you need to account for any delays. She mentioned a case of someone who had been told they could not apply yet, where the reasoning was not accepted by the DIS. Therefore, the individual would need to corroborate their previous perception, something that is very difficult in practice. Meanwhile, everyone may not be able to seek family reunification straight away, or they may wait to file the application. In Eritrean

contexts, I was commonly told how the people are often kidnapped and imprisoned many times while trying to flee, which may not be something you want to attempt with a young child[17]. The date of 8 weeks to submit a complaint is also a rigid requirement for many. Mogens (1) said that people often come to the DRC's Advisory Clinic a long time after the due date. In those cases, there is nothing else to do but to apply again, but this will only be accepted if one has new information; not necessarily new interpretations or explanations.

Timing demands can also mean that one should account for the places one has been before getting asylum in Denmark. As part of his rejection letter, the DIS alluded to the time Issac had spent in another African country, as an indication that he could have chosen to remain there:

Issac: They say "You live in Sudan a long time, around 2 years. So it was enough to you, why not stay?" But I chose to stay there because I didn't have enough money to continue travelling.

The passing of time, which is often a natural consequence in a forced migration context, presents itself as an anomaly that must be accounted for. Such a demand on timing has more to do with substantive interpretation than the procedural demands as described above, however it may reflect a similar rigid requirement on their context. The ability to behave quickly and efficiently reflects a mode of living that in the context of family reunification has become universalized to cover forced migration timelines, where such acts are not necessarily logical nor possible (Bourdieu, 1987, p. 847). Timing demands clearly affects the possibilities of navigating one's case, if one is stopped because of time that has elapsed without one's knowledge. It represents a form of legal violence, when it is cumulatively assessed with the lack of information and possibility for help described above (Menjívar & Abrego, 2012, p. 1414).

Complaints procedure

As the DIS is an administrative body, rather than a court, the Appeals Board has a duty to review the case, if a person simply says, "I complain". Due to the difficulties described above with the lack of information, help and legal form, some rely on making this move rather than submitting a

[17] Faven: 2; Michala, Mads, Anita, Sanne: 1

detailed complaint of their case. However, those with institutional experience said that the structure for complaints is insufficient, as the case will not be investigated unless you prepare it all meticulously yourself[18]. Michala spoke of a case where she had seen the resulting complaint from a woman, who had called the Appeals Board to state that she wanted to complain, which then resulted in a complaint procedure over the telephone that produced a document. To Michala the resulting complaint mechanism was almost a joke, as the Appeals Board did not ask for additional documentation, which was critical for her case. Michala met her in a chance encounter and quickly intervened, while the case was still open. According to Michala, she had misunderstood many parts of the application, and had filled them out wrong. Incidentally, not even the formal complaint mechanism was there to provide her with assistance.

Mikael also spoke of an unaccompanied minor who had submitted a complaint by himself and where he was able to intervene since the complaint had been lost, and the boy had a receipt of having sent it. In both examples, the complaints mechanism, which is a vital organ as many cases are overturned and one usually has only one attempt to appeal, relies on many factors, because the simplest ways do not put you in the strongest position.

Justice

This thematic section concerns the substantive aspects of access to justice, and therefore will address structural constraints that impede the ability to navigate.

Rigid Documentation

Half of the phase one respondents (*n*=6) and all the Eritrean sponsors (*n*=4) spoke at length about the requirements for documentation. In a religious country such as Eritrea, most people possess a marriage certificate from the church, and it is only the few who possess a civil marriage registration from the municipal level. As Amanuel explains, after fleeing Eritrea, it is virtually impossible to request documentation from the Eritrean state.

[18] Mikael and Michala: 1

Amanuel: A few were a soldier in Eritrea and escape from the military to Ethiopia and to Europe, it is impossible to ask any documentation from Eritrea, you have no right. If somebody ask on behalf of me for example, he has a problem, he will be jailed. How come you ask for this illegal person who escape from Eritrea, so why you ask for him? So the people in Eritrea are also very afraid to ask on behalf of people.

As Amanuel outlines, and Issac also said, one does not accept the available circumstances when demanding such documentation. According to the Eritreans I spoke to, this is such common knowledge that the Danish state should be aware of these conditions. When the DIS still demands a civil registration document, even in a recent rejection (2018) such as Faven's, while being aware of the widespread impossibility of getting this, the rigidity reflects a form of legal violence. It can compromise individuals in Eritrea, if they attempt to get it on their behalf. It delays the case, for something that they do not consider a legitimate reason, with implications that will be addressed under the next two thematic codes on the transnational context and the consequences.

Another example of this rigidity was told by Mads (1); a case where the DIS demanded a death certificate, which the applicants in the African refugee camp had no opportunity to get from the African state they had fled in an onset of violence. The documentation requirements effectively hinder many to reunite, or drags out their cases. Michala (1) mentioned how the marriage should instead be documented in additional ways, such as requesting photographs from the engagement or wedding. As it may not be logical for everyone to do this without knowing or guessing, and the DIS does not appear to inform people of alternative means of documentation, it again disparately effects access to justice for those without the relevant capital.

Permanent cohabitation requirement and DNA

If a couple seeking family reunification are not married, or, the DIS does not recognize the marriage as valid, there is a requirement that the spouses need to have lived together for 18 months. This threshold, coupled with the rigid documentation, has profound consequences. All the Eritreans I spoke with had been adversely affected by this requirement, prolonging and/or rejecting their cases. They had all been waiting around two years for family reunification. Faven

got her rejection after almost 18 months, and it will take time before she gets a response on the complaint. Both Issac and Amanuel remarked that the permanent cohabitation requirement effectively punishes them for the limited time they have spent at home, yet this same factor is part of why they flee, as virtually everyone is subjected to mandatory military service.

Issac: The immigration gives rejection. It is very hard. We just wait. When do we give the papers, I cannot control my whole body. They write, you do not live together for a long time. But they do not know my home country. Even if you are married and lives with their wife for 12 years, they are only together with their wife for 12 months. That is why we flee!

The paradoxical aspect is that protection concerns are triggered in their asylum process, as reflected in the high rate of asylum for Eritreans in Denmark in recent years (Udlændinge- og Integrationsministeriet, 2016, p. 15), and yet these same circumstances harm the individuals when seeking family reunification, due to the cohabitation threshold. Could the applicants instead seek asylum rather than family reunification, they would most likely get it. The statistics reflect this paradox; in 2017, there were 469 rejections for spousal family reunification out of 886 applications with Eritrean nationality, which means that more than half are rejected (Udlændinge- og Integrationsministeriet, 2018, p. 13), while close to 95% get asylum on average (Udlændinge- og Integrationsministeriet, 2016, p. 15).

Michala (1) also recounted a case that was rejected, even though the accumulated amount of time had surpassed the 18 months, due to military service, where the individual was only home during weekends and time off. Yet, the DIS did not find that it lived up to the 18-month threshold, even though weekends and time off by itself amounted to more than 18 months, since the cohabitation was not seen as a continuous period. Mads provided a good summary of the repercussions in these cases as told by many in phase one:

Mads: So this guy, who is from Eritrea, they asked for a DNA test from the child, and then they got that, and then they found that out; well fine, then the kid has gotten a residency permit in Denmark, but the mother has not. And the child is born after the man has left, so that means that a 3-year old child, who never has seen his father can travel to Denmark, but without its mother?

People exposed to such cases are struck by how the asylum and immigration rationales are at odds, by highlighting how families get broken apart and how the children get especially harmed. Faven from Eritrea sought family reunification with her husband and child, who are both in a refugee camp in Africa. Like the others, she only had the church certificate and had not lived long enough with her husband. Her husband's case was denied, while their child was accepted. Faven is currently appealing the decision for her husband, and has reached out to an NGO after speaking to fellow Eritreans, and meanwhile, her young child must travel alone to Denmark. When recounting her case to me, she said:

Faven: …people Denmark is… I don't know… racist? It is very difficult… I have done DNA, it is finished […] but now my husband is rejected, it's very difficult…

Undergoing a DNA process seems to imply that if it is positive for the parties then they will be united, however, as she says, even though they finished that, her husband is still rejected. Next, Faven discreetly questioned the underlying and commonly unspoken assumptions, or the *doxa* (Bourdieu, 1987, p. 848). Since there seems to be no logic to the decision, a deeper explanation in racism is sought. It could allude to the recognition that the dominant groups impose an order of violence upon others and pointing out the arbitrariness of the dominant logic (Bourdieu, 1977, p. 169).

Amanuel also recounted a person he knew that waited two years, whose case was rejected, and who went to see a lawyer, who requested a DNA test, which reversed the decision. The same happened with Issac and Kidane, where Michala intervened to collectively request a DNA test on behalf of many Eritreans. According to Sofie (1), there was a push when many Eritreans cases got resolved on this basis. In these cases, the social and legal capital seems to have produced an effect, while in Faven's case, the DNA test didn't lead to a residence permit for her husband. Similarly, Amanuel (2) tried to explain to the DIS many times that he should take a DNA test to prove familial ties, since he was told he needed to procure the civil certificate, but a test was never put in motion. Eventually, after almost two years, his wife and child were eventually granted residency, due to the DIS accepting that they lived together for an amount of time longer than the 18 months. Ultimately, by requesting DNA tests to counter the documentation demand,

Amanuel tried to resist, yet left with no other options than to wait, he thus had to submit to the power of form (Bourdieu, 1987, p. 850). Presented with these demands, argumentation in the form of logic does not appear enough on its own, and rather, it appears to produce an effect when those with symbolic capital enter the stage and ultimately help relax these substantive constraints.

Cultural interpretations of the family

The interpretation of family life goes further than the length of time of cohabitation, it also concerns the form. For instance, Mads (1) recounted a case where an individual's application was denied, since the DIS did not see that family life could be established in a refugee camp. The case concerned a protracted refugee situation, and the couple had a child together, and based on the DNA test, the child was granted admission, but the applicant parent denied. One could ask, how else should they form families in such situations? Michala (1) also mentioned a case where the couple had lived together at the house of one of their parents, after marriage, and yet this was not recognized as establishing their own family life. In this case, the individual had little means as a soldier to find their own accommodation, nor would it appear logical in their situation. Such decisions do not reflect the many faceted cultural and socio-economic circumstances of family life, rather it concerns a specific Danish-centric understanding of family life transposed if it was universal (Bourdieu, 1987, p. 847).

Michala and Maria (1) also spoke at length about how the ideas of arranged marriages affected the possibility for family reunification. Michala knew of an example of two grand cousins who had been married against the wish of their parents, and said that the logic of arranged marriages as equated with familial marriages was faulty. Moreover, she had seen many examples of establishes families with children, who would get rejections based on being related to each other. Anita (1) also mentioned a case of a couple who had incidentally been relatives quite far out; a step beyond grand cousins, which led to an initial rejection. According to Michala, such decisions have been overturned in the Danish High Court, and will continue to do so, based on it being discriminatory, as it is not against the law for Danes to marry within the family. However, as she stated, this possibility implies that the individuals would want to, and be able to, carry it all the long way to court.

The universalization of the correct kind of family life infiltrates Danish immigration law. Some of it cannot be written into the law as is, but through a practice that sidesteps their available marriage documentation, and then having to interpret the cohabitation, it effectively ends up hinging on interpretations of standards that do not apply to those contexts. On the other hand, the prohibition of spousal familial ties is a firm part of the law and a central part of the family reunification application, however, it may be interpreted in the applicants favor in the long haul. Both possibilities are examples of how navigation becomes more drawn out and complicated due to the universalization of the dominant group's family life.

Mistrust

If one has diverging explanations from the asylum interview to the family reunification application, then it is difficult to avoid a rejection if it cannot be adequately explained. Mikael and Anita mentioned routinely asking for the access to records for this reason.

Anita: They have an asylum interview when they come to Denmark, and that I use a lot because I get a lot of information that I can use. And if they have said something wrong or remembered the wrong date, and we in the application write something else, you can be sure it can lead to problems!

Mads recounted how after he helped someone fill out and send an application, the individual received a message from the family member abroad correcting the birthday of a relative. Since Mads knew that details such as dates were essential, he wrote immediately to the DIS, saying that he had made the mistake himself, so that it would not harm the trustworthiness of the individual.

The mistrust that arises from diverging stories even trump DNA evidence, if the couple have a child together. The following case concerns a man Mads helped, who was affected by a traumatic journey out of Eritrea, and by the time he arrived in Denmark, he thought he was in Sweden. By the time he filled out his family reunification application, he had forgotten all details about his asylum interview. Because of diverging information, his application was rejected. Mads thought that these were minor divergences, and yet, he was aware that there was not much

luck in making a complaint. He had talked to his network who help refugees, and jurists in the DRC, who had read it and chose not to take on the appeal, as they told him it would be almost impossible to reverse the decision. To Mads, it is paradoxical to demand responsibility for absolute clarity, when people are often traumatized.

According to Mogens (1), it is common that people think that it may disadvantage their asylum case if they say that they are married, and some will therefore claim to be divorced. However, this presents a significant divergence, which will harm their ability to reunite later. Ammar (1) also had a client who had claimed he was divorced due to fear of being rejected. Legal capital in the form of knowledge of what do to even in the asylum phase is powerful when filing the family reunification.

The mistrust can be seen as *doxa*, where it has become legitimate for the DIS to try to catch individuals in a "lie". It is common knowledge in the field, which advisors are very aware of, and counter arguments are unlikely to produce an effect on the decision. The *doxa* is unquestioned; it is simply the state of affairs (Bourdieu, 1977, p. 168). It is so embedded within the institutional structure that organizations will also give up arguing cases with divergences.

Transnational context

These codes refer to the wider socio-legal ramifications of aspects addressed already.

Danger abroad

While the individual undergoes an asylum and family reunification procedure, the family abroad is often in a difficult situation. This was the case for all the applicants (n=4) that I spoke to. Sana had moved with her five children from Syria to Lebanon, and said that they were afraid that they could not come to Denmark, and at times, they would tell Hamid to come back, because they could not take it anymore. Gender-related, sexual violence was especially a concern in their case. Her daughter Ghadah told me that one of her friends from school had been subjected to sexual violence when coming home from school, and that she and her mother were afraid that the same thing could happen to her. Marwa had first stayed in Syria with her children, around five months, before leaving for Turkey, due to fears that their teenage son could be recruited to the war. She

was also worried about the safety of her children, and she recounted that she was lucky for a time, as she was able to have them with her at work in Turkey, so that she could both provide for them and keep them safe.

Those fleeing Eritrea are often living in limbo in Ethiopia in an extremely poor socio-economic situation, which weighs on the shoulder of the sponsor[19]. As Kidane and Issac said, it was difficult to provide for two households at once, in Denmark and abroad, when their families are often living life precariously without networks.

The logic of immigration is ill-suited to address cases where all members of the family need protection. For all applicants I spoke to, they had their own pertinent situation that would most likely warrant protection under the Aliens Act, if assessed on its own merits.

Relying on volunteers

When the government ended funding for the travel in these cases, a repercussion was that the International Organization for Migration (IOM) no longer intervened to organize trips for people. In the ensuing gap, people would be left to figure this out on their own or get volunteer help, often creating difficult situations for everyone involved. Several respondents[20] had intervened in a few of these cases, including managing donations from people towards funding the costs. When Sofie helped organize travel to a Danish representation abroad, she realized that there was no information on the embassies' websites about what was required, in terms of being allowed entry and leave of that country. There is a lack of information, and, as she said, it makes a person very dependent on whatever that individual tells you on the phone.

Michala told the case of a Dane, who had spent weeks calling around to Danish embassies to try to get two children out of Jordan. In the end, he ended up travelling there, and spending weeks sorting everything to get the children out, to their parent in Denmark. According to Michala,

[19] Michala

[20] Anita, Sofie, Mads and Sanne: 1

IOM would have handled this much more efficiently, as part of their mandate is managing migration contexts.

Sanne had helped fundraise for 15 reunifications, and plan for around 8-10 of them, who needed assistance in leaving Syria and travelling to Turkey or Libanon. She spoke of some of the complications and difficulties that goes into assisting in this process, being an advisor and organizer to make sure that these reunifications happen in practice. Sometimes, they would work for months to organize and plan, especially when concerning children travelling on their own.

Taken together, the dire circumstances of those abroad and the lack of procedural accessibility for the sponsors, mean that the social capital of volunteers, especially in terms of their existing networks and capacity for network building, end up mattering a lot in these cases. Meanwhile, these regular people take on a lot of responsibility, as they become involved in organizing dangerous travels and making difficult choices; for Sofie it also meant having trouble sleeping at night.

Consequences

The next codes consider the common consequences that the respondents discussed, in relation to the themes of access, justice and the transnational context.

Waiting

Muhammad told me that he was worried about his family's safety every minute of every day. Once his protection needs had been assessed, he could not understand why they should wait longer than 2 or 3 months in a warzone. In total, he ended up waiting 11 months.

Muhammed: Why you shall help me, and my family, the most important thing in my life, is in Syria, and there is war. All refugees do not understand why it takes a long time.

Hamid also said that he got to a point where he could not take it anymore, because of the situation of his family in Lebanon. He had chosen Denmark because he thought it would be easier to get the family over, so when it took so long, it was difficult for him. Kidane

experienced two administrative delays, and had to provide for Helen and their child for several years, who were living precariously in Ethiopia. He spoke at length of how it was difficult that he was not able to provide for her and his child throughout this long period of time.

Mads (1) spoke of the problems with the administrative delays, where it is expected that a decision will be reached soon, and as it keeps getting prolonged, it complicates their lives considerably. For instance, in one case, the municipality had ensured that the sponsor move into a bigger apartment; a requirement to have the family move in there, and yet it took months before the family reunification came through, effectively pressurizing his economic situation even further.

No part of their family reunification case appears to take these contexts into consideration, effectively disadvantaging an entire group. The omission is a byproduct of the law and its practices of controls, and it may not appear to have the character of intentionality that is commonly ascribed to violence (Menjívar & Abrego, 2012). Nevertheless, the effects of suffering are substantial, and often manifested as a state of desperation.

Desperation

In response to the rigid documentation demands, and the psychological pressure of waiting, it provides an environment where it is easier to succumb to faking documents, even though the individuals involved may understand the risks. In a particularly difficult case, Anita made the following suggestion, seeing no other way out:

Anita: …the one I told you about […] whose case was prolonged, I thought he was about to commit suicide, I had to go with him home, he was doing so terribly… at last I had to say: ”get your brother to make something, fake something, but I don’t need to know it, it is not something I have said.”

The possibility did not actualize, as shortly the man ended up receiving a positive decision, after waiting more than 2 years since applying. Sofie also mentioned that it is a widespread response to the demand for a civil marriage. When made aware that the required documentation is lacking,

even a fake document can be useful, if it is granted the symbolic power of being recognized as legitimate. That risk one may be willing to make, if desperate. Meanwhile, it is apparent how the doxic view permeates the whole field, as Anita follows her "last resort" advice with a negation that it is not something she has said. As Bourdieu (1977, p. 168) specified, *doxa* is the unquestioned state of affairs.

Anita also recounted that in many Eritrean cases she had helped, the name written down in the asylum interview would not be correct, due to spelling of Tigrinya translating into several characters in the standard alphabet. However, the faulty name would need to be the same for the family reunification application, likely related to the aforementioned mistrust. As a result, the residency permit would have a mistake, and yet, this was impossible to change afterwards. The name in the papers effectively became her new name, displaying the special naming power of the law (Bourdieu, 1987, p. 838). The only option was to fake the travel documents to get the individuals out. She said even though it is bad and risky in a Danish context, these practices are contingent on whether the families can even come.

Mikael also spoke of one of his clients, where, by the time it came to writing the appeal, he could suddenly procure a civil marriage license, although he had previously reiterated that it was impossible. Since it was suspicious to Mikael, he added a declaration to the appeal that he had not been able to personally verify the documents, in order to ensure that he, as his legal representative, would not be sanctioned if it was deemed to be fake. Amanuel (2) also theorized that some Eritreans may be able to get an official documentation, by paying money to the municipalities in Eritrea through their families, if they are connected to political leaders.

The reason for demanding the civil marriage license is that it is easier to authenticate than the religious ones, which can easily be faked, according to Michala. Yet, by demanding a document they cannot get, some will resort to faking it. The requirement has a potentially paradoxical consequence in a Danish context, by producing the real possibility that some may succumb to an illegal practice, by faking documents, or to acquire a legal document through illegal means. While the various laws seek exclude certain behaviors, they forcefully push individuals towards those behaviors (Menjívar & Abrego, 2012, p. 1385). Both scenarios present how the Danish

rigid documentation requirement pushes a person in a desperate position to compromise their own symbolic capital, which is a valuable currency in the widespread culture of mistrust.

Giving up

Some individuals cannot handle the waiting and desperation, and they will give up on the possibility altogether. Amanuel (2) spoke of how he knows fellow Eritreans who have given up when faced with the documentation requirement. Muhammed (2) spoke of a man who got a temporary residency permit, and after 1 year, his family called him, and informed him that are not coming. Often the family relations will be subjected to extra tests of faith during this precarious time. Anita (1) said that the women often don't believe that the men want them to come to Denmark, since Denmark is such a reliable and rule-bound country. She had a client, whose wife was certain he was having an affair, and with two of sponsors she was helping, their wives decided to call off the application after it was sent. Michala (1) had also seen many examples of families who had effectively been split apart by the demands, and the extended waiting period that it would also engender. She said that often the applicant will not believe the spouse, and the children will become disappointed, adding stress to a situation the sponsor cannot control. From their perspective, what the person said before leaving was not true, as the process is way more complex than anticipated. Giving up is a consequence of the substantial suffering of legal violence.

Integration effects

The difficulties addressed above had profound implications for their mental health, and their feelings about their situation in Denmark. However, I do not claim to have examined these aspects in detail, as I did not ask personal questions of such kinds during the interviews and I relate here what the respondents decided to tell me. As already addressed, the needs of the family abroad, would further strain the sponsor considerably. For Muhammed, Kidane and Amanuel, they all mentioned the inability to concentrate in school. Issac (2) also said that he had stress during the period of his case. In some cases, I heard stories of individuals starving themselves and saving up as much as possible[21].

[21] Sofie, Mads: 1

In another problematic interplay of rules, those with the "integration benefit" are not allowed to have more than 10.000 kr. on their bank account. Sofie knew a friend who therefore had 30.000 kr. stuffed into his mattress saved up to pay for the flight tickets. Michala said that many take quick loans; risky loans with long-term consequences, often keeping the family in a situation of poverty. Although there are too many to mention, these aspects have negative effects for the acculturation process. Importantly, the effects are not a natural byproduct, as they are actively and cumulatively influenced by the widespread insecurity due to the procedural lack of access, the rigorous controls, delays, misinterpretations, and lack of official support in the transnational process.

To conclude the findings, it is also important to note a fundamental substantive aspect, by widening the scope beyond the refugee group. Ammar and Maria (1) highlighted how the degree of *juridification* affects everyone's chances, and is also disadvantageous towards second-degree immigrants who wish to reunite with spouses abroad. Since it subjects the individual to countless controls and requirements, the field itself has a degree of legal violence.

VI. Discussion

In the following chapter, I will link the findings to the themes addressed already in the literature review and the Danish context, to assess in a wider perspective the interplay between newly arrived refugees' possibilities of navigation vis-à-vis structural facets of Danish immigration law, as well as the implications of legal violence for socio-legal research on access to justice and refugees, in accordance with the broader purpose of the research.

The analysis has established that there is a widespread need for information and advice, which is not currently being met, and which overburdens volunteers, who often get involved in the transnational context as well. The timing demands mean that people are expected to behave with a level of efficiency, which may not be natural or desirable in a forced migration context. Spatial dispersal adversely affected the practices of navigation, as everyone is subject to random chance of whether there are places to seek legal advice within their municipality. Using an assess to justice perspective corroborates the scholarly criticisms that the policy of spatial dispersal has only fueled the features of structural constraints and discrimination, which become the surface

manifestations that was ultimately hoped to be addressed through these "integration" measures (Griffiths et al., 2006; Phillips, 2010). For many individuals, it is random who they get help from; sufficient capital is the luck of the draw. In such an unequal landscape, those connected to individuals with the rare form of juridical capital; lawyers competent in this field, have access to symbolic power and are at an advantage.

On the substantive aspect of access to justice, the demands of documentation and cohabitation are difficult to predict, understand, and challenge. Mistrust and other structural facets of immigration law, such as *juridification*, measures of deterrence, and the universalization of the family are widely felt by those in the field, and they disparately affect those who are already disadvantaged by the procedural lack of access to justice. The mistrust means that even a small mistake can set you at a large disadvantage, and coupled with the lack of procedural access to justice, mistakes are likely to be misunderstandings. Moreover, the documentation requirements mean that their life becomes strictly regulated by law, and yet they are also excluded from it (Vitus, 2011, p. 99). In this case, exclusion is apparent in the distance between the requirements and their life, in the difficulty of contesting them and the exclusion of an electoral say.

In the context of this case, protection and asylum rationales have become increasingly conflated with immigration rationales, and this wider shift exerts a form of legal violence, as it disregards the situation of the applicant, which is less a case of choosing to immigrate to Denmark, and more a case of family unity in a refugee protection context. The logic of immigration, with its fundamental *doxa* of mistrust, universalization of family life, and accompanying rigid documentation requirements, has a profound intrusion into their lives. Cumulatively, they suffer under the effects of legal violence: subjecting both sponsors and applicants to harsh periods of waiting, with emotional and societal consequences. In line with the British Red Cross' findings that it be more fitting to treat refugee family reunification like a policy area more closely in line with asylum, the cases brought up by my respondents show the clash between the protection and the immigration logic. Yet, asylum law is not a neutral environment: it also exerts forms of legal violence, for instance through the *doxa* of mistrust and the temporary protection status, which need to be addressed.

The resulting practices of the structural facets described above often mean that cases are significantly prolonged or complicated. Ultimately, given time, if individuals persist and, sometimes, get access to the forms of capital needed, many cases are overturned in the end. Therefore, in the long haul, many will end up getting their families reunited. Seen in this light, it begs the question of what the cost is of these deterrence measures? When reviewing the literature of familial separation being the most significant factor of hardship, alongside the empirical data I gathered which appeared to confirm this, it becomes clear that the years waiting from asylum to family reunification impacts the individual negatively. These forms of legally imposed suffering must be considered when researchers address the resettlement experience, and the ability to integrate into the new society for this group.

In these cases, familial separation was not a neutral by-product of a situation of forced migration, it was rather an active and structural facet of Danish immigration law and praxis. However, as Jackman pointed out, it does not *appear* intentional: it may appear as a natural by-product of policies to deter new arrivals, or as justified to protect the majority group. As Bourdieu would add to that, it appears as natural and unquestioned *doxa*; reflecting an expectation of the law to handle cases in rigid and systematic manner. On the other hand, a reflexive theoretical standpoint can help critically assess the commonly taken-for-granted aspects of the law.

Systemic problems are built into concept of asylum within the current nation state order (Benhabib, 2004; Vitus; 2011), and therefore not addressing this level of analysis amounts to treating it as neutral or unimportant. As this study has shown, in the absence of positive measures to address the preliminary disparity, the arbitrariness of access, exacerbated by demarcations of legal status and trump cards of capital, will only increase this disparity. This echoes the argument of Felstiner, Abel and Sarat (1980), that it is not sufficient to provide access to the legal system; it is important to investigate the effects of inequality at earlier stages. In this study, the fundamental and structural baselines represent these earlier stages. Helping to make this theoretical leap is seeing how immigration status acts as an axis of stratification (Enchautegui & Menjívar, 2015, p. 35), since statuses impact the social world and set the parameters under which people can start to navigate society. The *doxa* accompanying the demarcations between

individuals, can be conceptualized as being built up over time and becoming more robust (Cabot, 2016, p. 651).

Finally, the concept of legal violence can be applied to the broader scope of family reunification in general in Denmark, as the degree of *juridification* affects everyone's chance to get their family member to Denmark. Within such a restrictive legal environment, the perspective of access to justice can help to assess the disparate adverse effects across social groups and help inform any theoretical application of legal violence at the level of social practices. In this case, refugees are a group subjected to particularly difficult restrictions to navigate. Unlike those who can lead semi-legal lives in the borderlands between Denmark and Sweden, or those who can move to another EU country if they have the means, they become stuck in limbo, perhaps even getting desperate or giving up along the way.

VII. Conclusion

I will conclude by stating the findings in relation to the research question:
"How do structural facets of Danish immigration law interact with and influence the practices of navigating a family reunification process for people with a refugee background?"

The structural facets of immigration law have been identified as a widespread procedural disparity of access, rigid documentation demands and controls, cultural interpretations of the family, a lack of transnational and national support, and pervasive mistrust. These have produced consequences of prolonged periods of waiting, desperation, a tendency for reliance on volunteers, leading some to give up altogether and in a broad sense, affecting efforts at positive integration. In this limited environment, the possibility for navigation is cumulatively and negatively impaired. Through random configurations of capital, those who cannot themselves wield or access the power to go in front of the line are disadvantaged.

These results were brought about through a framing of structural facets within an access to justice perspective, where the concept of legal violence was used to bring out the underlying systemic level, by highlighting the commonly unquestioned forces of the law. By examining these processes at the level of social practice, it permitted situating the perspective of the actor

navigating the social worlds within the environment of structural constraints, in order to adequately capture refugee's access to justice in a resettlement context.

Further research

It would make sense to broaden the understanding of the experience of family reunification in a Danish context by speaking to more sponsors with another nationality and by conducting comparative research on Sweden, another similar welfare state, yet with remarkable differences in terms of family reunification.

In this study, cases of unaccompanied minors were mentioned by experts, but I did not seek to direct the empirical study towards their circumstances. Had I chosen to do that, it would have brought other themes to the fore that deal with the nature of being a young adult and having to navigate the family reunification scheme. They are a relatively new group in forced migration contexts, and they face considerable challenges due to their young age, while being subjected to demands like adults. For instance, in family reunification cases they may need to prove that their parents have been dependent on them[22], and they also need to fund and organize the travel themselves. It would be relevant and useful to speak to the them, their caretakers, and case workers. The same applies to the relevance of studying the case exclusively in relation to those with temporary protection status, as their family reunification cases are delayed an additional 3 years.

Furthermore, it would be useful to assess and estimate the socio-economic costs of complex and prolonged refugee family reunification cases. Such a study should include an assessment of the costs of handling the cases over such long periods of time, and include variables such as the difficulty for sponsors to integrate, by attending language school and work, including the widespread economic pressure for them to send remittances abroad, and the socio-economic effects of psychological hardship.

[22] Argumentation I saw in a rejection letter that Mikael showed me

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Appendix I - Informed Consent Form Phase 1

Informeret samtykke

Du vil deltage som respondent i min research omhandlede flygtninges adgang til familiesammenføring i Danmark.

Du kan til enhver tid vælge ikke at svare på et spørgsmål, samt vælge at trække dig ud af dette interview.

Anonymitet

Alle deltagere bliver anonymiseret med et dæknavn.

Optagelsen høres kun af mig. Alle vigtige personlige detaljer omkring **andre individer** vil blive anonymiseret i transskriberingsfasen, dvs. ved hjælp af dæknavn. Du er også velkommen til at bruge et dæknavn når/hvis du nævner andre personer; lige meget hvad så vil jeg ændre navnet i transskriberingen. Hvis en sag bærer udtryk af at have særlige genkendelige træk, vil den også anonymiseres på baggrund af andre detaljer, såsom alder eller oprindelsesland.

Optagelsen slettes efter afhandlingen er afsluttet og bedømt. Hvis du på noget tidspunkt ønsker at vi stopper optagelsen, er dette altid en mulighed.

Det er altid muligt at efterse hvordan eventuelle citater bruges i min undersøgelse. I så fald, kan vi aftale at jeg eftersender stykker af min analyse for eventuelle opklaringer.

Kopi af speciale

Hvis du ønsker at modtage en kopi af det færdige speciale, bedes du sende en mail til sa4041oc-s@lund.student.se.

Jeg har læst dette dokument og er indforstået med overstående

Appendix II - Informed Consent Form Phase 2

Informeret samtykke

Du vil deltage i min research omhandlede flygtninges adgang til familiesammenføring i Danmark.

Du kan altid vælge ikke at svare på et spørgsmål, samt vælge at trække dig ud af dette interview.

Anonym

Du vil være anonym, og jeg sørger for at du ikke kan genkendes. F.eks. ved ikke at skrive hvilken kommune du bor i.

Optage

Jeg vil gerne optage vores samtale. Det er kun mig som hører optagelsen. Når jeg er færdig med mit speciale, bliver optagelse slettet. Hvis du på noget tidspunkt ønsker at vi stopper optagelsen, er dette altid en mulighed.

Hvis du gerne vil se hvordan citater bruges i min undersøgelse, kan vi aftale at jeg eftersender stykker af min analyse for eventuelle opklaringer.

Hvis du ønsker at modtage en kopi af det færdige speciale, kan du altid spørge mig om det og så sender jeg det.

Jeg har læst dette dokument og er indforstået med overstående

Appendix III – Phase One Interview Guide

Interview Guide for Expert Interviews

Background information:

- Can you briefly tell me about your background?
- How often on average in a month do you come into contact with family reunification cases?
- How do people usually come about contacting you on family reunification matters?
- Do you sometimes refer people to other organizations on these matters?
- Do you collaborate with other organizations about family reunion policy?

Opinions:

- What do you think is the best trait of the family reunification procedure as it is now?
- What do you think is the worst trait of the family reunification procedure as it is now?
- What are the main characteristics of the new restrictions on the ability to have family join?

Specific case detail (for these, I ask for more detail on the specific cases/aspects when relevant)

- Are there cases where your organization (other NGOs) has changed the course of the family reunification? Can you tell me of these?
- What is faced from the perspective of the one abroad? What is faced from the perspective of the one in DK? Are these perspectives at odds?
- What does a person need to navigate the family reunification system? What does it require of skills?
- What are your impressions of legal aid in these cases?
- Have you heard of cases where a person did not receive help, either because no one reached out, or bc the person was unable or unknowing that they could receive help?
- Have you noticed any differences based on gender, when it comes to family reunification procedures?

- How do refugees cope when procedural challenges arise – are there any common strategies you have observed?

Socio-legal consequences:

- Does the treatment of family reunification impact their perception of Danish laws? In which ways?
- When you get involved in a case, do you find that some have difficulties with trusting you and your organization?
- How do the frequent legal changes affect your ability to do your work?
- How do they perceive the process of family reunification / can you give examples? Are there any outliers? To what extent do the people you have come into contact with find it unfair?