AUTHOR	Vanto, Johanna
TITLE	The Queer Story and How to Tell It: The DSSH Model in Queer Asylum Determinations
YEAR	2022, Vol. 45 (1)
VERSION	Final draft
CITATION	Vanto, Johanna (2022): The Queer Story and How to Tell It: The DSSH Model in Queer Asylum Determinations. - Retfaerd: Nordisk Juridisk Tidsskrift Vol. 45(1).

The Queer Story and How to Tell It: DSSH Model in Queer Asylum Determinations

Johanna Vanto[*][**]

Abstract: European and Finnish national legislation and jurisprudence leave asylum decision-makers with a wide margin of discretion in assessing queer asylum claims. For guidance, some refugee-receiving countries, including Finland, rely on the so-called DSSH ('Difference, Stigma, Shame, and Harm') model. Analysing asylum decision-makers' interviews qualitatively, this article explores whether the narrative of difference embedded in the DSSH model is manifested in decision-makers' understandings of queer asylum determinations. This article provides unique empirical data on a credibility assessment tool that, although endorsed and applied by a number of asylum authorities, remains understudied. The model operationalizes abstract and affective concepts (e.g., sexual identity, stigma, shame) that are difficult even for asylum decision-makers to grasp, risking to exclude those queer asylum applicants who are unable to relate to such culturally context-sensitive abstractions or to convey emotions. The model could reinforce asylum decision-makers' stereotypical, gendered notions of queer asylum applicants. It is argued that by imposing and reproducing an essentialist narrative on queer refugees the DSSH model may function as a filtering tool in the immigration control system.

Keywords: queer asylum determinations, credibility assessment, DSSH model

[**] LL.M., Doctoral Candidate, University of Turku, Faculty of Law, johanna.vanto@utu.fi

1 Introduction

An individual may be granted asylum based on *membership in a particular social group*, a common characteristic of which may also be *sexual orientation*, as provided for by the European Union's (EU) initial Qualification Directive 2004/83/EC[1] as well as the recast Qualification Directive 2011/95/EU[2]. According to Article 10 of the Qualification Directive 2011/95/EU,

> a group shall be considered to form a particular social group where in particular: (1) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and (2) that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society. (...)

The same article further specifies that

> [w]hen assessing if an applicant has a well-founded fear of being persecuted it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.

Finland, an EU Member State, has adopted these formulations, nearly word for word, into Sections 87 and 87b of the Aliens Act (301/2004).[3] The criteria for membership in a particular social group, set out above, make an ideal site to wield interpretive power to control migration, as the criteria are particularly vague, as Gorman points out.[4] Furthermore, in Finland, the legislative proposals for the legal amendments transposing these directives,[5] and other key legal sources such as the jurisprudence of the national high court,[6] provide little further guidance on

---

[1]Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, OJ L 304.

[2]Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, OJ L 337.

[3]Finland, Aliens Act (301/2004). Unofficial translation of the Aliens Act available at the Finlex Data Bank of the Ministry of Justice of Finland. Retrieved from finlex.fi/fi/laki/kaannokset/2004/en20040301.pdf.

[4]C. S. Gorman (2017). Redefining refugees: Interpretive control and the bordering work of legal categorization in U.S. asylum law, 58 *Political Geography*, 36–45, at 40.

[5]Finnish Government (2007). HE 166/2007 vp, Hallituksen esitys Eduskunnalle laeiksi ulkomaalaislain ja eräiden siihen liittyvien lakien muuttamisesta; Finnish Government (2014). HE 9/2014 vp, Hallituksen esitys eduskunnalle laiksi ulkomaalaislain muuttamisesta.

[6]Recent judgments of the Supreme Administrative Court of Finland where the asylum applicant has provided sexual orientation as reason for persecution include the following: KHO:2012:1, 13 January 2012; KHO:2016:174, 11 November 2016; KHO:2017:120, 7 July 2017; KHO:2017:138, 30 August 2017; KHO:2017:148, 22 September 2017; KHO:2018:52, 13 April 2018; KHO:2018:90, 15 June 2018; KHO:2019:99, 20 August 2019.

the assessment of queer asylum claims. The vagueness of the above-mentioned criteria and the lack of further guidance in national legal sources leave asylum decision-makers with a wide margin of discretion.

Like immigration control authorities in a few other European countries,[7] the Finnish Immigration Service (hereinafter: Migri), the national initial-level immigration authority, has strived to fill this vacuum by adopting the DSSH ('Difference, Stigma, Shame, and Harm') model[8] developed by the British barrister S Chelvan.[9] The DSSH model provides a go-to narrative, a so-called 'narrative of difference,'[10] that asylum decision-makers can apply to assess the credibility of claims regarding sexual orientation. The DSSH model underscores the applicant's sexual *identity*, rather than other dimensions of sexual orientation (such as sexual behaviour),[11] as the following excerpt from a training manual for asylum decision-makers showcases:

> …harassment of, or violence against, gay men and lesbians is often not solely because of their sexual behaviour, but also (or even more so) because of their identity, and/or non-conformity with prescribed gender roles or expected sexual morality. This is why alternatives to the term sexual orientation are becoming increasingly used. An example is "sexual identity", as it emphasises how an individual identifies her/his own sexuality, both inside and outside the home, linked to what is inherent to the very identity of a person.[12]

The primacy of sexual identity is also reflected in Migri's understandings of sexual orientation. In a 2017 press release, Migri portrays belonging to a sexual minority as a 'permanent part of a person's identity,' and underscores the importance of 'feelings and experiences on how belonging to a sexual minority is manifested' in the asylum applicant's life.[13] In recent years, the Supreme Administrative Court of Finland, too, has emphasized sexual *identity* in its decisions concerning queer asylum claims.[14]

---

[7]Countries that have adopted the DSSH model in Europe include at least Finland, Sweden, Switzerland, and the United Kingdom and, outside Europe, New Zealand. (Sources: G. Gyulai (ed), D. Singer, S Chelvan, and Z. Given-Wilson (2015). CREDO: *Credibility Assessment in Asylum Procedures: A Multidisciplinary Training Manual.* Vol. 2, Budapest: Hungarian Helsinki Committee, at 87. Retrieved from https://helsinki.hu/wp-content/uploads/CREDO-training-manual-2nd-volume-online-final.pdf; European Asylum Support Office (EASO, 2018). Judicial analysis: Evidence and credibility assessment in the context of the Common European Asylum System, Luxembourg: Publications Office of the European Union, at 180. Retrieved from https://www.easo.europa.eu/sites/default/files/easo-evidence-and-credibility-assesment-ja_en.pdf.)

[8]Finland, Finnish Immigration Service (2017). *Taustamuistio 18.10.2017. Seksuaali- ja sukupuolivähemmistöt turvapaikanhakijoina.* Unpublished. 18 October 2017, Helsinki.

[9]Guylai et al. (n 7) 77.

[10]Gyulai et al. (n 7) 74 ff.

[11]According to Katz-Wise and Keller, for instance, sexual orientation is comprised of four dimensions: attraction, behaviour, fantasies, and identity. (Source: S. L. Katz-Wise and J. C. Keller (2011). Sexual Identity: Developmental and Social Considerations, in: M. Wearing (ed), *Social Identity*, New York: Nova Science Publishers, 25–46.)

[12]Gyulai et al. (n 7).

[13]Finland, Finnish Immigration Service (2017). *How does the Finnish Immigration Service investigate belonging to a sexual or gender minority?,* press release, 10 February 2017. Retrieved from https://migri.fi/-/miten-turvapaikanhakijan-kuulumista-seksuaali-tai-sukupuolivahemmistoon-selvitetaan-?languageId=en_US.

[14]For instance, in decisions KHO:2016:174, KHO:2017:120, KHO:2017:148, KHO:2018:52, and KHO:2018:90 (see n 6).

There are compelling arguments in favour of the DSSH model as regards asylum applicants' human rights, particularly the right to respect for private and family life as provided for by Article 8 of the European Convention on Human Rights[15] and Article 7 of the Charter of Fundamental Rights of the European Union.[16] The International Organization for Migration (IOM) welcomed the DSSH model as employing 'non-intrusive and non-sexual questions,'[17] as opposed to approaches focusing on the intimate details of asylum applicants' sexual behaviour or their responses to sexual stimuli.[18] But the focus on sexual identity has also been criticised from a human rights perspective. Scholars point to the fundamental problems of proving sexual identity.[19] For instance, asylum decision-makers have used Westernized, stereotyped, fixed, and monolithic notions of 'gayness' as a template that, when applicants did not fit, led to their claims being rejected.[20] Studies have also shown that certain sexual minority groups, such as lesbians and bisexuals, experience difficulties demonstrating their sexual identity because it is often examined against expectations based mostly on the experiences of gay men.[21] And ultimately, there is no consensus on how a person's sexual orientation can be verified and which dimensions of sexual orientation (e.g., attraction, behaviour, fantasies or

---

[15]Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5.

[16]European Union, Charter of Fundamental Rights of the European Union, 2012/C 326/02, 26 October 2012 (hereinafter: Charter).

[17]International Organization for Migration IOM (2016). *Module 02 Facilitation Guide: Working with Lesbian, Gay, Bisexual, Transgender andIntersex (LGBTI) Persons in Forced Displacementand the Humanitarian Context*, November 2016. Retrieved from
https://lgbti.iom.int/sites/default/files/Module%202%20Conducting%20interviews/Module%2002_Facilitation%20Guide_Nov2016.pdf.

[18]Examples include the use of phallometric testing in the Czech Republic to measure asylum applicants' sexual arousal (Source: European Union Agency for Fundamental Rights (2010). *The practice of 'phallometric testing' for gay asylum seekers,* press release, 9 December 2010. Retrieved from fra.europa.eu/en/news/2011/practice-phallometric-testing-gay-asylum-seekers.) and questions concerning details of asylum applicant's sexual practices, which the Court of Justice of the European Union found to be contrary to the fundamental rights guaranteed by the Charter (Sources: Court of Justice of the European Union, Joined Cases C-148/13 to C-150/13, A and Others v Staatssecretaris van Veiligheid en Justitie, 2 December 2014; see n 15, Charter.).

[19]L. Berg and J. Millbank (2009). Constructing the Personal Narratives of Lesbian, Gay and Bisexual Asylum Claimants, 22 *Journal of Refugee Studies*, 195–223. See also:. S. R. Jordan (2009). Un/Convention(al) Refugees: Contextualizing the Accounts of Refugees Facing Homophobic or Transphobic Persecution, 26 *Refuge*, 165–182; J. Millbank (2009). From Discretion to Disbelief: Recent Trends in Refugee Determinations on the Basis of Sexual Orientation in Australia and the United Kingdom, 13 *International Journal of Human Rights*, 391–414; D. Akin (2017). Queer Asylum Seekers: Translating Sexuality in Norway, 43 *Journal of Ethnic and Migration Studies*, 458-474; J. Dawson and P. Gerber (2017). Assessing the Refugee Claims of LGBTI People: Is the DSSH Model Useful for Determining Claims by Women for Asylum Based on Sexual Orientation? 29 *International Journal of Refugee Law*, 292–322; S. Rehaag (2017). Sexual Orientation in Canada's Revised Refugee Determination System: An Empirical Snapshot, 29 *Canadian Journal of Women and the Law*, 259–289; M. Dustin (2018). Many Rivers to Cross: The Recognition of LGBTQI Asylum in the UK, 30 *International Journal of Refugee Law*, 104–127; C. Giametta (2020). New asylum protection categories and elusive filtering devices: the case of 'Queer asylum' in France and the UK, 46 *Journal of Ethnic and Migration Studies*, 142–157.

[20] Millbank (n 19). See also, e.g., Akin (n 19); W. Mühleisen, Å. Røthing and S. H. Bang Svendsen (2012). Norwegian sexualities: Assimilation and exclusion in Norwegian immigration policy, 15 *Sexualities*, 139–155; D. Hedlund and T. Wimark (2019). Unaccompanied Children Claiming Asylum on the Basis of Sexual Orientation and Gender Identity, 32 *Journal of Refugee Studies*, 257–277.

[21]See, e.g., Dawson and Gerber (n 19) and Rehaag (n 19).

identity[22]) should be the focus of such an assessment. On the contrary, studies point to the complexity, fluidity, and contextuality of human sexuality.[23]

In view of these issues, further research is needed on how authorities make credibility assessments in queer asylum claims using a tool such as the DSSH model. But so far, asylum decision-makers have mostly been overlooked in interview studies,[24] and their opinions, experiences, understandings, and beliefs about the process through which they reach a decision on the credibility of an asylum applicant's sexual orientation remain largely in the dark. And although immigration control authorities in a number of refugee-receiving countries rely on the DSSH model, the model and the ways in which it is used remain curiously understudied, as Dawson and Gerber point out.[25]

This article provides a novel contribution to this discussion, as it examines whether the narrative of difference embedded in the DSSH model is manifested in decision-makers' understandings of queer asylum determinations. When a person applies for asylum in Finland, Migri examines the application as the first instance, as established by Section 116 of the Aliens Act. If the asylum applicant is not satisfied with Migri's decision, they may appeal to a competent regional administrative court, as established by Sections 190 and 193 of the Aliens Act.[26] In this study, I interviewed 10 experts at both of the abovementioned levels of asylum decision-making in Finland: decision-makers at Migri and judges at administrative courts. Drawing from narrative analysis, I examine the interview data through the lens of the DSSH model, organising findings in relation to the 'narrative of difference' embedded in it.

Giametta discusses how the asylum granting system, as a whole, functions as a device that filters and controls asylum applicant populations.[27] Building on Giametta's concept, I refer to a *filtering tool* as a more specific interpretive means of controlling migration. The DSSH model, I argue, risks functioning as a filtering tool in the asylum control system, by imposing and reproducing an essentialist narrative on queer refugees. Grigolo notes how, in order to achieve recognition in Western societies, the homosexual legal subject has been framed as the stable legal counterpart of the heterosexual.[28] The homosexual identity is fixed and immutable – not a matter of choice but, rather, an innate characteristic relating to the very essence of the individual, and therefore 'deserving' of recognition and protection.[29] In asylum decision-

---

[22]See, e.g., Katz-Wise and Keller (n 11).

[23]L. M. Diamond (2007). A Dynamical Systems Approach to the Development and Expression of Female Same-Sex Sexuality, 2 *Perspectives On Psychological Science*, 142–161, at 142; L. M. Diamond (2008). Female Bisexuality From Adolescence to Adulthood: Results From a 10-Year Longitudinal Study, 44 *Developmental Psychology*, 5–14; D. N. Shapiro, D. Rios, A. J. Stewart (2010). Conceptualizing lesbian sexual identity development: Narrative accounts of socializing structures and individual decisions and actions, 20 *Feminism & Psychology*, 491–510; S. L. Katz-Wise (2015). Sexual fluidity in young adult women and men: associations with sexual orientation and sexual identity development, 6 *Psychology & Sexuality*, 189–208.

[24]See however, e.g., S. Vogler (2016). Legally Queer: The Construction of Sexuality in LGBQ Asylum Claims, 50 *Law & Society Review*, 856–889. Asylum decision-makers have also been interviewed in the SOGICA project, for more information, see: https://www.sogica.org/en/.

[25]Dawson and Gerber (n 19). However, see: M. Dustin and N. Ferreira (2021). Improving SOGI Asylum Adjudication: Putting Persecution Ahead of Identity, 40 *Refugee Survey Quarterly*, 315–347

[26]As the court of last resort in Finland, the applicant may apply for leave of appeal at the Supreme Administrative Court, as established by Section 196 of the Aliens Act.

[27]Giametta (n 19).

[28]M. Grigolo (2003). Sexualities and the ECHR: Introducing the Universal Sexual Legal Subject, 14 *European Journal of International Law*, 1023–1044, at 1027.

[29]See, e.g., Grigolo (n 28).

making, this essentialist logic can become more of a filtering tool than a vehicle of liberation. The essentialist framing is, as Grigolo has pointed out, accepting of certain forms of same-sex sexuality (those reproducing the roles and scheme of the heterosexual norm), while disavowing more 'disturbing' sexual activities and practices.[30] This article shows how the DSSH model primes the asylum decision-maker to expect a specific narrative, a narrative of difference, from the queer asylum applicant. As I demonstrate, the DSSH model reproduces an understanding of sexual identity development as a linear process (beginning with a first realisation/awakening) and the ideal expression of same-sex interest as a (Westernized and heteronormative) monogamous relationship based on romantic love. Furthermore, the DSSH model operationalizes abstract and affective concepts (e.g., sexual identity, stigma, shame) that are difficult even for asylum decision-makers to grasp. The DSSH model risks filtering and excluding those queer asylum applicants who are unable to relate to such culturally context-sensitive abstractions or to convey emotions.

To place my arguments in context, I first describe the DSSH model, used by Migri in queer asylum determinations (section 2). Next, I outline the data and methods used in this study (section 3). Drawing from prior scholarship on asylum credibility assessment, psychology, and sexuality, I then analyse the interview data (section 4).

I argue that there are alternatives to the identity-based approach advocated in the DSSH model. To begin with, it must be noted that Article 10 of the Qualification Directive 2011/95/EU, cited at the beginning of this article, states that it is immaterial whether the applicant *actually* possesses the social characteristic which attracts the persecution. Rather, it is of relevance whether such a characteristic is *attributed* to the applicant by the persecutors. Thus, an alternative approach, advocated by a number of scholars and human rights organizations, would be to focus on the persecution the asylum applicant has faced and/or their fear of future persecution.[31] This approach could take the pressure off the asylum applicant to prove the impossible and, instead of sexual identity, focus on the more relevant issue of persecution. Drawing from Grigolo, I argue that this approach has the potential to provide a better legal space of sexual and relational self-determination and development, based on personal choice rather than status.[32]

In this article, I use the term queer in a broader sense to refer to individuals who, in the words of Bohan et al., 'espouse a particular position or who violate conventional sexual norms.'[33] I acknowledge that some avoid using the term, and that it has been used as a pejorative epithet in the past. While I am aware of the moral burden relating to the historical uses of the term queer, it also has obtained new meanings and implications after being

---

[30]Grigolo (n 28), 1026.
[31]See, e.g., S. Jansen (2014). *Good Practices Related to LGBTI Asylum Applicants in Europe*, May 2014, ILGA Europe, at 21. Retrieved from ilga-europe.org/sites/default/files/good_practices_related_to_lgbti_asylum_applicants_in_europe_jul14.pdf; M. Dustin (2018). Many rivers to cross: The recognition of LGBTQI asylum in the UK, 30 *International Journal of Refugee Law*, 104–127; Dustin and Ferreira (n 25).
[32]Grigolo (n 28) 1028.
[33]J. S. Bohan, G. M. Russell, V. Cass, D. C. Haldeman, S. Iasenza, F. Klein, A. M. Omoto, and L. Tiefer (1999). *Conversations about Psychology and Sexual Orientation*, New York: New York University Press.

reclaimed by activists and scholars, particularly in queer theoretical research.[34] The latter is the context in which I use this term.

2 The DSSH Model

The DSSH model was developed in 2011 for guidance in the assessment of asylum claims based on persecution relating to sexual orientation or gender identity.[35] Endorsed by the UNHCR in its guidelines[36] and applied by the European Asylum Support Office (EASO) to its training materials,[37] the model was to help asylum decision-makers avoid approaches that encroach asylum applicants' privacy:[38]

> …assessing the credibility of the applicant's sexual orientation or gender identity represents a different challenge than credibility assessment in most other types of cases. Due to the strong link with an individual's most intimate sphere, emotions, sexuality, shame and stigma, asylum interviewers and decision-makers should be extremely careful when establishing the material facts and circumstances of such cases. We have seen a number of examples of methods and questions that must be avoided.[39]

According to an asylum credibility assessment training manual published in 2015 by the Hungarian Helsinki Committee (hereinafter: the Credo manual), which contains a detailed description of the DSSH model, the most important common experience that 'gay and trans people' share is that of not living a 'heterosexual narrative.'[40] This means not being able to identify with stereotypical expectations on how a heterosexual person should act in a particular social context.[41] According to the Credo manual, credibility assessment should focus on 'the narrative of past and present experience and gradual recognition of difference', 'feelings surrounding stigma and shame, as well as coping or avoidance strategies', and 'the narrative with respect to past experiences, or present and future fear of harm.'[42] However, Berg and Millbank point out the risk that what is meant to be a *guide* becomes 'calcified in an interrogation style which assumes that there is a typical evolution of self-identity.'[43] In fact,

---

[34]See, e.g., Bohan et al. (n 33). It must be noted that there is a wealth of literature on queer theories, not specifically addressed in this article.
[35]Gyulai et al. (n 7).
[36]The endorsement, however, has been questioned by Dustin and Ferreira (n 25), at 17. For more information, see: UNHCR (2012). Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, HCR/GIP/12/09, 23 October 2012, at para. 62.
[37]EASO 2018 (n 7).
[38]See n 18.
[39]Gyulai et al. (n 7) 77.
[40]Gyulai et al. (n 7) 77.
[41]Gyulai et al. (n 7) 77.
[42]Gyulai et al. (n 7) 87.
[43]Berg and Millbank (n 19) 206.

Dawson and Gerber argue that the DSSH model may actually reinforce 'a "tick-box" approach to sexual identity formation.'[44]

In the DSSH model, the experience of gay and trans people is perceived of as a *journey*. According to the Credo manual, since all members of a sexual or gender minority live in a heteronormative culture, their journey typically starts with the discovery that they are somehow *different* (the 'D' in the DSSH model).[45] The manual offers examples of how this discovery is manifested: non-conformity with gender roles, recognising attraction to individuals of the same sex, experiencing same-sex relationships and 'strong emotional ties' with someone from the same sex, identification with other members of a sexual or gender minority, or experiencing a 'turning point or milestone' that helped the person to realise their difference.[46] The DSSH model presupposes identity construal based on sex of object choice (i.e., preference for sexual relationships with persons of a particular gender). Valocchi notes, however, that sex of object choice may be of lesser importance to an individual's identity formation than racial, ethnic, and class differences.[47] Still, as Jansen points out, asylum decision-makers expect applicants to be 'very interested in their sexual identity, instead of just practising same-sex sexual acts.'[48]

According to the Credo manual, the experience of being different (for instance, when a person does not conform to the social, cultural, and religious norms of the origin country) then leads to the experience of *stigma* (the first 'S' in the DSSH model), or 'extreme social disapproval.'[49] Stigmatisation, according to the manual, isolates the person by reducing their supportive network of family, friends, and community.[50] The manual guides the decision-makers to explore, for instance, how the applicant's difference led to stigma, how the applicant realised 'that their difference was a problem in the eyes of society or family,' or 'what important social, cultural, religious, legal or other norms they were not in conformity with.'[51]

The Credo Manual portrays *shame* (the second 'S' in the DSSH model) as a 'natural consequence' of stigma.[52] The manual argues that society's disapproval leads to internalised homophobia, or the feeling that difference is wrong and that it needs to be changed or concealed.[53] The manual encourages decision-makers to focus on the applicant's *feelings* about their sexual orientation or gender identity. This refers to 'gradual self-acceptance' or 'gradual internalisation of stigma,' or even both, the *coping strategies* (e.g., religion, work, love, frienships) or *avoidance strategies* (i.e., hiding sexual orientation) the applicant may have adopted, and the *impact* of 'living with a constant feeling of shame' on their various spheres of

---

[44]Dawson and Gerber (n 19) 305.
[45]Gyulai et al. (n 7) 77.
[46]Gyulai et al. (n 7) 78 f.
[47]S. Valocchi (2005). Not Yet Queer Enough: The Lessons of Queer Theory for the Sociology of Gender and Sexuality, 19 *Gender and Society*, 750–770, at 754. On issues of intersectionality in construal of (sexual) identity, see also, e.g., S. Valocchi (1999). The Class-Inflected Nature of Gay Identity, 46 *Social Problems*, 207–224; D. Wong (2011). Hybridization and the Emergence of "Gay" Identities in Hong Kong and in China, 24 *Visual Anthropology*, 152–170; R. J. Watson, C. W. Wheldon, and R. M. Puhl (2019). Evidence of Diverse Identities in a Large National Sample of Sexual and Gender Minority Adolescents, 30 *Journal of Research on Adolescence*, 431–442.
[48]Jansen (n 31) 24.
[49]Gyulai et al. (n 7) 80.
[50]Gyulai et al. (n 7) 81.
[51]Gyulai et al. (n 7) 81.
[52]Gyulai et al. (n 7) 81.
[53]Gyulai et al. (n 7) 81 f.

life (e.g., health, social life, work).[54] Gomez argues, however, that the model's emphasis on shame is 'worryingly susceptible to reliance on stereotypes by adjudicators.'[55] Not all applicants, Gomez notes, are struggling with their identities.[56] And underscoring shame may mislead decision-makers to discredit feelings of happiness or pride that the applicant may associate with their life in the origin country.[57]

The final letter in the acronym DSSH, the 'H', refers to the fear of suffering *harm* because of sexual orientation or gender identity.[58] According to the Credo manual, harm should be understood broadly to include different types of harm, such as physical harm (e.g., violence and restrictions on personal freedom), socio-economic harm (e.g., discrimination in working life or education), legal harm (e.g., criminalisation of same-sex conduct or lack of legal recognition of same-sex relations), spiritual harm (e.g., exclusion from religious groups or local community), or medical-psychological harm (e.g., PTSD, depression, anxiety, suicidal tendencies, psycho-somatic symptoms).[59] The manual points out that some of these harms are common to refugee experiences in general, but also that some harms are more typical for 'lesbian, gay, or trans' asylum applicants. Such harms, according to the manual, include forced prostitution, '"curative rape" in the case of lesbians,'[60] mob violence, and honour killing[61].[62] But as Dawson and Gerber note, the DSSH model remains largely silent, for instance, on the gendered elements and the particularly private nature of harms faced by women seeking asylum because of their sexual orientation.[63]

Dawson and Gerber argue that the DSSH model risks reinforcing the Cass model of sexual identity formation,[64] popularised in the 1980s.[65] The Cass model presents the 'homosexual identity formation' narrative in six stages beginning with *identity confusion* involving a first awareness of 'homosexual' actions, feelings, and thoughts, followed by *comparison* involving potential alienation in relation to nonhomosexual others, *tolerance* conveyed by seeking out other 'homosexuals,' *acceptance* involving selective disclosure of identity, *pride* characterised by openness and activism, and *synthesis* where sexual identity

---

[54]Gyulai et al. (n 7) 82 f.

[55]E. Gomez (2016). The Post-ABC Situation of LGB Refugees in Europe, 30 *Emory International Law Review*, 475-500, at 478.

[56]Jansen (n 31) 24; Gomez (n 55) 496.

[57]Berg and Millbank (n 19) 214.

[58]Gyulai et al. (n 7) 83.

[59]Gyulai et al. (n 7) 83.

[60]According to Lock Swarr, '[l]esbians are raped in ways intended to be punitive, or "corrective" or "curative," because they undermine monolithic notions of masculinity and heterosexuality and refuse men's proposals and advances.' (Source: A. Lock Swarr (2012). Paradoxes of Butchness: Lesbian Masculinities and Sexual Violence in Contemporary South Africa, 37 *Signs: Journal of Women in Culture and Society*, 961–988.)

[61]According to Gill, the large majority of cases of honour-based violence and so-called honour killings constitute 'violence perpetrated by men against women in order to obtain and/or maintain a social construction of "honour"' (Source: A. K. Gill (2014). Introduction: 'Honour' and 'Honour'-Based Violence: Challenging Common Assumptions. In A. K. Gill, C. Strange, and K. Roberts (ed), *'Honour' Killing and Violence: Theory, Policy and Practice*, Hampshire: Palgrave Macmillan, 1–23.)

[62]Gyulai et al. (n 7) 83 f.

[63]Dawson and Gerber (n 19) 301.

[64]V. C. Cass (1979). Homosexual identity formation: A theoretical model. 4 *Journal of Homosexuality*, 219–235. See also: V. C. Cass (1984). Homosexual identity formation: Testing a theoretical model, 20 *The Journal of Sex Research*, 143–167.

[65]Dawson and Gerber (n 19) 304.

becomes integrated into other aspects of the 'self.'[66] Such models highlight a linear understanding of sexuality, with a 'self-actualised lesbian or gay man' as the end product.[67] Researchers have, however, found substantial variability in the development and expression of same-sex sexuality which poses challenges to traditional linear sexual identity formation models.[68]

3   Data and Methods

In this article, I explore whether the narrative of difference embedded in the DSSH model is manifested in decision-makers' understandings of queer asylum determinations. The data consist of semi-structured thematic expert interviews, conducted in 2019, with 10 asylum decision-makers from five different cities in Finland. The decision-makers included in this study are comprised of six initial-level decision-makers at Migri and four judges at administrative courts that assess appeals on decisions by Migri. The participants were sampled by means of purposive sampling, with the aim of having a varied mix of decision-makers from different decision making levels (initial level and appeals level) and geographical locations within Finland (in the North, South, East, and West). Six interviews were conducted face-to-face and four online. I recorded the interviews with the participants' permission and transcribed the recordings verbatim. I conducted the interviews in Finnish and I have translated the citations used in this paper into English. I translated the citations word for word, where possible, but with small alterations necessary for maintaining the style of the original transcript.

For this article, I sifted through the interview data in order to find narrative meaning relating to a specific and readily scripted narrative: the narrative of difference featured in the DSSH model. I used the DSSH model as a lens through which I examined the interview data: the different dimensions of the DSSH model (difference, stigma, shame, and harm) not only formed a basis for the analysis but also give structure to the presentation of findings. In my analysis, I draw from both qualitative content analysis (by coding the data to find recurring themes and outliers) and narrative analysis. I approach the narrative of difference, embedded in the DSSH model, as a form of stereotypical or standardized autobiographical storytelling. As Hydén argues, sometimes the content of the narrative is less important than *who* is telling the story and to *what audience*.[69] This applies such standardised or stereotypical stories (e.g., stories about addiction or religious conversion) that are usually divided into parts concerning life before the *turning point*, the turning point itself, and life after the turning point.[70] This type of autobiograhical storytelling is a ritual that changes the status of the participant(s).[71] As Hydén notes, 'the storytelling has a *performative force*; by telling the story a certain identity is

---

[66]Cass (n 64).

[67]Berg and Millbank (n 19) 206.

[68]See n 23.

[69]L. Hydén (2013). Identity, self, narrative, in: M. Hyvärinen, L. Hydén, M. Saarenheimo, and M. Tamboukou (eds), *Beyond Narrative Coherence*, Amsterdam: John Benjamins Publishing Company, 33–48, at 44.

[70]Hydén (n 69) 44 f.

[71]Hydén (n 69) 46.

put in place.'[72] The narrative of difference embedded in the DSSH model has characteristics of such storytelling: the asylum applicant is expected to identify a 'turning point or milestone' that helped them to realize their difference and to recount their life events before and after, and in relation to, that turning point. Producing a coherent narrative of difference is a prerequisite for being granted the status of (queer) refugee. This makes the narrative embedded in the DSSH model powerful and its use(s) in queer asylum determinations important to investigate.

4   Findings

4.1 Difference

Was the dimension of 'difference', the 'D' in the DSSH model, somehow manifested in how decision-makers understood queer asylum determinations? This dimension is the starting point of the model and a first step along an alleged 'journey' of gay and trans people. It involves, for instance, recognising same-sex attraction, experiences of same-sex relationshisps and 'strong emotional ties' with same-sex individuals, identification with other members of a sexual or gender minority, and a 'turning point or milestone' that helped the person to apprehend their difference.

Decision-makers were clearly interested in the applicant's *same-sex relationships*, a manifestation of the dimension of difference. Some of the questions they typically ask the applicants include: 'How did your relationship develop?', 'What is your relationship like?', 'How do you spend time together?' or 'Where do you see each other and how often?' The questions are specifically set to gauge long-term partnerships with shared histories, indicating, as expressed in the Credo manual, 'strong emotional ties' with persons of the same sex. A Migri decision-maker portrayed a same-sex couple they had encountered:

> They were so cute together. There was absolutely no talk of sex. Both talked about their own identity and how they had met. And then they were asked: 'What plans do you have for the future?' [They replied:] 'Well, you can never know about the future, but it is wonderful now.' So it came across somehow really wonderfully, without slamming those [sexually explicit] pictures on the table or without saying that they had sex with this and that [person] and are seeking partners through Grindr. (…) I feel that someone somewhere is giving the applicants some really bad advice. Because the [sexually explicit] pictures came as a sort of a phenomenon. The word spreads.

The decision-maker described the couple in nonthreatening, nonsexual terms (i.e., 'cute', 'absolutely no talk of sex'). The focus was on relationship aspects typically discussed in committed, long-term partnerships, such as shared future plans. The decision-maker contrasted the couple with asylum applicants whose only evidence of same-sex relationships appear to be sexually explicit images, casual sexual encounters, or activity on social networking

---

[72]Hydén (n 69) 46.

applications. The *sexual explicitness* of such accounts and evidence renders them suspicious, inauthentic, and potentially fabricated in the eyes of the decision-maker. The idealised same-sex relationship involves *romantic* or *emotional* attachment transcending physical desire. Asylum decision-makers' bias towards romantic love and longterm committed relationships has been discussed in a number of studies on queer asylum determinations.[73] This reflects the (Westernised and heteronormative) ideal of a monogamous relationship based on romantic love – a set of rigid norms within which asylum applicants may find hard to fit.

Asylum decision-makers may also view same-sex relationships as more concrete and easier to grasp than sexual identity, which some judges in particular considered too abstract or elusive to assess. A judge explained that

> identity in itself is a pretty broad concept (…) in the end, we can't go inside another person's head in any way, so… that's why we only have… those, in a way, external factors whereupon we can base our assessment

The judge mentioned a same-sex relationship in the destination country as an example of an 'external factor' upon which the judge could consider basing their credibility assessment.

Heterosexual experiences can disrupt the (non-heterosexual) narrative of difference. In order for the narrative to remain intact, decision-makers expect the applicant to bring up, for instance, their bisexual identity claim at the very beginning of the asylum process. According to a Migri decision-maker, caseworkers did not ask asylum applicants about bisexuality before, but they now ask routinely whether the applicant has ever been interested in 'the opposite sex.' Decision-makers mentioned heterosexual marriage, pregnancy, children from heterosexual relationships, family reunification application, or 'sexual crimes against women [by an asylum applicant who identifies as male]' as examples of circumstances that can risk the applicant's credibility. According to a Migri decision-maker,

> we try to work out from the very beginning whether [the asylum applicant is] <u>purely</u>[74] homosexual or whether there is this bisexual or… we try… we don't immediately seek for the LGBTI categorization, but rather the orientation in general and the object of interest. Romantic, erotic, emotional orientation. (…) There are very few of those who have been in a marriage of convenience, but that's acceptable too if they told from the very beginning that this is the situation… that they had to [get married]. (…) But if they've never talked about their family and if they've said they've always been homosexual and [a man who is] only interested in men, and then after being granted the residence permit, they apply for family reunification (…) then that does eat up on their credibility.'

---

[73]For instance: Berg and Millbank (n 19); D. Seitz (2017). Limbo life in Canada's waiting room: Asylum-seeker as queer subject, 35 *Environment and Planning D: Society and Space*, 438–456. M. Hertoghs and W. Schinkel (2018). The state's sexual desires: the performance of sexuality in the Dutch asylum procedure, 47 *Theory and Society*, 691–716; M. Tschalaer (2021). Victimhood and femininities in Black lesbian asylum cases in Germany, 47 *Journal of Ethnic and Migration Studies*, 3531–3548.
[74]Emphasis made by the participant.

So from the perspective of the asylum applicant, bisexuality contains pitfalls: on the one hand, revealing bisexual preferences could complicate the process and make the applicant accountable for more than they are comfortable explaining. On the other hand, to ensure a coherent account, the asylum applicant had better make their bisexuality claim upon arrival to destination country. Decision-makers' rigid interpretations of the narrative of difference can become a minefield for those who feel uncomfortable identifying as 'purely homosexual.' Scholars have explored asylum status determinations' biphobic elements: studies have demonstrated that bisexual applicants have a lower success rate as compared to applicants that identify as homosexuals,[75] and that bisexual applicants are disbelieved especially if they have children or if they have been in a heterosexual relationship.[76]

Many decision-makers expected the applicant to identify a moment of realisation. Decision-makers typically equated this realisation with the discovery of same-sex interest in adolescence, viewing the applicant's youth as a starting point for the narrative. According to a Migri decision-maker,

> [we are interested in] how [the applicant] discovered their own sexuality. So in a way, we look for the explanation, as in when the [male] applicant first realised that they think differently of men than they do of women (…). Did they realise that they don't think of women at all, for instance. The awakening to their own sexuality.

The decision-maker's portrayal suggests an understanding of sexual identity development as a linear process (beginning with a first realisation/awakening) and of sexual orientation as clear-cut (i.e., 'they don't think of women at all'). This reflects what Berg and Millbank describe as 'Western conceptions of the linear formation and ultimate fixity of sexual identity.'[77] Such conceptions, however, may not depict the 'messy' realities of human sexuality very well. Katz-Wise found sexual fluidity, or 'situation-dependent flexibility in sexual responsiveness,' in both sexual minority women and men.[78] And Diamond observed that it was common for women to experience abrupt changes in their sexual interests, shifting between different phases, and discovery of same-sex interest later in life instead of adolescence.[79]

4.2 Stigma

I now examine whether the dimension of *stigma*, the first 'S' in the DSSH model, was reflected in the way decision-makers approached queer asylum determinations. This is the second part of the 'journey,' or narrative of difference, where the applicant is expected to examine their difference from the broader perspective of social, cultural, religious, legal or other norms.

---

[75]S. Rehaag (2008). Patrolling the Borders of Sexual Orientation: Bisexual Refugee Claims in Canada, 53 *McGill Law Journal*, 59–102; S. Rehaag (2009). Bisexuals Need Not Apply: A Comparative Appraisal of Refugee Law and Policy in Canada, the United States, and Australia, 13 *International Journal of Human Rights*, 415–436.
[76]R. A. Lewis (2014). "Gay? Prove it": The Politics of Queer Anti-Deportation Activism, 17 *Sexualities*, 958–975, at 965; Rehaag 2008 (n 75) 74.
[77]Berg and Millbank (n 19) 197.
[78]Katz-Wise (n 23).
[79]Diamond 2008 (n 23).

As the DSSH model, at this point, expects the asylum applicant to take the narrative of difference to a more abstract level, some decision-makers conceded that not all applicants are equally well-equipped for the task. Decision-makers' mentioned examples of asylum applicants' potential limiting factors, such as lower education level, trauma, shame, linguistic and cultural differences, or cognitive impairments. Still, several decision-makers expressed belief in their ability to mitigate the abstractness. According to a Migri decision-maker:

> So if we have an academically educated interviewer and then this person who may not have gone to schools at all and who only speaks their own language, who cannot read or write even [their own language], the difference is huge. We can't expect that [the person] can talk in the same way that some educated Finnish homosexual can. We [have to approach it] from their starting point, to familiarise ourselves with the country and the culture, and the person to get a grasp.

How is it, then, that decision-makers expect asylum applicant to discuss *stigma*? According to a Migri decision-maker,

> ...the applicant is expected to be able to tell (…) how they themselves understand their own sexual orientation or gender identity or difference. What kinds of experiences that has created. How others have regarded that. How they regard the way others regard it. What life has been like as a member of this reference group. (...) Naturally, there is no correct narrative, but if they, as a member of a sexual minority, experienced or lived in a culture where the attitudes are very hostile and the environment is what it is, then [the interviewer] should be able to find ways to have the applicant put their own experiences into words. That is the evidence and that is what gives credibility.

The excerpt highlights various competences that the asylum applicant should possess in order to answer caseworkers' questions: self-reflection, seeing oneself from others' perspective, the ability to make the connection between one's sexual orientation and one's life experiences, perceiving oneself as part of an abstractly definable reference group (sexual minority) and one's personal history through membership of that group as well as perceiving one's own experiences and life in a greater cultural or environmental context, which in turn entails an ability to relate to such abstractions as 'culture', 'environment', and 'attitudes.' The applicant then has to be able to put these psychologically, cognitively, and socially complex thought processes into words. There is also the embedded notion that the asylum applicant perceive their identity in terms of the sex of object choice. But, as Valocchi points out, the sex of object choice may be of lesser importance to an individual's identity formation than racial, ethnic, and class differences.[80] So the asylum applicant's and the decision-maker's ways of construing identity could be very different.

Furthermore, *stigma* is used as a yardstick for assessing plausibility. For instance, decision-makers may interpret accounts of anonymous sexual encounters as implausible due to the associated stigma and the (allegedly) ensuing fear of harm. A Migri decision-maker

---

[80]Valocchi 2005 (n 47) 754.

discussed anonymous sexual encounters in public places in origin countries with a death sentence in place for same-sex sexual activities:

> It simply can't be that if they have a death sentence in a [given] country and they bad-mouth [those who have same-sex relationships] all the time, as in 'they are taboo, they are sick, they should be killed,' and then you go to a market square and wink at some complete stranger and smile, so how plausible would you think that is under those circumstances? Would anyone really act like that?

The decision-maker portrays flirtation in public as implausibly risky. But for instance, for men who have sex with men, locating casual sexual partners and negotiating desired interactions with them has involved seeking out 'sexual encounters with anonymous others in public places.'[81] In a persecutory environment, public places have, in fact, been seen as the only place where gay men could meet one another.[82] Jansen notes how queer asylum applicants are often disbelieved because they engaged in conduct that the decision-maker considered 'too risky to be true.'[83] Having a positive asylum decision is, as Lee and Brotman argue, dependent on the decision-maker's 'interpretive lens and folk knowledge,' which impact how the decision-maker assesses evidence.[84]

4.3 Shame

Was the dimension of *shame*, the second 'S' in the DSSH model, reflected in how decision-makers viewed queer asylum determinations? This step in the narrative of difference calls for accessing *feelings*: those relating to sexual orientation or gender identity in general, coping or avoidance strategies, and the impact of living with shame on the applicant's personal life.

This dimension is prominently reflected in how decision-makers describe queer asylum assessment. An overwhelming majority of asylum decision-makers said they examine *feelings*, *inner world*, or *inner life*. At the same time, however, some admitted they struggle with affective discourse. Two decision-makers, both judges, conveyed a preference for working with concrete events and verifiable facts. According to a judge,

> …when you begin the [credibility] assessment, concrete things are easier to assess, as in, 'Did someone go somewhere?' and 'What happened there?,' rather than feelings. (…) You can't just base the decision on [feelings], but on the overall picture. So of course, you have to take feelings into account and then you compare them to the concrete things.

---

[81]R. Tewksbury (1995). Adventures in the Erotic Oasis: Sex and Danger in Men's Same-Sex, Public, Sexual Encounters, 4 *The Journal of Men's Studies*, 9–24, at 9.
[82]G. Anderson (2018). 'Why can't they meet in bars and clubs like normal people?': the protective state and bioregulating gay public sex spaces, 19 *Social & Cultural Geography*, 699–719, at 709.
[83]Jansen (n 31) 24.
[84]E. O. J. Lee and S. Brotman (2011). Identity, Refugeeness, Belonging: Experiences of Sexual Minority Refugees in Canada, 48 *Canadian Review of Sociology*, 241–274, at 249.

So while 'feelings' may inform the decision-maker, not all decision-makers are comfortable relying on feelings in asylum credibility assessment.

Expecting the asylum applicant to discuss their feelings and inner life, again, presupposes competences that are far from universal. For instance, researchers have found a link between traumatic stress, which many of those fleeing persecution experience,[85] and *alexithymia*, or difficulty identifying and describing feelings and proneness to concrete thinking.[86] Individuals with alexithymia experience confusion when attempting to identify feelings and this difficulty contributes to an inability to communicate their emotions to others.[87] Traumatic experiences may even impact recounting past events: scholars have found that heightened emotion at the time of a (traumatising) event hinders, rather than helps, memory for the event.[88] In addition, there may be cultural differences at play. Although within-culture variations exist, in more individualistic, generally Western cultures, the self is perceived to be an independent unit, whereas in more collectivistic, generally non-Western cultures, where most refugees come from, the self is perceived as interdependent.[89] On the one hand, those from individualistic cultures provide extensive, detailed, self-focused, and emotionally elaborate memories.[90] On the other hand, those from collectivistic cultures tend to focus on shared activities, routines, and emotionally neutral events.[91] They tend to focus on other people's roles and provide more intricate relatedness (i.e., social interactions) memories than those from individualistic cultures.[92]

As discussed above, *shame* is a dimension of the DSSH model that even decision-makers themselves may fail to grasp. One typical misunderstanding, amongst the asylum decision-makers, concerns the *object* of shame. A Migri decision-maker recalled a colleague

---

[85]K. Schock, M. Böttche, R. Rosner, M. Wenk-Ansohn, and C. Knaevelsrud (2016). Impact of new traumatic or stressful life events on pre-existing PTSD in traumatized refugees: results of a longitudinal study, 7 *European Journal of Psychotraumatology*, 1-11; M. Stingl, M. Knipper, B. Hetzger, J. Richards, B. Yazgan, B. Gallhofer, and B. Hanewald (2019). Assessing the special need for protection of vulnerable refugees: testing the applicability of a screening method (RHS-15) to detect traumatic disorders in a refugee sample in Germany, 24 *Ethnicity & Health*, 897–908; M. Vukčević Marković, N. Kovačević, and J. Bjekić (2021). Refugee Status Determination Procedure and Mental Health of the Applicant: Dynamics and Reciprocal Effects, 11 *Frontiers in Psychiatry*, 1–5.

[86]R. M. Gaher, C. O'Brien, P. Smiley, and A. M. Hahn (2014). Alexithymia, Coping Styles and Traumatic Stress Symptoms in a Sample of Veterans Who Experienced Military Sexual Trauma, 32 *Stress and Health*, 55–62. See also, e.g., A. L. Teten, L. A. Miller, S. D. Bailey, N. J. Dunn, T. A. Kent (2008), Empathic Deficits and Alexithymia in Trauma-Related Impulsive Aggression, 26 *Behavioral Sciences and the Law*, 823–832, at 824; E. Zdankiewicz-Ścigała and D. K. Ścigała (2018). Trauma, temperament, alexithymia, and dissociation among persons addicted to alcohol: Mediation model of dependencies, 9 *Frontiers in Psychology*, 1–11, at 2.

[87]L. R. Timoney and M. D. Holder (2013). *Emotional Processing Deficits and Happiness: Assessing the Measurement, Correlates, and Well-Being of People with Alexithymia*, London: Springer, at 1.

[88]J. Herlihy, L. Jobson, and S. Turner (2012). Just Tell Us What Happened to You: Autobiographical Memory and Seeking Asylum, 26 *Applied Cognitive Psychology*, 661–676, at 663.

[89]Herlihy et al (n 88) 668. See also: H. R. Markus and S. Kitayama (1991). Culture and the self: Implications for cognition, emotion, and motivation. American Psychological Association, 98 *Psychological Review*, 224–253.

[90]Herlihy et al (n 88) 668. See also, e.g., Q. Wang (2001). Culture effects on adults' earliest childhood recollection and self-description: Implications for the relation between memory and the self, 81 *Journal of Personality and Social Psychology*, 220–233; N. Gur-Yaish and Q. Wang (2006). Self-knowledge in cultural contexts: The case of two western cultures. In A. P. Precott (ed), *The concept of self in psychology*, Hauppauge, NY: Nova Science Publishers, 129–143; L. Jobson and R. T. O'Kearney (2008). Cultural differences in retrieval of self- defining memories, 39 *Journal of Cross-Cultural Psychology*, 75–80.

[91]Herlihy et al (n 88) 668. See also, e.g., Wang (n 90) or Jobson and O'Kearney (n 90).

[92]Ibid.

as saying 'oh gee, [the asylum applicant] was otherwise quite credible, but [they] didn't feel any shame,' expounding,

> No! Shame does not mean that. [The applicant] was some kind of an activist who considered it a matter of pride what they had done in their origin country. And that's fine. Shame is something else. It's more like fear. The shame of being different. It doesn't mean you have to be able to say you're really ashamed [of your sexual orientation]. It's more about what [the asylum applicant] thinks in relation to society, family, culture, religion, all these other things.

As this excerpt demonstrates and as discussed previously (in section 2.2), the DSSH model's emphasis on shame is susceptible to stereotypical understandings, as decision-makers may discredit feelings of happiness or pride that the asylum applicant associates with their life in the origin country.[93]

4.4 Harm

Finally, was the dimension of *harm*, the 'H' in the DSSH model reflected in how decision-makers approached queer asylum determinations? This dimension refers to various forms of harm (e.g., physical, socio-economic, legal, spiritual, or medical-psychological harm) asylum applicants face on account of their difference.

As discussed in the previous section, on *shame*, some judges were more comfortable assessing concrete events in the past rather than feelings. Migri decision-makers, on the other hand, discussed concrete harms very little. Decision-makers overall had difficulties, in particular, identifying harms that intersect both gender and sexual orientation. They typically brushed off gendered considerations by saying something to the effect that 'we treat all asylum applicants alike.' Dawson and Gerber argue that asylum claims by queer women are hampered by decision-makers' lack of consideration of both gender and sexuality in their persecution.[94] The DSSH model fails to take into account many of the harms faced by women in particular (e.g., rape, forced marriage, and violence within the family or wider community, which is often perceived as outside the law's purview)[95] and the more private nature of harm in women's case, as opposed to the more public harm faced by men.[96] Lewis argues that 'there is an urgent need for specialist training that teaches adjudicators how to recognize the intersectionality of gender and sexual identity in accounts of lesbian persecution.'[97] Decision-makers lack of engagement with the particular harms faced by non-heterosexual women could also be linked to how decision-makers perceive queer asylum applicants.

---

[93]Gomez (n 55).
[94]Dawson and Gerber (n 19) 306.
[95]Dawson and Gerber (n 19) 317.
[96]Dawson and Gerber (n 19) 315 f; V. Neilson (2005). Homosexual or female? Applying gender-based asylum jurisprudence to lesbian asylum claims, 16 *Stanford Law & Policy Review*, 1–28; R. A. Lewis (2013). Deportable subjects: Lesbians and political asylum, 25 *Feminist Formations*, 174–194.
[97]Lewis (n 96) 970.

How do decision-makers construe the *typical applicant* applying for asylum in Finland on the basis of sexual orientation? Decision-makers often described the typical applicant with such gender, age, and origin-country-related attributes as 'man' or 'male,' 'Iraqi,' and 'young' or 'young adult.'[98] One decision-maker referred to the typical applicant as 'African.' In the queer asylum context, some decision-makers had encountered no women, or if they had, women were a distinct minority. Discrepancy between the share of male and female asylum applicants has been attributed, for instance, to women's lack of financial resources and independence needed to flee their countries.[99] Decision-makers whom I interviewed mostly did not mention other gender identities (e.g., intersex, transgender, non-binary, gender queer). And most discussed 'homosexuality' and rarely any other sexualities. Some decision-makers even referred to queer asylum applicants simply as 'homosexuals.' This could be, perhaps, because they equated non-heterosexual orientation with homosexuality, or because they viewed a homosexual (male) as the paradigmatic queer asylum applicant.[100] These notions highlight how the DSSH model, especially in an environment where decision-makers have limited experience of anything other than the *paradigmatic queer asylum applicant*, 'risks imposing Western gay male narratives on other sexual minorities.'[101]

5   Conclusion

In this article, I explored whether the narrative of difference embedded in the DSSH model is manifested in decision-makers' understandings of queer asylum determinations. I approached this research question through the lens of the DSSH model, with the different dimensions of the model (i.e., difference, stigma, shame, and harm) providing structure to the analysis. This article has shown how the DSSH model primes the asylum decision-maker to expect a specific narrative, a narrative of difference, from the queer asylum applicant. As I demonstrated, the DSSH model reproduces an understanding of sexual identity development as a linear process (beginning with a first realisation/awakening) and the ideal expression of same-sex interest as a (Westernized and heteronormative) monogamous relationship based on romantic love. Furthermore, the DSSH model operationalizes abstract and affective concepts (e.g., sexual identity, stigma, shame) that are difficult to grasp even for asylum decision-makers. Judges, in particular, had qualms about the abstractions and affective discourses that characterize the DSSH model. Some judges preferred assessing, for instance, the veracity of concrete events in the past rather than the asylum applicant's feelings. This was a clear difference between initial-level (Migri) and appeals-level (administrative court) decision-makers. And this difference is also a structural problem: if initial-level asylum decision-makers adhere to a specific narrative

---

[98]These attributes align with statistics on asylum applicant populations in Finland, from January 2015 to December 2020. Of all age groups, the biggest group was those aged 18–34. Of all nationalities, the biggest group were asylum applicants from Iraq. And of sexes (the Finnish Immigration Service, or Migri, uses the term 'sex', rather than 'gender'), the biggest group was those identifying/identified as men. (Source: Finnish Immigration Service (2021). *Statistics.* Retrieved from https://tilastot.migri.fi/#applications/23330/49?l=en&start=540.)
[99]Neilson (n 96) 3.
[100]See also Neilson (n 96).
[101]Dawson and Gerber (n 19) 305.

– one that asylum decision-makers at the appeals level may not adhere to or even recognise – then asylum decision-makers at different levels are talking past one another. These differences in approaches render the asylum decision-making system inconsistent and, thus, more difficult for asylum applicants to navigate. And ultimately, the DSSH model risks filtering and excluding those queer asylum applicants who are unable to convey emotions or to relate to the culturally context-sensitive abstractions embedded in the model.

Scholars have discussed how the immigration control system, as a whole, functions as a system of gatekeeping, scanning the applicants for authenticity and genuine 'deservingness,' while filtering out 'bogus' claimants not deserving of protection.[102] The DSSH model, I argue, risks functioning as another filtering tool in the immigration control system, by imposing and reproducing an essentialist narrative on queer refugees. As discussed in the introduction, the especially vague criteria for *membership in a particular social group* make an ideal site to wield interpretive power to control migration.[103] This interpretive space could, however, allow for an approach that is more mindful of the complexity, fluidity, and contextuality of human sexuality.[104] Although more comparative research on specific models used in queer asylum credibility assessment is warranted,[105] the problems relating to asylum decision-makers' focus on sexual identity, on the whole, are well documented.[106] Like a number of scholars, I advocate for shifting the focus of queer asylum assessment from sexual identity to *past persecution or future risk of persecution*.[107] The path for this shift is already laid out in the Qualification Directive 2011/95/EU, cited at the beginning of this article. The key issue is not whether the applicant actually possesses the social characteristic which attracts the persecution, but rather, whether such a characteristic is attributed to the applicant by the persecutors. Focusing on the issue of persecution, rather than identity, may have the potential to provide 'a better legal space of sexual and relational self-determination and development.'[108]

---

[102]See e.g., P. Zambelli (2017). Hearing Differently: Knowledge-Based Approaches to Assessment of Refugee Narrative, 29 *International Journal of Refugee Law*, 10–41; A. Triandafyllidou (2018). A "Refugee Crisis" Unfolding: "Real" Events and Their Interpretation in Media and Political Debates, 16 *Journal of Immigrant & Refugee Studies*, 198–216; M. Koçak (2020). Who is "Queerer" and Deserves Resettlement?: Queer Asylum Seekers and Their Deservingness of Refugee Status in Turkey, 29 *Middle East Critique*, 29-46; S. Cesaro (2021). The (micro-)politics of support for LGBT asylum seekers in France. In R. C. M. Mole (ed), *Queer Migration and Asylum in Europe*, London: UCLPress, 216–237, at 228; Giametta (n 19); Tschalaer (n 73).
[103]Gorman 2017 (n 4).
[104]See n 23.
[105]See, however, Dustin and Ferreira (n 25).
[106]See n 19 and 20.
[107]See n 31.
[108]See Grigolo (n 28) 1028.