A CRITICAL INVESTIGATION OF THE EPISTEMOLOGICAL, FAMILIAL AND SPIRITUAL INVISIBILITY OF SPIRITUAL BLACK LESBIAN AND BISEXUAL WOMEN IN THE BELGIAN LGBT RIGHTS FRAMEWORK.

by

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Student declaration form

I declare that this thesis has been composed by myself and that it has not been submitted, in whole or in part, in any previous application for a degree. Except where explicitly stated otherwise by reference or acknowledgment, the work presented is entirely my own.

Acknowledgements

The completion of this dissertation is a true testament to the idea that authentic representation is much more than the name or face on the front cover. It is about the love, support and acknowledgement of ideas.

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Abstract

This dissertation investigates the epistemological, familial and spiritual invisibility of spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework. By studying the intersection of black female homosexuality and spirituality in the Belgian context, the dissertation contributes to Black lesbian feminism, womanism and the study of Lesbian, Gay, Bisexual and Trans rights liberation frameworks in the Belgian context. It argues that a one-dimensional focus on sexuality, the law, secularism and citizenship creates intersectional invisibility for spiritual Black lesbian and bisexual women in Belgium. It proposes *intersectional normfare* as a lens to challenge invisibility in frameworks of liberation. Intersectional normfare draws on intersectionality and lawfare and challenges a one-dimensional focus on sexuality, the law, secularism and citizenship by

- Articulating other aspects than the sexuality of spiritual Black lesbian and bisexual women' s intersectional identity that affect their lived experience,
- Addressing intersecting norms found in language, culture, history, religion, political ideology and traditions that produce their epistemological, familial and spiritual invisibility based on intersectional identity and how these norms create conflicts ideas of being
- Recognising how intersecting levels of norm production reinforce invisibility for spiritual Black lesbian and bisexual women in Belgium.

Using a *scotoma methodology*, the research exposes blind spots in our vision for liberation. A scotoma methodology is a mixed method consisting of literature studies, legal case studies before domestic and European courts, autoethnographic research based on observations and lived experience of the researcher, and information found on websites, newspaper articles, archival material, memoirs, and translation. It relies on the nation of relationality to expose some of the critical issues that remain invisible and perpetuate epistemological, familial, and spiritual invisibility for spiritual Black lesbian and bisexual women across space and time.

Table of contents

Acronyms

LGBT: Lesbian, Gay, Bisexual and Trans persons

LGB: Lesbian, Gay and Bisexual persons

LGBTQIA+: Lesbian, Gay, Bisexual, Trans, Queer, Intersex, Asexual, + persons

BRD: Bundes Republik Deutschland

CALL: Council for Alien Law Litigation

COC: Cultuur-en Ontspanningscentrum. Centre For culture and Leisure

COC/CCL: Cultuur-en Ontpanningcentrum/ Centre de Culture et Loisirs. Centre for culture and leisure.

CoS: Council of State

CCB: Cultuurcentrum België/Centre Culturel Belge. Belgian cultural centre

ICSE: International Committee for Sexuality Equality

ECtHR: European Court for Human Rights

ECHR: European Convention Human Rights

UNHCR: United Nations High Commissioner for Refugees

RvS: Raad van State. Belgian Council of State

GwH: Grondwettelijk Hof. Belgian Constitutional Court

CGVS: Commissaris-generaal voor de vluchtelingen en de staatlozen

ICJ: International Commission of Jurists.

Political Parties

Current main political parties: hyperlink leads to the website of the political party.

CDH: Centre Démocrate Humaniste (in French)

Ecolo: Green Party (in French)

MR: Mouvement Réformateur (in French)

PS: Parti Socialiste (in French)

CD & V: Christen Democratisch en Vlaams (in Dutch)

Groen: Green Party (in Dutch)

N-VA: Nieuwe Vlaamse Alliantie (in English)

Sp.a: Sociaal Progessief Alternatief (in Dutch)

Open VLD: (in Dutch)

Formerly:

Agalev: Flemish Green Party now Groen

BSP: Belgische Socialistische Partij. Belgian socialist party, now Sp.a

BWP: Belgische Werkliedenpartij. Flemish socialist party, now Sp.a

CdH: Centre démocrate humaniste previously Parti social Chrétien. Francophone Brussels party. Initially social Christian party and now centre for democratic humanism

CD&V: Christen-Democratisch & Vlaams. Christian Democratic & Flemish.

CVP: Christelijke Volkspartij. Flemish Christian People's party now CD&V

DéFI: Démocrate Fédéraliste Independent, now CdH

Ecolo: Francophone Green Party

FDF: Front Démocratique des francophones

Groen! Flemish Green Party, now Groen

Liberale Partij: Liberal Party, now Open VLD

Open VLD: Open Vlaamse Liberalen en Democraten

PVV: Partij voor Vrijheid en Vooruitgang. Party for freedom and progress, now Open VLD.

Psc: Parti social Chrétien now Cdh. Francophone Brussels party. Initially social Christian party. Now CdH

PS: Parti Socialiste. Walloon socialist party, now PS

SP: Socialistische Partij. Flemish socialist party, now Sp. a

Sp. a: Socialistische partij Anders. Social party Different, now Sp. a

Sp. a: Social Progressief Alternatief. Social Progressive Alternative Party.

NCD: Nieuwe Christen Democraten. New Christian Democrats fused with Open VLD.

VB: Vlaams Blok. Flemish Block. Now Vlaams Belang, most of its members fused with N&VA.

VLD: Vlaamse Liberalen en Democraten, now Open VLD

VSA: Vlaams Socialistische Arbeiderspartij. Flemish socialist workers party, now Sp.a.

Chapter 1. Introduction

This dissertation contributes to the study of Lesbian, Gay, Bisexual and Trans (hereinafter: LGBT) rights in the Belgian context by investigating the epistemological, familial and spiritual invisibility of spiritual Black lesbian and bisexual women (also SBLBW) in the Belgian LGBT rights framework. Although the dissertation refers to the broader context of LGBT rights in Belgium, the scope is limited to the development of the Lesbian, Gay and Bisexual (hereinafter: LGB) rights framework. The timeframe observed in the dissertation is between 1795- 2017.

The research intends to understand how the intersections of race, class, sex, sexuality, nationality and (religious) ideology create epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework. Furthermore, by addressing the intersections of spirituality and Black female homosexuality, this dissertation contributes to womanist studies and Black lesbian feminism.

By investigating the epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework, this dissertation explores the minimum requirements for a framework of liberation for spiritual Black lesbian and bisexual women in Belgium. Moreover, it examines which themes a framework of liberation must address to challenge invisibility for spiritual Black lesbian and bisexual women in Belgium?

The Backdrop

The intersectional identity of spiritual Black lesbian and bisexual women in Belgium represents some of the social groups that make up Belgium's society today. Aside from being non-heterosexual, spiritual Black lesbian and bisexual women are racialised, gendered, classed, religious or spiritual, have different national backgrounds.

As the literature demonstrates, current narratives in Europe idealise secularism as the vehicle for sexual liberation (see Scott, 2009), targeting multiculturalism through religion and spirituality because they present a threat to the stark demarcation of personal individualism and public secularism (see Mepschen et al., 2010; Wekker, 2009; Peumans, 2011). Sexual liberation, therefore, becomes a privilege only accorded to a few based on their citizenship. Others, who might also be citizens, are labelled migrants. Sexual citizenship, in turn,

problematises migration and insists on an open-end policy of integration, culturalisation and assimilation (El Tayeb 2012,80). Furthermore, sexual citizenship is often criticised for promoting homonationalism, awarding certain individual privileges and rights to social groups based on their sexuality, moral worth, and status as consumers (Evans 1993, 32). Moreover, sexual citizenship promotes a gender-neutral narrative that assumes there is no difference in the treatment of LGBT persons based on their gender (Richardson, 2000).

Some aspects of spiritual Black lesbian and bisexual women's identity in Belgium have been addressed through the literature on Belgium and by Belgian's on queer identities in Europe. European Ethnic migration studies often criticise the imposition of Western identity labels and liberation narratives on asylum seekers. In the Belgium context, Dhoest examines Belgian asylum regulation and practices from professionals' perspectives in the field and the lived experiences of gay-identifying men (Dhoest, 2019). Although the interview questions invited broader gender participation, Dhoest notes the predominance of male participants in associations for LGTBQ migrants in Belgium (Dhoest 2019, 1079).

Ayoub and Bauman emphasise the complexity of queer migration, the recognition of the intersectional identity of migrant queers as migrants and queers, necessitates cross-border and transnational queer mobilisation that calls into question nationalistic representations of queer identity that erase the invaluable contribution of migrant social capital throughout the history of queer mobilisation (Ayoub and Bauman 2019, 2764).

Gabiam points to the dearth of research on sexual minorities in Europe, let alone the epistemological and methodological challenges of investigating the lived experiences of minorities within the minority. For example, to examine the visibility of gay and bisexual black men in Brussels, Gabiam uses the internet, social networks websites and chatrooms, to explore the realities of intersectional minorities that find themselves caught in between silencing their sexuality in their familial environments and feeling excluded in predominately white LGBT spaces. Gabiam argues that for black gay and bisexual men, virtual spaces provide a space of empowerment and demarginalisation (Gabiam 2013, 26). Gabiam addresses the intersections of race, class, sexuality, nationality and navigating these intersections within the context of home and queer urban spaces.

In Queer Muslims in Europe, Peumans investigates the intersections of race, class, migration, sexuality and religion (2017) by exploring the lived experiences of Queer Muslims

in the Belgian context. Through in-depth interviews and intersectionality as a lens, Peumans offers rare insights into the lived experiences of sexualised others (migrants and so-called second, third-generation migrants) in Belgium.

Both Gabiam and Peumans address the lack of intersectional frameworks in the Belgian context. This dissertation contributes to their work by investigating some of the origins of normativity within our society.

While it is easier to scapegoat one aspect of our lived experience as the probable cause of invisibility, for instance, religion, intersectionality invites us to explore multi-dimensionality in all its forms. Religion has historically been used to exclude, discriminate, oppress, occupy and dehumanise people worldwide. At the same time, religion and spirituality continue to offer solace, hope and humanisation for many. As Godwin points out, a post-Catholic society does not necessarily mean a secular society. Amid secularism, Christianity grows in Belgium due to Belgium Pentecostantism that he accredits to the African Christian Diaspora (Godwin 2012,90-91).

While some research juxtaposes religion and or spirituality with queer liberation, this dissertation explores spirituality as a foundation of courage required to challenge invisibility. Positioning spiritual Black lesbian and bisexual women in Belgium as the embodiment of various intersecting identities allows us to go beyond simplistic assumptions, such as Western contexts being inherently more liberal since the introduction of secularism and automatically equating Black and African contexts with tradition, religious and homophobic?

Belgium legalised same-sex marriage in 2003, making it the second country in the world to legalise same-sex marriage. Furthermore, since the legalisation of same-sex marriage, Belgium has implemented several laws to foster the inclusion of LGBT persons and their families into the fabric of society. The Belgian LBGT rights framework consists of legal cohabitation (2000), a general anti-discrimination rights framework (2003), marriage equality (2003), adoption (2006), the law on transsexuality (2007), co-motherhood (2015) and the law on transgender identity (2017). As a result, for many countries worldwide, Belgium has become an example of LGBT inclusion. This thesis discusses some of the country's challenges in including a wider group of LGBT persons in its society. Moreover, this thesis asks whether it is inclusion we are after or liberation?

Liberation is then conceptualised as the 'moral reasoning to refuse any form of dehumanisation' (Canon, 1989). By centring spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework, the dissertation shifts the focus from sexuality only to norms at the intersections of expectations of womanhood, including motherhood, spirituality and sexuality and heteropatriarchal family ideologies. In addition, liberation explores sexual pleasure and sexual fluidity. Finally, the thesis proposes spirituality as a foundation for spiritual Black lesbian and bisexual women's liberation.

Spirituality

Spirituality for spiritual Black lesbian and bisexual women in Belgium consists minimally of the following components:

- First, spirituality refers to a framework for liberation, a system of mores and values that gives meaning to our lives and refutes any form of dehumanisation.
- Second, spirituality can be rooted in institutionalised religion, Western and non-Western philosophies. It challenges heteropatriarchy, heterocentrism, racism, nationalism, and classism in all levels of society.
- Third, spirituality promotes love, pleasure and roundness, including female sexual pleasure.
- Fourth, drawing on the notion of inspirit (which the Mariam-Webster dictionary defines as instilling life in something). Spirituality is the courage and ability to deem ourselves worthy and stand up for what feels right to us.
- Lastly, spirituality is also a political ideology.

The literature shows that a one-dimensional focus on sexuality alone excludes social groups with an intersectional identity, such as SBLBW.

Blackness

Blackness in this equation not only reconciles Belgium with its colonial history. By placing women Sub Saharan African descent as LGBT persons on the territory of Belgium as citizens, migrants, asylum seekers and stateless persons, migration is read as a dynamic and

moving notion because spiritual Black lesbian and bisexual women in Belgium navigate fluid norms regarding their intersectional identity that transverse space and time. Similar norms occur and continue to reoccur regardless of space or geographical location.

Ifekwunigwe argues for a contextual exploration of Blackness in a particular country. Each Black diaspora represents a 'continuous, dynamic, interlocking, interdependent global networks of geopolitical spheres, each of whose localised intersectional constituencies are also sensitive to and impacted by the political machinations of the nation-states of which they are part' (Ifekwunigwe, 2010). Moreover, Phil Cohen (1999) cautions against a conflation of diaspora by arguing that 'diaspora has become the master trope of migration and settlement and is indiscriminately deployed to describe travellers and cosmopolitan elites as well as political refugees, economic migrants, and guest workers' (Cohen, 1999). Thus, for the Belgian context, Blackness refers to women of sub-Saharan African descent living in Belgium regardless of their citizenship status. While recognising similarity, Blackness draws attention to their specific experiences that might differ due to their specific intersections of race, class, nationality, sex, sexuality and religion. Blackness represents the consequences of European imperialism and colonialism, a past that is often publicly minimised and or erased. Goddeeris argues that the particularity of the Belgian context is the absence of a counternarrative in the public debate through silencing. According to Goddeeris, until US author Hochschild accused King Leopold II of genocide in 1998, Belgian's historical world was marked by indifference towards Belgian's colonial history (Goddeeris 2015, 435). However, Verbeeck notes a shift in Belgian public consciousness from a culture of denial and neglect to a more critical narrative on Belgium's colonial history (Verbeeck, 2020). Lastly, international protection based on sexual orientation and gender identity introduces a new (Black) *queer* diaspora (see UNHCR guidelines 2012).

Invisibility

This dissertation conceptualises exclusion, marginalisation, silencing, discrimination and erasure together as invisibility. Invisibility refers to the blind spots in our vision for liberation. It refers to the issues and themes that remain at the periphery of discussions in queer liberation projects, black liberation projects, womanist ethics, non-Anglophone Western contexts and the Belgian LGBT rights framework. The invisibility of the themes at the intersection of spiritual Black lesbian and bisexual women's intersectional identity in other contexts have been conceptualised as exclusion (El Tayeb, 2012), marginalisation (Cohen,

1997, Coleman, 2006, Lorde, 1978), discrimination, silencing (Hammonds, 2004), erasure (Goddeeris, 2015), disempowerment (Crenshaw 1989;1991) and violence (Namaste, 2009. Invisibility, therefore, refers to the effects of oppression. Furthermore, invisibility also refers to the fact that this conversation still needs to be had in Belgium. Therefore, the dissertation lays the groundwork for such a conversation, using relevant themes articulated in the US.

Intersectional normfare

As a pre-requisite for liberation, the thesis conceptualises intersectional normfare as a lens to challenge spiritual Black lesbian and bisexual women's epistemological, familial and spiritual invisibility in the existing Belgian LGBT rights framework. The dissertation suggests that before we go out and educate the rest of the world on being inclusive, tolerant and equal, how about critically accessing our norms and values to challenge invisibility for existing members of our society.

Intersectional normfare draws on a combination of Crenshaw's intersectionality (1989;1991) and Gloppen's lawfare (2016) as conceptualised within the field of critical legal studies and socio-legal studies. The importance of using Crenshaw's conceptualisation of intersectionality is threefold.

First, Crenshaw's conceptualises intersectionality in the context of the law focusing on rights-based claims. Second, however, this dissertation argues that invisibility for spiritual Black lesbian and bisexual women in Belgium is not limited to the law and that, moreover, not all spiritual Black lesbian and bisexual women can access the law for protection. Thus, a minimum requirement for spiritual Black lesbian and bisexual women's liberation in Belgium involves a decentralisation from the law through an expansion of intersectionality to other normative frameworks that influence and co-exist with the law, such as traditions, religion, custom, and culture. Third, Crenshaw's intersectionality in this dissertation is used to address black female homosexuality. Although however, intersectionality is part of a long history of Black feminist thought (Sojourner Truth's *Aint I a woman speech in* 1851), including Black lesbian feminism (Combahee River Statement 1986)), Black queer theory and women of colour critique (Ferguson, 2004), intersectionality has been critiqued for reproducing invisibility for queer minorities. Puar, for instance, argues that

'categories privileged by intersectional analysis do not necessarily traverse national and regional boundaries nor genealogical exigencies, presuming and producing static epistemological renderings of categories

themselves across historical and geopolitical locations. Indeed, many of the cherished categories of the intersectional mantra: 'originally starting with race, class, gender, now including sexuality, nation, religion, age, and disability, are the product of modernist colonial agendas and regimes of epistemic violence, operative through a Western/Euro-American epistemological formation through which the whole notion of discrete identity has emerged, for example, in terms of sexuality and empire.' (Puar 2012, 3). Puar's critique is that intersectionality once again represents a constant with variations instead of variations onto variations. Puar's argument is based on a reading of Deleuze and Guattari's assemblage in *A Thousand Plateaus* (1980), which should be understood as *agencement*. 'Agencement is essentially the mapping out/ laying out of events that might have led to a particular outcome' (Puar 2012, 5).

In this dissertation, Gloppen's lawfare (Gloppen, 2016) does the work of 'mapping out/ laying out the events that might have led a particular outcome' by identifying key events, articulating competing rights and addressing intersectional invisibility at the various levels at which it occurs. Lawfare is often described and critiqued as using the law to win a war instead of searching for truth (Carlson and Yeomans, 1975). However, Gloppen conceptualises lawfare as 'is the use of the law to advance a position on a highly polarised topic' (Gloppen 2016, 6).

Like intersectionality, lawfare in this thesis is not limited to the 'use of law' in its formal sense as conceptualised in Gloppen's toolkit. Instead, the toolkit of lawfare is used to address intersectional invisibility in various normative frameworks that affect the law and the lived experience of spiritual Black lesbian and bisexual women. Thus, Lawfare becomes normfare, and the lens for challenging epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women in Belgium is intersectional normfare. Intersectional normfare challenges a one-dimensional focus on sexuality, the law, secularism and citizenship for spiritual Black lesbian and bisexual women by:

- Articulating other aspects than the sexuality of spiritual Black lesbian and bisexual women' s intersectional identity that affect their lived experience,
- Addressing intersecting norms found in language, culture, history, religion, political ideology and traditions that produce their epistemological, familial and spiritual invisibility based on intersectional identity and how these norms create conflicts ideas of being

- Recognising how intersecting levels of norm production reinforce invisibility for spiritual Black lesbian and bisexual women in Belgium.

Spiritual Black lesbian and bisexual women's intersectional identity and epistemological, familial and spiritual invisibility in Belgium.

Identity politics is the politicising of identity. It uses a specific group identity to make political claims and expose structural exclusion (Combahee River Collection, 1986). Even within Black lesbian feminism, intersectionality as a politics of identity was never about the liberation of Black lesbians only. Therefore, identity politics in Black lesbian feminism points to the intersections to explore in the Belgian context.

Black female homosexuality

In various contexts and at different times, Black women have conceptualised Black female homosexuality in different ways. For instance, Hammonds emphasises the importance of exploring the specifics of Black female sexuality (Hammonds, 2004).

In womanism, Walker defines Black female sexuality by arguing for a reading of Black female sexuality as fluid, behavioural and contextual. Walker refers to a preference for women's culture and vulnerability and includes love for individual men (Walker, 1983).

Closer to home, it is illuminating to study a discussion between Wekker, Lorde and Roemer on conceptualising Black female sexuality. For Wekker, matism as an Afrocentric working-class approach to black female homosexuality refers to women who have sexual relationships with other women while still having simultaneous relationships with men. Typically, in Black female homosexual relationships, Black women have relationships with men to have children while committing to lifelong partnerships and family with women. According to Wekker, Black lesbianism refers to a more Eurocentric, middle-class approach to Black female homosexuality (Wekker 2014, 11-12). As such, Wekker also distinguishes between sexuality as a practice or behaviour and sexuality as an identity. In addressing class, Wekker argues that an aspect of sexuality is always linked to the community. Therefore, black middle-class lesbians can afford to take on lesbian identity because they have other means to fall back on should they be ostracised from their community.

Roemer completely rejects the label of lesbianism by arguing that calling herself lesbian is allowing herself to be defined by whom she loves and not the many things she is (Wekker 2014, 18). Nevertheless, Roemers affirms sexuality as a practice for Black middle-class non-heterosexual women simply because lesbianism does not capture her intersectional identity, culture, and vernacular nuances.

Lorde asserts that she calls herself Black, feminist, and lesbian because she acknowledges that her roots and her vulnerabilities lie in herself as a woman. Thus, she also emphasises that her priority is not men but women (Wekker 2014, 19).

Black lesbian and bisexual women's identity in this research:

- Represents the normative way of referring to non-heterosexuality and,
- Creates a space for exploring Black women's sexuality outside hetero and homonormative standards.

Epistemological invisibility

Epistemological invisibility refers to a need for a Black and racialised queer/ LGBT epistemology. Although the queer theory has been praised for its potential to radically shift how we theorise about power, human relations and society, queer theory has been critiqued for not realising its potential because it has historically excluded intersectional identities linked to sexuality such as race, gender, class, nationality, able-bodiedness and religion. Furthermore, queer theory reflects the experiences of gay white men and, therefore, produces yet another hegemonic body as a non-heterosexual standard (Almaguer 1991; Munoz,1999; Gopinath 2007; Paur 2007) while womanist frameworks intend to address the intersection of Black female homosexuality and spirituality. Accepting sexual and resisting homophobia remains problematic (Hill 1999; Coleman 2006). The conversation on epistemological visibility in the Belgian context then revolves around concepts of sexuality for Black non-heterosexual women.

Familial invisibility

Familial invisibility refers to an expansion of our notion of family. Therefore, it is essential to understand how black spirituality influences attitudes towards sexuality within black extended families (Lightsey 2012), especially practices and traditions passed on from mothers to daughters, mainly because women are still the primary socialising agents of their

children (Hill 1994, 2016), about sexuality regardless of whether the family itself is religious or are attendants of a Black Church. Although, spirituality and religion influence our understanding of family. The law, tradition and customs also prescribe notions of family, obligations and protection. Therefore, the conversation on familial visibility in the Belgian context needs to include notions of home, extended family, community, belonging.

Spiritual invisibility

Spiritual invisibility refers to our need for representation. While some Black lesbian and bisexual women are Muslim, and others are Christian (see Godwin 2012). Many also draw spirituality from frameworks outside the paradigms of institutionalised religion, including non-Western philosophies of life. However, the dearth of research on Black spiritual culture in the Belgian context means that a focus of analysis for this dissertation shifts to understanding the invisibility of spiritual Black lesbian and bisexual women in Belgian political ideology and the influence of various spiritual paradigms on Belgian politics. The conversation on spiritual visibility in the Belgian context needs to include room for spiritual frameworks of liberation.

A Scotoma methodology

The term scotoma draws on Dennett's use of the term scotoma when conceptualising the phenomenon of scotoma (1991). Dennett refers to the scotoma as 'the blind spot in our vision because of the way the optic nerve interrupts the field of cones and rods at the back of the eye' (Conard 2007, 156). Rather than question whether we are aware of these blind spots, this thesis develops a scotoma methodology to expose blind spots in our vision for liberation. It brings critical issues that remain invisible and perpetuate epistemological, familial, and spiritual invisibility for spiritual Black lesbian and bisexual women across space and time from the periphery to the centre.

A scotoma methodology is a mixed method consisting of literature studies, legal case studies before domestic and European courts, autoethnographic research based on observations and lived experience of the researcher, and information found on websites, newspaper articles, archival material, memoirs, and translation. It exposes issues and themes that remain at the periphery of discussions in queer liberation projects, black liberation projects, womanist ethics, non-Anglophone Western contexts and the Belgian LGBT rights framework. It relies on the nation of relationality (Bilge and Hill Collins, 2016) to expose some critical issues that remain

invisible and perpetuate epistemological, familial, and spiritual invisibility for spiritual Black lesbian and bisexual women across space and time.

The dissertation reads as follows:

Chapter 2. The literature review discusses three critical bodies of work relevant for understanding and challenging invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework—namely queer theory, including black lesbian feminism, womanism and critical debates on LGBT rights in (Dutch-speaking) Western Europe.

Chapter 3. The theoretical framework explored critical conceptual notions deployed throughout the research. The chapter introduced three new notions:

- Spirituality as a foundation for the liberation of spiritual Black lesbian and bisexual women in Belgium.
- Intersectional normfare as a toolkit for challenging epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women in Belgium.
- A scotoma methodology, a mixed methodology approach for exposing some of the critical issues that continue to perpetuate epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women across space and time.

Chapter 4. The emergence of the Belgian LGBT rights framework explores the historical and international context within which the Belgian LGBT rights framework emerges and addresses the following questions: what is the Belgian LGBT rights framework and the importance of understanding the epistemological, familial and spiritual invisibility of spiritual black lesbian and bisexual women (SBLBW) in the Belgian LGBT rights framework?

Chapter 5. Explores epistemology invisibility for spiritual black lesbian and bisexual women in the context of international protection and addresses the following questions: Who decides what sexuality is? How do we conceptualise sexuality in international human rights? do international instruments, such as the international protection of persons seeking asylum based on their sexual orientation and gender identity, include international perspectives on sexuality, sexual orientation and gender identity?

Chapter 6. Explores familial invisibility for spiritual Black lesbian and bisexual women through the notion of family in the law and society and addresses the following questions: How we do conceptualise family, does our conceptualisation of family include the different ways people live and grow together globally, and how does our conceptualisation of family affect how we view home, community and belonging?

Chapter 7. Explores spirituality invisibility for spiritual Black lesbian and bisexual women in the political ideology of Belgian politics and addresses the following questions: What do we endorse? How do our spiritual values influence what we stand for? Does the Belgian political context provide a spiritual framework that recognises the intersectional needs of spiritual Black lesbian and bisexual women? If not, is there room for a new liberation framework that better represents their needs?

Chapter 8. The Conclusion. Summaries the key arguments of the dissertation and explores possibilities for further research.

Chapter 2. Literature review

1. Introduction

This dissertation contributes to the study of Lesbian, Gay, Bisexual and Trans (hereinafter: LGBT) rights in the Belgian context by investigating the invisibility of spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework. Although the dissertation refers to the broader context of LGBT rights in Belgium, the scope is limited to the development of Lesbian, Gay and Bisexual (hereinafter: LGB) rights. The research intends to understand how the intersections of race, class, sex, sexuality, nationality and (religious) ideology create epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework. Furthermore, by addressing the intersections of spirituality and Black female homosexuality, this dissertation contributes to womanism and Black lesbian feminism.

The original idea for this research came from my experience as a spiritual Black queer woman living at the intersections of intercultural, interspiritual, interracial and interfamilial norms and values. Like many others in the Western European context, my conviction was that religious mores and my African cultural background would prove problematic to my identity as a queer woman of Sub Saharan African Descent. Whilst Western Europe might provide protection and security. However, the reality of my existence is not one-dimensional. Beyond being queer, I am also a Black woman living in Belgium who is Belgian through adoption. Between belonging to three families, being raised in an interracial family with a cross-cultural mix of European-African values, atheist- social catholic mores and traditions, and Pentecostal Christianity. I also live in a society where I am racialised, classed, gender and expected to adhere to specific standards of womanhood, such as motherhood. The realities of life far exceed navigating norms of sexuality in our society and family because none of the intersections of my identity is more pronounced than the other. In search of literature and narratives like mine to help me understand some of the themes and challenges in my life, I explored literature in the Belgian context.

1.1. Exploring the Belgian context and identifying three key bodies of work

Generally, research on LGBT rights in Belgium focuses on the history of the lesbian and gay movement (Borghs 2010, 2015; Ganzevoort, 1999; Hellinck 2002, 2003, 2007; Trommelmans, 2006; Sinardet 2001,2002; Paternotte 2010,2011), the history of homosexuality in Belgium (Dupont, Hofman and Roelens, 2017), Belgium as a frontrunner in the promotion LGBT rights in Europe (Eeckhout and Paternotte, 2011; Fiorini, 2003; also see ILGA Europe Rainbow Index and), anti-discrimination (Borghs, 2003; De Rouck, 2014), LGBT migrants (Dhoest, 2019) and LGBT families (Scali, D'Amore and Green, 2017). Gabiam (2013) points to the dearth of research on sexual minorities in Europe, let alone the epistemological and methodological challenges of investigating the lived experiences of minorities within the minority. Gabiam investigates visibility for Black gay men in Brussels and addresses the intersections of race, class, sexuality, nationality and navigating these intersections within the context of home and queer urban spaces (Gabiam, 2013). Finally, in his work on Queer Muslims in Europe, Peumans investigates the intersections of race, class, migration, sexuality and religion (2017) by exploring the lived experiences of Queer Muslims in the Belgian context. The academic literature in the Belgian context explored some of the themes relevant to understanding the lived experiences of spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework. However, none of the academic literature in the Belgian context explored Black female sexuality. Let alone Black female homosexuality at the intersection with spirituality written by Black queer women in Belgium. This dissertation is the first step towards filling that gap.

Furthermore, the dearth of research on the lived experiences of Black people in Belgium meant a lack of a critical inquiry into the intersections of our identity and the norms we navigate. The US context, where questions of race, class, spirituality, gender, community and Black families have intersected with sexuality, provided critical frameworks for understanding the epistemological, familial and spiritual invisibility of spiritual Black lesbian and bisexual women. This research contributes to existing work on understanding the experiences of LGBT persons in Belgium. However, by investigating epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework, this dissertation explores the minimum requirements for a framework of liberation for spiritual Black lesbian and bisexual women in Belgium. It, therefore, contributes to the aims of womanist scholarship and Black lesbian feminist scholarship.

This chapter examines three critical bodies of work for understanding and challenging invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework—queer theory including black lesbian feminism, womanism and critical debates on LGBT rights in Western Europe.

Queer theory has been instrumental in deconstructing both gender and sexual binarisms. It allows us to conduct an inquiry that does not stem from heteropatriarchal normativity but instead incorporates gender and sexual fluidity. However, the voices and experiences of those racialised as Black have historically been excluded from queer theory. Based on the exclusion of race and other forms of oppression such as class, nationality, community and extended family, studies such as Black queer theory, Black feminist queer theory, quare studies and queer women of colour critique have emerged.

However, while most Black queer studies, such as Black feminist queer theory Black queer theory, address the intersectional experiences of Black queer women, they rarely explicitly address Black queer women's religious and spiritual agency. The importance of spirituality for Black queer women is not limited to the values and mores passed on from one generation to another. Spirituality is an essential aspect of our humanity and liberation as Black people and as Black queer women.

Black lesbian feminism and womanist scholarship have historically existed alongside lesbian and gay studies, later queer theory. Womanist scholarship, Black feminist studies and Black lesbian feminism have conceptualised models of Black families that examine the dynamics and importance of extended families in the lives of people of African Descent. They have critiqued Euro-centric models of the family that focus only on the nuclear family setting, redeemed ideas and controlling images of Black families and Black womanhood such as the Matriarch and the Welfare Queen. However, unfortunately, all three fields still seem to contest the intersections of sexuality and spirituality. Some have broken the silence of sexuality in the Black church and spoken about the stigma and taboos around issues of sexuality, especially with regards to HIV/AIDs. Others, in return, have critiqued Black feminist studies for not centring the importance of spirituality and Black religion for the wellbeing of women of African Descent.

In contrast, a few have underlined the 'heterocentric' normativity in the Black communities and Black academia. The intersections of sexuality and spirituality remain a point

of contestation in Black feminist, womanist and black lesbian feminist scholarship. Hence, the importance of centring Black female homosexuality, spirituality and family in this dissertation.

A striking difference in terminology between the American and Western European context is the term queer vis à vis LGBT. Critical debates on queer rights in the Western European context focus on the LGB (T) rights framework, citizenship, secularism, the problematisation of migration and religion as obstacles to gender and sexual liberation. However, for the most part, LGB rights issues in the Western European context focus on the homosexual male experience. Therefore, the formulation of spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework as an intersectional identity is a strategic reading of the gaps in the literature.

Spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework are the antitheses of what is reflected in the literature today. Spiritual points to an intersection between religion and secularism. Black lesbian and bisexual women are the opposite of the hypervisibility of white gay men. The Belgian LGBT rights framework provides progress rights for gay middle-class citizens, focusing on personal rights such as privacy and consumerism—a focus on Black lesbian and bisexual women shifts to familial rights and themes such as community. Lastly, the problematisation of migration and citizenship for non-white Belgians means the focus remains on citizenship. Living in Belgium opens up a discussion of the various status applicable to Black women in Belgium, who might be citizens, permanent residents, migrants, asylum seekers and stateless persons without locating them at the border.

1.2. Clarification of terminology

Before we continue, a quick word on terminology. Each term primarily described here is further explicated in chapter 3, the theoretical framework chapter.

Spirituality consists of multiple components in this dissertation. However, for the discussion in this chapter, spirituality signifies a value and ideology used to give meaning and a framework for liberation against dehumanisation. Spirituality is, therefore, broader than institutionalised religion.

Black refers to a system of racism and of the consequences of European imperialism and colonialism. Black also refers to the reclamation of Black identity in frameworks of

liberation. Throughout the dissertation, Black refers to women of Sub Saharan African Descent living in Belgium.

Lesbian and Bisexual refer to sexual orientation, understanding the limits of these labels and acknowledging that many may express their sexuality differently. The term queer expresses an identity that is neither lesbian nor heterosexual. Thus, a capacity to love goes beyond another person's gender identity, sex, sexual, race, class, nationality, and values.

The terms queer, lesbian and bisexual are used interchangeably in this chapter to denote non-heterosexual sexuality. However, for consistency and to emphasise the intersection with biological, cisgender female sex, the terms lesbian and bisexual are used throughout the dissertation.

Queer is also a framework of liberation rooted in sexuality studies but intended to deconstruct all forms of power.

The term woman explores the expectations placed on women based on their biological sex, particularly expectations of womanhood, motherhood and reproduction.

Women living in Belgium denote the many different statuses applicable to Black women in Belgium, who might be citizens, permanent residents, migrants, asylum seekers, and stateless persons.

2. Mainstream Queer Theory

Queer theory emerged in the early 1990s and is a term used to mark the shift in critical inquiry from a singular focus on sex and sexuality, in sexuality studies, to the deconstruction of all forms of power, in queer theory regardless of how we categorise that power. It is the reclamation of a term otherwise used to describe something as odd or weird. The assumption is that nothing is fixed nor normative. Therefore, queering structural oppression exposes the power behind the construction of various power categories such as sexuality, gender, race, religion, nationality (De Lauretis 1990, 26).

Teresa De Lauretis coined the term queer theory during a 1991 conference at the University of California. She used the term as the title of an article she wrote for the first special edition of the journal *Differences.* The term queer, however, originates from the 1980s New York street art scene, rooted queer of colour culture (Halperin 2003, 2). Queer theory emerges

from the need to undo, to deconstruct forms of oppression. By using a postmodernist, poststructuralist theoretical lens, queer theory locates itself within the tradition of anti-essentialism. Queer theory draws heavily on Derrida's theory of deconstruction (1967) and Foucault's theory of sexuality and biopower (1976) (Palazzani 2012, 37). Queer theory aims to provide answers to questions beyond the binaries of sexual orientation.

Michael Warner coined the term heteronormativity to explicate the origins of heterosexual privilege and the fear of a queer planet. According to Warner, heterosexuals derive their privilege from viewing themselves as the norm of society (Warner 1991, 8). Eve Sedgwick conceptualises two competing views on sexuality to demonstrate Warner's point further. A world of binary oppositions views sexuality in one of two ways. First, sexuality is either a concern for all. Thus, challenging sexual oppression benefits everyone because it deconstructs notions of power that privilege one way of being and diminishes the other. Sedgwick calls this the universalising view. Second, sexuality is only a concern for a small fixed minority of homosexuals who require inclusion. Therefore, challenging sexual oppression benefits them only. Sedgwick calls this the minoritising view (Sedgwick 1991, 1). Consequent notions of inclusion vis à vis liberation draw on Sedgwick's minoritising view. For instance, Duggan and Puar challenge homonormativity and homonationalism because these frameworks do not challenge structural oppression. Instead, they opt for inclusion within existing heteronormative standards that oppress not only queer persons but also women (cis, trans and non-binary), racialised groups, religious groups, migrants, i.e., the majority of the world's population.

Although queer theory aims to conceptualise life beyond the centrality of sex and sexuality, other forms of oppression that intersect in the lives of spiritual Black lesbian and bisexual women, such as gender, race, class, spirituality and religion, have not been sufficiently addressed within queer analysis.

Judith Butler's work marks a significant shift in queer theory by intersecting gender and sexuality and introducing feminist queer theory. Sexuality studies until this point did not neglect cisgender. Instead, sexuality studies were divided into gay studies and lesbian studies.

In this regard, other forms of oppression, be it race, class, non-cisgender identities, religion, were categorised as a secondary form of oppression that merely complicated sexuality.

Thus, according to this view, sexuality is the primary source of oppression, and all other forms of oppression such as gender, race, class are secondary to sexuality.

What Butler's work does is argue for the primacy of gender in queer studies. According to Butler, gender is not a secondary category that merely complicates sexuality. Butler argues, instead, that the intersection of gender and sexuality are what produce other related forms of oppression, such as oppression based on sexual orientation. Therefore, according to Butler, the intersection of gender and sexuality enables us to theorise beyond binary notions such as biological vs natural, homo- vs heterosexuality which subsequently leads to compulsory heterosexuality (1990, 30). Butler's seminal work *Gender Trouble* (1990; second edition 1999) mentions other factors that complicate the terms woman and gender, such as race and class, but does not engage how these intersections impact the lives of racialised queers. Moreover, although Butler's work focuses on gender and uses transgender identity to explicate gender performativity, it does not address the specific forms of oppression experienced by transwomen, which differ from forms of oppression experienced by cisgender lesbian and bisexual women (who are not trans persons) (Namaste 2009, 20).

The importance of critiquing Butler's positioning of gender as the primary category of oppression through which other systems of oppression emerge (Butler 1998, 524) is fundamental to the lives of women, whose experiences of oppression are necessarily intersectional because, in their lives, no one category of oppression has primacy above the others. At any given time, women with intersecting identities, such as spiritual Black lesbian and bisexual women, could experience varying forms of oppression at the same time. Moreover, the canonisation of Butler's work in both feminist and queer feminist theory means that based on Butler's example, most women's experiences continue to be neglected because gender oppression is not the only form of oppression they experience simultaneously to their sexual orientation.

Butler seems to acknowledge this point. In 2010, Butler refused to accept the Civil Courage award presented at Berlin Pride, celebrating Butler's tremendous contributions to queer theory and queer activism. In the speech, Butlers stated that she could not accept the award because some of the groups that organise the Berlin Gay Pride have not understood anti-racism as an essential part of their politics. Accepting the award, Butler said, would otherwise make her complicit in racism, including anti-Muslim racism. Therefore, Butler chose to distance herself from any form of complicity (Butler, 2010).

Angela Davis responded to Butler's refusal to accept the Civil Courage award by stating that Davis hopes Butler's refusal 'will act as a catalyst for more discussion about the impact of racism even within groups considered to be more progressive such as groups of queer activists and scholars' (Davis, 2010).

In 2003, Lisa Duggan coined the term homonormativity' as a criticism of strands of gay politics that do not aim to make radical changes in our societies. Duggan argues that gay politics is merely a way for some to be assimilated into existing structures of society instead of addressing the multiple forms of oppression faced by many people worldwide. Queer theory as a politics aims to move beyond a single axis focus on sexuality and sexual orientation. Queer theory is not a tool to carve out a space for oneself while neglecting other forms of oppression that do not directly affect the own lived experience. Duggan intersects class and sexuality as a criticism of neoliberal homosexual politics.

According to Duggan, 'homonormative' politics maintain and perpetuate heteronormative institutions and politics by claiming a space for themselves within those heteronormative structures, though, for instance, same-sex union, without addressing structural oppression that continues to impede access for others because of intersecting differences such as class and sexuality (Duggan 2003, 68).

For the most part, criticism of mainstream queer theory, including feminist queer theory, has been directed towards the application of queer theory and the inability of its practitioners to theorise beyond gender and sexual oppression. By focusing primarily on sexuality and gender, whether separately or together, as the primary sources of oppression, mainstream queer theory and activism produce a 'homonormative standard' that neglects intersectional oppression experienced by queers of colour (Almaguer, 1991; Munoz,1999; Gopinath, 2007; Paur, 2007). Moreover, because the deconstruction of sexuality in modernity presupposes a shift from religious and moral discourse favouring autonomous scientific discourse (Palazzani 2012, 42), religion and morality are often polarised as oppositional to queer liberation. In response to this disconnect, queer theology emerges as a field of inquiry to address the religious agency of queer subjectivities (Schippert 2011, 70). The following paragraphs discuss queer theory at the intersection with race, class, gender and religion.

2.1. Mainstream queer theory, race and class

Queer theory has often been criticised for ignoring the effects of racism and classism in the lives of Black queers. Furthermore, the majority of queer theory and its critique emerges from the American context. This section explores discussions on the exclusion, silencing and erasure of race, class, gender and religion to establish their importance in the lives of Black female queers across the globe. Since the 1980s, Black American lesbian feminists have centred the experiences of Black lesbians in America as a response to their historical exclusion from Black liberation politics, Black feminism and white feminist sexuality studies (Lorde 1980, 3-5; Combahee River Collective Statement 1983, 264). Their historical exclusion from mainstream liberation paradigms has led to a tradition of critical thought and frameworks of liberation that centre on multiple differences.

Hammonds conveys her concerns with the invisibility of Black female sexuality in mainstream queer theory. She argues that queer theory aims to provide paradigms for addressing multiple forms of oppression. Nevertheless, as Hammonds argues, some queer theorists remain reluctant to address the invisibility of certain voices and how structures of oppression permeate queer theory, such as epistemic silencing of the intersection of race, class and gender (Hammonds 2004, 301).

Hammonds highlights structures of queer knowledge production that continue to perpetuate this problem. Rather than blaming epistemic silence on individual attitudes of Black queer theorists, Hammonds suggests we address structural inequalities such as racism, homophobia and classism, which determine who gets access to knowledge production and whose work is deemed valuable in our societies (Hammonds 2004, 303-304).

Hammonds centres Black female sexuality by using the analogy of a black hole in physics as a metaphor to understand the invisibility of Black female sexuality. Hammonds posits the following two questions: 1. If Black female sexuality, like a black hole in physics, is invisible, how do we detect it? 2. once we detect the black hole, how do we deduce what is inside? (Hammonds 2004, 310). Hammonds addresses the particularities of silencing Black female sexuality within the historical context of America. She utilises an intersectional analysis of structures of race, class, gender and sexuality, to exposes losses that occur through the generalisation of all female sexuality.

Similarly, Ferguson interrogates invisibility and representational exclusion of queers of colour in mainstream queer theory through the conceptualisation of queer of colour critique. To capture the multiple margins of Black queer sexuality, which encompasses exclusion from mainstream Black liberation based on sexuality and gender, the exclusion from queer theory based on race and class, and exclusion from Black feminism based on sexuality. Ferguson conceptualises queer of colour critique as a heterogeneous enterprise of social formations, a reading of Black culture as one that foresees in gender and sexual fluidity instead of the generalisation of homophobia within Black culture (Ferguson 2004, 2).

This process of mapping the margins and using dominant paradigms of liberation in which queers of colour are minorities draws on José Esteban Muñoz' notion of disidentification, which offers a reading of dominant ideologies as an exercise in 'decoding mass, high, or any other cultural field from the perspective of a minority subject who is disempowered in such a representational hierarchy' (Muñoz 1999, 25).

Disidentification allows for the queer of colour theorist to read dominant ideologies such as queer theory, feminism, Black feminism from the perspective of a minority subject. That way, the queer of colour theorist seeks to utilise what it can from dominant frameworks and adjust where necessary.

Ferguson's queer of colour critique then draws on women of colour feminism, materialist analysis, poststructuralist theory, and queer critique (Ferguson 2004, note 1).

Johnson's quare studies emerge in the early 2000s as another intervention against the exclusion of Black queer sexualities, particularly Black queer male sexualities, in queer studies. However, instead of naming his intervention Black queer studies, Johnson opted for a word that resonates personally and culturally. Johnson describes quare as a word used by his grandmother to refer to something odd or weird and as a name for queer people in their community (Johnson 2001, 3). Johnson's etymology of the term quare and its deployment as a theory draws entirely on Walker's definition of womanism both as a term and praxis (Johnson 2001, 2). Johnson addresses race, class, culture and community through the notion of in the flesh theory (Johnson 2001, 3). Embodiment, theorising from the lived experiences, requires a methodology that is not strictly theoretical, Johnson contends. Focusing on theory would erase the experiences of those who lack access to platforms of knowledge production, such as academic writing, due to differences in class and race (Johnson 2001, 4).

Johnson uses a mixed methodology that draws inspiration from everything around him, including performance, folklore, literature and verbal art (Johnson 2001, 3-4). Moreover, similar to Ferguson, Johnson claims that this work is necessarily interdisciplinary and draws from Black feminism and womanism (Johnson 2001, 3).

Even though both white female and Black male perspectives draw on theories of Black queer women, they nonetheless exclude Black queer female knowledge subjectivity.

2.2. Feminising mainstream queer theory

Feminist queer theory, or the feminisation of queer theory, emerges due to fundamental questions and shifts in the conceptualisation of sex and gender. For example, feminist queer theory asks whether gender identity is essential and therefore based on biologically based, or whether gender identity is socially constructed (Whittle 2006, foreword xiii).

As mentioned previously, Butler's *Gender Trouble* has been canonised as one of the founding texts of queer theory and received as the introduction of feminism in queer studies (1990; second edition 1999). Others also credit Sedgwick (1990) for being one of the founders of feminist queer theory. However, Sedgwick's *Epistemology of the Closet* isolates sexuality from gender to make claims on (homo)sexuality that go beyond the binary oppositions of gender.

The feminisation of queer theory is significant because it marks the reintroduction of gender in sexuality studies. Until the early 1990s, sexuality studies were divided into gay and lesbian studies based on how gender impacted their lived experiences differently (Jagose 2009, 158).

With queer theory comes the understanding that sexuality is not the only form of oppression that impacts our lives. The understanding that structural oppression requires a paradigm shift from the centrality of one dominant category of oppression to an introduction of an approach that assumes multiple differences and enables the queer theorist and activist to conceptualise life beyond the binary opposition of categories such as gender, sexuality, race, class (De Lauretis 1991, iii-iv).

Instead, queer theory would enable queer theorists to move beyond identity politics and conceptualise humanity in ways that tackle structural oppression. However, as Hammonds argued in the previous section, by ignoring intersectional structures of oppression and how they operate within academia, difference continues to be a ground for epistemological exclusion. As such, queer theory continues to perpetuate homonormative stances. As Lorde's famously stated in a conference paper entitled *The Master's Tools Will Never Dismantle the master's House:*

> It is a particular academic arrogance to assume any discussion of feminist theory without examining our many differences and without significant input from poor women, Black and Third World women, and lesbians. And yet, I stand here as a Black lesbian feminist, having been invited to comment within the only panel at this conference where the input of Black feminists and lesbians is represented. What this says about the vision of this conference is sad in a country where racism, sexism, and homophobia are inseparable. To read this program is to assume that lesbian and Black women have nothing to say about existentialism, the erotic, women's culture and silence, developing feminist theory, or heterosexuality and power. And what does it mean in personal and political terms when even the two Black women who did present here were found at the last hour? What does it mean when the tools of a racist patriarchy are used to examine the fruits of that same patriarchy? It means that only the most narrow parameters of change are possible and allowable (1979,1).

Lorde's criticism explicates the perpetual reluctance within academia to embrace difference as a basis for change, even within more progressive fields such as feminism. Similarly, although early feminist queer theory emerges as an epistemological response to the silencing of gender in mainstream queer theory, it rarely addresses intersecting categories of oppression such as race, trans identity class. As if life is influenced only by sexuality and cisgender identity. The continued exclusion of multiple differences in queer theory led to the emergence of a variety in discourse aimed at explicitly addressing these various gaps.

From as early as 1851, Black women in American have spoken out against their exclusion in the women's movement. Sojourner Truth's speech in 1851 is a well-established reference point in Black feminist thought and history. In specific relation to gender and sexuality studies, Black lesbian feminists had already established, by the 1980s, that gender and sexuality could not be explored in isolation from other categories of oppression, such as race and class (Lorde, 1980; Smith, 1983). Similarly, the history of transgender activism long predates the 1990s, with global networks emerging in the 1980s to respond to the extremely high prevalence of HIV/AIDS amongst transsexual women and the neglect of this subject in sexuality and feminist studies (Namaste, 2009).

2.3. Butler's performative theory

Butler's performative theory of gender posits that 'gender is the predominant cultural agent that operates on the body, through which other systems of oppression such as compulsory heterosexuality is produced' (Butler 1990, 2). Butler defines performativity as 'a unity of experience in which gender identity is constituted by the expression of gender' (Butler 1990, 30). Performativity encompasses cultural, historical, linguistic and relational factors tied to a moment of performance (Wright 2011, 75). Since Butler's performative theory rests on the intersection of gender and sexuality, it becomes significant to understand how Butler defines gender. Does Butler's conceptualisation of gender performativity also include transwomen or binary persons?

For Prosser, transgender visibility and the inclusion of the transgender question in early, foundational work within feminist queer theory, such as Butler's *Gender Trouble* and Sedgwick's *Epistemology of the Closet,* demonstrated the performativity of gender as a function of normative heterosexuality. However, Prosser further notes that whilst certain kinds of transgender phenomena are valued in these works, such as drag and camp, transsexuality is treated as suspect and an element of gender foundationalism or gender essentialism (Prosser 2006, 257). Similarly, for Namaste, the inclusion of the transgender question in early feminist, queer theory, particularly Butler's performativity, intended to answer feminist queer theory's epistemological questions (Namaste 2009, 12). For Prosser, the lack of transgender subjectivity or embodiment correlates with the intended outcome of Butler's work, which was to illustrate how transgender performativity through camp and drag crosses the binaries of gender, sex and sexuality (Prosser 2006, 260-261).

Namaste picks up on the lack of transgender subjectivity in *Gender Trouble* by positing that when centring on transgender and trans women's experiences, Butler only gives voice to their experiences transwomen to compare to non-trans women and trans men. Transwomen experiences are therefore not valued on their merit (Namaste 2009, 12-13). Transwomen become an object for understanding the experiences of cisgender women.

Using the example of a contextual analysis conducted by trans activist Mirha-Soleil Ross by examining the murders of transgender and transwomen posted on the website of Transgender Day of Remembrance (TDOR), Ross and Namaste were able to conclude that the violence and murder of trans persons occur mainly at the intersection of gender, class and race.

According to Ross and Namaste, victims are primarily sex workers, who transitioned from male to female and, as Namaste adds, the majority of whom, especially in urban cities, are women of colour (Namaste 2009, 18-20).

Namaste adds the importance of class for trans persons. Namaste argues that for the majority of trans persons, sex work is not incidental. Through sex work, trans persons can afford to rent, go shopping, even buy feminist books. For transwomen, sex work helps them afford physical transformation (Namaste 2009, 19). Namaste argues that by conceptualising the transgender question outside the lived experience of trans persons, Butler and other feminist queer theorists commit epistemic violence against transgender and transwomen based on their gender.

Feminist queer theorists then neglect how gender intersects with class and race in the lives of transgender persons and transwomen because most violence against trans people is directed towards those who transitioned from male to female. Those who, moreover, are often sex workers and Black. Therefore, violence against trans people is not, as Butler supposes, merely the outcome of transsexuality as a violation of gender and sex norms, violence against transpersons existing at the intersections of varying norms such as norms based on race, class, gender, sex, sexuality or religion (Namaste 2009, 16). Butler was surprised by the varying interpretations of transgender performativity. According to Butler, addressing the particularities of transgender subjectivity was never the original intent of *Gender Trouble*. Instead, Butler claimed in 1993 that transgender performativity is just one of many possibilities of how the intersection of gender and sexuality and the production of homosexuality can be examined and interpreted (Butler 1993, 21).

Nevertheless, scholarship on the embodied experiences of trans persons emerged as a discourse. The first transgender studies reader was published in 2006.

In response to Butler's primacy of gender in her performativity theory, other queer theorists also posed the question of other sexualities beyond the binaries of homo/heterosexuals. Yet, interestingly enough, *Gender Trouble* does not discuss the notion of bisexuality as a vehicle for the performance of gender and its relation to sexuality. A curious gap, notes Callis, as the aim of queer theory is to destabilise gender and sexual binaries (Callis 2009, 219). Discourse on bisexuality emerges in the 1970s as a reaction to the exclusion of bisexuality in sexuality studies. The discourse explores themes such as the conceptualisation

of sexuality as a behaviour rather than an identity. For example, Hemmings discusses sexuality as a behaviour instead of an identity Hemmings (2007), whilst Gammon & Isgro (2006) explore bisexuality as multiplicity. Sexuality as a behaviour rather than identity is a prominent theme in Black lesbian feminism.

2.4. Sedgwick's epistemology of the closet

Sedgwick's epistemology of the closet was first published in 1990 and articulated two competing views that Sedgwick suggests we must contend with in conceptualising queer life. The first view, a separationist view, tends to assume that sexuality and other forms of oppression are only concerns of those directly affected by the social structural outcomes. Sexual oppression then becomes a concern for homosexuals in a heterosexual oriented world. Similarly, for those at the margins of multiple differences, this view, the minoritising view, assumes that those theorists should take up concerns at the margins of multiple differences. The second view, the universalising view, assumes that systematic oppression is a general concern. A universal view of oppression articulates frameworks of liberation that intend to challenge structural oppression for all (Sedgwick 1990, 1). The universal view towards oppression was also articulated by Lorde in 1981 when Lorde stated 'I am not free while any woman is unfree, even when her shackles are very different from my own. And I am not free as long as one person of Color remains chained. Nor is anyone of you' (Lorde 1981).

Sedgwick argues against binary representations of life. According to Sedgwick, binary representations of the human condition led to humanity's binary conceptualisation as either-or such as either hetero or homosexual, male or female, black or white.

Regarding gender, Prosser notes that Sedgwick makes the best case for the irreducibility of sexuality to gender. According to Prosser, in *Epistemology of the Closet,* Sedgwick conceptualises a theory of (homo)sexuality separate from feminism. Sedgwick's work is celebrated as a moment of crossover from a focus on gender binaries, which has historically separated sexuality studies into lesbian and gay studies, into a realm beyond the binaries of gender ushered in with the critical visibility of transgender performativity in queer theory (Prosser 2006, 258).

Somerville posits that an intersectional analysis of sexuality, gender and race could have contributed to Sedgwick's deconstruction of binary oppositions in *Epistemology of the Closet*. Somerville observes that by the time Sedgwick was writing *Epistemology,* published

in 1990, Sedgwick had to be aware of feminist of colour criticisms of studying oppression, gender and sexuality, in isolation from other forms of oppression such as race and class (Somerville 2010, 196).

While Sedgwick acknowledges the importance of intersectionality in the study of oppression and names class and race as forms of oppression that complicate sexuality (Sedgwick 1990, 33), Sedgwick nonetheless conducts an analysis of homosexuality without the inclusion of race, thereby closeting the impact of race on the lived experiences of queers of colour (Somerville 2010, 198).

Criticism of feminist queer theory explored above demonstrates the continued need for identity politics when conceptualising paradigms of liberation for those living at the margins of intersecting forms of oppression such as spiritual Black lesbian and bisexual women in Belgium.

Although Black women, Black feminists and Black lesbians continue to emphasise the importance of intersectionality as a source of creativity, their work continues to be silenced in mainstream conceptualisations of human liberation. For this reason, this dissertation foregrounds the intersectional identity of spiritual Black lesbian and bisexual women living in Belgium. The following paragraphs explore discussions on the religious and spiritual agency for Black people. Before deciding on critical bodies of work to explore to address spiritual Black lesbian and bisexual women's spiritual agency, a few considerations had to be made. First, even when religious discourse addresses spiritual and religious agency such as in queer theology, does this religious discourse address the different ways spirituality takes on form for spiritual Black lesbian and bisexual women, for instance, as a communal experience rather than a private framework? What about racism, heteropatriarchy and homophobia in mainstream religious discourse? What about classism? What about sexism in Black queer theology that mainly represents the perspectives of Black queer men? How do we conceive of spiritual paradigms of liberation such that spirituality does not perpetuate systems of oppression, including racism, sexism, classism, homophobia, nationalism? Second, these questions are significant because for spiritual Black lesbian and bisexual women, spirituality and religion need to offer hope, humanise, value, representation and courage to be themselves. Through spirituality, we find meaning, community and family. Third, our spirituality reflects our values and political choices. Finally, spirituality mirrors what we stand for in this world, which includes humanity. The following paragraphs explore queer and black liberation theology and

settle on womanism as a spiritual framework of liberation rooted in Black women's culture, albeit from a US perspective.

2.5. The issue of religion in Queer theory

Considerations of queering religious thought and articulating religious agency for queer subjectivities in the Christian tradition have been a subject of inquiry in Queer Theology. Queer Theology intersects subversive paradigms developed within mainstream queer theory and applies them to the context of religious mores, religious ethics, religious community and Theology (Schippert 2011, 67). Queer Theology emerges as a response to a disconnect from conceptualising gender and sexual liberation through religious and moral discourse to postmodern deconstructions of gender and sexuality. The individual decides and not religion, nor society or nature (Palazzani 2012, 42). At the same time, secularism is positioned as the only entry point to gender and sexual liberation, particularly in the Western European context (Scott 2009, 1; Scherer 2017, 10). However, even in the United States, Jakobsen and Pellegrini argue that Western secularism provides a fascinating study regarding regulations of the body and sexuality. They argue that although the United States, much like other Western countries, entered modernity with a strict separation of Church and State, leaving religion to the privacy of our homes, Christianity continues to supply a rationale for states to regulate sexuality (Jakobsen and Pellegrini 2003, 20-22).

They further argue that modern American secularism, in its current form, is a 'specifically Protestant form of secularism' (Jakobsen and Pellegrini 2008, 3). They, therefore, aim to deconstruct the notion that American secularism emerges separately from Christianity.

Scott further develops the intersection and an intertwined history between Christianity and Secularism (Scott (2009). Finally, Scott and Asad argue that the idealisation of secularism as a vehicle for gender and sexual liberation is maintained because we lack a critical historical analysis of its development (Scott 2009, 6).

The concept of idealised secularism and Scott's subsequent notion of sexularism is addressed in the last section focusing on the particularities of the European context. This section explores religious agency for queer subjectivities amidst the contestation of power between the Church and State through regulation of body and sexuality. This section then explores the particularities of the Black queer body in the scenario of power through the work of Black queer theologian Crawley. Crawley speaks of the Black body becoming the site of

secular and sacred contention due to the dynamics of race in queer spaces and homophobia in sacred spaces.

For Scherer (2017), queer thinking religion and centring religious agency for queer bodies in a Western context requires a juxtaposition of Homosecularism (Scherer 2017, 10) and Religious heteronormativity or Aphallophobia (Scherer 2017, 5). Scherer suggests that the queer body presents a dilemma for LGBTIQ subjects, theologians and Religious Studies scholars. The dilemma, according to Scherer, is produced by the question of whether LGBTIQ subjects themselves or scholars of theology and religious studies opt to maintain religious mores and teachings that exclude queer subjectivity. Alternatively, they opt to address religious agency for queer subjectivities by deconstructing religious heteronormativity, thereby offering alternatives for the spiritual empowerment of queer subjectivities. Moreover, if they were to offer alternatives for spiritual empowerment, what would those alternatives look like (Scherer 2017, 4)?

Scherer continues by defining Aphallophobia as the fear of losing phallus or losing privileged binarist power. Having phallus through religion is defined as a hegemonic and oppressive (cis-/hetero-) male privilege. The cis-hetero male privilege is based on an essentialist gender binary and produces sexism as the expression of its hegemonic power, homo- and-bi-phobia as the expression of phallic insecurity, and, in its most violent form, transphobia (Scherer 2017, 5). Scherer argues that choosing frameworks of resistance and empowerment becomes an attack on the phallus. Scherer further argues that resistance and empowerment for religious queers either happen through 'creating new queer spiritual spaces' or by 'claiming a queer space even in queerphobic religious contexts' (Scherer 2010, 10).

Scherer's work is based on an intersectional analysis of queer identity and religious agency. Although, interestingly, Scherer evokes intersectionality by acknowledging intersectional forms of oppression that exist for religious queers, such as ethnicity, (post)colonial and subaltern status, and abled bodies. Scherer's analysis does not address how these categories of oppression intersect with religious agency to reproduce oppression for queer subjectivities. Note that Scherer's contribution claims to have coined intersectional theory. Scherer suggests introducing intersectionality in queer theology, if not by name, then at least through practice (Scherer 2017, 2).

As such, Scherer does not refer to the work of Black feminists who are responsible for introducing intersectionality, both in name and practice. This practice can be traced back to Sojourner Truth's *And, ain't I a woman?* Speech in 1851. Intersectionality is a practice at the core of Black (lesbian) feminism. The Combahee River statements conceptualise intersectionality as 'our particular task [is]the development of integrated analysis and practice based upon the fact that the major systems of oppression are interlocking' (1983, 264). Scherer's introduction of intersectionality is yet another example of the silencing of Black women's work.

Black queer theologist Crawley (2008) posits that the option to create new queer religious and spiritual spaces is not necessarily possible or desirable for some Black queer bodies. According to Crawley, religious agency for the Black queer body becomes both individual and collective agencies (2008, 202). Crawley contends that the Black body simultaneously occupies a space of sacred and secular contention. To Crawley, the Black body moves between secular queer spaces and sacred homophobic spaces. This performance between suppression and expression, journeying from one site to the next, is what Crawley conceptualises as the notion of circum-religion. Crawley draws on Roach's notions of circum-Atlantic and canalising locations, which signify journeying between specific needs, desires and habits (Crawley 2008, 202-203).

Crawley draws attention to the effects of racism and how the need for a community that does not require suppression of an aspect of oneself becomes complicated for Black people and might make Scherer's proposal to create our own queer spiritual spaces not viable for some.

What is at stake here is how we conceptualise liberation. Crawley draws on Sara Mahmood's notion of resistance to contend that we cannot conceptualise resistance only as an act of leaving one thing, to find something new. For some, especially Black queer bodies, the Church represents the place of birth, community and home, even when it is homophobic and dismissive (Crawley 2008, 204-205). Furthermore, Crawley also draws attention to the specific dilemma Christianity poses for the Black queer body and refers to Riggins Earl's Christian anthropological problem for the Black body. For the Black body, Christianity feels like trying to attain a whitened soul, and, Crawley adds, for the queer(ed) Black body Christianity feels like attaining a whitened soul with a heterosexual libido (2008, 206).However, Crawley's circum-religion is also problematic because by putting forward circum-religion, the act of queer suppression and expression as a viable form of liberation. Crawley requires the Black

queer body to continue leaving a life of attaining a whitened soul with a heterosexual libido and somehow expecting black queer female bodies to accept a life of circum-religion systems of racism, classism, homophobia, whiteness, heteropatriarchy and other systems of oppression that permeate their lived experience. Leaving Black queer bodies to a life of suppression instead of rethinking how we conceptualise liberation in the context of family, community, and spirituality is unacceptable.

3. Black Liberation Theology and Womanism

Black Liberation Theology emerged in 1960s America as a paradigm for Black liberation. Rooted in the Civil Rights and Black Power movements, Black liberation theology seeks to unite two seemingly opposing ideas: liberation from the dehumanisation of Black people in American society by reclaiming Christianity because Christianity was also deployed as a basis for dehumanising Blacks and promoting anti-Black ideologies (Cone 1989, preface vii-xii).

The use of the term Theology seems to suggest Christianity as the paradigm for Black liberation. However, Cone argues that the liberation of Black life is about giving life power to the poor and oppressed and, therefore, points to the possibility of religious or spiritual diversity in Black liberation movements (Cone 1989, preface xii). The importance of religious and spiritual diversity in Black liberation movements is better understood through Malcolm X's famous dismissal of Christianity as a white religion.

Hopkins defines Black Liberation Theology as 'the focus on how the spirit of liberation works with poor Black folk spiritually and materially, individually and collectively, and privately and publicly' (Hopkins 2002, 24). Black theology then addresses the spiritual needs of Black people at the intersections of race, religion/spirituality and class.

In 1993 Hill published an article entitled 'Who Are We to Each Other' criticising the Black community for not addressing homophobia. In the said article, Hill addresses homophobia within the Black community and argues that addressing sexual difference is just as paramount to the survival of the Black community as survival itself (Hill 1993, 347). Hill sets the parameters for a Black liberation project that addresses structural issues affecting the Black community, such as racism and classism, and secondary oppression within Black liberation politics itself, such as sexism and homophobia. However, the Black liberation project

focused primarily on race, class, religion, and spirituality, neglecting other intersections in Black people's lives.

In response to the neglect, womanism emerged in the 1980s to address the continued neglect of sexism and homophobia in Black Liberation Theology. Alice Walker coined the term womanism in 1983 (Phillips 2006, xix). Walker defines womanism as (Walker 1983; republished in 2005, xi):

'A womanist is a woman who loves other women, sexually and or non-sexually. Appreciates and prefers women's culture, women's emotional flexibility (values tear as a natural counterbalance of laughter), and women's strength. Sometimes loves individual men, sexually and non-sexually. Committed to the survival and wholeness of entire people, male and female. Not a separatist, except periodically, for health. Traditionally universalist. Loves music. Loves dance. Loves the moon. Loves the Spirit. Loves love and food and roundness. Loves struggle. Loves the Folk. Loves herself. Regardless'

Walker's treatment of womanism emerges from a need to articulate a spirituality rooted in Black women's culture, which enables Black women to resist oppression in their everyday lives. Womanism speaks to the possibility of separation as a form of resistance and self-care. It addresses the intersection of race, class, gender, sexuality, community and spiritual diversity in African- American culture. Although Walker's definition of womanism explicitly embraces sexual difference as an aspect of Black liberation, its mainstream application and incorporation into Black liberation politics, including womanism ethics and womanist theology, meant that the emphasis on sexual difference became problematic.

Two competing versions of womanism emerged at a similar time but independently from Walker's version. Hudson-Weems' Africana womanism (the late 1980s) and Okonjo Ogunyemi's African womanism (1985) both prescribe womanism differently from Walker's version.

3.1. Homophobia and HIV/AIDS in the Black community

In response to Hill's call, Douglas (1999) conceptualises notions of sexuality in the context of the Black Church. Douglas examines the origins of heterocentrism within the Black church and the broader American community. Douglas asserts that the Black community is not more homophobic than the white community. Although Douglas makes these claims, she

simultaneously admits that the topic of 'Black homophobia and the perception of rampant homophobia within the Black community requires its own book because the topic is so extensive' (Douglas 1999, 88-89). Black queer theologian Sneed (2010) critiques Douglas for taking this stance. According to Sneed, treating homophobia in the Black community as a by-product of whiteness absolves the Black community from taking full responsibility for their participation in the (re)production of homophobia, treating homophobia as a by-product of whiteness further oppresses Black queers in our communities (Sneed 2010, 277).

In a similar vein, Cohen refers to the further oppression of Black queers in Black communities as 'secondary marginalisation' (Cohen 1997, 606). Interestingly enough, although Douglas admits to secondary oppression of Black homosexuals in Black liberation movements by referring to Lorde's notion of 'horizontal hostility' (Lorde 1978, 33), Douglas minimises the responsibility of the Black community by claiming that homophobia within that Black community is merely a copy of what already exists at the level of white culture. To Douglas, the notion of Black homophobia remains a by-product of heterocentrism in white culture. Challenging homophobia, therefore, requires a deconstruction of whiteness and white privilege. Furthermore, according to Douglas, heterocentrism within white culture leads to the destruction of Black life and impairs the Black community's ability to respond to HIV/AIDS (Douglas 1999, 106).

Representations of Black queer subjectivities in womanist scholarship, Black liberation theology and Black feminist scholarship have been criticised by scholars Cohen (1997), Coleman (2006, 87) and Sneed (2010, 82-83). Sneed explains that narratives of queer existence in the Black community if they exist, present Black queers as victims of death, the plague and HIV/AIDS.

Representations of Black queers as victims speaks to an image of Black queers needing others on their behalf and advocate for a politics of tolerance instead of challenging homophobia. Sneed's comments and criticisms are made more than a decade after Cohen made similar arguments to suggest that the Black (religious) community has been more concerned with the politics of respectability than the wellbeing of Black queers.

Coleman critiques the silencing of homosexuality in the Black community and the complicity of womanists in this silencing by stating: 'I am not sure what is more disappointing, that no one womanist wrote more than a few paragraphs on homosexuality until the 21st

century, or that the one who did write an entire book on sexuality and the church focused on HIV/AIDS' (Coleman 2006, 87). Here Coleman refers to Douglas, who connects the church's need to address homosexuality to the HIV/AIDS crisis in the Black community (Coleman 2006, 87). However, again, Coleman critiques Douglas for not challenging homophobia in the Black church. Coleman also refers to womanist theologian Hill's criticism of her colleagues' failure to address lesbianism: 'Christian women have failed to recognise heterosexism and homophobia as points of oppression that need to be resisted if *all* Black women (straight, lesbian and bisexual) are to have liberation and a sense of their own power' (Coleman 2006, 87).

The following paragraphs explore two themes used to justify homophobia amongst Black scholars in the United States: preservation of the Black family and Black respectability politics.

3.2. Arguments for the preservation of the Black family

Womanist Theologian Sanders (1989) argues that womanism is a theological or ethical discourse that aims to promote the principles and practices of the Black church. One of the main aims of the Black church is to promote the wholeness and survival of the Black family. As such, articulations of womanist theology and womanist ethics that promote homosexuality go against the principle aims of the Black church (Sanders 1989, 132).

Cannon (1989) responds to Sanders' claims of a womanist theological-ethical discourse and argues that womanist theological ethics aim at providing Black women with 'moral reasoning to refuse any form of dehumanisation' (Canon 1989). Such dehumanisation includes the rejection of 'heteropatriarchal familial ideology' and 'compulsory heterocentrism' (Cannon 1989,136). Also, justifying her stance based on promoting the wholeness and survival of the Black family, Hudson-Weems (2000) explicitly distances herself from Walker's definition of womanism (Hudson-Weems 2000, 207). Instead, Hudson-Weems argues that the task of the Africana womanist is to target racism and classism together with the Africana male, and these two issues must be dealt with before the Black community can deal with any other issues amongst its members (Hudson-Weems 2000, 205). As such, Hudson-Weems advocates for a hierarchical strategy of liberation that sets racism and classism ahead of sexism and any other form of oppression, which Hudson-Weems seems to suggest must be dealt with in-house.

For Okonjo Ogunyemi, African womanism addresses race and sexism through a philosophy that 'along with her consciousness of sexual issues, incorporates racial, cultural, national, economic and political considerations' (Okonjo Ogunyemi 1985, 64). Although Okonjo Ogunyemi explicitly refers to Walker's definition of womanism, she does so only by referring to the part of Walker's definition that speaks to 'the survival and wholeness of an entire people, male and female' (Okonjo Ogunyemi 1985, 72), thereby completely ignoring Walker's reference to sexual difference.

These articulations of womanism seem to align with historical strategies of Black liberation, which have historically placed racism and classism as primary concerns for Black liberation, whilst neglecting other forms of oppression and, in particular, sexism and homophobia. Black liberation has therefore required and still requires several interventions by womanists, Black feminists, and Black lesbians and gays to demand the inclusion of differences based on gender, religion/spirituality, community and sexuality (Lorde 1980; Hill 1993; Coleman 2006; Chikwendu 2013). The following section addresses heteronormativity and Black politics of respectability as a second key theme that underpins homophobia in Black American (religious) culture.

3.3. Heteronormativity and the politics of respectability

Warner coined heteronormativity (Warner 1991). Warner defines heteronormativity as 'heterosexual culture's exclusive privilege to interpret itself as society' (1991, 8). In an interview marking the 20th anniversary of her book *Boundaries of Blackness*, Cohen refers to notions such as secondary marginalisation, heterocentrism, and respectability politics, to explain how Black elites covered up high prevalence rates of HIV/AIDS amongst Black homosexuals in media coverage of the AIDS epidemic amongst Black people in the United States. Instead of exploring the reasons behind these socio-political outcomes, such as racism, classism, and homophobia, they blamed these outcomes on the individual failings of those affected. What we need, as Cohen suggests, is a Black liberation politics that intersects race, class, gender, and sexuality.

In a similar vein, Walcott (2005) argues that excluding Black queers from the Black studies project is a function of epistemological respectability. To Walcott, the Black studies project would prefer to present an idea of blackness that is homogenous and heteronormative, thereby asserting that the only difference between blackness and white American nationalist

heteronormativity is race. To that end, anything that troubles that ideal image of blackness and complicates the assimilation of Black subjectivity to national ideals is either hidden or erased (Walcott 2005, 92).

Moreover, the precarious nature of the Black studies project within American academia is used to ward off difficult knowledge such as the complexity of diasporic communities, particularly those of Black diasporic queers (Walcott 2005, 93). Walcott's notion of difficult knowledge acknowledges notions of different sociality and sociality of mutual recognition as ways to counter the homogenisation of blackness (Walcott 2005, 92).

Similarly, Ferguson suggests a dismantling of Black heteronormative homogeneity through the notion of social heterogeneity and the construction of a queer of colour critique. Reading blackness in terms of social heterogeneity allows for an association of African American culture with gender and sexual variation, as it includes an interrogation of social formation at the intersection of race, gender, sexuality and class (Ferguson 2004, 2).

In the particular context of Black female sexuality and Black female homosexualities, Hammonds (2004) argues that Black feminists have historically maintained a culture of secrecy, a culture of dissemblance, and a politics of silence towards their sexuality as mechanisms to counteract negative historical narratives about their sexuality and their bodies (Hammonds 2004, 305-306). Therefore, Hammonds argues that the double bind for Black lesbians is best understood within the context of these cultural mechanisms, such as silence and secrecy (Hammonds 2004, 310).

Reading into Black female sexuality from a diasporic perspective, Chikwendu argues for circular consciousness as a tool for analysing the lived experiences of Nigerian American queer women (2013, 35). Wary of the numerical values used to describe multiplicities in Black liberation politics, such as Gilroy's (1993) double consciousness or Fanon's triplicate (1952), and variations of multiple subject positioning found in Black feminist scholarship, Chikwendu argues that circular consciousness allows for an open-ended and fluid interpretation of daily life and oppression that intersectionality affords (2013, 36-37).

Chikwendu also offers an account of strategic silence, wherein she posits that strategic silence is a tactic used by the subjects of her study, Nigerian American women, to explain how to navigate disclosure of their sexuality to family and community. Here, Chikwendu critiques the notion of coming out of the closet as a paradigm within queer studies and queer politics

that further marginalises those who are in the closet, even though for many Black queers, strategic silence might be one of the mechanisms available to them in order to navigate the different spaces that make up the sites of the intersectional oppression.

Chikwendu's notion of strategic silence calls to mind Crawley's notion of circum-religion, which describes how the Black body journeys through different spaces and locations, at times suppressing its sexuality and other times expressing that sexuality (2008, 202). It is worth noting that, as Sneed notes, morality, including the policing of sexuality, is not confined to specific spaces. Sexual morality and homophobia permeate our daily existence. Therefore, we cannot conceptualise liberation through notions of confinement to space and location. Again here, it remains important to distinguish between strategies used to navigate daily experiences and frameworks of liberation. As Sneed suggests, ethics of openness are required for a liberation paradigm to promote difference and diversity (Sneed 2010, 177). To Sneed, so long as Black liberation projects and certain womanist theologians remain unwilling to challenge homophobia in the church and biblical doctrine, we must seek this liberation elsewhere, outside of deity. Sneed draws on Pinn's work, which conceptualises Black religious systems and philosophies that aim to liberate Black people from dehumanisation as Black humanism. Humanity is ambiguous, complex and multidimensional. Therefore, the processing of humanisation is necessarily ambiguous, complex, and multidimensional (Pinn 2003, 76). Pinn draws on Gordon's conceptualisation of humanity and argues that Black religion is the constant effort to address difference and diversity (Pinn 2003, 80-81). Pinn contends that such an effort can be defined outside of religion and deity. Along similar lines, Appiah's notion of cosmopolitanism articulates humanism that attends to difference without prescribing behaviour, except for mutual respect and tolerance (Appiah 2007, 29). Finally, womanist scholar Coleman (2006) calls for the third wave of womanist inquiry that articulates womanist ethics from Walker's definition in today's context and addresses the epistemological gap in scholarship on intersectional, existential aspects of Black womanhood, such as sexuality, spirituality and politics (Coleman 2006, 86). The discussions above were theorised in the American context and focus on Black liberation in that context. The constant negotiation for ethics of liberation that includes Black queers, especially Black queer women, shows that, even in a context with a long history of efforts to provide possibilities for racially conscious living, Black queer women's needs remain neglected. Furthermore, though the contents of Black liberation have been theorised from an American perspective because content travels beyond

its initial borders, it is of the utmost importance to explore whether that knowledge can be applied to groups outside the United States, especially in a diasporic context of blackness.

4. LGBT rights framework in the Dutch-speaking Western European context

What does it mean to be lesbian and bisexual for a generation of spiritual Black lesbian and bisexual women living in Belgium today? LGBT rights and the ideology of gender and sexual liberation is ubiquitous in contemporary Western European politics.

Western Europe promotes itself as a beacon for protecting and promoting human rights, particularly protecting sexual minorities. Western Europe has undergone significant legal and political transformations during the 21st century. At the supranational level, these transformations have taken place in the various institutions of the European Union, including the European Court of Justice and the European Court for Human Rights (Ammaturo 2015, 1152). At the national level, a total of 15 out of 31 EU+ EEA member states endorse same-sex marriage by the end of 2019. Furthermore, varying forms of family equality rights have been enacted (Rosamund Shreeves, 2019). Pioneering the global movement towards gender and sexual liberation in 21st-century nation-building were the Netherlands and Belgium. The two countries were the first to legalise same-sex marriage in 2001 and 2003 (Fiorini 2003, 1039).

In both countries, the shift towards gender and sexual liberalism politics falls within a broader historical context of contestation for political power between the church and liberalism, which resulted in public debates between religious mores vis à vis individual liberation in the 20th century. For instance, whilst being the second country to legalise same-sex unions in 2003, Belgium only legalised abortion under certain restrictions in 1990, making it the penultimate country in Western Europe where abortion was still illegal. At the time, King Baudouin maintained that his moral conscience, based on his beliefs as a roman catholic, could not allow him to sign the law. Under the Belgian constitution, a law comes into force after being ratified by the monarch. Because the law had passed through the dual chambers of the legislative process, the King requested his prime minister to find a judicial alternative to ratifying the law by the King not to impede the democratic process. An alternative judicial procedure would enable the law to come into force without the King going against his moral conscience. The alternative presented was the King's abdication of the crown for 24 hours to

pass the law. This alternative went down in Belgian legal and political history as the abortion question (Humblet 1996, 288-289).

The shift in the 21st century from public Christian mores to state secularism is often presented as the ushering of individual freedoms through secularism and private religious plurality. Furthermore, since the 1990s, certain Western European Countries—including Belgium and the Netherlands—have been granting refugee status to individuals who fear prosecution based on sexual orientation and gender identity. Responding to the global need to protect gender and sexual minorities, the United Nations High Commissioner for Refugees released a guidance note on refugee claims based on gender identity and sexual orientation in 2008 (LaViolette, 2009). Moreover, since 2015, amidst the rise of right-wing politics and anti-immigration rhetoric, Europe has introduced significant restrictions in its migration policies due to the migration crisis (Ammaturo 2015, 1152-1154).

In this context, European countries—including Belgium and the Netherlands—have increasingly problematised migration. Western European countries—Belgium and the Netherlands included—have increasingly adhered to a European sexualisation of citizenship (Mepschen et al., 2010; 2012). Sexualised citizenship protects sexual minorities based on their status as citizens—meanwhile portraying migrants as a threat to individual liberation (El Tayeb, 2011; 2012). Most envisioned migrants are often European citizens but continue to be perceived as migrants, even though they were born in that country and continue to reside in Europe. Furthermore, the minoritisation of certain groups of Europeans, particularly those who are visibly religious, such as Muslims, means no regard for minorities within sexual minorities (El Tayeb, 2011) or regard for the difference in mores and values amongst members of religious and spiritual communities.

Through a culturalisation of citizenship, so-called migrants are constantly monitored and evaluated based on how well they integrate into the host society. Benchmarks such as the likelihood to adopt specific cultural characteristics: individualism, tolerance, personal religious identity, public secularism, tolerance and openness towards gender and sexual liberalism, even traditions such as Black Pete, are deployed to determine who has successfully assimilated into the culture of the so-called host state. (Mepschen et al. 2010; 2012). However, so-called native citizens (autochthone) escape such requirements.

The problematisation of migration has led to some of the following assumptions:

First, that there exists a dichotomy between progressive, liberal cultures vis à vis backward cultures. This dichotomy draws the lines between the Global North and Global South, with the Global North being tolerant and accepting of gender and sexual liberation, whilst the Global South still requires civilisation (El Tayeb, 2011; 2012). Second, the problematisation of migrations has led to the problematisation of multiculturalism by targeting religion, particularly Islam, due to its visibility (Mepschen, Duyvendak and Tonkens 2010, 964; Peumans, 2011; El Tayeb, 2011; 2012; Wekker 2009). These scholars have argued that while Islam is the scapegoat of attacks against multiculturalism, the issue is a fear that religion and spirituality practised by ethnic minorities go beyond the scope of individualism because its sphere of influence includes the family and community. Therefore, religion and spirituality intersected with migration govern life and interactions between families and members of communities. Religion and spirituality practised by migrants then threaten the strict demarcation of personal individualism and public secularism (Mepschen, Duyvendak, Tonkens 2010, 963). However, does this logic not apply to other normative frameworks, such as the law? Are our laws, traditions and practices free of, say, Christian influence?

Third, the perpetual minoritarian position of non-white Europeans through a language that divides native Europeans and those who have acquired European citizenship over time. For example, in Dutch, one of the most common terms to distinguish between a so-called native Belgian and so-called new Belgian is the term *allochtoon. Allochtoon* translates to new Belgian or Dutch citizens, people with a migration background, first/second/third generation migrants or foreigners. The term *autochtoon* then refers to native, white, Belgian or Dutch citizens. Furthermore, as some scholars argue, the use of such language implies a temporality in multiculturalism and denies the potential for multicultural citizenship by insisting on an open-end policy of integration, culturalisation and assimilation (El Tayeb 2012, 80).

Unfortunately, the indicators used as benchmarks of cultural difference fail to recognise positive consequences of multiculturalism: such as multilingualism, religious plurality, diverse traditions, practices and festivities. For example, despite statistics showing that both countries have pockets of high ethnic, religious, and spiritual diversity, i.e. Amsterdam, Antwerp and Rotterdam, they have become multicultural (European Urbandivercities project, 2013-2017).

Moreover, whilst cultural difference exists, the negative assumptions of multiculturalism insist upon the unlikelihood of a possibility where so-called migrants hold

progressive views on gender and sexual liberation, let alone the possibility that so-called migrant communities can be welcoming or tolerant of so-called migrant queers. Thus, the existence of racialised queers is silenced completely, and if such an identity exists, it is imagined that it is only made possible after assimilation into a civilised Western culture. Furthermore, the set dichotomy in the public imagination between so-called native and migrant cultures excludes the possibility of a multicultural society embracing gender and sexual liberation (El Tayeb 2012, 80).

For this reason, this dissertation foregrounds the intersectional identities of spiritual Black lesbian and bisexual women living in Belgium and investigate how intersectional normfare as a prerequisite for a framework for liberation, exposes components of structural oppression repeated in our political, epistemological, familial and spiritual fibres, and exclude certain groups from the protection offered by the progressive LGB rights framework in Belgium.

The following paragraphs explore some of the key themes in the debates on LGB rights in the Western European context.

4.1. Idealised secularism

21st-century modernity suggests that the only way to achieve progressive notions of gender and sexuality is through secularism. Scott (2009) refers to this phenomenon as sexularism and uses this notion to explain how secularism in the West is framed as the only possible paradigm to achieve gender and sexual liberation. Using the case of gender equality, Scott argues that at the core of sexularism is the assumption that secularism encourages the free expression of sexuality and thereby ends all oppression for women because it removes transcendence (religion) as the foundation for social norms and treats people as autonomous individuals, agents capable of crafting their destiny (Scott 2009, 1).

Scott draws on Asad's notion of idealised secularism and suggests that we idealise secularism because we do not analyse secularism in its historical context. Secularism, Scott argues, is neither singular nor stable in its origin. Interpreting it in insolation from the context in which it emerged causes us to neglect the problematic ways it has been deployed (Scott 2009, 3).

Scott then argues for historical and contextual analysis and deduces six themes to capture the global effects of secularism (Scott 2009, 6): The first theme is state formation. The contest for power against religious institutions deploys secularism. The second theme is the dissemination of secular ideals elsewhere. Note how secularism has become the marker of progress and modernity compared to other (religious) ideologies perceived as backwards or traditional. The third theme concerns changing representations of sex and gender. The fourth theme regards falling birth and marriage rates. The fifth theme is advancements in science, medicine and technology that have influenced conceptualisations of gender, sex, and sexuality norms. Lastly, the sixth theme regards economic development and the inclusion of women in the market forces. Scott seems to argue for the understanding that secularism alone did not and will not bring about gender and sexual liberation. Instead, understanding the context that led to changes in our society would prove more helpful in narrowing down the various catalysts of change. Scott's call for a historical and contextual analysis of secularism carves out the argument for a mixed methodology applied in this research. For instance, the chapter on the emergence of the Belgian LGBT rights framework argues for an intersectional, historical and contextual reading of the Belgian context to challenge the intersecting norms and systems that perpetuate invisibility for spiritual black lesbian and bisexual women in the Belgian LGBT rights framework.

If the Belgian LGBT rights framework were to be examined from the 21st century alone, then one would rightfully conclude that the rise of secularism gave way to unprecedented gender and sexual liberation. However, a context analysis offers a critical understanding of the context in which the Belgian LGBT rights framework emerges.

4.2. Creating the threat: the backward other at the intersection of race, gender, sexuality, class and religion

In 2007, Jasbir Paur conceptualised homonationalism and Terrorist Assemblage. According to Puar, the US deploys homonationalist and terrorist assemblage politics to portray itself as a queer-inclusive and tolerant society. However, this notion of US exceptionalism, the US as one of few genuinely inclusive societies, is embedded in a culture of nationalism, Islamophobia, and racism (Puar, 2007; second edition 2017). Puar's *Terrorist Assemblages: Homonationalism in Queer Times was* published at a time of heightened racial and cultural tensions following September 11, the invasion of Iraq, and after the US war crimes in Abu Ghraib prison went public (N'yongo 2017, foreword xii).

Homonationalism, as Puar suggests, is a combination of Warner's notion of heteronormativity and Duggan's homonormativity. Heteronormativity implies state-endorsed heteronormative standards for marriage and family. Homonormativity is the aspiration of certain homosexuals to be included in existing heteronormative models and institutions. Thus, homonormativity departs from queer theory, as homonormativity does not require systematic change/ a paradigm shift.

Homonationalism incorporates certain kinds of homosexuals, primarily white, middle-class, gay men who prefer things to stay as they are, so long as they too are included in state-endorsed heteronormative models and institutions, such as same-sex marriage and adoption. Homonationalism does not aim to challenge the status quo. Instead, homonationalism is the trade-off for protection against terrorists. In exchange for protection, the homonationalist promises not to trouble the political system. The terrorists, in this case, are often racialised others, particularly Muslim men (N'yongo 2017, foreword xii).

In homonormative gay politics, homosexuals (not limited to white, middle class, gay men) buy into heteronormativity for state protection from queer terrorists. The imagined queer terrorists in Puar's terrorist assemblage are Muslim men. It is important to note that Puar argues that it does not matter whether the Muslim men are terrorists or not. Nor does it matter that Muslim men could hold progressive views towards queers. It is even less likely to be considered that among the envisioned terrorists, some could require state protection because they are queers themselves. Whilst homonormative homosexuals can live their lives free of state intrusion in the privacy of their homes, other so-called queer terrorists are targeted through surveillance and monitoring. The targeting and monitoring not only denies Muslim men any level of privacy, but it also makes it impossible for queer Muslims to have access to state protection (Puar 2007, preface xxxiv).

Puar challenges the dichotomy of private and public, set up by homonormative politics. Homonormative politics perpetuate the notion that a distinction between private and public exists. A distinction long challenged by (Black) feminist work. According to Puar, this division requires rechallenging in the context of queer politics (Puar 2007, 124).

Puar argues that the dichotomy of individual, personal freedom, versus public scrutiny is racialised and gendered. It images the Muslim man as the queer terrorist due to preconceived notions of Islam that imagine Islam as essentially oppressive and anti-gay (Puar 2007, 13).

Interestingly, while setting up a dichotomy between the private and public sphere protects homonormative homosexuals, the same dichotomy is reversed and denied to queer Muslims because of consistent surveillance and monitoring. Hence, for queer Muslims, such distinction between private and public cannot be afforded even if such a dichotomy existed (Puar 2007, preface xxxiv-xxxv).

Moreover, the assumption of queer terrorists perpetuates the dichotomy between the progressive West and the backward Orient. Terrorist assemblage, according to Puar, enables an expansion of national security politics to every state that does not promote gay tolerance in the same way as the US does. As such, terrorist assemblage gives rise to a new geopolitical dynamic that distinguishes between progressive and backward countries (Puar 2007, 3-10).

Puar's analysis draws on Black (Lesbian) feminist theory such as intersectionality and systems of interlocking oppression. It also expands Said's notion of orientalism. Assemblage theory is the arranging action of mechanisms and tactics deployed by a nation-state in its politics to advance a particular agenda. For example, terrorist assemblage is used in the US to exhibit US exceptionalism through gay tolerance and advance the global war on terror (N'yongo 2017, foreword xv). Puar's assemblage theory has formed the foundation for theorising homonationalisms globally, including the Western European context. Puar asserts that assemblage theory has become a 'global political economy of queer sexualities that—framed through the notion of the "ascendancy of whiteness''—repeatedly coheres whiteness as a queer norm and straightness as a racial norm' (Puar 2007, xxxii).

Puar explores this assertion in her introduction of *Terrorist Assemblages* by examining contexts outside the US such as Britain, the Netherlands and Israel (Puar 2007, 11-31). Interestingly, although Puar's work draws on debates within Black (lesbian) feminist thought and women of colour feminisms, such as intersectionality and affect theories, Puar does not make these connections explicit in *Terrorist Assemblage*.

N'yongo suggests that this might be because Puar intends to draw attention to concerns within queer theory that Black feminism and women of colour feminisms do not address. N'yongo, therefore, suggests that we view assemblage theory as an approach alongside intersectionality in queer theory (N'yongo 2017, foreword xv). While the criticism of Black feminist work is appropriate, it is interesting to note that even the legacy of Black

lesbian feminist work, mainly referring to identity politics in intersectionality, is not explicit either.

4.3. Key Themes in Europe

Homonationalisms within the Western European context has been explored through varying notions of public discourse on sexual citizenship, most notably in sociology. Evans is credited with coining the term sexual citizenship in 1993 and identifies class as a differentiating factor. Evans defines sexual citizenship as individual rights and privileges awarded to sexual communities based on their moral worth and status as consumers (Evans 1993, 32).

Richardson complicates the traditional examination of sexual citizenship, which is often limited to an examination of sexuality and class, by addressing gender and sexuality in addition to class. Richardson interrogates the assumption of gender blindness by exploring whether conceptualisations of sexuality are gender-neutral (Richardson, 2000) or whether experiences of sexuality differ because of gender (Richardson 2000, 264). Richardson later extends her analysis to include a criticism of subject positionality in sexual citizenship epistemology (Richardson 2017, 213). Finally, Richardson argues for the decentralisation of sexual citizenship from a western-centric focus to a theorisation of sexuality outside the West to expand how we conceive of liberation (Richardson 2017, 209).

Richardson's work calls for new perspectives on sexual citizenship, which she does not address herself. As such, her analysis is an invitation to the type of work this dissertation proposes. Mepschen, Duyvendak and Tonkens examine sexual citizenship in the Dutch context against the backdrop of the problematisation of Islam and multiculturalism. They analyse how anti-multiculturalist politics in various Western European societies mobilise sexuality and women's rights (Mepschen, Duyvendak and Tonkens 2010, 963). Mepschen, Duyvendak and Tonkens claim that the term queer and, therefore, queer subject positionality and politics are marginal in the Dutch context. Instead, the term LGBT in the Dutch context is preferable. Furthermore, they argue that because the position of lesbians and transgender people are marginal in the Dutch context, the scope of their analysis focuses on the positionality of white cisgender gay men vis-à-vis Muslim communities through the intersection of sexuality, religion and culture (Mepschen, Duyvendak and Tonkens 2010, 964).

Mepschen, Duyvendak and Tonkens conceptualise the culturalisation of citizenship to demonstrate how culture and morality have come to determine and define citizenship and integration policies.

They suggest an increasing aversion towards cultural diversity by interpreting European cultures as secular, liberal, and rational compared to non-western cultures as religious, traditional, and familial. Furthermore, an integral aspect of the culturalisation of citizenship is the sexualisation of citizenship. Tolerance towards gay politics has become the benchmark for modernity in 21st-century Netherlands. Therefore, racialised groups seeking integration into Dutch society must demonstrate their openness to a culture that promotes sexual and gender liberation (Mepschen, Duyvendak and Tonkens 2010, 964).

Like Puar, Mepschen et al. focus on the juxtaposition between homonationalism and Islamophobia but maintain that although homonationalist and Islamophobic politics scapegoat Islam, anti-multiculturalism is what is at stake in a culturalisation of citizenship (Puar 2007, 22; Mepschen et al. 2010, 964). A paragraph in Mepschen, Duyvendak, and Tonkens' article (2010, 968) illustrates this point: 'Unlike Islam, Fortuyn argued, Judaism and Christianity transformed through Enlightenment by developing essential western values such as individual responsibility, the separation of church and state, and the equality of men and women.'

Fortuyn described Islam as a backward culture and a threat to his way of life: 'I refuse to start all over again with the emancipation of women and gays (Pim Fortuyn was a populist openly gay Dutch ring-wing politician who was infamous for his opposition of multiculturalism, he was tragically murdered for his views by a Dutch environmentalist in 2002). While Mepschen et al. highlight what is at stake, namely a politics of anti-multiculturalism and the general exclusion of migrant queers from sexual citizenship, their analysis bypasses how gender, class, and race marginalise certain groups of minorities.

El Tayeb then bridges this gap by intersecting race, gender and class by foregrounding queer Muslims and Muslim feminists in the Netherlands (El Tayeb 2012, 79). Finally, El Tayeb foregrounds class by examining the transnational European and the Dutch national contexts through notions such as mobility, urban gentrification and spatial politics in Amsterdam. She claims that European spaces have become increasingly hostile to migrants. Urban space planning increasingly pushes migrant communities in favour of gay consumer citizens.

According to El Tayeb, gay consumer-citizens (white, middle-class males) have become the face of the successful integration of minorities into the mainstream (El Tayeb 2012, 81). Racialised minorities, by contrast, are problematised and pushed out of previously migrant areas because they form a threat to the protection and integration of gay consumer-citizens in these areas. Urban spaces continue to push out so-called migrants to the periphery in a quest for space and affordable housing. El Tayeb refers to urban gentrification as aspects of new minoritarian policies, which continuously label citizens as so-called second and third-generation migrants, even though they were born and raised in the Netherlands. El Tayeb argues that the purpose of minoritarian policies is to deny that urban spaces have become multi-ethnic and multi-religious (El Tayeb 2012, 80). In the imagination of such minoritarian policies, the intersection of queers and Muslims trouble the public image of backward religions. Consequently, polarising policies erase queer Muslims (2012, 80).

El Tayeb draws on the tradition of intersectionality rooted in Black feminist thought to make claims for her analysis of the lived experiences of queer Muslims. However, whilst El Tayeb draws a comparison with the lived experiences of Black people in the Netherlands through the incorporation of the queer of colour activism by a collective called Strange Fruit (El Tayeb 2012, 90), El Tayeb does not explicitly address Blackness nor how anti-black racism plays out against Black queer Muslims.

4.4. Addressing race, gender and sexuality in Dutch-speaking Western Europe

Wekker takes on anti-multiculturalism and the polarisation of progressive Western European cultures against so-called backward migrant and minority cultures through conceptualising the Dutch cultural archives. In the George Mosse lecture delivered at the University of Amsterdam in 2009, Wekker posits that since coining the term Dutch cultural archives, the question asked is where these archives are. However, Wekker explains that the notion of Dutch cultural archives does not refer to a collection of readily available information stored at a particular location but that the term instead refers to a mindset exposing Dutch cultural legacies.

For Wekker, anti-multiculturalists seem to assume that Dutch culture was an open and tolerant society before multiculturalism. Furthermore, they assume that backward migrant and minority religious culture, particularly Muslim culture, has contaminated their culture (Wekker 2009, 4-5). Wekker argues that the Dutch cultural archive demonstrates that at least for the past

400 years, Dutch culture has been characterised by a Western European imperialist drive. She then analyses Dutch gay nostalgia through an intersectional postcolonial lens and argues that Dutch gay nostalgia comes from the desire to return to a time when Dutch culture was mainly white. Thus, Dutch gay nostalgia assumes that whiteness facilitates gay tolerance. On the contrary, Wekker argues that what is notable about the Dutch racial imperialist economy is that it has always been gendered, classed and sexualised (Wekker 2009, 2-4).

Moreover, Wekker argues that addressing Dutch gay nostalgia and anti-multicultural politics through the lens of identity politics and the invisibility of other sexual cultures, such as matism, draws attention to the inaccurate conclusion that Islam is the only religion religious culture targeted by Dutch gay nostalgic politics. Instead, Wekker suggests that exploring homosexual cultures amongst Black people in the Netherlands tells another story. Wekker traces sexual cultures amongst Black people in the Netherlands back to the 1950s and uncovers structural anti-migration tactics and the historical narrative of imperialism within Dutch cultural archives and Dutch gay nostalgia (Wekker 2009, 6-7). Wekker refers to work done by herself and other self-identifying women loving women since the 1980s in the Netherlands. Their work, influenced by Audre Lorde's work on gender, sexuality and race during Lorde's Berlin years, is still relevant today (Frank 2019, 10).

4.5. Black female homosexuality in the European context

Wekker's scholarship on sexual practices amongst working-class Afro-Surinamese women, through her conceptualisation of mati-work (2006), marked a significant contribution to knowledge production on diasporic histories of sexualities from the perspective of Black women in Europe. Set within the diasporic context of Afro-Surinamese creole working-class women in Suriname, Wekker's matism applies to sexual practices amongst Black women living in the Netherlands today.

Politics of Passion (2006) aims to challenge preconceived notions of gender, sexuality, marriage and kinship for Black women in the field of Anthropology (Wekker 2006, 1). It foregrounds the lived experiences of Misi Juliette but examines the lives of 25 women in 20th century Suriname. Her notion of mati-work is rooted in West-African spiritual culture, Winti religion in particular. Winti religion was used amongst slaves to construct their sexual subjectivity in the former Dutch colony. The term 'mati-work' can be traced back to Dutch

colonial literature in 1912 and describes women who have sexual relationships with women and men, either simultaneously or consecutively (Wekker 2006, 2).

The diasporic component of mati-work also refers to how the tradition and practice have travelled from Africa through slavery to Suriname and other parts of South America. Above all, Wekker explains how this book is a narrative of coproduction as it spans North America, conceptualisation, South America, place of inquiry, and herself as a Dutch Afro-Surinamese anthropologist who loves women (Wekker 2006, 4). Furthermore, movement across geographical location and time is a consistent marker of Black women's sexuality in literature. Lastly, *Politics of Passion* offers a multiplicitous reading of the self, different from the postmodern postulation of the fragmented self, and explores the search for the unity of self in subjects of her study, particularly the main character Misi Juliette (Wekker 2006, 2). As such, Wekker's mati-work offers an ethnographic examination at the intersection of race, gender, diaspora, sexuality, nationality, spirituality and class.

Additional scholarship on diasporic Black women's sexual culture in the Dutch context includes Tinsley's examination of the notion of silence as an aspect of transnational lesbian and bisexual Black diasporic culture and how this clashes culturally with Dutch gay politics. This clash of cultures is made apparent through her examination of the Oduber-Lamers case. Charlene Oduber and Esther Lamers married in the Netherlands after the legalisation of same-sex marriages in 2001. In 2004, they decided to move to Aruba with their daughter, Elisa. Once Charlene started working for the Aruban government, she wanted to register their marriage so that Esther could stay in the country (marital residence permit), benefit from her insurance (partner social benefits) and be recognised as Elisa's (comotherhood) custodian in the event of her death. While the public registry was willing to acknowledge the marriage by registering Esther into the civil registry, the government administration nonetheless refused to officially recognise them as a married couple by denying them registry in the marriage registry. Refusing to register Esther and Charlene as a married couple meant refusing to recognise Esther as the legal beneficiary of spousal social privileges and co-parent of Elisa. The government reasoned that neither the country's leadership, society, nor the church was ready for a paradigm shift. At the time, same-sex marriage was still prohibited in Aruba. The couple filed a case against the public registry based on discrimination. The case reached the Supreme Court of the Kingdom of the Netherlands in the Hague. On 13 April 2007, the Supreme court declared that Aruba must recognise same-sex marriage legally entered into before state officials in the

Netherlands, thereby forcing Aruba to become the first country in the Caribbean to recognise same-sex unions (COC website, 2007).

Tinsley remarks that amidst the public outrage from this outcome, framed as the clash of cultures between European liberalism and Caribbean tradition, hardly any attention was paid to the contradictions of globalisation and neo-colonialism. Neither did the media distinguish between arguments against the Supreme court decision from a homophobic standpoint and those against the Supreme court's decision because they saw the decision as colonial interference in Aruban state matters, bound by Dutch law (Tinsley 2010, 31).

The simplistic rendering of liberalism versus tradition, instead of a complex unpacking of the various issues at stake in the decision of the Supreme court, Tinsley argues, means there was no space even to explore the rich history of same-sex female sexuality that exists amongst the various cultures in the former Dutch colonies. She names cachepera, kambrada and mati as terms used to describe same-sex female sexuality in this context (Tinsley 2010, 31). Other terms used to refer to women's sexuality in the former Dutch colonies translate to a comrade in English, maatje in Dutch, zami in Caribbean English Creole, and mati in Suriname's Sranan Tongo' (Isenia 2019,127).

Speaking to the transnational context of the African diaspora in Western Europe, Swiss scholar Serena O. Dankwa offers a reading of same-sex female sexuality beyond the construction of lesbian identity. She conceptualises same-sex female sexuality amongst working-class women in Southern Ghana through the notion of supi and explores how women maintain a vibrant sexual culture despite the rise of homophobia. Dankwa refers to a generalised culture of discretion and verbal indirection that conceal non-normative sexualities. Furthermore, Dankwa argues that sexuality is practice or performance rather than a label or claim to social identity. Dankwa argues that the notion of supi 'implies a close friendship between two adolescent girls, regardless of whether or not their relationship has a sexual dimension' (Dankwa 2009, 192). Dankwa argues that the practice of discretion and indirection in southern Ghana must not be read as oppressive but as a norm attributed to Ghana's ethnic, dominant linguistic group, the Akan. Discretion refers to modest, fearful politeness surrounding any form of sexuality outside marriage and reproduction. Indirection is the inability to address sexual and non-sexual matters directly (Dankwa 2009, 193). As such, sexual ambiguities can exist within a culture that does not address sexuality outside marriage and reproduction openly. This mixture of discretion and indirection allows for a relaxedness

towards same-sex practices because they are never really displayed or openly spoken about (Dankwa 2009, 194). However, the notion of silent relaxedness towards sexuality is declining due to the rise of Pentecostal-Charismatic churches with homophobic rhetoric. Dankwa argues that Pentecostal-Charismatic churches have become increasingly vocal and publicly denounce homosexuality. In addition, they often offer deliverance services for homosexuals. Such explicit displays of open hostility towards homosexuality have shifted attitudes towards sexuality and replaced silent relaxedness with public naming and shaming of homosexuality (Dankwa 2009, 194). Dankwa urges a rethinking of the culture of silence, which plays into the shaming of non-normative sexual cultures (Dankwa 2009, 193).

Research on the cultures of Black female sexuality discussed above focuses on Black female sexuality in the Caribbean and African continent and how these cultures influence Black female sexuality in Europe. This dissertation proposes a shift in direction by examining Black female sexuality in Belgium and the influence of Belgian (by extension Western European) societal norms on sexuality.

Whilst identity politics might invite the suspicion of favouring one group before others. However, the literature demonstrates that an intersectional approach that stems from the perspective of vulnerable identities in society can uncover specific structural issues relevant to the majority of society. By examining the literature, certain intersections are neglected in applications of intersectionality, such as Black women's non-heterosexual sexuality, religion and spirituality, trans identity, class, and nationality (sexual citizenship). These identities reveal how we regard personhood, who is worthy of protection and who is not, individual rights, marriage, reproduction and family, abortion, self-determination, multiculturalism, tolerance and religious plurality. All these issues remain relevant and contested in 2020.

Therefore, the dissertation posits intersectional normfare, a tri-dimensional use of intersectionality, combining the framework of intersectionality and lawfare to argue that invisibility for spiritual Black lesbian and bisexual women occurs due to a. their intersectional identity b. intersecting norms they navigate and c. the intersecting levels at which norm making/ normativity occurs. Finally, a liberation framework for spiritual Black lesbian and bisexual women requires a paradigm shift to challenge this tri-dimensional intersectionality.

In part, this dissertation responds to El Tayeb's call to explore the potential of conceptualising liberation strategies based on the lived experiences of Black queers in Europe

expressed in a blog post entitled ‘Beyond the Black Paradigm? Queer Afro-diasporic Strategies’ (El Tayeb, 2018). This dissertation also contributes to existing work at the intersection of Black lesbian (bisexual and trans) feminism and womanism in Europe by Wekker and Dankwa.

5. Conclusion

This chapter explored three critical bodies of work relevant to the lived experience of spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework. First, it explored mainstream queer theory as the first point of entry for addressing intersectional forms of discrimination faced by LGBT persons. Although mainstream queer theory aims at providing liberatory frameworks for those whose lives are at the margins of intersecting forms of oppression, its application within the academy has been critiqued for producing a homonormative standard that is white, male and gay (Almaguer, 1991; Munoz, 1999; Ferguson, 2004; Gopinath, 2007; Paur, 2007). In leaving unchallenged structural oppression within scholarship and academia, we remain complicit in the reproduction of intersectional inequalities in our epistemologies and thus maintain the neglect of oppression based on the grounds of issues, such as race, class, gender and religion, which is problematic for groups such as Black lesbian and bisexual women (Hammonds, 2004).

Due to the continued neglect, erasure and silencing of specific categories of oppression, a variety in discourse has emerged within queer theory. The emergence of various discourses within queer theory has led to the fragmentation of queer theory through identity politics. Consequently, feminist queer theory addresses the invisibility of gender oppression (Butler, 1988). Black queer theory addresses the invisibility of race and class (Hammonds, 2004; Cohen, 2005). Transgender studies respond to the invisibility of transgender and trans persons (Namaste, 2009). Bisexuality studies emerge in response to the invisibility of bisexuality in queer theory (Callis, 2009). Queer theology addresses the invisibility of religious agency (Scherer, 2017). Black queer theology (Sneed, 2010; Crawley, 2012) addresses the invisibility of race in queer theology.

However, even within the discourse that emerges in response to the invisibility of specific groups within mainstream queer theory, their ability to examine intersectional discrimination remains limited because their examination does not address issues outside of their position. For example, although mainstream feminist, queer theory intersects gender and

sexuality, it rarely addresses its racial, class and cisgender privilege. Black queer theology tends to privilege the Black cis-male perspective. Furthermore, mainstream queer theory and alternative discourse within queer theory primarily focus on the American context (Walcott, 2005; Namaste, 2009).

As such, mainstream queer theory and alternative discourse in queer theory restrict liberation for Black lesbian and bisexual women living in Belgium.

The second critical body of work explored was mainstream Black liberation theology and womanism to address the need for Black people to find opportunities for religious expression rooted in a culture of Black consciousness. Although the term Black liberation theology points to Christianity as the primary religious paradigm for Black liberation, Black liberation extends to all Black people. Therefore, their liberation is more important than the religious tradition (Cone, 1989). Furthermore, others like Malcolm X have argued against Christianity and advocated for Black liberation rooted in Black people's religious, cultural heritage. Black liberation has, therefore, focused on issues of racial and class oppression faced by Black people in America (Cone, 1989; Hopkins, 2002) but has traditionally neglected other structural issues faced by some Black people, such as oppression based on gender and sexual orientation (Hill, 1993; Cohen, 1999).

Womanism then emerges in response to the invisibility of Black women and homosexuality in the Black liberation project (Walker, 1983). However, even within the womanist camp, not everyone agrees on whether gender and sexual orientation issues are a priority for the Black liberation project. For instance, Africana womanism, articulated by Hudson-Weems, is very clear that the priority for Africana women is to tackle racism and sexism together with the Africana man. Everything else, including sexuality, is secondary to challenging whiteness (Hudson-Weems, 2000). Furthermore, Hudson-Weems explicitly distances herself from Walker's invocation of sexual orientation. Thus, to date, womanist scholars remain divided on whether or not sexuality is a priority for Black liberation.

Consequently, homophobia within Black (religious) culture in America remains a point of contestation (Cohen, 1990; Walcott, 2005; Sneed, 2010) for the Black liberation project, even within more progressive discourse, such as Black feminism and womanism (Coleman, 2006). To escape the constraints of institutionalised religion, certain scholars have articulated notions of Black religion outside deity (Pinn, 2003; Sneed, 2010). These are rooted

within the Black American context and primarily speak to the perspective of the Black male lived experience. Therefore, Black American (religious) culture is critiqued for presenting Blackness as homogenous, cis and heterocentric through a politics and epistemology of respectability (Cohen, 1999; 2018; Ferguson, 2004, Walcott, 2005).

Instead of challenging homophobia, Black (religious) culture would rather appeal to a politics of tolerance towards homosexuality by Black heterosexuals to minimise the impact of disease and victimhood on the lives of Black queers (Sneed, 2010). As such, instead of tackling homophobia, Black queers are left with the option of being fluid between the expression and suppression of their sexual identity to fit in (Crawley, 2012; Chikwendu, 2013). This approach to sexual orientation seems to assume that sexuality is a behaviour that one regulates in space and time. Unfortunately, our mores and values permeate every area of our existence and are not confined by spaces (Sneed, 2010). The Black liberation project is vested in nationalist US heterocentric epistemology of respectability that would rather not deal with complications such as diaspora and Black queers (Walcott, 2005). Again, an intersectional analysis of structural oppression is neglected for an identity politics that privileges racial and class liberation above other differences such as gender, sexuality and diaspora.

Lastly, the dissertation explored contextual discussions and discourse on queer identity in Western Europe. In Western European debates and discussions on sexuality and sexual orientation, LGBT is preferred over queer. Much like in the United States, the debate in Western Europe favours a distinction between public and private life (Puar, 2007). Sexuality is addressed in scholarship on citizenship and addresses sexual orientation, class and gender (Evans, 1993; Richardson, 2000). Other times, LGBT rights are perceived through a framework of public secularism, which is promoted as the ideal paradigm for gender and sexual liberation (Scott, 2009), relegating religion to the privacy of our homes (Scherer, 2017). Therefore, visible so-called foreign religion, such as Islam, is problematised because it cannot be neatly confined to the private sphere as an individual private religious practice. It is polarised as a threat to neoliberal individualism because it permeates family and community (Mepschen et al., 2010).

Moreover, it has been argued that scapegoating religion is an attack against multiculturalism (El Tayeb, 2012; Wekker, 2009). Whilst gay consumer-citizens represent successful integration into society. Ethnic minorities continue to be minoritised through the language of migrants or foreigners, regardless of whether they are born, raised and reside in

said country (El Tayeb, 2012). This culturalisation of citizenship distinguishes between progressive white Europeans and backward others (Mepschen et al., 2010). Even though, as Wekker argues, Dutch culture, the Dutch cultural archive has always been imperialist, gendered and sexualised (Wekker, 2009).

Chapter 3. Theoretical Framework and Methodology

1. Introduction

This dissertation contributes to the study of Lesbian, Gay, Bisexual and Trans (hereinafter: LGBT) rights in the Belgian context by investigating the invisibility of spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework. Although the dissertation refers to the broader context of LGBT rights in Belgium, the scope is limited to the development of the Lesbian, Gay and Bisexual (hereinafter: LGB) rights framework. The research intends to understand how the intersections of race, class, sex, sexuality, nationality and (religious) ideology create epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework. Furthermore, by addressing the intersections of spirituality and Black female homosexuality, this dissertation contributes to womanist studies and Black lesbian feminism.

By investigating the epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework, this dissertation explores the minimum requirements for a framework of liberation for spiritual Black lesbian and bisexual women in Belgium. Which keys themes must a framework of liberation address to challenge invisibility for spiritual Black lesbian and bisexual women in Belgium?

The previous chapter, the literature review, discussed three critical bodies of work relevant for understanding and challenging invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework—namely queer theory, including black lesbian feminism, womanism and critical debates on LGBT rights in (Dutch-speaking) Western Europe. This chapter explores critical conceptual notions deployed throughout the research. Finally, the chapter introduces three notions:

1. *spirituality* as a paradigm of liberation for spiritual Black lesbian and bisexual women in Belgium

2. *intersectional normfare* as a toolkit for challenging epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women in Belgium

3. a *scotoma methodology* as an approach for making visible some critical issues that remain at the periphery and therefore perpetuate invisibility for spiritual Black lesbian and bisexual women in Belgium

2. The intersectional identity of spiritual Black lesbian and bisexual women

2.1. Spirituality

The notion of spirituality in this dissertation draws on womanist frameworks of liberation such as Cannon (1989) and Walker's (1981) conceptualisation of womanism. Cannon argues that even within theology, womanist theological ethics aim at providing Black women with 'moral reasoning to refuse any form of dehumanisation' (Canon, 1989). Such dehumanisation includes the rejection of a heteropatriarchal familial ideology and compulsory heterocentrism (Cannon 1989,136). Walker's conceptualisation of womanism mentions 'loves the spirit' without prescribing a form of spirituality. For Walker, a womanist practice is filled with love and pleasure. A womanist 'Loves music. Loves dance. Loves the moon. Loves the Spirit. Loves love and food and roundness. Loves struggle. Loves the folk. Loves herself. *Regardless.'* For Lee (2013), womanist ethics and practices are race conscious. Lee's Kauer theory draws from womanist, queer and quare theory to name, in vernacular, the experiences of Taiwanese and Asian American women loving women. An Asian American woman of Taiwanese descent, Lee is astonished by her own heteropatriarchal bias and how her dinner table reflects affluent, male-centred whiteness. In exploring various forms of women loving women in Chinese and Taiwanese history, Lee proposes Kauer theory embedded in womanist theory as a lens to capture a. Heteropatriarchal normativity in racialised communities; b. Whiteness in queer theory; c. Female sexual agency and pleasure; d. Women's spirituality and faith; e. Gender and sexual fluidity; f. Global/ transnational context of non-white communities.

The term spirituality in this dissertation has five components:

- First, spirituality refers to a framework for liberation, a system of mores and values that gives meaning to our lives and refutes any form of dehumanisation.

- Second, spirituality can be rooted in institutionalised religion, Western and non-Western philosophies. It challenges heteropatriarchy, heterocentrism, racism, nationalism, and classism in all levels of society.

- Third, spirituality promotes love, pleasure and roundness, including female sexual pleasure.

- Fourth, drawing on the notion of inspirit (which the Mariam-Webster dictionary defines as instilling life in something). Spirituality is the courage and ability to deem ourselves worthy and stand up for what feels right to us.

- Lastly, spirituality is also a political ideology.

Womanist theologians such as Kelly Brown Douglas examined the power of the Black Church in regulating and policing gender and sexuality. In *Sexuality and the Black Church*, Douglas, prompted by Hill's critique on the failure of Christian womanists to recognise homophobia, responds: 'if indeed, the womanist theology is accountable to ordinary Black people as they struggle through life to make do and do better, then as a womanist theologian I am compelled to do my best, despite my limitations, to contribute as boldly as I can to the Black struggle for life and wholeness'.

Through a Foucauldian simultaneous exploration of the Black Church and White American society as regulatory structures: defining bodies, disciplining behaviour in a prescriptive way, excluding other bodies, acts and desires, Douglas examines sexual silence within the Black community as a product of racism and heterosexism.

While black queer theology tends to focus on the experiences of male queers in the Black Church and homosexuality in the Bible (Crawley 2008, 2015; Sneed 2010, 2012), womanist theologians (Cannon, 1989; Townes, 1995; Douglas; 1999; Sanders, 1989) critique the institution of the Black Church and its role in promoting homophobia within the black community using Alice Walker's notion of women loving women. However, Walker's conceptualisation of spirituality extends beyond the Black Church and white American society. Spirituality is a frame of liberation that we can fill in for ourselves. In contrast, the conversation on spirituality in womanist ethics has been at the intersection of sexuality and religion, particularly the Black Church, and how the Black Church perpetuates sexism, heteropatriarchy and homophobia for Black people whilst externalising the blame to whiteness and white

American culture. Examining womanist ethics more closely draws attention to some of the issues left at the periphery even when womanism intends to provide a blanket canvas for spiritual Black lesbian and bisexual women. The intersectional invisibility for Black non-heterosexual women starts with a centring of theology as the framework for womanist liberation. At the same time, others such as Lee and Walker decentre theology by centring faith, pleasure, and practices rooted outside of institutionalised religions. For most, womanism challenges sexism, heteropatriarchy and homophobia in frameworks of Black liberation and systems of racism and sexism in queer liberation frameworks. Spirituality is the foundation of our actions. Decentring the Church in womanist frameworks enables an analysis of the influence of spirituality in political ideology and Black (religious) culture. Although black lesbian and bisexual women might not always identify as Christians or other institutionalised religions, spirituality is a normative framework and plays an essential role in our daily lives (Hill, 2013; Lamox, 2016).

Similarly, invisibility for racialised, religious queers has been the subject of queer studies at the intersection of Muslim identity, secularism, race, migration and queer sexuality (Puar 2007, 2017; El Tayeb, 2012; Peumans, 2017; Mepschen et al., 2010).

While some Black lesbian and bisexual women are Muslim, and others are Christian (see Godwin, 2012). Thus, spirituality for spiritual Black lesbian and bisexual women in the Belgium context could take on different forms outside the paradigms of institutionalised religion. However, the dearth of research on Black spiritual culture in the Belgian context means that a focus of analysis for this dissertation shifts to understanding the invisibility of spiritual Black lesbian and bisexual women in Belgian political ideology and the influence of various spiritual paradigms on Belgian politics.

2.2. Spirituality in political ideology

The Belgian political landscape has historically been divided into two camps, anticlericalism and clericalism. Anticlericalism is the opposition of Church power in politics. Clericalism is the influence of the Church on the State, and Roman Catholicism is the foundation of the Christian party (Witte et al. 1997, 273). Anti-anticlericalism does not mean anti-Christianity. For some anti-clericals, the influence of the Church is limited to the private sphere. Therefore, spirituality profoundly influences traditions, practices and customs related

to the family in the Belgian context (this is explored at length in chapter six on familial invisibility)

The following parties are the three oldest political parties in Belgium: the Christian democrat party is the oldest and based on the teachings of the Roman Catholic Church. The Liberal party is based on the ideology of capitalism and against the influence of the Church in politics. Finally, the Socialist party, which emerges out of liberalism, initially represents the ideas of an intellectual elite and members of the gilds (Witte et al. 1997, 50).

Later, the socialist party became the worker's party based on the ideology of Marxism. Finally, political ideology has been shaped in the last three decades through the tension between traditional Catholic values, the emergence of humanism as a political ideology through secularism and the problematisation of so-called foreign religious cultures such as Islam. The tension between traditional, conservative familial ideals and humanist-based secularism became pronounced towards the 90s. At the turn of the century, ethical issues such as abortion, adoption and the development of the LGBT rights framework become the battlefield of religion and secularism.

Belgium recognises six institutionalised religions: Roman Catholicism, Protestantism, Judaism, Greek and Russian Orthodox Christianity, Islam, and Anglicanism.

Since 1993, Belgium also recognises humanist non-religious philosophy on equal footing with the six institutionalised religions (Velaers and Foblets 2010, 110). Thus, some might argue that Belgian political philosophy is religiously neutral or that the Church is separate from the State. However, formally speaking, the Belgian Constitution neither implicitly nor explicitly refers to religious neutrality or the separation between Church and State. The principle of state neutrality or the neutrality of public authority is derived from the 2008 opinion of the Court of Cassation regarding a proposed law on the regulation of religious organisations and non-confessional religious and philosophical communities (Velaers and Foblets 2010, 101). However, bills proposing the separation of the Church and State have never been passed in the chambers of parliament.

Spirituality in this dissertation, therefore, carries a triple meaning. One, it is a liberation framework as set out above. Two, spirituality sits in between secularism and religion. Thus, for Black lesbian and bisexual women in Belgium, spirituality offers a framework for conceptualising a life that does not require them to compromise an aspect of themselves. Three,

spirituality refers to political ideology, whether state ideology, party ideology or the frameworks and ideology that underpin the work of political groups, such as the Belgian LGB movement. Hence, any political ideology that intends to speak to the needs of spiritual Black lesbian and bisexual women in Belgium needs to address spirituality as an essential aspect of their lives. These three aspects of spirituality form the topic of examination in chapter 7 on spiritual invisibility.

2.3. Black

Theoretical frameworks on Blackness in the European context include Gilroy's Black Atlantic (Gilroy 1993) and Triple consciousness or triplication by Fanon (1952), drawing on W.E.B. DuBois' double consciousness (DuBois 1903. Both notions centralise a dichotomy of navigating life between two cultures and the transnational nature of diasporic culture. Diaspora in this context de centralises national borders and seeks answers to questions of belonging outside nationality restrictions. However, even before Gilroy's Black Atlantic, Afro-German women posed similar questions of belonging, the intercultural and transnational nature of diaspora within the context of Germany through the notion of Afro-Deutsch (Ayim, Oguntoye and Schultz 1989). Themes specific to their context in Germany included colonialism, mixed-race identity, being post-war occupation babies and the hypersexualisation of the Black male bodies in Germany. By extracting Diaspora and Blackness from the national context into the transnational and intercultural context, at times, we risk losing the difference and specifics of a particular context or a particular diaspora within a given context. As Ayim, Oguntoye, and Schultz demonstrate intersecting diaspora, the cross-cultural mix, examining diaspora within a specific context, such as Germany, exposes themes that are particular to context but contribute to an understanding of diasporic experiences. Furthermore, Mazrui warns against a homogenous conceptualisation of the African Diaspora:

> 'we must remember that historically there are two African Diasporas and not just one. There is first the diaspora created by the slave trade, the dispersal of people of African ancestry sold as slaves both across the Atlantic and across the Indian Ocean and the Red Sea. The overwhelming majority of these Africans are Black, drawn from the south of Sahara, but there is also a Diaspora created by colonialism, by movements of population instigated or provoked either directly by the colonial experience or by the ramifications and repercussions of the colonial aftermath' (Mazrui 1975, 302).

Ifekwunigwe (2010) also argues for a contextual and specific understanding of a black diaspora. According to Ifekwunigwe 'each of these situated African diasporic communities

represent diverse outcomes to similar but not necessarily simultaneous macrosocial, economic, and historical processes, which are unifying but not unified. Continuous, dynamic, interlocking, interdependent global networks of geopolitical spheres, each of whose localised intersectional constituencies are also sensitive to and impacted by the political machinations of the nation-states of which they are part' (Ifekwunigwe, 2010)

Moreover, Phil Cohen (1999) argues that' diaspora has become the master trope of migration and settlement and is indiscriminately deployed to describe travellers and cosmopolitan elites as well as political refugees, economic migrants, and guest workers' (Cohen,1999). Thus, all three scholars, Mazrui, Ifekwunigwe and Cohen, call for acknowledgement of differences in the experiences of diaspora and Blackness. For the Belgian context in this dissertation, Blackness refers to women of sub-Saharan African descent living in Belgium regardless of their citizenship status. While recognising similarity, Blackness draws attention to their specific experiences that might differ due to their specific intersections of race, class, nationality, sex, sexuality and religion. Blackness represents the consequences of European imperialism and colonialism, a past that is often publicly minimised and or erased. Goddeeris argues that the particularity of the Belgian context is the absence of a counternarrative in the public debate through silencing. According to Goddeeris, until US author Hochschild accused King Leopold II of genocide in 1998, Belgian's historical world was marked by indifference towards Belgian's colonial history (Goddeeris 2015, 435). However, Verbeeck notes a shift in Belgian public consciousness from a culture of denial and neglect to a more critical narrative on Belgium's colonial history (Verbeeck, 2020).

Furthermore, the notion of Blackness in this dissertation extends beyond the former colonies but refers to the many ways that women of Sub Saharan African descent have found themselves living in Belgium, particularly in Flanders. Blackness signifies the shared experience of racism, regardless of whether Black people in Belgium citizens are, migrants, refugees, asylum seekers and stateless persons. Blackness is also the dynamic concept of migration because spiritual Black lesbian and bisexual women in Belgium navigate conceptualisations and norms regarding their intersectional identity in Sub Saharan Africa and Western Europe. Similar norms occur and continue to reoccur regardless of space or geographical location. The term Black acknowledges the differences in political privilege and representation with class, nationality, colourism, linguistic and cisgender privilege. For instance, the experience of sexuality differs significantly between those who are citizens and

those who seek international protection from persecution due to their sexual orientation. Moreover, the introduction of international protection based on sexual orientation in international law introduces a new Black (queer) diaspora. Lastly, Blackness is a shared experience of exclusion, and continuous minoritisation (El Tayeb, 2012), which manifests itself through terms such as *allochthoon.* A term used to distinguish between native and non-native Belgians such that regardless of how long Black lesbian and bisexual women live in Belgium, they and their children will continue to be referred to as generations of migrants, in the way Lievens articulates (Lievens 1998, 125):

a. first generation migrant, those born outside of Belgium and who migrated to Belgium after 14.

b. middle generation migrated to Belgium between the ages of 6 -14.

c. second generation, born in Belgium with one parent who is not an EU citizen; or those who migrated to Belgium before the age of 6.

d. third generation with a migratory background but born in Belgium and whose parents were also born in Belgium. However, their grandparents were born outside of the EU and migrated to Belgium.

2.4. Lesbian and bisexual

The terms lesbian and bisexual refer to sexual orientation, understanding the limits of these labels and acknowledging that many may choose to express their sexuality differently (Wekker, 2006; Dankwa, 2009). The term queer here is used to express an identity that is neither lesbian nor heterosexual. Instead, queer represents the capacity to love based on the compatibility of character and fundamental values. Thus, a capacity to love goes beyond another person's gender identity, sex, sexuality, race, class, nationality and religion. The terms queer, lesbian and bisexual are used interchangeably in this chapter to denote non-heterosexual sexuality. However, for consistency and to emphasise the intersection with biological, cisgender female sex, the terms lesbian and bisexual are used throughout the dissertation. The Belgian LGB movement uses the terms homophile, homosexual women and lesbian interchangeably. However, bisexuality is mainly invisible. To resist definition by others, Black women have expressed their sexuality in various ways in the contexts explored in the literature. For instance, some womanists refer to Walker's definition of non-heterosexuality (Walker,

1983), and matism refers to sexuality as a behaviour instead of an identity within a sexual culture among Afro-Surinamese women (Wekker, 1996). The term woman refers to biological sex and emphasises the limitation of a societal understanding that women are only mothers without sexual desires (heteronormative lens) or non-heterosexuality as lesbianism, which limits women's sexual desires to other women (homonormative lens), the term woman also refers the problematisation motherhood for non-heterosexual women and unmarried women. Thus, the intersection of female sexuality, pleasure, sexual fluidity and motherhood are often left invisible in liberation frameworks. Although gender and sex might be used interchangeably, they both refer to biological sex.

2.5. Belgian LGBT rights framework

The Belgian LGBT rights framework refers to the acknowledgement of homosexuality in Belgian society and the protection of lesbian, gay and bisexual persons. The Belgian LGBT rights framework also refers to perspectives on sexuality in Belgium, particularly societal mores regarding family, desire, womanhood and motherhood. LGBT refers to Lesbian, Gay, Bisexual and Trans persons. Furthermore, the Belgian LGBT rights framework refers to the framework of sexual liberation in the Belgian context. However, the dissertation's scope is limited to Black lesbian and bisexual women, referring to the LGB movement and rights. The G in the movement refers to the hypervisibility of white homosexual men in the Belgian LGB movement and the simultaneous invisibility of lesbian and, particularly, bisexual women. The G refers to a homonormative framing of the Belgian LGBT rights framework that stems from the perspective of white gay men and, for a long time, focused on personal rights and privacy, disregarding family rights and the disruption of heteropatriarchal family ideologies.

Although the dissertation argues that Black women refer to their non-heterosexuality in different ways, for consistency, the dissertation refers to the definitions given to non-heterosexuality in the UNHCR guidelines on asylum claims based on sexual orientation and gender identity.

Using the UNHCR definitions also offers a description of sexuality at the international level. Thus, the UNHCR guidelines define LGBT identity as (UNHCR guidelines 2012, 4):

1. A lesbian is a woman whose enduring physical, romantic and or emotional attraction is to other women.

2. Gay is often used to describe a man whose enduring physical, romantic, and/or emotional attraction is to other men, although gay can also describe gay men and women (lesbians).

3. Bisexual describes an individual who is physically, romantically and or emotionally attracted to both men and women.

4. Transgender describes people whose gender identity and/or gender expression differs from the biological sex assigned at birth.

The Belgian LBGT rights framework consists of legal cohabitation (2000), a general anti-discrimination rights framework (2003), marriage equality (2003), adoption (2006), the law on transsexuality (2007), co-motherhood (2015) and the law on transgender identity (2017). By centring spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework, the dissertation shifts the focus to the intersections of expectations of womanhood, including motherhood, spirituality and sexuality. In addition, it explores spiritual Black lesbian and bisexual women's ways of navigating heteropatriarchal family ideologies, sexual pleasure and sexual fluidity.

3. The Belgian political and legal context

The following sections explore essential terms for understanding the Belgian political and legal context. First, the Belgian state structure is complex and ever-changing. The complexity not only makes it difficult to explain, but it is also certainly one way in which spiritual Black lesbian and bisexual women, like many others, are excluded from articulating their needs. Second, Belgium is part of the continental legal system, sometimes also referred to as civil law. As such, the law is written in abstract terms and applies to a broad spectrum of circumstances. Understanding this process is relevant for making claims legible.

3.1. Constitutional

Belgium is a constitutional parliamentary monarchy. (www.belgium.be)

All power and authority is derived from the state and exercised according to the prescriptions of the constitution (article 33 of the constitution). Belgium adopted its constitution in 1831, after its independence in 1830. Belgium is a federal state divided into geographical and linguistic regions (article 1 of the constitution). The King is the head of state

(article 37 of the constitution), the third branch of the federal legislature (article 36 of the constitution) and the commander in chief of the army (www.belgium.be).

3.2. Monarchy

The King is inviolable and only responsible for his actions through his ministers (Article 88 of the constitution). The King appoints and discharges his ministers (Article 96 of the constitution). As such, all actions taken by the King are co-signed by a minister (article 106 of the constitution). The ministers are responsible for the actions of the King.

Only Belgians can be appointed as ministers (article 97).

Understanding the role of the King will be particularly important to understand the discussion in chapter 7 on spirituality invisibility, where this role is at stake after WWII in the question royal. Central to the question royal is the partial decriminalisation of abortion.

3.3. Parliament

The legislative power in Belgium is exercised either unicameral (article 74 of the constitution), in one chamber of parliament, or bicameral (article 77 and article 78 of the constitution), in both chambers of parliament. The chambers of parliament consist of the House of Representatives and the Senate. The King is the final arm of the legislative branch. As mentioned in the section above, a bill becomes law when signed and declared by the King. The signing and declaration process is called the ratification and promulgation of the law (article 109 of the constitution).

The legislative power is exercised at the federal and regional levels. Although, most themes in this dissertation are decided at the federal level, such as personal and family law, requiring amendments to the civil and penal code. Due to the derogation of state power, certain aspects of a particular theme are decided at the regional level. For instance, adoption is an aspect of family law. However, aspects of the adoption procedure are defined at the regional level. Moreover, the normative framework at work in this dissertation is not limited to formal law but includes material norms and other normative frameworks such as religion, spirituality, tradition, culture and customs. Regional differences play into political debates.

A bill is initiated by one of the two chambers of parliament (article 75 of the constitution). A bill becomes law once approved either by one of the two chambers or by both

chambers. Then, based on the topic, a majority vote approves the bill (articles 74, 77 and 78 of the constitution). Sometimes, like in 1990, during the debates regarding the partial decriminalisation of abortion, an alternative majority may pass a bill in the chambers. An alternative majority is a majority made up of votes from the ruling coalition and the opposition.

In a coalition agreement, political parties agree on the issues they will address during their tenure. A political tenure is typically four years.

A political agenda is implemented jointly by members of the legislative chamber and the coalition government as the executive.

3.4. Flanders region

Regarding the LGB movement, because the focus is on Flanders, the LGB movement discussed in the dissertation refers to the developments made in Flanders. Flanders is geographically located in Northern Belgium and shares a border with the Netherlands. Belgium is a federal state, divided into geographical and linguistic/cultural regions. It has six regions. Geographically it is divided into Flanders, Wallonia and Brussels. The linguistic division translates to a bilingual French/Dutch capital region in Brussels, a mainly French-speaking Southern Belgian Wallonia, except at the border with Germany, with German-speaking Belgians, and a Dutch-speaking Northern region in Flanders (also referred to as Flemish).

4. Legal context and terminology

4.1. Anti-discrimination and equality

The general anti-discrimination rights framework of 2003 recognises 19 grounds for discrimination. Relevant to the lived experiences of spiritual Black lesbian and bisexual women are the following grounds: sexual orientation, gender, race, nationality as an aspect of race, religious or philosophical beliefs, and wealth. Except for discrimination based on gender, the federal agency assigned the mandate to monitor discrimination claims is UNIA, an inter federal government agency (see the website in English www.unia.be). While UNIA deals with discrimination, the institute for equality between men and women deals with gender inequality at the federal level (see the website in English https://igvm-iefh.belgium.be/en).

In the Belgian context, discrimination is the unjustified difference in treatment between persons in comparable circumstances, based on characteristics protected under the 19

grounds of discrimination (UNIA website). In contrast, inequality is differential treatment based on gender, class and nationality. Belgium recognises only these three grounds of equality in article 10 of the constitution.

More generally, Article 10 of the Belgian constitution prescribe the elimination of class and gender discrimination. It proclaims that 'all Belgians are equal before the law and that the equality of men and women is guaranteed'. Therefore, constitutionalised protection from inequality is limited to class due to the social struggle and inclusion of men into the political system (1919) and gender equality due to women's suffrage and their inclusion in the political system (1948). Lastly, article 10 guarantees equality based on nationality.

The constitution recognises equality for all Belgians based on gender and class (article 10 constitution). However, issues of race, religion and sexual orientation fall within the framework of anti-discrimination. Thus, the LGBT rights framework is framed within the legal framework of discrimination and not under the constitutional guarantee of equality. The distinction between constitutional protection and anti-discrimination creates a hierarchal order and guarantees better legal protection for persons whose intersectional identity falls within the categories of nationality, gender and class.

Issues of discrimination in the literature are often framed in terms of equality and inequality amongst specific groups. However, it is essential to note that equality only applies to three categories. The distinction between the two means that particular intersectional identities, such as spiritual Black lesbian and bisexual women in the Belgium LGBT rights framework, cannot seek equal treatment because aspects of their identity, such as their race, spirituality, sexual orientation, are not guaranteed protection against unequal treatment.

4.2. The influence of Europe

Before the year 2000, the European courts only recognised two grounds for discrimination: gender and nationality. The development of the Belgian LGBT rights framework in tandem with developments at the European level is addressed in chapter 4 on the emergence of LGBT rights in Belgium and chapter 6 on familial invisibility.

Moreover, consistently in the European Court for Human Rights case law from 1953 until after 2000, the ECtHR court recognised discrimination based on sexual orientation but argued that governments were justified in discriminating against homosexuality for reasons of

public morals and public health. The European Court of Human Rights has long upheld heteropatriarchal family ideology and heterocentrism due to a lack of consensus among European member states.

4.3. Admissibility

When a claim is brought before a court or a public authority, it must first determine whether the claim falls within the scope of its competency or jurisdiction. For instance, to access the European Court for Human Rights, one must have exhausted all remedies at the national level (article 34 of the European convention). The determination of competency or jurisdiction is often referred to as the admissibility test.

Once a case has passed the admissibility test, the judge or the relevant authority assesses the merits of the case based on the facts presented. Thus, even if the European Court for Human Rights would hold a more view towards issues at the national level, the claimant would first have to exhaust all national remedies before applying to the court. Moreover, framing the case according to the law's wording will determine its admissibility and merits for the admissibility test and the assessment of the merits. Thus, the framing of the case becomes an additional hurdle for presenting a case at the European level. Furthermore, the court's role is often interpreted through the principle of 'la juge est la bouche de loi', based on Montesquieu's exploration of the principles of law. For example, in De l'esprit des Lois (Montesquieu, 1748), Montesquieu argues that the role of the judge is to speak the law, not to make the law. It is not the judge's role to read beyond the law's prescriptions or interpret between the lines. Therefore, the court cannot address issues that are invisible or beyond its prescribed competence.

Chapter 5 on epistemological invisibility for spiritual Black lesbian and bisexual women questions our understanding of sexuality from the perspective of Black female sexuality. Who decides what homosexuality is? What definitions do courts use to define and determine homosexuality? Does international law provide remedies for the erasure and silencing of differences in how sexuality is experienced? Does the understanding of sexuality in international law include how women of different cultures and backgrounds, i.e., Black women, articulate their sexuality?

4.4. The hierarchy of laws and courts

The hierarchy of law and courts in Belgium is best understood as follows:

In so far as the EU has legal competency on the matter, then EU law, in principle, is above national law. Depending on the binding character of the international legal text, the international level occupies a space between national and European law. However, in matters of personal and family law, national law determines the developments in the EU law, as is demonstrated in the Grant case regarding the recognition of homosexual relationships as equal to long-term heterosexual relationships; or the question of whether the right to marry includes the right to children, i.e., through adoption based on article 12 ECHR (see discussions in chapter 6 on familial invisibility). Regional laws are the outcome of delegated competencies.

As for the Courts, the highest courts in Belgium are the Constitutional Court (Supreme court) and the Court of Cassation. Both courts are referred to in the text, but the distinction between the two is that the Court of Cassation deals with matters of public administration and is the relevant highest court in chapter 5 on epistemological invisibility. In comparison, the Constitutional court is the highest court dealing with matters related to the Belgian constitution.

4.5. Formal or material law

The law is either formal or material. Formal law is often written follows procedures prescribed by the law. In contrast, material law refers to content and is found in different normative frameworks and practices. As such, we are not always able to trace the origins of material law.

A law is formal after passing through the chambers of parliament according to the prescriptions of the constitution. A relationship is equally formal once it fulfils the prescriptions of the law. For instance, marriage is a formal relationship because it is defined in the law and can only be recognised as marriage if it fulfils the requirements for a relationship to be called marriage (see articles 123-226 septies of the Belgian civil code).

We find material in principles, customs, traditions, religion, spirituality, philosophy and other normative frameworks. These norms are law not because they adhere to prescriptions found in the formal law of society (although others might argue that religions, spirituality, and philosophy have written texts that prescribe law). The importance of material law in this

dissertation refers to various normative frameworks, such as spirituality, that give meaning to our lives regardless of whether they are written or not. Such normative frameworks derive their authority from our compliance to specific standards and practices. Their authority is left intact because we do not question it. For example, take adoption in the context of extended families in Zambia addressed in chapter 6 on familial invisibility. Adoption is an informal process of collective responsibility for family that is not part of the written (common) law but a responsibility based on custom, family importance, and family continuation. Even where there is no set punishment, we adhere to certain standards because that is how things are. This authority of material law, informal laws and practices in combination with formal laws and practices are referred to as norms within this dissertation. Defining laws as norms serves as the basis for the notion of normfare introduced at the end of this chapter.

4.6. Exceptionalism

Exceptionalism has a double meaning in this dissertation. On the one hand, it refers to the Western paradigm of progress and how Western Europe and the US promote themselves as exceptionally progressive countries in promoting human rights, especially gender and sexual liberation. On the other hand, exceptionality refers to exceptions in the law (exceptions to the norm or being outside the norm).

In 2007 scholar Jasbir Paur published *Terrorist Assemblages* and developed homonationalism to critique 21st-century queer state tolerance. Queer tolerance and promotion of LGBT rights have become a marker of proper citizenship and national sovereignty. States and their citizens are classified as progressive or backward depending on the acceptance and tolerance of LGBT persons.

Puar examines homonationalism in the context of US exceptionalism.

Also theorising about state-endorsed citizenship, but in the context of the Netherlands, Paul Mepschen and others (2010) examine how politically endorsed sexual freedom and the distancing from traditional moralism induce another, who is foreign to the Dutch cultural tradition of tolerance. Using the notions such as culturalisation of citizenship, they distinguish how Islam has become the focus of that othering. Also, speaking from the Dutch context as a site of queer/islamophobia contention, Fatima El-Tayeb (2012) explicates how the framing of Islam as homophobic and sexual tolerance as quintessential European value means that queers cannot be Muslim, and Muslims cannot be queer. Thus, the juxtaposition between religion and

queer identity, particularly the intersection of religion and migration, proves highly problematic in Western contexts and renders racialised religious queers invisible.

Exceptionalism in the law juxtaposes normativity from exceptions. For instance, for new forms of relating and family formation to be protected under the framework of the civil code, however, they require social acceptance to legitimise an amendment of the law. Even when same-sex marriages, same-sex couples, and same-sex families are incorporated into the law, the social paradigm maintains the primacy of nuclear heteropatriarchal family formations based on the traditions of Catholicism that exclude extended families and marginalises queer families. Efforts to address the exclusion of persons and families from the protection of Belgian familial rights framework have historically included single mothers, children from extramarital affairs and co-motherhood (addressed in chapter 6 on familial invisibility). While secularism is offered as a paradigm of liberation, we must remember that anticlericalism outmanoeuvred the Christian democrats in 1999 for the first time in more than 50 years (addressed in chapter 7 on spiritual invisibility), not necessarily because everyone suddenly prescribed to secularism, but because the women's rights movements, LGBT rights movements and the movement for the recognition of humanist philosophy in politics joined forces.

5. Creating a lens for investigating invisibility

5.1. Intersectionality

The theoretical lens deployed in this dissertation draws on intersectionality and lawfare. The notion of intersectionality draws on Crenshaw's conceptualisation (Crenshaw 1989; 1991,1243-1244). Crenshaw distinguishes three kinds of intersectionality: namely structural, political and representational intersectionality.

5.2. Structural intersectionality (Crenshaw 1991,1245-1251)

Crenshaw conceptualises structural intersectionality as 'the often, unintentional, outcome of structural interventions proposing uniform strategies to counter oppression for an entire group without consideration for the differences within the group (Crenshaw, 1991).

In the Belgian context, structural intersectionality occurs when laws and strategies to eliminate discrimination for LGB persons in Belgium fail to consider other pre-existing vulnerabilities for certain groups of LGB persons, such as spiritual Black lesbian and bisexual women living in Belgium. Structurally intersectionality then is the invisibility that occurs for

spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework due to the gaps in legislative strategies aimed at eliminating discrimination for LGBT persons and their families without consideration for the fact that spiritual Black lesbian and bisexual women living in Belgium experience other forms of discrimination such as racism in queer frameworks or exclusion from protection under LGBT rights based on their nationality. Furthermore, they might experience marginalisation in their cultural and religious community.

5.3. Political intersectionality (Crenshaw 1991, 1251-1282)

The second form of intersectionality is political intersectionality and refers to the political responses to the oppression experienced by certain groups. For example, if in addressing oppression experienced by LGB persons in Belgium, the LGB rights movements formulate their political agenda to focus solely on issues of sexual orientation, without regard for how other intersecting forms of oppression affect the lives of certain LGB persons, such as spiritual Black lesbian and bisexual women. In that case, political intersectionality for spiritual Black lesbian and bisexual women occurs through the gaps in formulating a political agenda aimed at addressing sexual oppression only.

Political intersectionality is, therefore, the invisibility of intersecting issues faced by Black lesbian and bisexual women living in Belgium in the political agenda of the Belgian LGB liberation movements. It is oppression that occurs because intra-group differences in experiences are not addressed. Due to structural and political intersectionality, spiritual Black lesbian and bisexual women living in Belgium are placed in a difficult position. They become a minority within existing minorities. The focus on one aspect of their identity at the structural and sociopolitical level means that they have to split their political energy amongst the different groups fighting against one aspect of the oppression they experience. In this case, spiritual Black lesbian and bisexual women would have to split their political energy amongst six different political agendas, each tackling racism, classism, homophobia, non-secular ideologies, nationalism, and sexism separately. Therefore, spiritual Black lesbian and bisexual women face the following dilemma:

a. They are either forced to split their political energies amongst the various movements that address one aspect of their intersecting identities, or

b. They are forced to choose one movement that addresses one of the forms of oppression they experience and thus, participate in the marginalisation of other forms of intersecting oppression that affect their daily lives.

Moreover, choosing either one of the two options prevents them from using their political energy to form a liberation framework and a movement that better addresses the full extent of oppression they face.

Furthermore, the situation for spiritual Black lesbian and bisexual women living in Belgium becomes complicated because Belgium already has one of the world's most progressive LGBT rights frameworks. Therefore, one could argue that much of the work addressing oppression faced by LGB persons in Belgium based on sexual orientation has been done. However, addressing the Belgian LGBT rights framework highlights critical issues that perpetuate invisibility for spiritual Black lesbian and bisexual women.

5.4. A critical approach to intersectionality

The importance of going back to Crenshaw's conceptualisation of intersectionality is twofold. First, Crenshaw's conceptualises intersectionality in the context of the law focusing on claims based on rights. However, this dissertation argues that a minimum liberation requirement for spiritual Black lesbian and bisexual women involves a decentralisation from the law through an expansion of intersectionality to other normative frameworks that influence and co-exist with the law, such as tradition, religion, custom, and culture.

Second, Crenshaw's intersectionality in this dissertation is used to address black female homosexuality. Although intersectionality is part of a long history of Black feminist thought (going back at least 1851), including Black lesbian feminism, black queer theory and women of colour critique, intersectionality has been critiqued for reproducing invisibility for queer minorities. Puar, for instance, argues that

'categories privileged by intersectional analysis do not necessarily traverse national and regional boundaries nor genealogical exigencies, presuming and producing static epistemological renderings of categories themselves across historical and geopolitical locations. Indeed, many of the cherished categories of the intersectional mantra, originally starting with race, class, gender, now including sexuality, nation, religion, age, and disability, are the product of modernist colonial agendas and regimes of epistemic violence, operative

through a western/euro-American epistemological formation through which the whole notion of discrete identity has emerged, for example, in terms of sexuality and empire.' (Puar 2012, 3). Puar's critique is that intersectionality once again represents a constant with variations instead of variations onto variations. Puar's argument is based on a reading of Deleuze and Guattari's assemblage in A Thousand Plateaus, which should be understood as *agencement*. 'Agencement is essentially the mapping out/ laying out of events that might have led to a particular outcome' (Puar 2012, 5). Thus, Puar essentially critiques the crystallisation of intersectionality as a framework for interrogating the lived experiences of women of colour- the subject is fixed, and the examination categories are also fixed- race, gender and sexuality- black heterosexual women.

When intersectionality is intended to be a dynamic investigation process, intersectionality, read as assemblage, enables us to piece together that what happened, which events put together in a particular context might have led to the occurrence of injustice. Which means we have to remain curious beyond subject and objective. As such, Puar argues for a decentralisation of the subject. An intersectional identity is merely a starting point of investigation and enables us to address intersecting themes and key issues. Thus, the dissertation explores spiritual Black lesbian and bisexual women's identity in the Belgium LGBT rights framework as a starting point for exposing critical issues that lead to invisibility for certain groups in this context and deducing the minimum requirements for liberation. Intersectional identity in this dissertation is less about an existing group than about identifying the most vulnerable intersections in a particular context. The intersectional identity becomes the focus that helps identify the critical issues and themes that must be minimally addressed if the Belgian LGBT rights framework were to apply as a framework of liberation for spiritual Black lesbian and bisexual women in Belgium.

5.5. Identity politics

Identity politics is the politicising of identity. It uses a specific group identity to make political claims and expose structural exclusion (Combahee River Collection, 1986). Even within Black lesbian feminism, intersectionality as a politics of identity was never about the liberation of Black lesbians only. Therefore, identity politics in Black lesbian feminism points to the intersections yet to be explored in the Belgian context. As such, while Puar's arguments are encouraged. Thus, Black lesbian feminism offers a framework for addressing Puar's concerns.

Spirituality stands at the intersections of religion and secularism and explores a new space between the two. Black stands at the intersections of whiteness and other racialised minorities, such as Northern African Muslims. Blackness introduces a new diaspora in the Belgian context that is often ignored and neglected, despite a clear connection between Sub Sahara Africa and Western Europe. Lesbian and bisexual are at the intersections of the hypervisibility of white gay men in the Belgian LGBT rights framework and the invisibility of racialised queers, particularly bisexual women and issues of extended biological motherhood and sexual as a behaviour rather than an identity. Living in Belgium refers to the intersections of citizenship and migration and decentralises cultural and sexual citizenship questions by highlighting the needs of a new queer Black diaspora of women escaping persecution based on their sexual orientation. The Belgian LGBT rights framework stands at the intersections of norms regarding sexuality, personhood and family. Spiritual Black lesbian and bisexual women in the Belgian LGBT rights frameworks assembles intersections of race, class, sex, religion, sexuality and nationality and exposes issues that are yet to be addressed.

In the Belgian context, the following understanding of these categories apply (see UNIA website):

1. Race is the presumed race, skin colour, nationality, ancestry (Jewish origin) and national or ethnic origin. Therefore, racism is the unjustified discrimination between persons in comparable circumstances based on race.

2. Class is wealth or financial resources. Therefore, classism is the unequal treatment of persons based on wealth or financial resources. The definition of class includes subcategories that are treated separately, such as social background and state of health. Moreover, the Flemish legislature also recognises social position and discrimination by association as aspects of classism. An example of discrimination by association could be 'a parent discriminated against when looking for a job because they require adapted hours to provide care for their disabled son (UNIA website).

3. Nationality is an aspect of race, but nationality also includes differentiation based on birthplace for this dissertation.

4. Religion includes both institutionalised religion, philosophical and non-religious beliefs.

5. Sexuality is discrimination based on sexual orientation.

Lastly, the competency for assessing gender-based inequality falls within the scope of the work conducted by the equality institute between men and women. Sex is defined through the biological difference between men and women. Gender is defined as discrimination based on social constructions of what it means to be men and women, and the institute accepts that this will differ in space and time. The institute is also competent for dealing with discrimination based on gender identity and therefore includes the rights of trans persons.

As mentioned before, the law distinguishes between categories protected in the constitution, such as gender, including gender identity, class and nationality. All other forms are dealt with under the provisions of the anti-discrimination law framework.

5.6. Difference

According to Lorde, there is no need to silence the differences among us. The issue is that our differences have been distorted to create competition among us, the oppression Olympics. As a result, we fight each other for the same seat at the table instead of focusing on how our differences could help us learn how oppression operates. For Lorde, difference could be normative if we acknowledge its creative potential (Lorde, 1978).

By distinguishing spiritual Black lesbian and bisexual women as a separate group requiring representational attention, the dissertation does not aim to discredit the actual achievements of the Belgian LGB movement. Instead, the dissertation aims to analyse the existing framework from the perspective of spiritual Black lesbian and bisexual women to determine what the current framework lacks for spiritual Black lesbian and bisexual women to be included in the protection provided. Better yet, the dissertation explores other possibilities of liberation for spiritual Black lesbian and bisexual women.

Thinking from spiritual Black lesbian and bisexual women's perspective in Belgium identifies some key issues that might otherwise remain invisible.

5.7. Invisibility

Invisibility in this research is a catch-all term that refers to the multiple ways spiritual Black lesbian and bisexual women are rendered invisible in Belgian the LGBT rights framework. Invisibility also refers to Dennett's conceptualisation of the phenomenon of the scotoma. Dennett refers to the scotoma as 'the blind spot in our vision because of the way the optic nerve interrupts the field of cones and rods at the back of the eye'(Conard 2007, 156).

The point of discussion in Dennett's conceptualisation of the phenomenon of scotoma this whether or not we are aware of the blind spots in our vision. Unlike Dennett's theory, our level of consciousness and whether or not scotomas are produced intentionally or unintentionally is undisputed in this research. The invisibility of the themes at the intersection of spiritual Black lesbian and bisexual women's intersectional identity in other contexts have been conceptualised as exclusion (El Tayeb 2012), marginalisation (Cohen 1997, Coleman 2006, Lorde 1978), discrimination, silencing (Hammonds 2004), erasure (Goddeeris 2015), disempowerment (Crenshaw 1989;1991) and violence (Namaste 2009)

Invisibility refers to the blind spots in our vision for liberation. It refers to the issues and themes that remain at the periphery of discussions in queer liberation projects, black liberation projects, womanist ethics, non-Anglophone Western contexts and the Belgian LGBT rights framework. Invisibility, therefore, refers to the effects of oppression. Young argues that in a generalised sense,' all oppressed people suffer some inhibition in the ability to develop and exercise their capacities and express their needs, thoughts and feelings' (Young 1990, 40). in conceptualising oppression, Young identifies five faces of oppression which are (Young 1990,50-65):

1. First, exploitation as oppression occurs through a steady process of transferring the results of the labour of one social group to benefit another.

2. Second, marginalisation as oppression occurs through expelling a whole category of people from useful participation in social life.

3. Third, powerlessness as oppression occurs for social groups who lack authority or power, even in a mediated sense, those over whom power is exercised without their exercising it.

4. Four, cultural imperialism as oppression occurs as the experience for social groups of how dominant meanings of a society render the particular perspectives of one's own

group invisible at the same time as they stereotype one's group and mark it out as the other.

5. Fifth, violence as oppression is the knowledge for social groups that they must live with the fear of random, unprovoked attacks on their person or property, which have no motive but to damage, humiliate or destroy the person.

To centre issues and themes from the periphery is to challenge the invisibility of spiritual Black lesbian and bisexual women as a pre-requisite of their liberation.

5.8. Intersectional invisibility

Centring issues and the themes from the periphery requires challenging invisibility at the various levels at which it occurs.

Structural invisibility occurs at the level of law-making and processes and practices of normative frameworks. Thus, in the Belgian LGBT rights framework, structural invisibility is the outcome of laws formulated to address sexuality and sexual orientation alone, without regard for how sexuality is experienced differently by specific groups in the Belgian society such as spiritual Black lesbian and bisexual women because of their pre-existing vulnerabilities of invisibility based on their race, nationality class, sex and religion. Therefore, structural invisibility includes the various debates in both parliamentary chambers; societal interests, competing rights.

Political invisibility occurs at the level of determining the political agendas for LGB persons in Belgium. If the political agenda addresses sexuality for LGB persons without regard for other vulnerabilities of invisibility for spiritual Black lesbian and bisexual women face based on their race, nationality, class, sex, and religion. Then spiritual Black lesbian and bisexual women are forced to join different political movements in the hopes of finding a framework that better addresses their invisibility. However, research in the US context shows that unless other movements, such as movements fighting against racial discrimination, have an intersectional agenda, spiritual Black lesbian and bisexual women's invisibility persists. As such, this dissertation argues that challenging intersectional invisibility within the Belgian LGBT rights framework could serve as a starting point for formulating a liberation framework better suited to address their invisibility.

Representational invisibility occurs due to stereotypes and prejudices that exist for spiritual Black lesbian and bisexual women based on their race, class, sex, nationality, and religion, which discredit or affect the legibility of their political claims. Furthermore, representational invisibility refers to a gap in knowledge. The lack of acknowledgement of conceptualisations of black female homosexuality even when the frameworks of black lesbians and bisexual women produce new knowledge.

5.9. Lawfare

Lawfare is described and often critiqued as using the law to win a war instead of searching for truth (Carlson and Yeomans, 1975). However, Mackenzie first recorded the use of the term in the 18th century, describing how the Tswana people of South Africa described colonial rule. The Tswanas described the English colonial rule through courts, contracts and papers as 'the English mode of warfare' (Comaroff 2001, 306, citing Mackenzie, 1887). Lawfare in this dissertation is a toolkit, a mind map for addressing intersectional invisibility at the various levels at which it occurs. However, lawfare in this dissertation is not limited to the 'use of law' in its formal sense as conceptualised in Gloppen's toolkit (2016, 6). Instead, the toolkit of lawfare is used to address intersectional invisibility in various normative frameworks that affect the lived experience of spiritual Black lesbian and bisexual women.

Gloppen articulates four core elements of lawfare:

- lawfare is the use of the law to advance a position on a highly polarised topic
- lawfare is the use of rights and law
- lawfare is multi-sited
- lawfare is multidimensional
- lawfare is a tactic deployed by ideologically opposing groups.

5.10. Highly polarised topics

In the Belgian context, highly polarised topics include ethical issues referred to as birth to death rights (including abortion, sexual health and reproductive rights, LGBT persons and family rights, and euthanasia).

However, other highly contested polarised topics related to the intersectional identity of spiritual Black lesbian and bisexual women in Belgium include but are not limited to migration, asylum, integration, assimilation, nationality, religious beliefs and culture.

5.11. The use of rights and law

Fricker uses the notion of social power to make clear that social power is not only the 'practically socially situated capacity to control others' actions, where this capacity may be exercised (actively or passively) by particular agents', it can be operated purely structurally (Fricker 2007, 13).

A combination of state and social power demarcates a first specific structural aspect of power, meaning we abide by the norm, regardless of whether it is being enforced or not, and the second aspect of structural power are the agents of power who enforce the law. The dissertation combines the two because rights and laws are not limited to formal laws but include cultural norms and values. Thus, formal and informal laws both operate at the structural level. However, their agents could either be social agents, whether family, friends, spiritual community, education systems or state agents enforcing the law, including governments and political parties, the judiciary, the legislative power, public authorities.

5.12. Multi-sited and multidimensional

Lawfare is multidimensional because similar norms are produced and reproduced at regional, national, European and International levels. Moreover, lawfare is multidimensional because the same norms are reproduced in families, communities and society.

5.13. Intersectional normfare

Based on all of the above intersectionality normfare:

a. identifies the distinct intersections of a particular group to examine their invisibility in specific frameworks. In this dissertation, the intersectional identity of spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework highlights issues that perpetuate invisibility for SBLBW because they remain at the periphery.

b. articulates critical themes and issues for spiritual Black lesbian and bisexual women produced by intersecting norms to deduce the minimal requirements for a framework of liberation for SBLBW

c. addresses the various levels at which intersecting norms are produced to highlight how these levels reinforce invisibility for SBLBW.

6. A scotoma methodology

The term scotoma draws on Dennett's conceptualisation of the phenomenon of the scotoma (1999). Dennett refers to the scotoma as 'the blind spot in our vision because of the way the optic nerve interrupts the field of cones and rods at the back of the eye'(Conard 2007, 156). Rather than question whether we are aware of these blind spots, this thesis develops a scotoma methodology to expose blind spots in our vision for liberation. A scotoma methodology is a mixed method consisting of literature studies- queer theory, black liberation and womanism, critical debates on sexuality in the European context, Belgian literature on LGBT rights, persons and family; Study of domestic cases and cases brought before the European Court and Commission for Human rights regarding sexuality, gender, discrimination marriage and family; national, international and European law, autoethnographic research based on observations and lived experience of the researcher, information found on websites, newspaper articles, archival material, memoir and through translation.

A scotoma methodology of intersectionality conceives relationality in two ways. First, relationality enables us to draw on various contexts and epistemes to argue for something that is missing. Second, however, unless we also foreground what is missing, we reduce difference based on our assumptions and confidence to draw links to something we recognise and deny the specificity of how oppression might be experienced differently by those who live at the intersection of those particular systems of oppression. Therefore, although relationality enables us to have a starting point to a claim. Therefore, the specific context of Belgium requires examination for spiritual Black lesbian and bisexual women, lest we fall into the trap of filling in the gaps based on the experiences we know which might be inadequate to explain the lived experiences of others. Although my analysis hinges on making assumptions based on relationality, I am well aware of my method's inherent limitations in exposing the invisibility of spiritual black lesbian and bisexual women in the Belgian LGBT rights framework. As such, this dissertation can only be a starting point, a call for attention to scotomas, that could be left

unexamined if we mistake relationality for sameness or similarity. Therefore, relationality here draws on parallel systems of oppression regardless of space and time. However, how oppression is experienced will be different and distinct to a particular group.

6.1. Epistemological invisibility

The need for a black queer epistemology

Although queer theory has been praised for its potential to radically shift how we theorise about power, human relations and society, queer theory has been critiqued for not realising its potential because it has historically excluded intersectional identities linked to sexuality such as race, gender, class, nationality, able-bodiedness and religion. Furthermore, queer theory reflects the experiences of gay white men and therefore produces yet another hegemonic body as a non-heterosexual standard (Almaguer, 1991; Munoz,1999; Gopinath, 2007; Paur 2007).

Hammonds (1994) shares her scepticism of the radical shift queer theory promised to usher in by critiquing de Lauretis' essay *on the Genealogy of queer theory*. Hammonds states, 'when I am asked if I am queer, I usually answer yes even though the ways in which I am queer have never been articulated in the body of work that is now called queer theory' because white scholars have demonstrated their inability to include the experiences of queer people of colour in their theorisations queer theory.

In response, other scholars have echoed similar sentiments and produced a body of knowledge that names and addresses the experiences of queer folk of colour. In 1997, Cohen critics the normalisation of heteronormativity. Heteronormativity is normalised through practices and institutions that legitimatise heterosexuality and heterosexual relationships as fundamental and natural within societies—using queer politics in a heteronormative manner maintains a dichotomy where queerness is viewed in relation to heterosexuality, not as a paradigm of its own. In 2001 Johnson coins the term quare studies as an expression of queering theory to incorporate Blackness's historical and social context. These and other omissions of the black queer experience in the US led to the 2005 complication of *Black queer studies: A critical anthology* that grew out of the Millennium Conference and aimed at bridging the gap between Black studies and Queer studies.

In his contribution to *Black queer studies: A critical anthology*, Canadian scholar Rinaldo Walcott critics the Anglophone, US hegemony of the black studies/ queer studies binary and adds a third dimension to the black queer experience, namely diaspora. As such, in 2012 a special edition of the *Lesbian and Gays Studies Journal*, Allen fixates time in order to look back to where black queer theory has come from and invites us to, at the conjuncture of the tri-dimensional Black/Queer/Diaspora studies, look towards the future of black liberation. What are some of the necessary themes for a black liberation project?

Epistemological invisibility for spiritual Black lesbian and bisexual women addresses the following themes:

- The notion of the responsible hearer (Fricker 2007, 71). When the claims of spiritual Black lesbian and bisexual women are made visible, are they received?

- Do standard procedures warranty objectivity.

- does an international instrument, such as the international protection of persons seeking asylum based on their sexual orientation and gender identity, include international perspectives on sexuality, sexual orientation and gender identity?

- What about the privacy of relationships? Is privacy a privilege of sexualised citizens?

- Translation of experiences, how do we name and articulate our experiences, how do our naming and articulation cross over?

- What about a paradigm shift in international protection? If international human rights obligations are framed within existing state obligations, is there a requirement for states to do better?

- International protection brings to the fore a new queer diaspora.

6.2. Familial invisibility

Addressing Black families

Despite early interventions by black lesbian feminists scholars (Smith 1983, 2000; Lorde 1997) to challenge theorisations of concepts such as home, kinship and family without the inclusion of queers in the black community, scholarship on black family models usually

employ a strategic essentialist approach(Spivak, 1980) towards the liberation of black folk in privileging race and class oppression(Hudson-Weems 2004), or the intersection of race, class and gender oppression(McAdoo,1999, 2002,2007; Hill 1999, 2001; Hill Collins, 2015, 2016 and Hooks 1992) even when this scholarship examines the black family within the context of an extended family network. Furthermore, scholarship on black families often renders black queer families invisible (Moore, 2011), even though part of the Black liberation project requires the queering of black extended families to theorise differently about the various forms of kinship that have naturally been a part of the black diasporic culture.

Within this context, it is essential to understand how black spirituality influences attitudes towards sexuality within black extended families (Lightsey 2012), mores on relationship and family formation, especially practices and traditions passed on from mothers to daughters regardless of whether the family itself is religious or are attendants of a Black Church. Globally, women are still the primary socialising agents of their children (Hill 1994, 2016; Van de Velde, 2019). Moreover, queer thinking extended families encourages exploring norms prescribing family and community in our society. In the Belgian context, this process requires an understanding of the conceptualisation of family, relationships and connections between members of a family and members of society. Chapter 6 on familial invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework contends with the notion of family in the law and society. It explores how perspectives on family have shifted in the code civil. The themes explored at the intersection of black female sexuality and spirituality include home, extended family, community, the survival of the Black family and belonging. Some of the themes raised in the Belgian context include:

- informal and formal relationships in their protection in the civil code
- marriage as the foundation for family formation
- Emphasis on the fixed nature of a name, gender, age, nationality, and class as personal and civil status aspects.
- inheritance and property
- single motherhood
- adoption

- co motherhood

6.3. Spiritual invisibility

Often the abortion is presented as a breaking point of Belgian conservative sexual mores and the turning point to secularism and sexual and gender liberation.

However, this dissertation reflects on the abortion crisis from the perspective of the Christian Democrat party to reveal that while abortion might have been the main event publicly, within the ministerial structure, the centre was the role of the King, the future of the Christian Democrat party and the cooperation between ministers, regardless of their convictions, to ensure their responsibility was not undermined. There are many ways of understanding the abortion crisis. However, this dissertation demonstrates that women's issues and family values were at the periphery of the debate, while ministerial responsibility and state structure were at the centre.

The King's role was at stake during the abortion crisis of 1990 because the King objected to ratify and promulgate the bill on abortion. The bill had passed through both chambers of parliament and was ready to become the law. However, the King objected to signing the law because the content of the law, namely the partial decriminalisation of abortion, went against his conscience. In addressing the public, the King asked whether he was the only one in the nation that was not allowed to act according to his personal conviction. What is noteworthy is that the constitution prescribes the King to promulgate every law as a final step in the law-making process. Thus, aside from the King's personal conviction, what is at stake in the abortion crisis is a tension between structures of the state, namely the King's function as the final step in the legislative procedure, ministerial responsibility and the influence of personal religious mores on political ideology. The nature of the debates at stake in this dissertation, namely norms regarding personal and family LGBT rights, necessitate a better understanding of this tension in the Belgian context. In the Belgian legal and political context, the influence of religion, spirituality, and other so-called personal values is explored throughout the dissertation and specifically in chapter 7.

Themes in liberation framework for religious and spiritual queers: liberation frameworks for black queers, rooted in non-Western spiritual frameworks, refutes dehumanisation of any kind, including heteropatriarchal notions of family and heterocentrism.

In the Belgian context, secularism is framed as a liberation framework for gender and sexual liberation. The partial decriminalisation of abortion is often portrayed as the turning point. Some of the themes addressed during the abortion crisis:

- ethical issues
- the question royal
- alternative majority
- personal conscience
- the shift from Christianity to humanist secularism

Chapter 4. The emergence of the Belgian LGBT rights Framework

1. Introduction

This chapter explores the emergence of the Belgian Lesbian, Gay, Bisexual and Trans persons (hereinafter: LGBT) rights framework. It provides the context within which the Belgian LGBT rights framework emergences and seeks to answer three questions. First, what is the importance of Belgium? Second, what is the Belgian LGBT rights framework and third, the importance of understanding the invisibility of spiritual black lesbian and bisexual women (SBLBW) in the Belgian LGBT rights framework?

Belgium legalised same-sex marriage in 2003, making it the second country in the world to legalise same-sex marriage. Furthermore, since the legalisation of same-sex marriage, Belgium has implemented several laws to foster the inclusion of LGBT persons and their families into the fabric of society. As a result, for many countries worldwide, Belgium has become an example of LGBT inclusion. This thesis discusses some of the country's challenges in including a wider group of LGBT persons in its society. Moreover, this thesis asks whether it is inclusion we are after or liberation?

1.1. Review of the literature

Generally, research on LGBT rights in Belgium focuses on the history of the LG movement (Borghs 2010, 2015; Ganzevoort 1999; Hellinck 2002, 2003, 2007; Trommelmans 2006; Sinardet 2001,2002; Paternotte 2010,2011), the history of homosexuality in Belgium (Dupont, Hofman and Roelens 2017), Belgium as a frontrunner in the promotion LGBT rights in Europe (Eeckhout and Paternotte 2011; Fiorini 2003; also see ILGA Europe Rainbow Index and), anti-discrimination (Borghs 2003; De Rouck 2014), LGBT migrants (Dhoest 2019) and LGBT families (Scali, D'Amore and Green 2017). Eeckhout and Paternotte examine the paradoxical position of Belgium as a paradise for LGBT rights. The paradox, according to the authors, lies in the social and cultural fabrics of the country. Although Belgium might have an impressive LGBT rights framework in comparison to the majority of the countries worldwide. The LGBT rights framework emerged in a historically Roman context Catholic, with a conservative value system, where a considerable part of the population is prone to xenophobia

and racism, with leadership that is not particularly known for its visionary international politics, nor a cultural that is known to be radical (Eeckhout and Paternotte 2011, 1062-1063).

Gabiam points to the dearth of research on sexual minorities in Europe, let alone the epistemological and methodological challenges of investigating the lived experiences of minorities within the minority. For example, to examine the visibility of gay and bisexual black men in Brussels, Gabiam uses the internet, social networks websites and chatrooms, to explore the realities of intersectional minorities that find themselves caught in between silencing their sexuality in their familial environments and feeling excluded in predominately white LGBT spaces. Gabiam argues that for black gay and bisexual men, virtual spaces provide a space of empowerment and demarginalisation (Gabiam 2013, 26). Gabiam addresses the intersections of race, class, sexuality, nationality and navigating these intersections within the context of home and queer urban spaces.

In his work on Queer Muslims in Europe, Peumans investigates the intersections of race, class, migration, sexuality and religion (2017) by exploring the lived experiences of Queer Muslims in the Belgian context. Through in-depth interviews and intersectionality as a lens, Peumans offers rare insights into the lived experiences of sexualised others (migrants and so-called second, third-generation migrants) in Belgium. Both Gabiam and Peumans address the lack of intersectional frameworks in the Belgian context. This dissertation contributes to their work by investigating some of the origins of normativity within our society.

The chapter outlines events as they occur at the various levels deemed relevant to explain the invisibility of spiritual Black lesbian and bisexual women in the emergence of the Belgian LGBT rights framework. The timeframe observed in the dissertation is between 1795-2017. Of course, the events explored are not the only way of narrating an account of invisibility for spiritual Black lesbian and bisexual women within the emergence of the Belgian LGBT rights framework. Instead, the different events at the local, national, international and European levels helped pinpoint some of the critical issues that, for this dissertation, frame the development of the Belgian LGBT rights framework as we know it today.

Informed by the country's linguistic and cultural divide, the local level in this research refers to Flanders, where I lived and studied, and as a consequence, the perspective is influenced by Flanders, and the sources used are primarily in Dutch. Belgium is divided into

linguistic and geographical regions. The primary language used for administrative purposes and goods and services depends on the linguistic and cultural region.

Flanders, the Northern part of the country, is Dutch/ Flemish speaking. Walloon, the southern part of the country, is predominately French-speaking, with a German-speaking minority. Brussels, the country's capital, is bilingual Dutch/French. Thus, Belgium is officially trilingual: French, German and Dutch (also referred to as Flemish). However, lawmaking within the Houses of Parliament is conducted primarily in French and Dutch at the federal level. The development of LGBT rights in Belgium happened at the federal level because the issues at stake, such as criminal law, persons and family law, are matters of federal competency.

1.2. Contextualisation

The French penal and civil code influenced the Belgian penal and civil code because of Belgium's annexation to France from 1795-1814. The Belgian civil code (hereinafter: civil code) is based on the Code Napoleon of 1807 and has been undergoing continuous amendments ever since. Inspired by the French penal code of 1811, Belgium only substituted the French penal code for a Belgian penal code in 1867, long after its independence in 1830. Even after introducing a new penal code, the Belgian penal code still maintains the spirit and text of the French penal code. After its annexation to France, Belgium was a country within the United Kingdom of the Netherlands comprised of The Netherlands, Belgium and Luxembourg from 1815-1830. The importance of the history of annexation to France, on the one hand, and joint reign under the United Kingdom of the Netherlands, on the other, is that this collective history is still tangible in the developments of the law today.

At the international level, the Treaty of Versailles, signed in June 1919 after the end of World War I, meant establishing an international, intergovernmental body to prevent future wars and maintain peace. In 1945, the signing of the United Nations Charter replaced the League of Nations with the United Nations in the aftermath of World War II. The establishment of an international, intergovernmental body created a new level of lawmaking that has also influenced the development of the Belgian LGBT rights framework. However, unlike the EU level, legal developments at the international level require translation into the national level before applying them (dualistic).

At the regional level, six countries established the European Coal and Steel Community (hereinafter: ECSC) through the Treaty of Paris 1951. Belgium, the Netherlands, Luxembourg, France, Italy and West Germany signed the Treaty of Paris after World War II. The ECSC established the foundation for the European Union. In 1993 the Treaty of Maastricht formed the European Union. Due to its competency as a supranational organisation, developments at the European Union level directly impact lawmaking in Belgium because of the monistic nature of European Law. Therefore, any interpretation given to the European Convention on Human Rights will directly impact the understanding of national rights, such as the right to private life and family life (article 8) and marriage (article 12).

The development of the Belgian LGBT rights framework results from structural, political and representational interventions at the abovementioned levels. The Belgian LGBT rights framework has marked the political landscape of Belgium following the partial decriminalisation of abortion in 1990, which left the country in a political impasse until 1999. Intersecting issues at national, regional, and international levels continue to shape the political agenda of the LGBT emancipation movement, notably their strategies to differentiate from and align themselves with other movements.

The main body of the chapter highlights the events that led to the development of the Belgian LGBT rights framework, and the conclusion reflects on missing aspects from the perspective of spiritual Black lesbian and bisexual women in Belgium. These blind spots, combined with the blind spots in the literature, shaped the research questions in the following chapters on familial, epistemological, and spiritual invisibility for spiritual Black lesbian and bisexual women.

2. Decriminalisation of homosexuality in Belgium

After the French Revolution, France decriminalised homosexuality on its territory in 1791. Consequently, through annexation in 1795, the laws of France were now applicable in Belgium. Belgium, therefore, inherited the decriminalisation of homosexuality through its annexation to France.

After its independence in 1830, the Belgian National Congress adopted its Constitution in 1831 and declared Belgium a constitutional parliamentary monarchy (Witte et al. 1997, 19).

However, in the broader context of Western Europe, homosexuality was undergoing a process of medicalisation due to opposing developments in the persecution of homosexual behaviour among consenting men. On the one hand, certain countries adopted laws criminalising homosexuality, i.e., Germany in 1871 and the United Kingdom in 1885. On the other hand, other countries, such as Italy in 1890, opted to decriminalise homosexual behaviour between consenting men.

The medicalisation of homosexuality marked a shift in perception towards homosexual behaviour. Where homosexuality was previously exclusively regarded as a sin or crime against morality, the medicalisation of homosexuality sought the appropriate way of dealing with the disease. In this new context, homosexuality became a psychic and physical illness. One was born deviant. In 1886, Austrian- German scholar and psychiatrist Krafft-Ebing argued for the pathologisation of homosexuality in his landmark work entitled Psychopathia Sexualis. Homosexuals, Krafft-Ebing wrote, need not be regarded with contempt for their behaviour but with sympathy for their condition (Krafft-Ebing translated edition 1965, 386).

2.1. The criminalisation of homosexuality during the German occupation of WWII

Homosexuality was criminalised in Belgium for the first time during the German occupation from 1940-1945. The criminalisation was a consequence of German laws being operative in the territory of Belgium. However, after the occupation ended in 1945, Belgium reinstalled its legal framework, decriminalising homosexuality. Unfortunately, the decriminalisation of homosexuality did not mean that homosexuality was acceptable in Belgian society, nor that the persecution of homosexuals had ended. On the contrary, many lived a life of discretion, as fear and discrimination were rampant in Belgium. Consequently, due to fear and discrimination, the LGB emancipation movement emerged in the 1950s in Belgium.

2.2. The development of the LGB emancipation movement in Belgium

Lesbian activist, Suzanne De Pues, working under the pseudonym Suzanne Daniel, founded the first organisation addressing the emancipation of homophiles in Belgium. Suzanne Daniel attended the first International conference on sexual equality held in Amsterdam in 1951. Then, inspired by the Dutch (the Netherlands) Centre for Culture and Leisure (COC-Cultuur- en Ontspanningscentrum), Daniel set up the Belgian chapter of the Centre for Culture and Leisure, which started its operations in 1954. Although homosexuality was decriminalised in Belgium, Belgian homophiles were the targets of police patrols and raids in so-called gay

bars, which meant that homosexuality could only exist if it remained invisible to the public eye (www.holebipioniers.be).

At the time, the term homophile was preferred to homosexual to emphasise the importance of same-sex love instead of sexuality amongst two persons of the same sex. Traditionally, most LGB persons were extremely discrete about their sexual orientation due to the constant threat of discrimination. As such, the choice to operate under a pseudonym was also a necessity for Suzan Daniel. In setting up a Belgian chapter for homophiles, Daniel requested the advice of a trusted police official and a senator, and both ensured her that there was no law against setting up an organisation for homosexuals in Belgium (www.holebipioners.be).

The Belgian chapter for the emancipation of gays and lesbians founded by Suzan Daniel was called the Belgian cultural centre or Centre Culturel de Belgique/Cultuurcentrum België (CCB). The organisation intended to create a safe space for people attracted to others of the same sex and to counter the invisibility of homosexuality in Belgium. The organisation was bilingual, Flemish and French, and emphasised the importance of social and cultural transformation.

The first meeting of the CCB was held at café Salon de la Taverne l'Horloge in Brussels in 1954. The invitation to the gathering insisted on a safe space, where people could speak up about their needs and wishes for the organisation. Suzan Daniel set up the entire infrastructure for the organisation and was the organisation's face. Having a woman organise the LGB movement was a unicum in Western Europe. Nowhere else were women seen to lead the emancipation of homosexuality (Borghs 2015, 32). Nevertheless, having a woman at the helm of the organisation did not last. For starters, Suzan's vision for the organisation was not in line with what the majority of the attendees, francophone Belgian men, envisioned for themselves. Suzan's emphasis on social and cultural transformation was too radical for the men in the organisation. They preferred having a place of leisure.

By the second meeting of the CCB in October 1954, it was clear that, according to most of the meeting attendees, Suzan Daniel was too modern, energetic, and progressive. During that meeting, Robert Lemal verbally attacked Suzan Daniel and openly spoke out against receiving marching orders from a woman. That night, angered and frustrated by Lemal's attack

Suzan Daniel left the meeting, the organisation she had started, and the movement (see www.zizomagizine.be)

The CCB was later transformed by the remaining members into the centre for culture and leisure or Centre de Culture et Loisirs/Cultuurs-en Ontspanningscentrum (CCL/COC). The centre underwent various name and structural changes in the years to come but retained pleasure and leisure. At its founding, the centre intended to include both men and women and bilingual French and Flemish. However, most of its members continued to be Francophone and male (www.holebipioniers.be).

From then onwards, the movement develops along regional and linguistic lines. For example, Borghs notes that Flanders, which is Flemish speaking, is culturally orientated towards developments in the Netherlands and the Anglophone speaking world. Conversely, Francophone Belgium is more oriented towards Paris and the French cultural systems. In terms of movement formation and framing, identity politics influenced Dutch and Anglophone movements, whilst the Francophone system emphasised the idea of universalism and gravitated towards assimilation or into the larger whole (Borghs 2015, 57).

2.3. Developments at the European level and their impact on Belgium

1953 was an important year for the Belgian emancipation movement for homophiles. At the European level, the European Council adopted the European Convention for Human Rights (hereinafter: ECHR) in 1950, which came into force in 1953. The ECHR as a regional legal instrument gives force to the Universal Declaration of Human Rights. It aims to protect all human rights in the wake of the atrocities committed during WWII (see preamble ECHR).

During WWII, gays and lesbians were also prosecuted and sent to concentration camps. The men were usually branded as homosexual, using a black triangle, the women were branded as 'anti-social', using a pink triangle—others branded as anti-social included alcoholics and prostitutes (Borghs 2015, 20).

The first claim against the criminalisation of homosexuality based on the European Convention for Human Rights came from Germany in the 1955 *WB vs Germany* case against the German government. Before the European Commission for Human Rights under the European Council, WB argued against the infringement of his right to a personal life guaranteed under article 8 of the Convention and discrimination based on sex. WB argued sex-

based discrimination because prosecution under § 175 of the Penal Code targeted homosexual acts committed by men. However, the European Commission for Human Rights held that the German government is permitted to take measures, such as the criminalisation of homosexual behaviour, if said action is in line with the state's responsibility to protect its society on the grounds of public health and good morals.

Regarding sex-based discrimination, the European Commission for Human Rights held that the state maintains the discretion to choose its measures to protect public health and good morals within its society. In this regard, the Commission decided that the appellant's claims were inadmissible because the state was acting within its realm of discretion in protecting the health and good morals within its society. The Commission's decision was significant because it reified German national ideals underpinning the justification for the criminalisation of homosexual men. It also brought to light the view that the rights of LGB persons were not human rights. It is worth mentioning that the claim before the Commission was sex and sexuality-based discrimination.

Indeed, the claimant questioned the formulation of the law, which explicitly targeted homosexual acts amongst men, thereby leaving out of its scope homosexual acts amongst women. Unfortunately, however, the Commission did not delve into the rationale of the distinction. The phenomenon of targeting men for criminalisation was a common thread in other European countries. For instance, in the British House of Lords in 1921, Lord Birkenhead rejected a text criminalising lesbianism arguing, 'I am bold enough to say that of every 1000 women, taken as a whole, 999 have never even heard a whisper of these practices. Lord Birkenhead argued for silence as the repressive weapon of choice for female sexuality instead of explicitly prohibiting lesbianism (Souhami 2020, 4).

From 1953, the European Commission for Human Rights heard several complaints against governments in Western Europe submitted by members of the LGBT community. During the 60s and the 70s, the Commission ruled on several cases, including complaints lodged on the grounds of criminalisation or detention (against Germany, Switzerland, Ireland and most notably the United Kingdom); claims based on a differential treatment in the age of consent between heterosexual and homosexual sexual acts (United Kingdom); freedom of assembly, expression and association (the United Kingdom and Belgium) and gender reassignment and its consequences (Belgium, United Kingdom and Sweden).

In the case of Belgium, two cases were brought before the Commission. The first case, decided on by the Court in October 1980, was a case by claimant D. van Oosterwijck, who argued that the state's refusal to change his legal documents after his sex change amounted to an infringement of Convention articles; article 3 regarding inhuman and degrading treatment; article 8, the right to private and family life; and article 12, the right to marry. The second case was submitted by Eline Morissens and denied in 1988. Morissens argued that disciplinary measures taken against her were a direct consequence of statements she made on a television broadcast on the subject of homosexuality. Therefore, she claimed that the disciplinary actions contravened her right to freedom of expression found in article 10.

2.4. The seduction theory and criminalisation

In 1965, Parliament amended the Belgian penal code by distinguishing between heterosexual relations and homosexual relations. Since 1912 the age of consent for all sexual acts had been 16. The new law of 1965 increased the age of consent for sexual relations among persons of the same sex from 16 to 18. Furthermore, the law was written in sex-neutral language to include women. However, the age of consent for heterosexual relations remained 16. The amendment of the penal code was justified using the theory of seduction. According to the seduction theory, young persons could be seduced into the homosexual lifestyle if they were exposed to homosexuality at a young age because their sexuality was still in development. Thus, the justification used to discriminate between homosexual and heterosexual relations was to protect minors from being seduced into homosexuality. Thus, even though homosexuality was not penalised, it was still treated as a deviant and contagious lifestyle.

2.5. How did we get here?

The development of the seduction theory in Belgium is credited to Dr L. Massion-Verniory and Attorney General Raymond Charles. However, authors Auguste Ley and André Marchal first suggested increasing the legal age of consent for homosexual relations to 18 in 1955. The rationale behind the higher age of consent for homosexual relations was rooted in a seduction theory criticised in other Western European countries but now found its way to Belgium. According to the theory of seduction, younger men were susceptible to being seduced into homosexuality by older men during the years of their (sexual) development. Ley and Marchal believed that even the group between 16 and 18 was vulnerable to seduction. Their

suggestion was to amend article 372 by introducing a higher age of consent for homosexual acts. (Ley and Auguste 1955-1956, 326).

In 1957, Dr L. Massion-Verniory and Attorney General Raymond Charles published an article in the journal for criminal law and criminology, *Revue de Droit Pénal et de Criminologie*, reiterating the view of Ley and Marchal and made concrete suggestions for the said amendment to the penal code. According to the authors, the initially heterosexual young man could be converted into homosexuality if, during the years of his development, he is exposed to homosexual acts. However, the authors continued that the possibility of perversion and psychic contamination was not limited to same-sex sexual acts with older men born with the perversion, i.e., real homosexual men. Young men could also be contaminated through same-sex sexual acts with those who only occasionally engaged in homosexual behaviour or bisexual men. Moreover, the authors argued that what creates a susceptible environment for contamination is the lack of alternatives in a situation of need. The authors argued, for instance, that the level of loneliness experienced by shepherds after months of being in the mountain is most likely what leads to bestiality and applied similar logic to homosexuality. Furthermore, according to the authors, seduction into homosexuality creates a feeding ground that corrupts the mind of young men, making them vulnerable to committing criminal offences or enter prostitution.

An interesting fact about the use of seduction theory in Belgium is its timing. Whilst neighbouring countries, such as the Netherlands, France and Germany, had similar provisions in their penal code, these predated the 1960s. In that sense, Belgium introduced criminalisation based on the seduction theory when the theory was becoming outdated in other countries. More importantly, it seems noteworthy that this was the first action of criminalisation since the country's independence in 1830. The only other time homosexuality was criminalised in Belgium was during the German occupation between 1940-1945.

2.6. How did the seduction theory go from a medical theory of criminalisation and enter into Parliament to become law?

In 1960, a socialist member of Parliament, Freddy Terwagne, initiated a bill on youth protection in Parliament. In his proposed bill, any individual engaging in sexual acts against nature with someone under 21 should be prosecuted for seducing the minor into homosexuality. However, the government counteracted Terwagne's bill by preparing a proposal on youth

protection, excluding the provision for prosecuting homosexual acts with a minor. Instead, the government's age of consent for all sexual acts was increased to 18 to protect all youth. However, Terwagne submitted oral amendments to the government's bill, which the parliamentary commission later considered. In the end, Parliament accepted a draft law containing a provision penalising homosexual acts in 1964. However, in Senate, the suggestion was to remove the provision penalising homosexual acts whilst maintaining a new age of consent for both heterosexual and homosexual acts at 18. Then minister of Justice Piet Vermeylen, a member of the socialist party, lobbied for the initiative to be blocked and, in the end, the Senate voted for the new bill containing a provision against homosexual acts. The definitive version of the bill penalising homosexual acts was approved in Parliament on 31 March 1965. The law distinguished between homosexual acts, age of consent 18, and heterosexual acts, age of consent 16.

Article 372bis penalising homosexual acts with minors under indecent assault was adopted on 15 April 1965. An indecent assault was any sexual act with a minor under 18 committed by a person of the same sex above 18. Regardless of whether the minor themselves consented to the act. Article 372bis made no requirement to establish whether consent from the minor was acquired through violence or under threat. Acts of indecent assault amounted to a sentence of 6 months to 3 years of imprisonment for the adult and a fine ranging from 26 to 1000 Belgian francs. Unlike texts adopted in other countries where homosexual acts targeted male homosexuals, female homosexuality was not a threat. Neutral use of the terminology same sex indicated that this provision applied to lesbian and gay men alike. The impact of this law was that adults engaging in same-sex sexual activity with a consenting minor above the age of 16 but under the age of 18 were often fined and disqualified from civil duties.

Although effective prosecution based on article 372bis was rare, it impacted the psychological wellbeing of lesbians and gays. The effects of the threat of prosecution were traumatising. In the eyes of society and the criminal apparatus, lesbians and gays were potential criminal offenders. Moreover, the effects were not limited to criminal proceedings. For instance, in a custody hearing brought before the court first instance in Bruges, a father was denied custody of his children, based on assumption embedded in seduction theory. According to the judge, homosexuality did not exist innately but was the outcome of environmental factors and experiences. Thus, exposing children to a father who lives with another man could encourage homosexuality in the children (Borghs 2015, 51).

The juvenile court reprimanded minors above 16 but under 18 in an indecent assault with a homosexual adult. The juvenile court often heard petitions from their parents before deciding which measures to take (article 373 penal code).

Did this mean that same-sex acts amongst consenting adults were legal? Or that consenting minors could engage in same-sex acts amongst themselves? The idea was that although article 372bis did not prosecute consenting adults, their actions fell under notions of state protection against public immorality, public mores or public health.

Debates on the treatment of adults based on their sexual orientation and how this led to various forms of discrimination, necessitating an anti-discrimination campaign, will be discussed in conjunction with adoption and the anti-discrimination framework that includes sexual orientation as a protected category.

As for minors engaging in same-sex acts, article 372bis was not grounds for prosecution. The majority view was that unless the minor's psyche were contaminated or perverted by homosexuality, the minor would likely grow out of the phase. More generally, according to the catch-all provision found in article 372 of the penal code, all forms of sexual acts with minors under the age of 16, regardless of whether these acts are heterosexual or homosexual, were illegal. At the end of the 1960s, legal opinions against the discrimination between heterosexual and homosexual relations started to emerge in legal journals. One such example was an article published in the journal for legal science (Rechtskundig Weekblad) in 1970 by Jean Mertens de Wilmar, a lawyer of the Antwerp Bar Association, who argued that the only difference between heterosexuality and homosexuality is the object of one's affection. According to Mertens de Wilmar, society has come to view homosexuality as a neurosis, perversion, abnormality, or even disease or exception in nature under the influence of medicine, psychology, science and theology. However, under the impulse of existentialist psychiatry and psychology in modern society, it seems that homosexuality can take its place in society as a way of being. The author also contends that we assume marriage is between two persons of the opposite sex for reproduction purposes, yet nothing in the wording of the civil code implicitly or explicitly rules out the possibility of extending marriage to same-sex couples (Homo 372bis Rechtkundig Weekblad 1969-1970, 842).

Others, such as Albert Berghmans, a lawyer at the Leuven Bar, endorsed this message. Berghmans openly critiqued the distinction between homosexual and heterosexual relations in article 372bis by arguing that the seduction theory was outdated and refuted by some of its original authors. Furthermore, Berghmans held that seduction theory could apply to heterosexuality. Are we sure we are heterosexual? Maybe we became heterosexual through exposure.

2.7. Repealing article 372bis of the penal code and the visibility of LGB identity

The Belgian Parliament repealed article 372bis in 1985, stating discrimination between same-sex sexual activity and heterosexual sexual activity. Whereas the LGB movement previously focused on discretion and self-determination, Parliament repealing article 372bis shifted the movement's strategy towards identity politics. Repealing article 372bis based on sexual discrimination meant recognising homosexuality as an identity at the federal level. Homosexuality was now an all-encompassing representation of a person, and sexual orientation was acknowledged to impact LGB persons' lives daily. The emphasis increasingly grew towards physicality and the highlighting of the body. During the 1980s, the LGB movement underwent radical changes in its structure and organisation. The movement became political. However, it is not until the end of the 1990s that we notice the effects of these shifts.

In the 1990s, abortion and the consequent constitutional crisis 1990 took over the political stage. The Christian Democrats demanded, as a compromise on passing the law, the removal of contentious ethical issues from the political agenda. The constitutional crisis and the underlying ideological tensions are discussed at length in the chapter on spiritual invisibility. At the end of the 1990s, the Christian Democrats were no longer part of the coalition that formed the ruling government for the first time in over 50 years. Therefore, ethical issues could now be placed on the political agenda again without reservation.

The priority for the LGB community, at the federal level, was the adoption of an anti-discrimination legal framework protecting LGB persons from political and social exclusion that they experienced even after the repeal of article 372bis. In addition, the LGB movement in Flanders organised under the umbrella organisation Federatie Werkgroep Homoseksualiteit (Federation Working Group on Homosexuality) at the regional level.The Federation Working Group on Homosexuality had a political cell responsible for the strategic lobby of LGB rights. The lobbying department focused on getting the anti-discrimination rights framework for LGB

persons on the political agenda. The Federation Working Group on Homosexuality decided to take stock of the various discrimination LGB persons face. They ran a region-wide campaign and encouraged LGB persons to register their personal experiences of discrimination with the organisation (www.cavaria.be)

The response to this call was overwhelming, and the forms of discrimination were plenty. Discrimination ranged from censorship to discrimination in employment, recognition of the head of the family, unemployment schemes, tax benefits, inheritance, child benefits, and families' recognition. For instance, two women living together with four children would not count as a unit, which entailed that when calculating how many children are part of the household, the state would consider the children with a biological link to the mother. However, for heterosexual couples, everyone living under the same roof was part of the household (www.cavaria.be).

Priorities for the LGB movement regarding the federal agenda shifted. The immediate priority was an anti-discrimination framework to relieve the persistent and varying forms of discrimination experienced by LGB persons. The second priority was the recognition of long-term homosexual relationships. Shifting the political agenda from discretion and self-determination to recognising homosexuality as an identity came from the understanding that privacy did not equate to security or protection. The third priority for the LGB movement was marriage equality. It is noteworthy that the priorities between gays and lesbians were not always streamlined. On the one hand, where the needs of the lesbians differed from the needs of gays, strategic priority was given to actions focused on anti-discrimination and inclusion based on existing frameworks instead of pushing for a paradigm shift.

On the other hand, lesbians were forced to split their energies between the women's movement and the LGB movement. A lack of recognition in the LGB movement and the women's movement forced lesbians to start their movement. However, as a political strategy and to ensure that some needs of the movement were met, the Flemish LGB movement merged lesbians and gays into the working group on homosexuality (www.cavaria.be)

3. The emergence of the Belgian LGBT rights framework

In 1999 a coalition government consisting of the liberal, social and green parties under prime minister Guy Verhofstadt was formed. It was the first time the green party was part of a

coalition government at the federal level. The Christian Democrats were no longer part of the coalition. After almost ten years of political impasse on ethical matters at the federal level, the Verhofstadt I government ushered in several breakthroughs for the LGB rights movement between 1999-2003, including marriage equality.

The first course of action promoting the rights of LGB persons was the law on cohabitation passed in Parliament in 1998. The law on cohabitation intended to provide a compromise and alternative for couples seeking legal protection of their relationships. In discussions about the political agenda of the LGB movement, lesbians preferred a paradigm shift of the view on relationships because, until this point, the law only protected marriage as a symbol for eternal commitment. Lesbians preferred legal reform that included other forms of lasting relationship building.

In the chambers of Parliament, the discussion focused on whether LGB relationships were equal to heterosexual relationships and whether to include LGB relationships into the framework of marriage. In 2000, the law on cohabitation finally came into effect. The law on cohabitation was opened to couples, regardless of their sexuality, and non-couples such as family members.

Just across the border, in the Netherlands, similar debates led to the passing of the law on marriage equality in 2001. As a result, the Netherlands became the first country in the world to legalise marriage for same-sex couples. By the end of 2002, the anti-discrimination framework passed through Parliament and included sexual orientation as a specific ground for protection at the Belgian federal level. Finally, at the beginning of 2003, on 25 February, the law on anti-discrimination became a reality after seventeen years of lobbying by various parties, including the various LGB movements. The law translated the European Directive 2000/78/EC on equal treatment on the labour market into Belgian law. According to the Directive, member states were given time until December 2003 to implement the Directive at the national level. However, the scope of the Directive was limited to employment and the labour market. Therefore, Belgium opted for a broader interpretation of the anti-discrimination Directive.

Before this point, the anti-discrimination framework in Belgium consisted only of the law on anti-racism, adopted in 1981 to combat racism and xenophobia, and the 1999 Gender

law, aimed at combatting all forms of discrimination based on sex. The new law on anti-discrimination introduced additional grounds of discrimination, including sexual orientation, civil status, wealth, age, health status, ability, religion, and ideology (article 6 law on anti-discrimination 2003).

Although the impulse for adopting the anti-discrimination law in Belgium came from the European level, the European Union initially only recognised two grounds of discrimination before 1999. The two recognised grounds for discrimination were discrimination based on nationality and discrimination based on gender. However, through the adoption of the Treaty of Amsterdam in 1999, European Union law recognised additional grounds for discrimination based on Article 13 of the Treaty of Amsterdam. As a result, the European level recognised the following discrimination grounds: sex, racial or ethnic origin, religion or belief, disability, age, and sexual orientation (see article 13 Treaty of Amsterdam).

Although Belgian politicians opted for a broader scope than prescribed in the Directive on equal opportunities in the labour market, a critical point of discussion was whether to include gender discrimination in the anti-discrimination framework or retain a separate framework for gender discrimination. The council for equal opportunities for men and women raised this point of discussion because they believed that because women make up half of the entire population, they are not minorities in the same way the new law had classified other groups experiencing discrimination. Therefore, although the new law on anti-discrimination incorporated gender as grounds for discrimination. However, the work of monitoring compliance with the anti-discrimination framework for gender-based discrimination stayed with the council for equal opportunities for men and women. A centre for equal opportunities and combating racism (UNIA) would monitor all forms of discrimination except discrimination based on gender and language. At present, the former centre for equal opportunities and anti-racism, now UNIA, is an inter federal centre for equality and against racism. Established in 1993 by the anti-discrimination law of 1993, UNIA monitors anti-discrimination for seventeen of the nineteen grounds of discrimination recognised in the anti-discrimination framework of 2003.

The eighteenth ground for discrimination, gender, falls under the exclusive scope of an independent body, the institute for equality of men and women (see website Institute for the equality of men and women). While the nineteenth ground for discrimination, language, is recognised separately, no federal or regional body has the exclusive competence to deal with

this issue. The 1981 law on anti-racism and xenophobia, and the 1999 Gender law complements the broader anti-discrimination legal framework. However, since 2003, the anti-discrimination law framework has undergone a few transformations and amendments after decisions taken by the Constitutional Court in 2004 and 2009 (www.unia.be).

3.1. From anti-discrimination to marriage equality and family rights?

Aside from cohabitation and marriage equality, the LGB movement also lobbied for family rights. However, there was no common ground at the political level for LGBT family rights before 2003. The elections of 2003 lead to a massive win for the socialists, and a new government of Liberals and Socialists now formed the Verhofstadt II coalition government from 2003-2007. A new coalition meant a new coalition agreement, and ethical issues such as adoption rights for same-sex couples, a law on medically assisted reproduction, and transsexuality law was back on the table. In February 2003, the law on marriage equality became a fact. The law came into effect in June 2003, making Belgium the second country in the world to legalise same-sex marriage (*BS* 28 February 2003).

Second, on the agenda was the transformation of the laws on adoption. At the beginning of 2003, the laws on adoption restricted adoption to married couples of the opposite sex. However, reforms to the law introduced new potential parents of adopted children. With the introduction of marriage equality in February 2003, there was hope that adoption rights would be extended to LGBT couples, along with other potential parents. However, the amended text of the new adoption law passed on 24 April 2003 now included as potential adopters: single persons, married couples of the opposite sex and cohabiting partners of the opposite sex. Therefore, the wording of 343 §1 of the civil code explicitly excluded same-sex cohabiting partners and same-sex married couples. Furthermore, an explanatory note to the law on marriage equality stated that the possibility of including same-sex couples in the adoption framework would lead to 'too great an abstraction of familial reality' (Parliamentary Commentary 2001-02, 7). However, during the reforms in 2003, some argued that at least one parent of same-sex couples could adopt under the provision of article 343 § 1, and so, although the law on adoption excluded cohabiting and married same-sex partners, one person in a same-sex partnership could adopt a child under the existing framework.

It took more than three years for the amendment of article 343 §1 to include spouses of the same sex or cohabiting couples of the same sex. After three years, the text of article 343 §

1 excluded the wording opposite sex, making it possible for an adopter to be a single person, a married couple or cohabiting partners (legal and de facto cohabiting parents). Moreover, the text of the law of 18 May 2006 included additional provisions, such as articles 351 et seq. of the civil code, regulating other matters of same-sex adoption, such as the name given to the adopted child.

The period between 2007-2010 represents a standstill for LGB rights at the federal level. The rise of the Flemish nationalist liberal-conservative party, N-VA (Nieuw Vlaams Alliantie), made them the biggest winner of the new government coalition at the federal level. A coalition consisting of the N-VA, the greens and Christian Democrats, who were part of the ruling coalition for the first time since 1999. During this coalition, trans rights were formalised at the federal level for the first time through a law on transsexuality adopted in May 2007.

The trans movement and the LGB movement existed separately for a long time. For instance, in Flanders, the Flemish Federation Working Group on Homosexuality, which included bisexuality in its institutional framework, also incorporated the needs of trans persons into its institutional framework in 2015. Until then, the movement for trans rights had existed separately. The importance of being incorporated into the institutional framework of the Flemish LGB movement is in the federation's political power. In the aftermath of article 372bis of the penal code, the federation had amassed political access and represented the needs of the LGB movement at the federal level. The working group on homosexuality became CAVARIA in 2009 and now represents the rights of gays, lesbians, bisexuals, trans and intersex persons. As an umbrella organisation, they represent over 120 LGBTI associations in Flanders and Brussels (www.cavaria.be).

After 2007, no new laws regarding LGBT persons were adopted until the law on co-motherhood in May 2015.

On 1 January 2015, a law on co-parenthood, addressing the difficulties for lesbian partners to establish co-parenthood of the biological child of one of the mothers, came into effect. The issue at hand was establishing parentage for same-sex couples when one of the mothers was the biological mother, and the mother's partner wished to be recognised as co-mother. Until this law came into effect, co-mothers were required to adopt their partner's biological child even though the child's conception was a decision taken by both parents.

In contrast, for opposite-sex parents, t article 315 of the civil code automatically recognised the mother's spouse as the legal father of every child born in marriage. In the case of annulment, article 315 extended the assumption of fatherhood for any child born to the mother within 300 days of annulment. The assumption of parenthood did not apply to married lesbian mothers who decided to have a child, where one of the mothers has a biological link to the child.

In 2014, Van Vaerenbergh, a Flemish nationalist member of Parliament (NV-A), submitted a proposal amending the civil code, international private law, and the consular code. In her proposal, Van Vaerenbergh argued that chapter 5, dealing with parentage and adoption, will henceforth cove parentage instead of maternity and paternity to include same-sex parents. The original reference to parentage as filiation Biologique was therefore no longer correct. As a result, parentage concerning same-sex parents would no longer be based on biological reality (Bill proposal 2014, 3).

The amended civil code, code on international private law, and consular code deleted the terms paternity and maternity and now referred to parentage.

Finally, for the timeline of this dissertation, a law transforming the existing law on transsexuality to a law on transgender persons based on the notion of self-determination became fact in June 2017 and came into effect on 1 January 2018. The text of the new law no longer referred to transsexuality but transgender persons. It intended to simplify declaring gender change before the registrar of births, deaths, and marriage. Based on self-determination and the influence of the Yogyakarta principles and the UNCHR guidelines on sexual orientation and gender identity. The law introduced a simplified process to amend gender change on legal documents. The recognition of trans identity no longer required medical diagnosis or sterilisation. It argued that a person's right to self-determination included gender change.

A circular letter sent out by the ministry of justice regarding the process of declaring sex change before the registrar included the following passage:

The rationale behind this law is the principle of self-determination. A person has full autonomy in deciding how he or she feels. It is not through a medical diagnosis that a person determines his or her gender identity. Therefore, the law on transgender persons deletes all medical requirements to legally adjust gender registration or first name change. The gender

reassignment, sterilisation (which was necessary for the adjustment of the gender registration) and the hormone treatment (which was necessary for the change of the first name) are therefore no longer required (Circular letter of the ministry of Justice 2017, 1§2).

By the end of 2017, the landscape of LGBT rights had undergone significant changes. Marriage equality was a fact. Cohabitation was accessible for same-sex and opposite-sex couples. Couples in long-term relationships who preferred to solidify their relationship outside of marriage now had certain privileges. Same-sex couples could adopt. Biological bonds were no longer the determining factor of parentage.

Moreover, sex change and subsequent name change no longer required sterilisation and e medical diagnosis. The introduction of simplified procedures for changing first names after gender reassignment surgery aided transitioning.

By 2017, so much had changed in the legal landscape for LBGT persons and their families. However, intersectionality exposes some of the critical issues underlying the current system.

It is often argued that the abortion crisis delayed marriage equality. Furthermore, it is argued that a shift towards secularism ushered in a new gender and sexual liberation era at the turn of the century. However, a case concerning gender fluidity brought before the Court of Cassation in 2019 reveals that a paradigm shift that not taken place yet. The case interprets the concept of gender fluidity contained in the law on transgender persons passed in 2017. Although self-determination was the principle underpinning the new law on transgender persons, the court decided that one must not mistake this shift in course for a paradigm shift. Gender is an essential part of one's legal personal status. Among other conditions, one's legal personal status is inalienable and unchangeable unless according to the procedure prescribed by law. The transgender law prescribes the conditions under which one can change their gender identity once.

According to the court, in the common interest of society. Change of gender identity is permissible once. To enable change more than once would put society at risk for fraud and misuse. Furthermore, the court believed that if a person could change their gender as often as they felt, i.e., actual fluidity of gender, this would go against certain principles of the law, one of the principles being the personal status which enables the identification of legal actors, of

which gender is an essential aspect. Moreover, according to the court, restricting gender change on legal documents also protects individuals against themselves.

In a way, the court questions a person's psychological stability should they change their gender identity more than once. This trail of thought is in stark contrast with goes against the wording of the ministry of justice circular, which, in explaining the rationale behind the new transgender law in 2017, stated, 'the rationale behind this law is the principle of self-determination. A person has full autonomy in deciding how he or she feels. It is not through a medical diagnosis that a person determines their gender identity '(Circular letter of the ministry of Justice 2017, 1§2).

Understanding the need for a paradigm shift and how common interest is utilised in this context is significant because it helps us understand that what is at stake for the LGBT rights framework is not only about how we identify ourselves. Asking for the recognition of what we experience internally, we question the foundations on which our society has been built. In the eyes of the law, we are asking to no longer be an exception but to become part of the law.

By foregrounding the epistemological, familial and spiritual invisibility of spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework, this research centralises intersectional identities and asks, is its inclusion we seek or liberation through structural change? If it is inclusion we seek, what does inclusion look like for those with more than one identity at the peripheries of society, such as SBLBW?

4. What is missing?

The first part of this chapter referenced the medicalisation of homosexuality through scholarship by key figures such as Krafft-Ebing, who published his landmark work, Psychopathia Sexualis, in 1886. Traditionally, a carving out of the Belgian LGBT landscape would neglect that a year before, in 1885, Belgian King Leopold II acquired Congo Free State as private property during the Berlin Conference. Although initially not recognised by the Belgian state, Congo Free State came under Belgian state control in 1908 and was henceforth known as the Belgian Congo, making Belgium a colonial power.

Belgium ruled Belgian Congo until its independence in 1960. During its rule, Belgium operated a strict separation between whites and blacks, legally distinguishing between white Belgians, Europeans, black Congolese, and black others (Caestecker 2016; Kadima-Tshimanga

1982). Certain black Congolese could advance to the category known as evolué as a marker of their advancement in civilisation. The category did not change their position as Belgian subjects. What the category offered was a demarcation, a differentiator from other black Congolese men. The category proved that the man in question conducted himself according to certain societal expectations, such as being in a monogamous relationship and caring for his children.

The legacies of Belgium's colonialism still impact the lives of spiritual Black lesbian and bisexual women living in Belgium today. However, the impact that exists in the form of racial, national, cultural, linguistic and other forms of discrimination is rarely included in frameworks of LGBT liberation movements.

In the wake of George Floyd's murder and global attention of the Black Lives Matter Movement, the government of Belgium, through its current monarch King Philippe, expressed regret to the people of the DRC for 'past injuries caused by its government and monarch'. In an open letter addressed to the current president of the DRC, president Tshisekedi, the King also acknowledged the existence of discrimination that still affects the lives of Black people living in Belgium today (see BBC news 30 June 2020).

In 1922, after World War I, the Treaty of Versailles divided former German colonies among the Allied nations. As a result of a League of Nations mandate Ruanda-Urundi, were placed under Belgian control. In 1946, Ruanda and Urundi were placed under Belgian Trusteeship by the United Nations Trusteeship council until their independence in 1962 (A/Res/63/20 (I)). However, both aspects of Belgian history are often erased from the Belgian public imagination, even though the anti-discrimination framework incorporates racism and xenophobia. Goddeeris argues that the particularity of the Belgian context is the absence of a counternarrative in the public debate through silencing. According to Goddeeris, until US author Hochschild accused King Leopold II of genocide in 1998, Belgian's historical world was marked by indifference towards Belgian's colonial history (Goddeeris 2015, 435). Verbeeck notes a shift in Belgian public consciousness from a culture of denial and neglect to a more critical narrative on Belgium's colonial history (Verbeeck 2020). Others have written

Moreover, the notion of Blackness in this dissertation extends beyond the former colonies but refers to the many ways that women of Sub Saharan African descent have found themselves living in Belgium, particularly in Flanders. For spiritual Black lesbian and bisexual

women, migration to Belgium also has additional consequences such as linguistic implications because unless they were born in Belgium, Dutch/Flemish would not be their first language.

Chapter 5. Epistemological Invisibility

1. Introduction

1.1. The need for a black queer epistemology

Although queer theory has been praised for its potential to radically shift how we theorise about power, human relations and society. Queer theory has also been critiqued for not realising this potential because it has historically excluded intersectional identities linked to sexuality such as race, gender, class, nationality, able-bodiedness and religion. Furthermore, queer theory reflects the experiences of gay white men and therefore produces yet another hegemonic body as a non-heterosexual standard (Almaguer 1991; Munoz,1999; Gopinath 2007; Paur 2007).

For instance, Hammonds (1994) shares her scepticism of the radical shift queer theory promised to usher in by critiquing de Lauretis' essay *on the Genealogy of queer theory*. Hammonds states: 'when I am asked if I am queer I usually answer yes even though the ways in which I am queer have never been articulated in the body of work that is now called queer theory because white scholars have demonstrated their inability to include the experiences of queer people of colour in their theorisations queer theory' (Hammonds 2014).

In response, other scholars have echoed similar sentiments and produced a body of knowledge that names and addresses the experiences of queer folk of colour. In 1997, Cohen critics the normalisation of heteronormativity. Heteronormativity is normalised through practices and institutions that legitimatise heterosexuality and heterosexual relationships as fundamental and natural within societies—using queer politics in a heteronormative manner maintains a dichotomy where queerness is compared to heterosexuality instead of a paradigm of its own. In 2001 Johnson coins the term quare studies as an expression of queering theory to incorporate Blackness and its historical and social context. These and other omissions of the black queer experience in the US led to the 2005 complication of *Black queer studies: A critical anthology* that grew out of the Millennium Conference and aimed at bridging the gap between Black studies and Queer studies.

In his contribution to *Black queer studies: A critical anthology*, Canadian scholar Rinaldo Walcott (2005) critics the Anglophone, US hegemony of the black studies/ queer studies binary and adds a third dimension to the black queer experience, namely diaspora. As

such, in a 2012 special edition of the *Lesbian and Gays Studies Journal,* Allen fixates time to look back to where black queer theory has come from and invites us to, at the conjuncture of the tri-dimensional Black/Queer/Diaspora studies, look towards the future of black liberation. What are some of the necessary themes for a black liberation project?

This chapter focuses on spiritual Black lesbian and bisexual women's epistemological invisibility in the context of international protection, i.e., the process of seeking asylum based on sexual orientation. It explores some of the necessary themes for a transnational liberation project for spiritual Black lesbian and bisexual women. The chapter starts by asking how sexual orientation is defined in the international context and whether the international context considers the epistemologies of Black lesbian and bisexual women in conceptualising sexuality and protection. The notion of Blackness in this thesis is multidimensional. First, Blackness signifies the shared experience of racism, regardless of whether Black people in Belgium are citizens, migrants, refugees, asylum seekers and stateless persons. Second, Blackness is also the dynamic concept of migration because spiritual Black lesbian and bisexual women in Belgium navigate conceptualisations and norms regarding their intersectional identity in Sub Saharan Africa and Western Europe. Similar norms occur and continue to reoccur regardless of space or geographical location. Third, the term Black acknowledges the differences in political privilege and representation with class, nationality, colourism, linguistic and cisgender privilege. For instance, the experience of sexuality differs significantly between those who are citizens and those who seek international protection from persecution due to their sexual orientation.

Moreover, the introduction of international protection based on sexual orientation in international law introduces a new Black (queer) diaspora. Lastly, Blackness is a shared experience of exclusion, and continuous minoritisation (El Tayeb 2012), which manifests itself through terms such as *allochthoon.* A term used to distinguish between native and non-native Belgians such that regardless of how long Black lesbian and bisexual women live in Belgium, they and their children will continue to be referred to as generations of migrants, in the way Lievens articulates (Lievens 1998, 125). This multidimensional reading of Blackness, at the intersection with other aspects of spiritual Black lesbian and bisexual women's intersectional identity that this dissertation incorporates international protection. The topic of international protection is often discussed in Ethnic migration studies positioning spiritual Black lesbian and bisexual women at the border, in a space of transit, when in fact, a person seeking asylum is

already in the territory of Belgium living life within the confinements of the law. As such, the chapter explores the process of seeking international protection in Belgium with the following themes in mind:

1. How is sexual orientation conceptualised in international protection, i.e., in international human rights law and national law?

2. Do international concepts of sexual orientation consider global variations in naming and expressing sexual orientation?

3. Do universal laws and standard procedures warranty objectivity?

4. Does the notion of the responsible hearer (Fricker 2007, 71) apply in international human rights law and national law? When the claims of spiritual Black lesbian and bisexual women are made, does the state and its agents listen to hear or listen to counterargue?

5. What about the privacy of relationships? Is privacy a privilege of sexualised citizens?

6. As international protection procedures require spiritual Black lesbian and bisexual women to narrate and translate their experiences, does the procedure contain measures to mitigate how particular experiences are linguistically, culturally and normatively challenging to translate?

7. Is there room for a paradigm shift in international protection if international protection is framed within existing state obligations within international human rights obligations, especially because international protection has its specific challenges?

8. International protection introduces a new queer diaspora. How are their needs addressed at international, European and domestic levels?

9. Lastly, does international protection recognise the challenges of intersecting normfare, i.e., intersecting identities, intersecting norms and intersecting levels of norm formation?

In investigating epistemological invisibility for spiritual Black lesbian and bisexual women in Belgium, the chapter explores concepts such as fair trial in international protection procedures.

Insofar as spiritual Black lesbian and bisexual women seeking asylum before Belgian national authorities must substantiate their claim to protection based on their sexual orientation, what kind of material and procedural support is available, and how does their intersectionality play out against them?

This question is pertinent because, insofar as they are claim for asylum is based on their sexual orientation. Then in reality their claims compete against the state's claims to protecting its border and limiting access to the rights and privileges on its territory. In fact, it is their word against the state's word. Thus, the two competing rights are conceptualised as follows:

- First, spiritual Black lesbian and bisexual women living in Belgium have the right to protection from persecution in their country of origin based on their real or perceived sexual orientation.
- Second, Belgium has the right to determine who has access to its territory and enjoy the rights and protection it offers, including the LGBT rights framework.

For spiritual Black lesbian and bisexual women, the risky enterprise of fleeing their country of origin and seeking asylum in Belgium offers the possibility to live a life free of the fear of persecution based on sexual orientation but also the hope to lead a life that is more authentic to who they are. Furthermore, once international protection is granted, it comes with additional benefits such as access to other rights and privileges available to persons legally residing in the country of Belgium. These include the protection provided by the Belgian LGBT rights framework and the right to residency, travel documents, and family reunification.

For the state, its need to control access to its territory and limit the influx of persons needing its protection comes from the knowledge that once a person receives international protection, they have the right to stay in the country legally. Based on that right to stay, a person granted international protection can confer rights to their dependents through family reunification. These rights include recognising civil status and family rights such as marriage, divorce, separation, and children that belong to the family and the various protections and benefits provided to family members. In short, international protection confers the right to stay in the country and affects access to personal and family status, redefining family conceptions.

The following sections examine the norms applicable to the process of asylum based on sexual orientation. First, the chapter explores the origins of international protection in

international human rights law. Then examines the procedure at the national level. Lastly, by example, the chapter analyses a case before the Council for Alien Law Litigation (Hereinafter: CALL). In this case, the applicant's asylum claim was denied because the authorities were not convinced of her homosexuality. Examining a case before CALL is instructive because CALL considers the case in its entirety, providing insight into the internal workings of the process. Moreover, because the questionnaire provided to persons seeking asylum is not public knowledge, examining a case before CALL allows us to glimpse the type of questions asked.

1.2. Defining of Sexual orientation and gender identity

The United Nations High Commission for Refugees (Hereinafter: UNHCR) defines sexual orientation as 'each person's capacity for profound emotional, affectional and sexual attraction to, and intimate relations with, individuals of a different gender or the same gender or more than one gender' (UNCHR 2012, 3 and Yogyakarta principles preamble).

Gender identity is 'each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body and other expressions of gender, including dress, speech and mannerisms' (UNCHR 2012, 3 and Yogyakarta principles preamble).

1.3. What does it mean to be Lesbian and Bisexual?

In the same guidelines, the UNHCR defines the terms lesbian and bisexual. According to the UNHCR, a lesbian is ' a woman whose enduring physical, romantic and/or emotional attraction is to other women ' (UNHCR 2012, 4).

The UNHCR recognises sex and sexuality as the primary intersecting identities that affect the lives of lesbians and emphasises that lesbian's vulnerability, in many cases, lies in their inability to fulfil societal expectations of womanhood. Bisexuality is 'physical, romantic and/or emotional attraction to both men and women' (UNHCR 2012, 4). However, what is striking about the UNCHR definitions is that whereas lesbian identity is assumed to be fixed, the UNHCR accepts that bisexuality could be expressed as fluid, giving it a unique characterisation and suggesting that bisexuality can change. Furthermore, the UNHCR does not define specific vulnerabilities for bisexual women that might arise from intersections with other identities, making sexuality the primary concern for bisexuality.

1.4. Thinking Black female homosexuality

In various contexts and at different times, Black women have conceptualised Black female homosexuality in different ways. For instance, Hammonds emphasises the importance of exploring the specifics of Black female sexuality (Hammonds, 2004).

In womanism, Walker defines Black female sexuality by arguing for a reading of Black female sexuality as fluid, behavioural and contextual. Walker refers to a preference for women's culture and vulnerability and includes love for individual men (Walker, 1983).

Closer to home, it is illuminating to study a discussion between Wekker, Lorde and Roemer on conceptualising Black female sexuality. In an article conceptualising Black female sexuality in the Diaspora, Wekker recalls a conversation amongst two Black feminist scholars and poets, Astrid Roemer and Audre Lorde, in 1986, in Amsterdam, on the importance of Black Diasporic women calling themselves lesbians.

For Wekker, matism as an Afrocentric working-class approach to black female homosexuality refers to women who have sexual relationships with other women while still having simultaneous relationships with men. Typically, in Black female homosexual relationships, Black women have relationships with men to have children while committing to lifelong partnerships and family with women. According to Wekker, Black lesbianism refers to a more Eurocentric, middle-class approach to Black female homosexuality (Wekker 2014, 11-12). As such, Wekker also distinguishes between sexuality as a practice or behaviour and sexuality as an identity. In addressing class, Wekker argues that an aspect of sexuality is always linked to the community. Therefore, black middle-class lesbians can afford to take on lesbian identity because they have other means to fall back on should they be ostracised from their community.

Roemer completely rejects the label of lesbianism by arguing that calling herself lesbian is allowing herself to be defined by whom she loves and not the many things she is (Wekker 2014, 18). Nevertheless, Roemers affirms sexuality as a practice even for Black middle-class non-heterosexual women simply because lesbianism does not capture her intersectional identity, culture, and vernacular nuances.

Lorde asserts that she calls herself Black, feminist, and lesbian because she acknowledges that her roots and her vulnerabilities lie in herself as a woman. Thus, she also emphasises that her priority is not men but women (Wekker 2014, 19).

In 1981 Alice Walker wrote a review of *Gifts of Power: The Writings of Rebecca Jackson* in which she was offended by Humez's suggestion that had Rebecca lived in modern times, she would have been an open lesbian. Her taking of offense is not due Rebecca's sexuality, to the contrary Walker figured it would be wonderful either way. However, she not convinced that if Rebecca lived in modern times, she would want to be labelled with such a term that refers to an island in Greece. Firstly, because the term is not rooted in her own culture and secondly, because islands carry very negative connotation for black folk. Additionally, Rebecca had referred to her sworn celibacy on numerable occasions on her journals, therefore Walker's offence is to be found in the fact that Humez's took it upon herself to name a black woman's experiences in terms that were foreign to her and therefore bereaved her of the one tangible freedom she possessed, namely the ability to name her own experience (Walker 1981)

Generally, for many, the conceptualisation and expression of sexuality differ significantly because concepts such as lesbianism are more than an identity, they are normative framework. Therefore, to agree to use the term is to agree with the political agenda of such normative/ liberation framework. Lesbianism, therefore, becomes both a personal identity and a political statement.

2. International framework: Geneva convention and the inclusion of sexual orientation and gender identity as grounds for international protection

International Protection for persons seeking asylum is derived from the 1951 Convention on the Status of Refugees, the Geneva convention, and the 1967 Protocol. Before being granted a refugee status, a person seeking international protection on the grounds of the Geneva convention is known as an asylum seeker.

According to the definition given in article 1 A (2) of the Geneva Convention, a refugee is a person who has been granted refugee status by fulfilling the following conditions:

' As a result of events occurring before 1st January 1951 and owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion. A person who

is outside the country of his nationality and, who is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or a person who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national. ' (article 1 A 2 Geneva Convention)

In its initial conceptualisation in the aftermath of WWII, article 1 A (2) of the Geneva convention did not include sexual orientation or gender identity as grounds for international protection. Although the text of article 1 A (2) has remained the same, sexual orientation and gender identity have been included in the international framework by recognising persons seeking protection based on their real or perceived sexual orientation and gender identity as a social group within the meaning of Article 1 A (2).The outcome of the Yogyakarta Principles was the inclusion of persons seeking international protection based on their sexual orientation and gender identity into the international framework of international protection.

In 2006, a group of international human rights experts met in Yogyakarta, Indonesia, to discuss the vulnerability of persons facing persecution based on their real or perceived sexual orientation and gender identity. The experts' intention was not to create a separate framework of principles protecting persons against human rights violations based on the real or perceived sexual orientation and gender identity. Instead, the experts focused on how existing state obligations in the field of international human rights law could be instrumentalised to protect persons against human rights violations based on sexual orientation and gender identity. Whilst the focus was on state obligations, the experts affirmed the interdependency and interrelatedness of rights and obligations and identified other key actors in protecting human rights. Among the key actors, the experts identified the UN human rights system. Within the UN human rights system, the United Nations High Commission for Refugees is tasked with ensuring international protection. Moreover, one of the critical tasks of the UNHCR is the obligation to continuously seek new solutions to the issues faced by persons seeking refugee status (paragraph 1, Statute Resolution 428 (V) of 14th December 1950).

Persecution based on sexual orientation and gender identity had consistently been a persistent issue, and the United Nations High Commission for Refugees sought to incorporate the issue in the existing framework of international protection. The solution was to interpret the fear of persecution based on sexual orientation and gender identity as the protection

provided to persons because they belong to a vulnerable social group. As such, international protection was provided to persons claiming asylum based on sexual orientation and gender identity by recognising them as a social group requiring protection because their sexual orientation and gender identity is different from prevailing societal norms. The recognition as a social group relies on the assumption that the group members' common characteristics are innate and unchangeable. The UNHCR argues that sexual orientation and gender are fundamental to our identity as humans, such that we should not be forced to forsake them (UNHCR 2012, 11).

However, such a conceptualisation of sexual orientation and gender identity fixates sexual identity in time. Therefore, once a person comes out as lesbian, the idea that one could have a child with a man is problematic. In several cases before the CGRS, refugee status granted based on sexual orientation is revoked after establishing that said person has relationships with men. For instance, the CGRS had received anonymous letters that this particular woman was having relations with men after being granted refugee status and now having a child (see for example CALL Case nr. 195 308, 2017).

Following the recognition of international protection for persons claiming asylum based on their sexual orientation and gender identity, the UNHCR first published a set of guidelines related to asylum claims based on sexual orientation and gender identity in 2008. These guidelines were later replaced by new guidelines in 2012. The rest of the chapter refers to the guidelines as expressed in the latest version of 2012. What is important to note is that, because the wording of article 1(A) 2 of the Geneva Convention did not change, the protection of persons based on their sexual orientation and gender identity could be, in my opinion, precarious because protection at international level instruments requires state ratification before it is incorporated into national law. In other words, we cannot automatically rely on the text of legal instruments drafted at the international level to make claims at the national level.

2.1. Rationale and characteristics of international protection.

According to the UNHCR guidelines, the rationale behind recognising persons fearing persecution and severe harm based on their real or perceived sexual orientation and gender identity is because 'everyone deserves to live in a society as they are, without the need to hide. The three key principles are the right to self-determination, human dignity, and equality

(UNHCR 2012, 5). Furthermore, the guidelines declare sexual orientation and gender identity 'an essential aspect of human identity that is innate and immutable' (UNHCR 2012, 5).

2.2. Substantive elements for assessing the claims of persons seeking asylum based on sexual orientation and gender identity.

- How are sexual orientation and gender identity determined?

According to the background of the applicant (UNHCR 2012, 5): The basis for the asylum claim is sexual orientation and gender identity. The specific circumstances of an individual will determine whether the lived experience amounts to the requirements set out for protection. In short, the national authority will have to determine whether a spiritual Black lesbian or bisexual woman is lesbian or bisexual before going to the next step.

- What justifies the need for protection?

Well-founded fear of persecution (UNHCR 2012, 6): Once sexual orientation has been determined, the second question is whether there is a well-founded fear of persecution. Fear of persecution is not limited to past experiences. The future expectation of fear of persecution also count.

- What is persecution, and how is it different from prosecution?

Persecution (UNCHR 2012, 7-8.: To determine whether fear is well-founded. The national authority has to determine the nature of violations. The human rights violations must be grave. Certain grounds are automatically accepted as serious. These include rape, and other forms of sexual violence, fear of being killed, such as honour killings. Violations could include physical, emotional and sexual violations. However, for the most part, determining fear of persecution will depend on the individual and the combination of factors.

- Factors that help determine a well-founded fear of persecution: Prosecution is an aspect of persecution. Therefore, laws criminalising same-sex relationships, whether explicit criminalisation, intolerance or homophobia, contribute to a well-founded fear of persecution (UNHCR 2012, 8-9). Other factors include the concealment of sexual orientation and gender identity (UNHCR 2012, 9). Therefore, the fact that a person can be discrete is not a reason to refuse protection. The burden of proof of protection is on the state (UNHCR 2012, 10). Actors of persecution include the police and military. If

a state claims that there is protection available, then that protection must be accessible and effective.

- What is the final requirement?

Claims of international protection require a causal link between fear and grounds for international protection. In this case, one should be a member of a social group fearing persecution based on sexual orientation and gender identity. (UNHCR 2012, 11).

Unless sexual orientation is undisputed, the rest of the factors will not be considered.

2.3. Intersecting identities

Do the UNHCR guidelines consider intersecting identities?

The UNHCR guidelines consider the following intersecting identities with sexual orientation and gender identity.

- Religion (UNHCR 2012, 11).

Religion is one of the five grounds that the convention recognises as an identity requiring protection. In intersecting religion with sexual orientation, the guidelines recognise that vulnerability for religious/spiritual LGB persons could occur if they are members of faith-based communities that condemn homosexuality as a sin. There is also a recognition that persecution can take on many forms, including emotional violations, such as being shamed and stigmatised; spiritual violations, such as ex-communication or ostracisation; and physical violations, such as execution. Moreover, the guidelines recognise state-based exclusion where there is no separation between state and religion, and religious grounds justify persecution.

- Race.

Although race is recognised as one of five grounds for requesting international protection, the UNHCR guidelines do not examine how race and racism could intersect with sexuality to form specific grounds for persecution. The only reference to something close to race is the culture in certain countries that criminalise consensual same-sex relations and how this culture makes a conducive environment for homophobia.

- Nationality.

Although nationality is also one of the five grounds to claim asylum in the Geneva convention, the specific grounds of persecution at the intersection with sexuality or sexual orientation are not discussed. It is peculiar because the guidelines are formed with state obligations in mind.

The other intersecting identities in this dissertation, such as class and sex, are discussed separately in the guidelines (secondary to the ones above) and are incorporated in relevant sections of this chapter.

Additionally, the two other recognised grounds for international protection, membership in a particular social group and political opinion, are discussed briefly in the guidelines. The political opinion refers to any matter in which the state apparatus is engaged. For instance, state officials condemning homosexuality (UNHCR 2012, 13).

2.4. Exclusion from international protection

Internal flight alternative (IFA) or relocation (UNHCR 2012, 13). According to the UNHCR guidelines, if an individual can relocate to another part of the country in their country of origin, the fear of persecution seizes to exist. Important to note that the state claiming IFA must prove that the option is relevant, and that relocation is reasonable. The burden of proof on the state, in this case, which differs from the abovementioned requirements where the claimant must prove that they require international protection based on their real or perceived sexual orientation.

The effects of classism on the rights of persons seeking protection based on their real or perceived sexual orientation and gender identity are considered in the analysis of IFA. The focus is on access to employment, particularly for trans persons.

What is missing is the importance of our social circle and family. Although the guidelines emphasise the importance of well-being, the person advised to relocate cannot be expected to live in isolation from their loved ones. If we consider that a person should live freely and not hide who they are, we must also consider that IFA could be a barrier because family, faith community and social networks are not just about communication and friendships. They provide us with resources and safety nets to fall back on when we fall on hard times. While one can live elsewhere, they must live in isolation from family, missing family gatherings and community.

Moreover, because they cannot disclose aspects of themselves, like their sexual orientation and gender identity, they cannot bond and make a new community in a fostering and nourishing way. Furthermore, as the discussion on Black lesbianism and matism demonstrate, life is lived in communion with others. We share so many aspects of our lives that it becomes impossible to compartmentalise. However, navigating race, class, religion, and culture forces us to find ways to appease each aspect of ourselves, even when the results might be contradictory. For example, being lesbian and having biological children with men is not mutually exclusive for some spiritual Black lesbian and bisexual women.

2.5. Procedural protections

The UNHCR prescribes a conducive environment that is open, confidential and fosters trust for applicants to feel comfortable enough to disclose personal aspects of their lives that enable the determination of the need for international protection based on sexual orientation and gender identity (UNHCR 2012, 14-15).

Fricker conceptualises the notion of the responsible hearer to mitigate some of the stereotypes and biases that creep into seemingly objective state practices. For instance, as discussed above, international protection sets up two competing claims, i.e., the applicant's claims for state protection against a well-founded fear of persecution and the state's claim to control its borders and access to the rights and privileges accorded to its citizens. Thus, if the state's position is influenced by its need to protect its borders, then the state might listen to counteract claims of international protection based on sexual orientation. Conversely, if the state aims to protect those fearing persecution, it might listen to hear the evidence provided to support the claims of those seeking international protection. Fricker sets up this dilemma through the notion of a responsible hearer. According to Fricker, a responsible hearer hears to listen instead of hearing to interfere or counterargue (Fricker 2007, 69). While many might argue for a nuanced approach, i.e., balancing the two competing rights, in the exercise before us, it is helpful to consider whether and to what extent the intersectional identity of spiritual Black lesbian and bisexual women might negatively affect the credibility of their claim. To what extent do stereotypes based on race, class, gender, nationality, culture, religion as well as prescriptive ways of conceptualising sexual orientation play in role in determining whether a spiritual Black lesbian and bisexual woman is a. indeed lesbian or bisexual and b. has fled their country of origin based on a well-founded fear of persecution?

2.6. Which background information of the person helps determine their circumstances.

The guidelines suggest the following considerations: self-identification of the applicant, the applicant's childhood, the applicant's self-realisation (coming out), the applicant's non -conformity (feeling different), the applicant's family relationships (married before, have children), romantic relationships, community relationships (LGB community) and religion (source of ambivalence) (UNHCR 2012, 16-17).

3. The Application process at the national level

The process before the national authority is initiated by applying at the Belgian Office of Immigration (IO). Registration includes:

- identification details,
- medical examination for tuberculosis,
- fingerprints of applicants above the age of 14 to determine whether they have previously applied for asylum in Belgium or another EU member state, and
- any other relevant documents the applicant might provide.

The applicant must also provide an address for correspondence. Finally, the IO determines whether, in that particular case, Belgium, and not another EU member state, is responsible for processing the applicant's claim. The IO decides according to the regulations set out in the Dublin III regulation for processing asylum claims within the EU (Regulation no 604/2013).

If Belgium is to process the application, the applicant is asked to fill in a questionnaire for CGRS, which determines the entire trajectory of the claim. First, the IO determines the language in which the process will be conducted, either Dutch or French. Then, a translator is appointed to help fill out the questionnaire for the CGRS. At this point, the IO determines whether the applicant requires special (additional) assistance for the procedure based on their ability.

Once the IO has processed the application, the application is sent to the Commission-General for Refugees and Stateless Persons (CGRS). The CGRS determines, based on the

application (in particular the questionnaire), whether the applicant is eligible for international protection and invites them for a personal interview to determine whether they will be granted refugee status or subsidiary protection.

3.1. The CGRS is the first instance for determining an applicant for asylum.

The person applying for international protection has the right to stay in Belgium for the entirety of the procedure until they receive the outcome of their application. The application for international protection is final once an appeal procedure at the Council of Alien Law Litigation (CALL) has become final. At this stage, the applicant still has the option to appeal CALL's decision for procedural error before the Belgian Council of State or, once all national legal remedies have been exhausted, to appeal at the European level. However, the applicant runs the risk that, during this time, they may be removed from Belgian territory or repatriated.

When the CGRS receives the application requesting international protection in Belgium, the CGRS decides whether the application is admissible or manifestly unfounded. If the application is deemed inadmissible or manifestly unfounded, the applicant is informed of this decision. The applicant has an opportunity to appeal against GCRS' decision before the Council for Alien Law Litigation.

Should the application be deemed admissible, the applicant is invited for a personal interview to substantiate their claim. The applicant is invited for at least one interview. The interview stage is when the applicant can request legal assistance, either to appeal the inadmissibility of their claim or to request the support of a lawyer during the personal interview. Legal assistance during the personal interview is limited to remarks and comments after the interview has been conducted.

After the interview, the CGRS decides on the application for international protection. One of four outcomes is possible: a. recognition of refugee status; b. subsidiary protection; c. neither of the two; d. lastly, the applicant can be excluded from the framework of international protection.

- The first and most comprehensive protection is provided for under the recognition of the status of refugee.

If the applicant fulfils the conditions set out in article 1(A) 2 of the Geneva Convention, then the applicant is granted refugee status.

- If the applicant does not fulfil the conditions set out in the Geneva convention, then CGRS considers subsidiary protection.

Then the CGRS decides whether the applicant falls under the category of persons needing subsidiary protection. Accordingly, subsidiary protection is granted to:

Persons who are at a real risk of serious harm if they return to their country of origin. Serious harm is the death penalty or execution; torture, inhuman or degrading treatment; a serious threat to the life of a citizen by indiscriminate violence in a situation of international or internal armed conflict (see CGRS website).

- The third possibility is that CGRS decides that the applicant shall not be granted refugee status or subsidiary protection.

- The final possible outcome is that the CGRS decides to exclude the application from international protection altogether.

In all four cases, the applicant has the opportunity to appeal an unfavourable decision taken by the CGRS before the **Council for Alien Law Litigation (CALL).** The appeal must be lodged within 30 days of notification to the applicant of the decision by the CGRS.

Should refugee status be granted, or subsidiary protection afforded, it remains important to note that the decision is always conditional and can later be revoked or terminated. The CGRS' decision to revoke or terminate international protection can also be appealed before CALL. An appeal lodged before the Council for Alien Law Litigation could have one of three outcomes:

- Either CALL could decide to uphold an unfavourable decision rendered by the CGRS.

- CALL could annul a decision rendered by CGRS. CGRS then reconsiders the case in its entirety to come to a new decision. In its reconsideration of the case, CGRS considers CALL's decision.

- The last possible outcome is the reversal of a decision rendered by the CGRS. In all three outcomes, CALL reconsiders the facts of the case in their entirety.

The final national appeal available to the applicant seeking international protection is before the **Council of State (CoS).**

The Council of State is a judicial body at the same hierarchal level as the Supreme Court (The Belgian Court of Cassation). However, the Council of State's competence is limited to checks and balances of the administrative procedures followed by government bodies and does not consider the facts of the case in their entirety. Therefore, the appeal is limited to procedural errors.

A decision taken by CALL can be appealed before the CoS within 30 days of notification to the applicant of CALL's decision. However, unlike the previous steps, appealing before the CoS does not suspend the execution of the decision rendered by CALL. An applicant can be removed or repatriated before a judgement by the Council of State. Once an appeal is before the CoS, a period of 8 days applies, called a filter period, in which the Council of State decides whether the appeal is admissible or not. Should the appeal be deemed inadmissible, CALL's decision becomes final, and no other course of legal action on international protection is available to the applicant at the national level. Once all national legal action has been exhausted, the applicant can appeal their claims at the European level before the European Court of Justice. However, the applicant faces removal or repatriation from the day after receiving notification of CALL's final decision and appealing at these various levels comes with additional emotional and financial costs.

The application with IO determines the entire course of the asylum procedure. Nevertheless, surprisingly, a person seeking asylum has the least access to procedure assistance. First, the need for international protection is assessed using a questionnaire provided by the CGRS. At this stage, the only support available to the applicant is a language translator (Dutch or French). Only much later in the procedure, when the application is brought before the CGRS, can be invited to a personal interview. Between lodging an application at the IO and being invited for a personal interview, an application for international protection could also be denied. The applicant's only form of redress is through an appeal process.

In most legal proceedings to prepare themselves as best as possible. Lawyers support their clients by helping them understand the material and procedural requirements of any given process. However, applicants for international protection do not receive assistance in representing their case as best as possible in front of the IO. Our experience of sexual

orientation is personal and differs significantly from person to person. Furthermore, the language we use to express our feelings might not translate well into another culture or language especially because an application lodged before the IO is done in one of the two administrative languages of the IO, which is either French or Dutch. Unless the applicant is from a French-speaking country, both languages will be foreign to the applicant. However, they will still have to ensure that they clearly express their claim in the application with the help of a translator only.

It is essential to draw our attention to the dynamics between the state and its agents (IO, CGRS, CALL and CoS) versus the applicant for international protection. On the part of the state, it ensures that there are ample and effective remedies available to the applicant, should they receive a negative response from one of its agents. In that sense, the state complies with its obligation to clear and well-defined procedures with effective remedies. On the part of the applicant, the process could be extremely daunting. The resources to use the available remedies poses the question of how many people are deterred by the gravity of the procedure. The resources required in a legal battle are not limited to financial resources. One requires human resources in the form of expertise and knowledge of the system and its procedures to use them effectively. Yes, free legal assistance is provided after the initial screening by the CGRS. However, additional knowledge, such as an understanding of Black female sexuality and the differences in expressions of sexuality, would be helpful. Resources also refer to emotional and physical support. For example, spiritual Black lesbian and bisexual women will be hosted in reception centres across the country when applying for asylum. However, during their time there, they are away from their families, from community, from people they know and trust. Unless they have been here long enough to form bonds with others in the reception centre, they might not have anyone to support them. Resources are also financial. There is a question of how much financial support is provided to applicants when seeking asylum. Financial resources cover the most basic needs, such as transportation, printing, copying, collecting evidence, even when free legal assistance is provided. Health is also a resource. What level of healthcare is provided to persons seeking asylum? Is it a minimum provision? Is it urgent care? What does it entail exactly? What about psychological support? Or spiritual support?

3.2. Rights granted under refugee status.

According to the information provided on the CGRS website, the following rights are accessory rights to acquiring refugee status:

a. travel documentation because the documents from the country of origin will no longer be valid, the person is now recognised as a refugee and not a national of their country of origin. They will, therefore, receive travel documentation based on their status as a refugee.

b. civil status documentation because the likelihood that one will still have access to certificates from their country of origin is low. A refugee certificate means a person can request civil status documents from the municipality registering their address.

c. refugee certificates for children born in Belgium. If both parents are refugees and the mother is single, but the father has not recognised the child.

d. refugee status for minor children who arrive in Belgium later than their parents.

These are general rights conferred to all refugees. However, this scenario applies to women applying for refugee status, hence reference relationships with fathers.

4. Case study of the proceedings before the Council for Alien Law Litigation

The final part of this chapter reviews a case brought before the Council for Alien Litigation on 13th October 2017, regarding a decision taken by the Commission General for Refugees and Stateless Persons on 13th September 2017. CALL's judgment was rendered on 12th March 2018. The focus is on three aspects of the case before CALL.

- First, the focus is on the facts of the matter and how the issues are legally framed.
- Second, we explore the decision taken by CGRS, which forms the basis of adjudication for CALL.
- Third, CALL follows the decision taken by CGRS and motivates why it follows the decision taken by CGRS to deny the applicant refugee status and subsidiary protection.

The judgement was rendered in Dutch and is translated by me. One of the reasons I use it as an example and translate it myself is to place myself in the applicant's legal defence position. Thus, it gives me a glimpse of how difficult it is to translate legal nuances for a person whose first language is not Dutch. I also note that, even if an applicant could speak Dutch, legal jargon can often be far removed from colloquial language. I can only imagine the kind of linguistic difficulties that could occur for a lawyer whose first language is Dutch and a client, as in this case, whose first language is English. The choice for the case study was motivated by three reasons/ three selection criteria:

- The appeal had to have been lodged in 2017
- refugee and subsidiary protection had to have been denied, and
- finally, whether the country of origin would play a role in the decision-making process.

The applicant, in this case, is from Uganda, a country that is globally criticised and known for being extremely homophobic. The main aim of the example is to gauge which information of the applicant is used to decide about their right to international protection.

4.1. The merits of the case.

The admissibility of the claim is judged based on article 51/4 of the Belgian law of 15th December 1980 regarding entry, residence, settlement and expulsion of foreign nationals and the applicant's administrative dossier (which includes the CGRS questionnaire).

The parties in the case are applicant X, and the defendant is the Commission General for Refugees and Stateless Persons, as the applicant is appealing their decision.

Legal counsel represents both parties. The appellant's lawyer, however, is represented by another lawyer (in loco). While the case does not state why, I can deduce this from the use of the word loco, which is Latin means place and is used here as in place of. The applicant's administrative dossier contains her personal details. She was born on 26th January 1988 in Kampala. She belongs to the ethnic group of the Muganda people. She was brought up in Bunamwaya but spent her adult years in Kampala. The dossier also contains information regarding former employment. From June 2011 to 13th July 2016, the applicant was employed as a receptionist at the Paragon hospital in Kampala. However, the applicant was fired from employment on 13th July 2016 because she gave medicine to sexual minorities. Unfortunately,

the case does not mention how she could determine that the persons she gave medicine to were sexual minorities or whether she belonged to an LGB organisation or group.

The applicant argues that in addition to giving away free medicine, she believes she was fired because she is a lesbian. However, again, no reference is made to how her employers found out she was lesbian. The applicant continues that she was arrested by the police and detained for five days when she was fired. It is unclear whether her arrest was a direct consequence of her being fired, charged for handing out free medicine and being lesbian, or whether the detention was due to one of two charges alone. After five days, the applicant was released on bail. Her bail was paid for by her mother and her mother's friend. The applicant states that the police told her mother that she was a lesbian. Her parents then decided to marry her off to a person called MK. The appellant claims that this was a forced marriage because her parents now knew that she was lesbian. As a result, she suffered abuse from MK, who locked her up in the house and forced himself on her.

On 4th November 2016, the applicant managed to escape MK's house and move in with her partner, J. According to the applicant, J. helped her escape from Uganda. The applicant states that she fears being imprisoned without a fair trial and legal assistance in Uganda. The applicant hopes to demonstrate that she experienced persecution in the past and fears experiencing persecution in the future. The applicant left Uganda on 23rd February 2017 and applied for asylum in Belgium on 24th February 2017. As part of her asylum application, the appellant submitted the following documents: release forms from the police, the letter of discharge from the Paragon Hospital, medical documents proving genital mutilation (pulling of the lips), WhatsApp conversations with her alleged partner J., her passport, and other supporting documents such as photos (Case nr. 201 013, p.1-2).

As for the examination of the applicant's administrative dossier, it should be determined whether, for the appellant, a personal fear of persecution exists such as set out in the conditions of the Geneva convention and if not, it should be determined whether the appellant runs a real risk of suffering serious harm as defined under the conditions for subsidiary protection. According to the CGRS, the appellant does not fulfil the conditions for either of the two forms of international protection because the CGRS is not convinced that the appellant is homosexual.

In what follows, I try to get to the essence of the motivation of the CGRS and why they are not convinced that the appellant is homosexual, as well as why CALL agrees with the conclusions of the CGRS and denies the applicant refugee status and subsidiary protection. Since this is a CALL judgement, the only remedy left for the applicant at the national level is for the decision to be brought before the Council of State, which decides on the procedural aspects of the decisions taken by Belgian administrative authorities, based on the principles of good governance. In the procedure before the Council of State, the court does not review the facts entirely. An appeal lodged before the Council of State does not suspend actions available to the IO. At this point, the IO would be well within its mandate to repatriate or remove the applicant from the territory of Belgium.

4.2. The CGRS is not convinced that the appellant is homosexual.

The CGRS motivates its decision as follows:

Although it is generally accepted that there is no objective way of proving sexual orientation. An asylum seeker who identifies as homosexual is expected to be convincing in her experience and life path regarding her sexual orientation. In other words, an asylum seeker who claims to be in fear or at risk because they are homosexual is expected to provide a comprehensive, detailed and coherent account (p.2).

In other words, the applicant, and not the state, is claiming protection based on the fear or risk tied to being homosexual. At the very least, CGRS expects a lived experience of sexuality, an embedded expectation that sexuality is the primary identity through which the applicant should experience their lives. Although the UNHCR acknowledges intersectional lived experiences, its focus is mainly on the intersection between sex and sexuality or sex, sexuality and religion.

4.3. How does the CGRS motivate its conclusion that it is unconvinced of the applicant's homosexuality?

The point of departure for the CGRS is the awareness and acceptance of one's sexual orientation. There should come the point in one's life when they identify and acknowledge that they are different from others and that instead of liking boys, as they are expected to, they prefer women. Not only is there an expectation of a specific point in time when one identifies their sexual orientation, but the identification is also expected to cause internal conflict and

confusion. What the CGRS expects is an account of these points and struggles that the applicant experiences during their lifetime until they come to the point of acceptance. Once homosexuality is accepted, then it becomes the identifying feature of a person. Most importantly, once accepted, the identity is final.

In its motivation, the CGRS refers to two sets of hearings. I assume that the applicant was invited to at least two interviews: one based on the CGRS questionnaire and another for Female Genital Mutilation. The CGRS makes references to explanations given by the applicant about her sexual orientation before the IO and during these two hearings. These are some of the questions deduced:

- how and when did you know you were lesbian?
- How do you feel about being lesbian?
- Do you think you can stop being lesbian?
- What makes you confident that you are attracted to women?
- How and when did being lesbian become a part of you?
- Do you think your life would be different if you had been socialised with boys instead of going to an all-girls school?
- How does being lesbian affect your self-esteem?
- Have you ever thought about experimenting with boys?

Whilst some of these questions might be standard questions in the CGRS questionnaire, others seem to be directed towards the information supplied by the applicant. For instance, whether she thinks she could stop being lesbian refers to a statement made by the applicant that her being lesbian is a choice. The question about whether the outcome would have been different if she socialised with boys is in reaction to her statement that she discovered her sexuality while she was at an all-girls school. The questioning continues as follows:

During the hearing, you declare that you are happy with your lesbian orientation (CGRS hearing report, p. 19) and happy (CGRS hearing report, p. 19 + p. 22). You also declare that you thought you would be free when you discovered this (FGM hearing report, p. 19) and

that it is a choice you were not forced to make. Asked whether you can then stop, you answer in the negative. Asked why not, after a short pause, you declare that you do not have the urge, the attraction to men (FGM hearing report, p. 20) (p.3, § 6).

The CGRS believed that the appellant's life does not seem to be marked by her coming to terms with her sexual orientation, nor did she seem to struggle to accept herself as a lesbian. The appellant is asked whether she experienced difficulty accepting herself and her sexual orientation and whether she believes she would have liked boys had she been socialised with boys (the appellant went to an all-girls school and claimed that experimenting with other girls seemed incredibly normal to her). She found it liberating to realise that she preferred girls at ten and was happy with the realisation. The appellant adds that she was free in her choice and that lesbianism was not forced on her. The fact that she mentions lesbianism and choice is not taken too well. Something about her wording makes me think that the applicant suggests she chose to live openly as a lesbian even when it is not the most obvious choice. When asked about how her partner's experiences being lesbian, the applicant states, 'You cannot be a lesbian if you don't want to be. You choose to be. She was always comfortable with it' (CGRS hearing report, p. 29) (p.3 §6).

I think the applicant means: It would seem to me that, during the hearings, some essential nuances could have been lost in translation. Sometimes, when we have conversations with each other, we forget fundamental differences in how we communicate. For instance, I think there is a difference between identifying having feelings for someone of the same sex, regardless of whether those feelings are sexual, emotional or romantic, and whether you identify yourself as lesbian, bisexual or queer. I wonder how the entire procedure accounts for differences in communication and framing resulting from history, context, culture. For instance, based on the literature review, I ascertained that, regardless of where Black women find themselves geographically, the silence around sexuality seems to mark our lived experience communally.

I could understand why the appellant would refer to being lesbian as a choice with that in mind. However, the choice is not about the feelings themselves. The choice relates to action, knowing that living openly as a lesbian in a hostile environment has consequences that range anywhere from being excommunicated from your family or community to imprisonment. Although the use of the word choice is a poor description of what I am trying to say, I wonder whether there are more productive ways of trying to see things from the person's point of view

rather than falling over the use of words. I come back to the question: what are we listening for? Is it to form a counterargument or hear what the person is trying to explain?

The CGRS argues that it is not convinced of the appellant's sexual orientation because the appellant claims that her sexuality is a choice, even if she claims only to have had sexual encounters with girls and not with boys. Furthermore, her experience of her sexual orientation seems superficial, mainly because 'someone's sexual orientation is an essential element of their **personality** ' (p.3, §1). The CGRS continues that the applicant expresses being happy and always having felt good about her sexuality without experiencing despair, making it far from plausible that she is lesbian. Until this point, the focus is mainly on the applicant's own experience of her sexuality, but CGRS also asks her about her partner's experiences of her sexuality.

4.4. Does the intersectional identity of spiritual Black lesbian and bisexual women living in Belgium negatively impact the credibility of their claims?

This section examines whether their sexual orientation negatively impacts the testimony of spiritual Black lesbian and bisexual women. Are they judged as good informants? According to Fricker, our assessment of a good informant, someone who knows what they speak, is determined by many factors. Fricker identifies three key factors that guide the following paragraphs. First, a good informant is (Fricker 2007, 129-130):

- someone who knows enough about the context to be right about what we want to know.
- someone who is communicatively open, sincere in what they tell you.
- Someone who you recognise to have a good informant's properties, fostering satisfaction with what they tell you.

Fricker adds that certain groups of people are never asked questions because our prejudice towards them means we will never ask the question to start with. Fricker calls it pre-emptive epistemic injustice (Fricker 2007, 130). One could argue that the applicant is being asked to narrate their story and that by giving the applicant the chance to speak, there is a level of credibility afforded to them. However, is it possible that their level of credibility is undermined in advance?

Moving from the applicant's lived experience, the CGRS enquires about the lived experience of her partner, J. What did J. tell the applicant about her discovery of her sexual orientation? Are the two of them still in contact? How did the applicant's departure from Uganda impact J.'s life? Is J. at risk for persecution because people know that applicant fled from the country due to her sexual orientation?

4.5. Sexual relationships

CGRS concludes that it is not convinced of the relationship between the applicant and her partner J. According to the CGRS, the applicant was unable to narrate how J. discovered that she was lesbian, nor was she able to give an account of J's coming out story. The CGRS argues that it is impossible to believe that during their 6-year relationship, J's discovery of her sexual orientation and how she dealt with it was never discussed. Alternatively, the applicant assumed that her partner's experiences were similar to hers and never bothered to ask. The CGRS continues, ' a moment so significant in your partner's life, and it never occurred to you to ask. Once again, your explanations of how she became a lesbian show that you cannot sufficiently identify with the sexual orientation of someone who would never have had heterosexual feelings '(p.3, §2). CGRS argues that the applicant seems to hold a very stereotypical view of homosexuality when asked if she knows other people who are also homosexual. The applicant answered that it is challenging to identify women as homosexual. However, some men she knows 'walk like women, wear make-up, love to hang around women.' Therefore, she assumes that they might be gay. The CGRS responds to this statement by saying, in a country where applicants claim that people can be killed for their sexual orientation, it seems contradictory that someone would walk around presenting themselves as a stereotype of a homosexual person (p.4, §1). The CGRS doubts the credibility of her statements.

Do you know other people in Uganda who have had similar or other issues based on their sexual orientation (experience violation of their human rights based on their sexual orientation)? For example, in her dossier, the applicant refers to the killing of a man called Kato. The applicant claims that she was there when it happened and saw everything with her own eyes. However, the applicant states that this happened in 2011, and in a later statement, she attested to witnessing Kato's murder in 2014. Moreover, although the applicant claims that she gave away free medicine to sexual minorities, she does not seem to know any organisations fighting for the rights of LGBT persons in Kampala (p.4, §2).

4.6. Nationality and context

Regarding the context the applicant fled from, CGRS asked the following questions:

- Do you understand the political context regarding views on homosexuality in your country of origin?

The CGRS was sceptical because the applicant claimed to have studied politics at university and handed out free medicine to sexual minorities but could not answer questions related to her country's political situation.

- The questions were whether she knew of any organisations fighting for the rights of LGB persons.
- Is there a gay pride organised in Uganda?
- Does the applicant know what punishment is prescribed by law if one is caught having homosexual relations?

The applicant claimed that she would have no right to legal assistance or a fair trial if prosecuted. The CGRS responded that, according to the information available to them, the Supreme Court of Uganda tries to ensure the right to a fair trial for homosexual persons prosecuted in Uganda. The applicant claims that homosexuality is penalised by the death penalty in Uganda. She was asked to recite the law, to which she responded that according to the constitution, homosexuality is illegal and penalised by the death penalty. CGRS counterargument was that the applicant claims to have studied politics at university, but their information states that homosexuality is not punishable by the death penalty in Uganda. Instead, homosexual acts are penalised with imprisonment. It was found that the applicant's statements regarding the situation for homosexual persons in her country of origin were inconsistent (p4., §3). Additional questions regarding the context for homosexual persons in her country of origin were related to meeting places.

- Does the applicant know of any?
- Are of the places she mentions in her application gay bars?
- Are there any places where homosexual persons go to meet each other?

The applicant responded that she knew one, Muyonyo. Nevertheless, because she did not mention it when the CGRS asked whether they are any gay bars in Kampala, the CGRS responded by saying Muyonyo is part of the metropolitan region of Kampala. Based on the above, her answers were deemed inconsistent (p.4, §4).

4.7. Picture evidence

Picture evidence provided by the applicant was dismissed based on a judgment by the European Court of Justice (A, B, C versus Staatssecretaris Veiligheid en Justitie of the Netherlands December 2014). According to this judgement, pictures or video material containing performances of sexuality are not admissible. The court claimed that it is difficult to assess whether the pictures depict real emotions or whether the emotions are staged. Therefore, this form of evidence is not allowed.

4.8. Other material

With regards to the other material presented by the applicant, the CGRS speak for itself:

Regarding police detention and your release on bail. In support of your asylum application, you submitted a police form 18, stating 'release on bail.' It should be noted that such a form can be found through a simple search on google.com. The simplicity with which one can obtain such a document affects its value. Moreover, it is easy to obtain false documents due to rampant corruption (this information can also be found in your administrative dossier).

Furthermore, obtaining false documents appears to be common practice in your country of origin. It is also surprising that the form in question mentions that you were accused of 'promoting and inciting homosexuality.' Nowhere during the hearing before the CGRS, nor before the Immigration Office, did you mention that you stood up for the rights of homosexuals?

Regarding the letter of dismissal from the Paragon hospital, you also present the letter of dismissal you received from your employer, Paragon Hospital. The letter of dismissal also shows that you were dismissed because of, among other things, section 2 of the hospital's internal regulations or code of deontology: 'You shall not distribute, give, sell, post, or make available materials on religious, political, and social issues on company premises without the

express written permission of the management,' which indicates a dismissal that is not based solely on your sexual orientation or the giving away or selling of medication. Moreover, this document contains a notable error. For example, it reads 'hosiptal' instead of 'hospital' in the letter's header. These findings make it possible to attach little or no evidential value to the document, apparently drawn up with little care. Given the above findings, you have not made it plausible that you were arrested in the circumstances you outlined. Consequently, no faith can be placed in the reason why you were married off to Muhammed Kyeyune. Furthermore, in support of your asylum application, you deposit two more photographs you declare to have been taken w at Muhammed's house. However, these photos cannot refute the above.

Regarding FGM (pulling of the lips), you submitted a medical report attesting genital mutilation, but after medical examination, the doctor stated that what you referred to as pulling on the lips is clinically quasi-invisible. Therefore, the CGRS concludes:

Based on the elements in your file, the CGRS concludes that you cannot be recognised as a refugee within the meaning of article 48/3 of the Aliens Act. Furthermore, you are not eligible for subsidiary protection within the meaning of Article 48/4 of the Aliens Act.

CALL examines the case in its entirety and comes to the same conclusion. It is without question that the applicant's administrative dossier is filled with inconsistencies. My aim here is not to try and claim otherwise. However, I wish to point out that the essence of any legal proceeding is to undermine the opposition's defence's credibility. Even before they start, applicants are already at a disadvantage because the opponent determines the procedure. For the CGRS, such cases are a matter of daily routine. From the IO to CALL, the process occurs systematically so that the state agents are well-versed in the procedure. On the other hand, the applicants are new to the process and have to tie together a story that is as cohesive as possible. In the case above, the multiple inconsistencies in the applicant's dossier made it incredibly easy for the CGRS to rip the applicant's statements apart.

At the same time, I felt that CGRS applied a double standard in determining when to discredit an account and when to refer to it. For instance, when discrediting the applicant's reasons for dismissal, the CGRS highlights a mistake in the letter heading (hospital instead of hospital), doubts whether the document is authentic, but still uses the contents of the same letter to undermine her claims for dismissal.

It would be easy to conclude that if the applicant knew better or was better prepared, the outcome of the application could have been different. However, that would underestimate the level of power operating against persons claiming asylum based on their sexual orientation. If a framework of liberation addresses the vulnerabilities of spiritual Black lesbian and bisexual women living in Belgium, it would need to address the epistemic invisibility of spiritual Black lesbian and bisexual women claiming asylum in a system that renders them powerless from the beginning of the application process.

Chapter 6. Familial Invisibility

1. Introduction

This chapter contends with the notion of family in the law and society. It explores how perspectives on family have shifted in the code civil since its adoption in Belgium. Moreover, it examines the themes explored at the intersection of Black female sexuality and spirituality include home, extended family, community, the survival of the Black family and belonging. Some of the themes raised in the Belgian context include:

- informal and formal relationships in their protection in the civil code
- marriage as the foundation for family formation
- Emphasis on the fixed nature of a name, gender, age, nationality, and class as personal and civil status aspects.
- inheritance and property
- single motherhood
- adoption
- co motherhood

Despite early interventions by black lesbian feminists scholars (Smith 1983, 2000; Lorde 1997) to challenge theorisations of concepts such as home, kinship and family without the inclusion of queers in the black community, scholarship on black family models usually employ a strategic essentialist approach(Spivak, 1980) towards the liberation of black folk in privileging race and class oppression(Hudson-Weems 2004), or the intersection of race, class and gender oppression(McAdoo,1999, 2002,2007; Hill 1999, 2001; Hill Collins, 2015, 2016 and Hooks 1992) even when this scholarship examines the black family within the context of an extended family network. Furthermore, scholarship on black families often renders black queer families invisible (Moore, 2011), even though part of the Black liberation project requires the queering of extended Black families to theorise differently about the various forms of kinship that have naturally been a part of the black diasporic culture.

Within this context, it is essential to understand how black spirituality influences attitudes towards sexuality within black extended families (Lightsey 2012), mores on relationship and family formation, especially practices and traditions passed on from mothers to daughters regardless of whether the family itself is religious or are attendants of a Black Church. Globally, women are still the primary socialising agents of their children (Hill 1994, 2016; Van de Velde 2019). Moreover, queer thinking extended families encourages exploring the norms prescribing family and community in our society. In the Belgian context, this process requires an understanding of the conceptualisation of family, relationships and connections between members of a family and members of society.

2. The Belgian civil code

'Puisque les concubins se désintéressent du droit, le droit se désintéressera d'eux' ('since cohabiting couples seem to have lost interest in the law, the law will lose interest in them') – Napoleon Bonaparte during the drafting of the French Civil Code.

Taking the Belgian civil code and the quote by Napoleon Bonaparte as a point of departure challenging the foundations of the civil code challenges the norms on who has access to private property because altering norms on family formation also alters the laws of marriage, lineage, inheritance and ultimately on nationality. The family is the site of control for the civil code, I implore us to challenge the many ways our existence is automatised to respond to Napoleon's threat by showing some of the positive ways we manage to get away with defying the law.

Up until 1st January 2000, the only formal relationship recognised by the Belgian civil code was marriage. Furthermore, until June 2003, marriage could only be entered into by persons of the opposite sex. What is more, the leap from marriage to the inclusion of LGB partners into the Belgian familial framework continues to be a long-term struggle for the LGB movement. Recalling from the chapter on the emergence of the LGB rights framework, the inclusion of LGB couples into the adoption framework was delayed for three years in parliament, from 2003 until 2006, because the recognition of familial rights for LGB persons would normalise LGB families in society. Thus, although amendments to the adoption framework were made in 2003 and 2005, LGB couples' inclusion was only in 2006. Moreover, although recognition of the needs of co-mothers was brought to political attention1990s,

comotherhood was only addressed in 2014. The law on comotherhood came into effect on 1st January 2015.

The inclusion of LBG families into familial rights protection in the civil code is not only recent but also limited, telling of the exceptional character within the framework of the civil code. The civil code will always need to be amended to accommodate LGB families, and any other concept of family that does not fit into the heterocentric, nuclear, marriage-based model of family. The exceptional nature of LGB familial rights also means that the work of the LGB movement in Belgium is not done and that the movement requires political energy and strategy to continue. At the same time, visibility for spiritual Black lesbian and bisexual women cannot be achieved in isolation. Liberation will only be achieved if we view each other's perspectives and experiences as complementary. Positioning the intersectional identity of spiritual Black lesbian and bisexual woman living in Belgium could help inform a political agenda aimed at liberating how we conceptualise family. Through interdependency and relationality, we can address our communal needs. The chapter explores how themes related to the conceptualise of family, community and share responsibility to help formulate a future agenda for the Belgian LGBT movement. I use some of my own experiences and observations from family and friends as a point of departure, to highlight some of the issues that might have been identified but have not been addressed in the current LGB familial rights framework.

3. Theorising about the family from my perspective

I was born in Chingola, a mining town in the Copperbelt province of Zambia. Our parents had four children. I was born first; I have two brothers and I had a younger sister. Unfortunately, like many others in Zambia, I lost both parents and my youngest sister to HIV/AIDS. In the early 90s, much like elsewhere in the world, having HIV/AIDS was a social stigma. As a result, many people suffered silently and kept their status a secret for as long as possible. It was only years later, at 12, that our parents and younger sister had died of HIV/AIDS. Until then, we to believe that they had died from tuberculosis. From the moment of our father's death, when I was seven, my brothers and I were split up and placed in the care of family members. Our mother was too ill herself to care for us. Being taken in by family is common practice in our families. Generations of us have been cared for by aunties, uncles, grandparents, or older siblings. Others that were less fortunate had to learn to take care of themselves in the most terrible circumstances. The effects of the HIV/AID pandemic, now epidemic (see WHO definition 2018), are still tangible in Zambia, more broadly in Africa

today. The importance of grappling with the effects of the HIV/AIDS epidemic from the perspective of spiritual Black lesbian and bisexual women in Belgium ties into what Walcott terms difficult knowledge of black queer diasporic realities and the respectability politics and epistemologies of the Black Liberation project (Walcott 2005). HIV/AIDS at the intersection of Blackness, sexuality and spirituality brings to the fore some of the issues that have proven problematic for assimilation:

- HIV/AIDS was stigmatised as the disease of Blacks and Gays
- HIV/AIDS was perceived as God's punishment for promiscuous behaviour
- HIV/AIDS has historically destroyed families worldwide, forcing us to rethink family ties and obligations. HIV/AIDS threatened the survival of the Black family

In *Boundaries of Blackness*, Cohen used the notions of secondary marginalisation and respectability politics to explain how Black elites tried to cover the high prevalence rates of HIV/AIDS amongst Black homosexuals in the media coverage of the AIDS epidemic amongst Black people in the United States (Cohen 1999). In *Cultural and Agenda conflicts in Academia: critical issues for Africana Women's studies (1989)*, Hudson-Weems warned the reader not to confuse her womanism with Walker's womanist framework. Instead, Hudson-Weems argued that Africana womanism is derived from Black feminist thought. From the many women who went before her and have questioned the accepted idea of womanhood. Hudson-Weem's reading of Sojourner Truth's 'Ain't *I a Woman?'* speech, when *Truth* questioned the White audience's exclusion of women like Truth in their understanding of true womanhood due to Truth's race and class, explicitly denounces non-heterosexual womanist frameworks. By emphasising the primacy of family and role models for Africana children, Hudson-Weems excludes Black female homosexuality and motherhood from Africana womanism. The fundamental tenets for an Africana womanist agenda therefore include:

- Prioritisation of the fight against racism and classism that Africana men and women must undertake together
- The primacy of family, Africana children and reclaiming adult presence for Africana children

- The primacy of African culture and racial integrity
- Africana men and women as allies in the fight against racism
- Issues such as sexism should be challenged within the Africana community.
- Africana women must create their paradigm and methodology instead of relying on feminist paradigms to understand and address the unique experiences, struggles, needs and desires of Africana women.

Similarly, in *The Dynamics of the Contemporary Black Female Novel in English (1985)*, Ogunyemi's extrapolation of womanism to the African continent contains aspects of Walker's abovementioned definition without reference to sexuality. In Ogunyemi's use of the term womanism, which she arrived at independently, she underpins the metamorphosis that occurs when an adolescent girl before she turns into a woman. For her, the transform comes when the "womanist" concern is no longer only with herself but with the needs of others. Her maturity becomes the basis of inquiry that encompasses:

- A commitment to the survival and wholeness of an entire people, both male and female
- Celebration of black/ African culture
- Sexism as merely one dimension of womanist struggle
- Spirituality is a key component of women's survival and balance.
- Reclamation of the "Matriarch" (here: women without men). With the understanding that these women demonstrate concern for the extended Black family, which is significant in number and geographically spread
- African womanism separates from feminism based on race. African womanism is a paradigm to name and understand the unique purpose and struggle of African women writers.

However, as Black lesbian Feminists and certain womanists have contended, the survival of the Black family, spirituality, Black female homosexuality, concern for the extended Black family and addressing the consequences of HIV/AIDS in the Black community are not mutually exclusive (Hill 1999; Smith 1983, 2000; Lorde 1997; Cohen 1997: Moore

2011; Coleman 2005). Therefore, instead of focusing on politics of respectability, drawing attention to these critical issues in our community are essential in our quest for liberation. By conceptualising a Black queer diaspora that does not fit neatly into the Black liberation project Walcott reminds us to deal with the multi-dimensional reality of our existence (Walcott 2005). In centring my experience as a spiritual Black bisexual woman in Belgium. The experience of being orphaned due to the devastating consequences of HIV/AIDS. Of being adopted and incorporated into a new family. Of legally being removed from one family, but traditionally belonging to three. I centre the millions of children who have lost their parents, guardians, aunts, uncles, family and community due to HIV/AIDS. I also centre the spiritual framework of liberation that celebrates sexual diversity, fluidity and sexual pleasure. Just as equally as I centre motherhood, marriage, family, extended family and community. Can our conceptualisation of family include the many ways we dispersed around the globe? The various ways we love and life? The variations of incorporation into family models?

The notion of being cared for by your parent's siblings is standard practice in Zambia. So, for two years, I rotated between my mother's relatives and my father's relatives until an agreement was reached on who would become our parents during meetings held among the elders of both families. The elders in the family are not necessarily the eldest, nor are they necessarily male or necessarily female. There are rules on how these decisions are taken and who is part of the family council. However, that is not information one is privy to at that age. I was not privy to any of these discussions, nor was my input asked. The majority of the information I have gathered by asking some of my aunts and cousins. Other information I found in my adoption papers. I mention these practices because they impact how we understand and conceptualise family. Our silences, our omissions, our quest to assimilate and how we hide. These norms that we pass on from one generation to the next perpetuate invisibility for many. Conceptualisations of the family include legal definitions but also emerge from traditions and customs. Although the law does not consistently recognise the customs and traditions, custom and tradition have a lasting impact on conceptualising family and bonds of closeness. Customs and traditions also have a normative function, a sense of obligation, similar to the law.

After moving around between different homes, it was decided that I would be moving to Belgium. Apparently, as young women, both my mothers had agreed they would take care of the other's children should anything happen to either one of them. However, I think my adoption was an outcome of conversation during my first mother's illness. It became apparent

to both of them that my first mother would not pull through. What must have also been apparent was that my second mother could not take three additional children in her care. In addition, I was the only girl. Again, none of this was put in writing, my second mother could have also decided not to adopt me, and her sister would have never known.

However, by 2000, after the family council decision, it was decided that my second mother would adopt me and that my two brothers would remain in Zambia and be adopted by my mother's elder brother and my father's younger sister. We were adopted differently, mine was a complete (full) adoption according to Zambian common law and Belgian law, while my brothers were adopted through custom. The law recognises two kinds of adoption, simple and complete adoption. The two have distinct legal consequences that I will shortly address in the section on adoption. For now, remember that I became recognised as the legal child of my second mother and her husband, my then uncle and now second father. I also became a sister to two of my then cousins, now sisters.

Among the many differences in the type of adoption my brothers and I underwent is the fact that I now carry the last name of my adoptive father while they maintain the name of our biological father. Thus, technically speaking, I am no longer legally related to my biological brothers and have no rights or claims to anything left behind by my biological parents. Nevertheless, and at the same time, I have become part of my second family for all legal purposes, including my nationality and rights to inheritance. However, even though the law recognises full adoption for my Zambian family, I am still part of the family even though my name and nationality have changed. Thus, in practice, I now have three sets of family. It also means that when I speak of family, the norms and expectations I am navigating, I refer to our nuclear family in Belgium and the norms and expectations of the extended two families I have in Zambia, to which I still belong. Although my family formation might be specific to me, I would argue that the points of connection and the navigating of multiple familial norms and expectations are commonalities of the diaspora experience. What it also means is that my family is not a monolith but an explosion of difference. For instance, while my Belgian family are humanists, my mother's family is predominantly Catholic, and my father's family is predominantly protestant Christian ministers. Moreover, in our Belgian family, my sisters, mixed-race, our mother and I, Black, the non-white members of our Belgian family.

Why is this important? Because at times, when I have presented this research and my argument that invisibility of spiritual Black lesbian and bisexual women living in Belgium

cannot be treated through a singular lens, i.e., boiled down to experiences of race, culture, religion, class, or sex or sexuality but must be treated intersectionally. I often receive the question of whether the invisibility would be different if these spiritual Black lesbian and bisexual women living in Belgium were adopted by, say, a Belgian family. I assume that the notion of Belgian in the question refers to a white family. Of course, there might be a difference depending on the exact intersection of someone's identity. However, their invisibility would nonetheless be intersectional, albeit adjusted to the exact matrix of their identity. The issue in the question lies in the assumption that our differences are one-dimensional, not intersectional and structural.

4. Family formation

In 1891 the Pope addressed working classes in the wake of the Industrial Revolution in Rerum Novarum. The Letter from Pope Leo XIII intended to remind the working classes of the teachings of the Church. For example, the value of men in society was to care for their families and model discipline and work ethics for their children.

For the Pope, resistance and Industrial Revolution contrasted with the idea of a good Christian, family and its status within society. Family is the cornerstone of society. As a unit, it is equal to the state and derives its status from that purpose. The Pope redirects men's political energy to family. He encourages them to exert their power within their family as opposed to resisting at work. A man works to provide for his family. They should live as frugally as possible and save to buy property instead of joining others in resisting private property. Private property is an aspect of natural law. It is conducive to peace and tranquillity. Understanding this principle reminds men of their destiny in life and not to desire what is not theirs: 'Do not covet what is not yours, whether it is your neighbour's wife, house, field, man-servant, maid-servant, his ox, his ass or anything that is his' (paragraph 11).

The Pope also used this moment in history to reaffirm some of the core values of life. On family, the Pope reminded men that the purpose of man was marriage and to multiple. That is a principle of natural law that is to be observed and cannot be abolished. As head of the family, men own property to provide for the family. Property is the result of hard work and productive labour. As a continuation of his personality, his children inherit what he models through this ethic and what he acquires (Rerum Novarum 1891,11-13).

In sum, the Pope sets out the following principles clearly as the foundation of society and family:

- private property as an aspect of natural law
- marriage as the foundation for family formation
- children as extensions of their father's personality
- dependency of children and wives on their father and husband as their sole provider
- acknowledgement of slavery
- work as a virtue, work as a purpose
- the principle of a good father and a good Christian
- predetermined class distinction (it is not for men to go against their position in society) passed on from one generation to the next, through father to son as an extension of personality
- personality is name, gender, class, access to jobs, nationality and inheritance.

Most of these principles are still part of our civil code today. The Belgium civil code consists of ten books. Of the ten books, the first book regulates personal status and aspects of our identity, such as our name and what determines our lineage. The first book also includes provisions related to marriage as the only formal relationship recognised in book one, the book on persons and family, because book one determines our familial status. The other nine books of the civil code all relate to property and acquisition, except the few paragraphs regulating property for cohabiting persons (articles 1475-1479).

4.1. Adoption as the exception to the principle of bloodline

Adoption was conceptualised as an exception to the rule of family formation through bloodline, based on the principle of ius sanguine, introduced as a concept during Roman law. Adoption was out of use during the middle ages. However, the code Napoleon reintroduced the framework of adoption into the Belgian legal framework in 1804, during the annexation to France. The code Napoleon was maintained in its entirety in Belgium, until the first amendment of the Belgian civil code in 1940. The notion of adoption we know today is the outcome of an

amendment to the civil code in 1940. Until 1940, the purpose of adoption was to continue a man's lineage who could not have biological children. Class determined the ability to adopt. Aside from venerating familial ancestors, the purpose of adoption was to appoint another man who could stand in the family name, inherit property and have access to standing and position employment that were handed over based on the family name. To this end, the requirements for both the adopter and the adoptee were different. The adoptee, i.e., the person being adopted, had to be a legal adult, while the adopter was required to have reached a minimum age of 50 years and have no biological children (Flem. Parliament concept note 2015, 4-10).

From 1940 onwards, the purpose of adoption shifted towards caritative adoption instead of seeking a suitable man to further the family name. The requirements therefore changed. The adoptee was no longer a legal adult but a minor needing care. The requirements for the adopter were brought down to a minimum of 35 years. The determining factor in the process became the interest of the child.

In 1958, an amendment to the civil code meant that adoption became a form of regularising family ties. Before the 1958 amendment, the law distinguished between natural children and legal children. Children born within marriage were legal children, and those born outside of marriage were natural children. The distinction between the two meant that the rights of natural children were more limited than those of legal children. Moreover, natural children had to be recognised by their mother and their father. As a result, fatherhood was assumed for legal children born within marriage or 300 days following the annulment of marriage. The principle of assumed fatherhood still exists in the civil code and aims to protect the children's rights concerning their father (see articles 315-318).

The amendment of the civil code in 1958 allowed mothers to regularise their natural children. Through regularisation, natural children of unmarried women were recognised as the legal children of their mothers, thereby giving them limited rights in relation to their mother, such as limited inheritance rights. As a form of adoption, the requirement of regularisation for unmarried women meant that the law did not recognise single or unmarried women as the legal parents of their natural children. As such, the law reduced the age requirement to 21.

A 1969 amendment to the civil code introduced adoption as a form of youth protection and distinguished between simple adoption and complete (full)adoption. Simple adoption maintains biological ties, meaning that the adoptee maintains a bond with their first family.

However, complete adoption severs all ties to the first family. Simple adoption limits the grade of relation to the new family members. The adoptee becomes a member of the nuclear family. For complete adoption, the adoptee has equal rights and relations to the extended members of the family. For reference, extended family in this context is limited to direct family and complete adoption, whereas the conceptual understanding of extended Black family includes second cousins and beyond. Complete adoption means that the adoptees cease to be part of their first family's (biological) family and become fully integrated into the new family.

Following a European Court for Human Rights judgment against the Belgian state (*Marckx vs Belgium* 1979), the civil code was amended again in 1987. Paula Marckx complained to the court on behalf of her then 10-month-old baby and claimed infringement of their family life based on the discrimination in Belgian law between natural and legal children. Natural children are children born outside of marriage, which meant that Paula Marckx had to adopt her daughter, for her to have limited rights to Paula's property and inheritance.

The court followed the claimant's arguments and decided that the Belgian civil code, particularly the requirement of adoption of an own child, was against article 8 (the right to private and family life) and article 14 (the principle of non-discrimination) of the European Convention on Human Rights. Although the judgment against Belgium was rendered in June 1979, it took the legislature almost ten years to amend the law. As a result, the amendment of the civil code removing the distinction between natural and legal children made the regularisation purpose of adoption redundant. What remained was the concept of complete and simple adoption; an adjustment of the age, 25 for an adopter adopting outside of their nuclear family or 18 if within heterosexual marriage one of the spouses decides to adopt the biological child of their spouse; and recognition of international adoption.

In 2003, an amendment of the civil code introduced the possibility for cohabiting heterosexual partners to adopt. Before this amendment, adoption was only open to either single persons or married heterosexual couples. While discussing adoption possibilities for legally cohabiting heterosexual partners, legal cohabitation was also open to homosexual partners, and even marriage equality was legalised, yet the 2003 amendment of the adoption framework still excluded homosexual couples (article343, §1, c), civil code).

The 2006 amendment of the adoption framework in the civil code finally included adoption for same-sex couples, regardless of whether they were cohabiting or married. It also

included changes regarding the surname given to the adopted child when adopted by same-sex couples. For instance, the amendment foresees a special provision for surname giving to the adoptee: same-sex couples are free to choose which of the two family names is given to the adoptee, whereas for heterosexual couples, the name of the father applies in most cases (article 353-1 and the 353-2).

4.2. Right to adoption?

The Flemish parliament, in a guidance note of 2015 regarding adoption, added that the notion of adoption serves the child's interests and, as such, is a solution to the child's need for a family instead of a family's need for a child (Flemish parliament concept note 2015, 17).

Whether there is a right to adoption and whether this right falls under the European Convention on Human Rights, which protects the right to private life and family, has been addressed by the European Court for Human Rights. The notion of adoption as an exception to biological family was conceptualised in *Johansen vs Norway in* 1996. The notion that adoption should only be applied in a child's interest was again upheld in *Kearns vs France* in 2008. In 1997, the European Commission of Human Rights decided that the right to marriage did not include a right to adopt: 'the commission recalls that article 12 of the convention, which recognises the right for a man and women of marital age to form a family, implies the existence of a couple and should not be interpreted to include a right to adopt for single persons. What is more, article 12 of the convention does not confer any right to adoption or the integration into a family, of a child that is not of their blood' (*Di Lazzaro vs Italy,* 139).

In the Council of Europe's recommendation of 2000 on international adoption, the Council states that the purpose of international adoption must be 'to provide children with a mother and a father in a way that respects their rights, not to enable foreign parents to satisfy their wish for a child at any price; there can be no right to a child' (Recommendation no. 1443 (2000) Council of Europe).

In *Fretté vs France* in 2002, the court reaffirmed that 'adoption means providing a child with a family, not a family with a child, and the State must see to it that the persons chosen to adopt are those who can offer the child the most suitable home in every respect' (*Fretté versus France* 2002, 42). Thus far, the court has been consistent in its conceptualisation of adoption as an exception to biological family and that the right has been a measure to prevent unwanted children from not having a suitable home. Moreover, at the national and European

levels, the institutionalisation of adoption frames adoption as protecting children from the commercialisation of adoption. Furthermore, with regards to the choice between simple or complete adoption, the court stated the following in 2012:

> 'the Court reiterates that in cases concerning the placing of a child for adoption, which entails the permanent severance of family ties, the best interests of the child are para- mount [...]. In identifying the child's best interests in a particular case, two considerations must be borne in mind: first, it is in the child's best interests that his ties with his family be maintained except in cases where the family has proved particularly unfit; and second, it is in the child's best interests to ensure his development in a safe and secure environment [...]. It is clear from the foregoing that family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, where appropriate, to 'rebuild' the family [...]. It is not enough to show that a child could be placed in a more beneficial environment for his upbringing [...]. However, where the maintenance of family ties would harm the child's health and development, a parent is not entitled under Article 8 to insist that such ties be maintained' (*YC vs the United Kingdom*, 134).

The importance of the abovementioned case law is to demonstrate that the right to family, in the first instance, is interpreted as the right to biological family ties, and that only where there is sufficient reason to deviate from that principle, the rights of the child should determine whether the child is put up for adoption and to what extent, i.e., simple adoption before complete adoption. These principles do not consider other contexts in which adoption occurs, such as in the example given in the introduction.

4.3. Co-motherhood: recognising two mothers as fit parents.

In the early 1990s, the issue of co-motherhood was raised by mothers in the LGB rights movement, as there was no previous framework for co-motherhood. One of the principles of civil law is that within a marriage, the mother's husband is assumed to be the legal parent of a child. The husband is thus exempted from recognising children born in a marriage or within 300 days of marriage annulment (article 315-318 civil code). However, the father can dispute the parentage of a child (article 322-325 civil code). Moreover, even if the child was born outside of marriage, the father could recognise a natural child as their legal child to convey certain rights and protections to the child regarding the father's property (article 319-321 civil code).

However, married mothers who had raised children together, one of whom would be the biological mother and the other the co-mother, had no access to the same protection accorded to husbands by the law. The mother, who was not the biological mother, could not

have the ties she had established with the children in her household recognised. Until the law on adoption included same-sex couples in 2006, it meant that, before then, co-mothers would nurture a lasting bond with a child and not have this relationship recognised. While a man who has a child with whom he has no bond could have that child recognised as his legal child.

The discrimination between the two was apparent but disregarded. It was only when the LGB movement raised the issue of co-motherhood and framed co-motherhood as a solution to putting children into foster care or up for adoption in case the biological mother passed away that members of various political parties were willing to listen. For example, Ria Convents posed this question to Christian Democrats Trees Merckx: if the Christian Democrats were really concerned with the wellbeing of children, should they not be concerned about what happens to those children if the legal mother of a child died (interview with Ria Convents, Borghs 2015, 241). However, whilst the framing of the issue of co-motherhood in the interest of a child's wellbeing begun to receive political support, the law maintained the rationale that a family should be founded based on marriage and consist of a mother and father. An example of the court's opinion was the legal battle over parental custody for mothers Lili and Diana, which lasted for six years between 1994 and 2000. The case, which started in family court in Antwerp before a judge of the first instance, was appealed at all levels until it reached the highest instance, the Court of Cassation. One of the main reasons the parties were able to push the procedure to the Court of Cassation is because the two mothers, Lili and Diana, received legal support from the Working Group on Homosexuality and turned the case into a landmark case. What was at stake? Both Lili and Diana were previously married to male partners. Lili had four children with her husband of 13 years, and Diana had two children. Diana divorced her husband first and managed to win custody over her children.

At the time of Lili's divorce, Lili and Diana were dating and had moved in together. In court, Lili's husband contended that a household of lesbians would not be conducive for his children and used that argument to claim full custody over his four children. He also argued that he knew nothing of Diana's values and that he, therefore, could not trust her to make sound judgments regarding the wellbeing of his children. Diana had previously been granted full custody of her children, so the mothers were hopeful that the judge would rule in their favour. However, the circumstances might have been more favourable for Diana because she secured custody before moving in with Lili.

However, in Lili's case, the judge sided with her husband and ruled that it seemed contradictory to him that Lili could go from being heterosexual and being in a committed relationship with her husband for thirteen years, have four children with him, to then move in with a partner of the same sex. The court of appeal was concerned with the authenticity of Lili's sexual orientation and the opinion that raising children in an environment where the two mothers form a couple goes against family ideals in society (Court of Appeal of Antwerp, 1996).

The case was brought to the Belgian Court of Cassation on the grounds of discrimination and procedural error. In custody hearings, the judge is supposed to seek the opinion of the public prosecutor's office at the juvenile court. The case was annulled and sent back to the court of the first instance in Antwerp before another judge. This time, the court decided that sexual orientation does not make an environment less conducive for children's wellbeing. Sexual orientation is an aspect of one's private life, and that there was no reason Lili and Diana would not make for good parents. Eventually, in 2000, Lili did get custody of her two youngest children (see media coverage in De Morgen newspaper, 15th July 2000).

5. Antidiscrimination, cohabitation and marriage

The following sections explore the political agenda of the LGB movement to highlight the themes within the movement that led to the introduction of legal cohabitation and marriage. The framework of legal cohabitation is regulated in articles 1475-1479 of the civil code. Noteworthy is that legal cohabitation is not only open to couples in a sexual relationship but may also be entered into by any other constellation of partnership. Furthermore, unlike marriage, legal cohabitation can also be entered into by multiple people, including relatives with a close degree of kinship. The framework of legal cohabitation is governed by five articles found in the civil code in book three. As mentioned above, the only relationship formalised in book one of the code civil is marriage. However, a few articles in book one are also applicable to cohabiting partners, such as articles 215, 220 §1 and 224 § 1, which regulate obligations between spouses, including the obligation to contribute to the household, based on the principle of proportionality of ability, and the debt incurred of one of the legal cohabitants.

Furthermore, the articles prescribe how and when legal cohabitation starts and ends. The rationale behind legal cohabitation is to establish a property rights mechanism and offer certain tax benefits to cohabiting partners. Although it is a formalised relationship and proposed

as an alternative regime for those seeking to escape the institute of marriage, the framework offers minimal protection. Couples who choose to remain outside the framework of marriage and legal cohabitation, informal relationships, have to rely on the general regime of property rights that applies to everyone else. The law on cohabitation came into effect on 1st January 2000.

5.1. What are the events that led to the inclusion of same-sex couples into the framework of marriage and legal cohabitation?

'Men guard women. Men took and continue to take away women's political and economic rights. Men guard women's sexuality to claim parental rights. For instance, men guard women's sexuality through marriage, a system that oppresses at least one or more parties. As a feminist and lesbian with a historical perspective and a long-term vision on the emancipation of individuals, I cannot support the institute of marriage. However, it is unsurprising that homosexual men would want to be assimilated into such a system because it is a system of power that gives a semblance of security '(Ria Convents in Borghs 2015, 243). (My translation)

From the very start of the movement, it was clear that lesbians, such as Suzan Daniel and later Convents, preferred to focus on social and cultural transformation to see the day when homophile relationships could be viewed as any other existing form of relationship. Gay men, meanwhile, preferred to create safe spaces for them to meet and have leisure activities. Ultimately, the realities of discrimination against homosexual persons and same-sex couples meant that a common approach towards their protection had to be found to form a common political agenda. In Flanders, the situation evolved as follows:

The Working Group on Homosexuality created a platform for people to register the forms of discrimination they experienced. Based on the reported experiences, it became clear that not only was there a need for an anti-discrimination rights framework, but that a lot of the issues faced by LGB persons were due to a lack of protection of their private and family lives. As a result, most LGB persons lived their lives in discretion (see website CAVARIA, formerly Working Group on Homosexuality).

There were many concerns: people were being bullied and pestered. Others could not visit their partners on their death beds in hospitals. Keep in mind that, at this point, we were

still in the HIV epidemic. People were refused housing and placements in schools. Discrimination affected everything from the seemingly rudimentary to fundamental issues.

Another issue regarding relationships was the recognition of foreign partners. While heterosexual couples could marry to regularise their partner's stay, LGB partners could only visit using a tourist visa. Being unable to spend quality time together made it extremely difficult for LGB partners to build and establish long-lasting relationships. Furthermore, before introducing a stringent legal framework regulating sham marriages, residency for heterosexual foreign partners was less complicated. Other forms of discrimination included exclusion from employment and social security benefits based on the relationship to the person employed—more on this in a later section.

Aside from an anti-discrimination protection framework, the second priority for the LGB movement at the federal was a legal framework that offered LGB couples similar rights and protections to those offered to married heterosexual couples. Unfortunately, consensus could not be found on the form that this legal framework would take. For instance, although the gay rights movement's stance was clear, they wanted similar rights, duties, and protections as those provided to heterosexual couples through marriage, lesbians were against assimilating into the heterosexual marriage model. Instead, they preferred the individualisation of rights and obligations, which meant that every person could access the protection provided to married couples based on their status as individuals and not their relationship status (see above quote R. Convents made in 1993).

The political cell of the Federation Working Group on Homosexuality took a different stance on the matter: in their opinion, there was a difference between strategy and tactic. They could not see how opposing marriage as an institution would be tactful or strategic, notwithstanding the logic of the argument and underlying principles against marriage. To shake society at its core would mean the death knell for the cause for some. Transforming formalised relationships and the individualisation of rights would become too big a shift, too unrealistic. For the most part, the gay men's approach favoured practicality and tact.

Two ways to achieve equal rights for gays and lesbians was by drafting a proposal for the legally binding partnership framework for gays and lesbians and simultaneously using the direction of anti-discrimination to counteract the exclusion of gays and lesbians in the institutional framework of marriage (Groeseneken 1993, 6).

The suggestion was to break down the goals into two parts. The first step would be to normalise homosexuality and gay and lesbian relationships (strategic essentialism, Spivak 1980). Only then could the movement strive towards the individualisation of rights.

5.2. Family rights

In 1993, a draft proposal for a Flemish decree, an administrative document of the Flemish government, on relationship mediation was being discussed. The draft proposal included provisions for gay and lesbian relationships. At the same time, a family manual was published by the Christian Democrat minister of wellbeing that mentioned LGB relations as one form of non-traditional family formation.

In 1995, an amendment of the civil code included an addition of a provision that accorded limited personal contact rights for people who could demonstrate having a band of affection/special bond with a child. Personal contact rights offered a possibility for lesbian co-mothers to claim limited rights over the children they had co-parented once a relationship ended. In addition, two bills on types of cohabitation were proposed in parliament. The first bill, proposed by socialist Guy Swennen, and submitted in July 1993, suggested several options for cohabiting partners, not only for gays and lesbians. The second draft was submitted by Flemish green party representative Mieke Vogels and Francophone members of parliament, socialist Yvan Mayeur, green Henri Simons and Democrat Olivier Maingain. Their suggestion was a cohabitation contract drafted together with the francophone gay and lesbian movement (Borghs 2015, 237).

In 1995, during a debate on homosexuality aired on a Flemish broadcasting network, VTM, a senator of the green party, Eddy Boutmans, announced that the city of Antwerp would henceforth accept couples to register their cohabitation contracts. The initiative was inspired by similar initiatives taken in the Netherlands. In the case of Antwerp, it was an initiative by socialist civil registrar Patsy Sörensen. However, the registration of cohabiting contracts caused a reaction from the faction leader of the Flemish nationalist party in the municipality council of Antwerp, Filip Dewinter (Vlaams Blok). In a media statement, Dewinter commented:

‘The Flemish nationalist party is against the inclusion of homosexual couples into the institution of marriage. Marriage equality for homosexuals might give the impression that homosexual relationships are equal to heterosexual relationships. Should we allow this in Antwerp, then the traditional family that forms the

cornerstone of society will be in jeopardy. It remains paramount to say that the (Flemish nationalist) party respects and understands the different orientations of gays and lesbians, but the integration of gays and lesbians into society will not be achieved by exhibitionist displays of homosexuality such as marriage equality. Such integration would be polarising, the effects of which would not only hinder their societal integration but place them at the periphery' (see website antifascitisch front, Filip Dewinter 1995).

Patsy Sörenson did manage to win support for the registration of cohabitation contracts at the municipality level. As a result, registration was open to both homosexual and heterosexual couples. Registered partnerships at the municipality level had no legal consequences and were, therefore, highly symbolic. However, they got the ball rolling for a changed perspective on homosexual relationships. Due to media coverage and public debates, the notion of long-term homosexual relationships became visible in the public eye. The turn opened up the possibility to discuss same-sex marriage, but more so, the idea of autonomy for homosexual couples started to gain ground. What homosexual couples did in the privacy of their rooms amongst consenting adults was their choice. The shift put the proposal for a legal framework for cohabiting partners back on the priority list of the regional political agenda. The ban on ethical issues imposed by the Christian democrats after adopting the law on abortion was not applicable at the regional level.

From 1995, the issue of a legal framework for registered partnerships was back on the parliamentary agenda. Again, the socialists took the lead by resubmitting a proposal on the entry into registered partnerships. Another initiative was a coalition between francophone greens, socialists and democrats, who submitted a legal framework for cohabitation contracts.

By the end of March 1996, demonstrations organised by the Federation Working Group on Homosexuality took place in front of the headquarters of the Christian Democrat party in Brussels. The youth fraction of the Christian Democrat party was instrumental in bringing about change, by challenging the stark and rigid position of the party. New key figures in the party's structure openly criticised the party's outdated position. The Christian Democrat party was blocking progress for the LGB movement on two fronts, both concerning the anti-discrimination protection framework and the legal framework for civil partnership. They based their stance on the teachings of the Church. Homosexual partners could have an alternative procedure for civil partnership; however, it was to be as limited as possible not to undermine marriage as the cornerstone institution. A notarial registration of LGB partnerships could suffice. It was clear that the blockage was coming from the top, and not everyone within the party had the same opinion.

A shift in the course came on 30th November 1996, when the Christian Democrats held a conference in Ghent. Initially, it was on the family, but the subject matter was changed to the child's rights to avoid controversy about the equal rights for homosexual partners. However, knowing that this conference would occur, the Federation had launched a call, asking for as many people as possible to attend protests and demonstrations. So many people showed up, picketed the entrance to the conference, found an entrance into the conference protected by security and managed to enter the conference and take the floor. Jean-Marie Vandeursen spoke on behalf of the Federation about the need for equality and commented that the Christian Democrats could no longer continue escaping the responsibility of passing an anti-discrimination protection framework and a legal framework for the civil partnership for LGB couples. Marc Van Peel answered that the Christian Democrats were pro equal rights, and his answer was caught on film and broadcasted nationwide (Groeseneken 1996, 160).

The framing of the LGB movement shifted from emphasising homosexuality and the normalisation of homosexual partnership to social discrimination. Social discrimination, in this context, was conceptualised as going against the autonomy of individuals and the privacy of partner choice. It was not for the government to interfere.

5.3. Cohabitation

In the end, a compromise was reached through a 1997 Vaderdagakkoord, which translates to Father's Day agreement. The compromise was that the Catholics were willing to lower the taxes, as opposed to the suggestion of the socialists, which was to equalise the tax regime. On their part, the Catholics compromised by agreeing to gradually alleviate some of the fiscal burdens placed upon civil partners that were disproportionately unequal to the burdens placed on married couples and also started to think of the fiscal and financial regulations for cohabiting partners including same-sex partners. In 1998 a bill on cohabitation was submitted by socialist Renaat Landuyt, Walloon Catholic democrat Jean-Jacques Viseur, francophone liberal Antoine Duquesne and Flemish Christian democrat Luc Willems. It contained minimal financial rights and obligations for the cohabiting unit. Other more important matters such as inheritance, lineage/descent, social security and taxes were left out of the remit of this regulation (Borghs 2015, 249 -251).

5.4. Marriage equality

The first bill proposing marriage equality for same-sex couples was submitted in April 1999 by Flemish liberal Geert Versnick. In 1999, Flemish government election campaigns revolved around marriage equality and the rights of homosexual persons. Various parties had elected LGB persons as representatives of their parties, such as the green party. Others incorporated the colour pink as part of the election campaign (e.g., the VU-ID21 party had a pink lion instead of the red lion of the Flemish coat of arms). The liberals decided to alter their logo into 'VLD is coming out!' Socialists placed ads in LGB magazines. Even the Catholics had an LGB visibility campaign by starting a working group in 't zicht, literally in open sight. In June 1999, the federal coalition government, comprising liberals and greens under liberal Guy Verhofstadt, decided to take up some of the points requested by the Federation Working Group on Homosexuality in their coalition agreement. As part of the coalition agreement, the federal government decided upon the following:

> 'A bill proposing a law on anti-discrimination shall be submitted to parliament. This bill will address all forms of discrimination in general and address discrimination based on sexual orientation. Furthermore, a comprehensive legal framework on civil partnerships shall be formulated. The law on cohabitation, adopted in 1998, shall enter into force. Moreover, the new family tax regulation shall be formulated in neutral terms and independent of the form and type of living together chosen by the couples themselves. Therefore, discrimination between married couples, cohabiting couples and single persons shall be removed' (De Morgen, 1999).

In the end, the law on marriage equality came into effect in June 2003.

5.5. Social benefits

At the European level, a case was lodged before the European Court for Justice in 1998 by Lisa Grant against South West Trains (SWT) Ltd. Lisa Grant claimed discrimination based on sex because SWT granted its employees and their spouses or common-law partners travel concessions and other benefits. However, in the judgment of the court, Lisa Grant's case was not an issue of sex, but one of sexual orientation because the refusal to grant travel concessions to Grant and her partner was based on the fact that the SWT only offered such concessions to common-law partners of the opposite sex. As such, the discrimination is not sex-based, as the situation would be similar for a homosexual man claiming benefits for his partner (paragraph 5). A brief overview of the facts of the case:

Ms Grant requests travel concession for her female partner, declaring that the relationship has existed for more than two years. SWT declines the application, stating that such benefits are only provided to partners of the opposite sex for unmarried partners. Ms Grant submits a complaint to the industrial tribunal of Southampton claiming discrimination based on sex contrary to the equal pay act of 1970 and article 119 of the Treaty (equal pay). More specifically, Ms Grant claimed that the person who held the post before her, a man, had been granted said benefits for his female partner, with whom he declared to have had a relationship of over two years. Ms Grant, therefore, claimed that there was a differential treatment between her, and her predecessor based on their sex.

However, it is essential to note here that Ms Grant could not have claimed sexual orientation at the national level simply because there was no protection available to her on that ground. Similarly, at the European level, the two accepted grounds for discrimination were nationality and gender. Therefore, the case would have to be interpreted within that context. Therefore, the question before the Industrial Tribunal was whether discrimination based on sexual orientation could be interpreted as discrimination on the grounds of sex. The Grant case was brought before the European Court of Justice for interpretation because of a previous case adjudicated in 1996.

The court had held that there was 'persuasive authority for the proposition that discrimination on the grounds of sexual orientation was unlawful' (*P versus S and the Cornwall County Council* paragraph 10). *P v S and the Cornwall County Council* is a landmark case on discrimination and equal treatment in employment for transsexual persons. It determined that discrimination based on sex does not only cover one or the other gender, instead, that a dismissal based on gender reassignment amounts to discrimination based on sex because of the unfavourable treatment compared to other persons of the same sex before undergoing gender reassignment. The Court:

The refusal is based on the fact that Ms Grant's circumstances do not fulfil the requirements set out by the regulations providing for the concessions because her partner is not her spouse and insofar as partnership falls outside of marriage, it should be a stable relationship with a person of the opposite sex. According to the court, the same treatment would be given to a male member of staff cohabiting with a partner of the same sex and therefore does not constitute discrimination directly based on sex (paragraphs 27 and 28).

To whether same-sex relationships amount to the equivalence of stability, as is the case for marriage and long-term partnership amongst partners of the opposite sex, the Court stated:

even though the European Parliament deplores all forms of discrimination based on a person's sexual orientation, it is not established EU Community practice to consider both circumstances equivalent. As for member state laws, some will treat cohabiting same-sex partnerships equivalent to marriage. However, most treat cohabiting same-sex partners as equal to stable heterosexual relationships outside marriage regarding certain limited rights. In other member states cohabiting same-sex partnerships are not recognised at all. Moreover, the European Court for Human Rights, despite recognising the evolution in the attitudes towards stable homosexual relationships, does not interpret stable homosexual relationships as falling within the protection of article 8, the right to private and family life, of the European Convention for Human Rights. Furthermore, treating marriage and stable heterosexual partnerships more favourably under the protection of family life does not surmount discrimination based on sex under article 14 of the European Convention on Human Rights, which protects against discrimination. Lastly, the European Court for Human Rights interprets the rights to marriage and married life guaranteed in article 12 of the European Convention on Human Rights as applying to traditional marriage between two people of the opposite sex (paragraphs 32, 33 and 34). Finally, the Court decided that, based on state practice amongst the various Community member states, stable same-sex partnerships are not treated equivalent to marriage.

This chapter aimed to show that the current framework of LGB familial rights in the Belgian context is still minimal because it upholds the rule of family formation through marriage between heterosexual couples and states that all other forms of family formation are neither seen nor protected by the law. I argue that the invisibility of informal relationships, the kinds of relationships that are not prescribed by law, are omitted by design.

Whilst a lot work has been undertaken in Belgium and Flanders to promote the rights of LGB persons and families, there is still a lot of work to be done. For example, the option of individualised rights would further marginalise those whose individual rights are already at precarious, such as migrant spiritual Black lesbian and bisexual women who fall outside the protection based on nationality. Therefore, a framework of liberation that includes the needs of spiritual Black lesbian and bisexual women minimally would have to include a transnational

and diasporic perspective to address the issues that many spiritual Black lesbian and bisexual women face.

Moreover, whilst we could learn from spiritual Black lesbian and bisexual women regarding natural and shared responsibilities, the precarity of life requires all of us to have the legal back-up to fill in for what our families cannot provide. The vulnerability of many people living in informal circumstances during COVID has highlighted many of the existing inequalities. Within the Black community, while it is essential for us to name ourselves and define ourselves according to our rights, we must challenge the many forms of structural oppression we have internalised as Black people. Homophobia, classism, racism, nationalism, sexism and anti-religion are all systems of oppression we must address within our own families and our various communities, whether spiritual, diasporic or otherwise. For this reason, I advocate for both a long- and short-term strategy for how we address our invisibility and various issues at stake for us.

This chapter argues that the conceptualisation of family in the Belgian context is limited to the biological, nuclear family formed out of marriage. The law has undergone significant changes and now includes single mothers, adopted children and same-sex couples. However, the foundations of the concept of the family remain the same. The family is the cornerstone of our society. As such, our understanding of family underpins other familial concepts such as community, which is essential to the lived experiences of SBLBW. By excluding extended family, natural obligations shared responsibility and shared resources. Concepts relevant to our lived experiences, such as chosen family, global community, and shared responsibilities, especially in pandemics, require expanding how we relate to each other.

Chapter 7. Spiritual Invisibility

1. Introduction

This chapter argues that the personal is political by exploring the notion of spirituality in two ways. On the one hand, spirituality examines the ideology of our political system and how spiritual ideologies translate into norms (including the law). On the other hand, spirituality refers to an emboldening spirit and courage for Black lesbian and bisexual women living in Belgium to refute any dehumanisation. Does the Belgian political context provide a spiritual framework that recognises the intersectional needs of spiritual Black lesbian and bisexual women? If not, is there room for a new liberation framework that better represents their needs?

This chapter reflects on the abortion crisis from the perspective of the Belgian prime minister, Wilfried Martens of the Christian Democrat Party. The abortion crisis marks a turning point for the gender, sexual and humanist liberation agenda. It is often portrayed as a paradigm shift from conservative Christian mores to secular gender and sexual liberation. Although there are many ways of understanding the abortion crisis, the chapter demonstrates that while women's rights and family values sparked the abortion crisis, ministerial responsibility and state structure and the King's role became the centre of the debate. The King objected to ratify and promulgate the bill on abortion. The bill had passed through both chambers of Parliament, the required democratic process, and was ready to become the law. However, the King objected to signing the law because the content of the law, namely the partial decriminalisation of abortion, went against his conscience. In addressing the public, the King asked whether he was the only one in the nation that was not allowed to act according to his conviction.

It is noteworthy that the Constitution prescribes the King to promulgate every law as a final step in the law-making process. Thus, aside from the King's personal conviction, what is at stake in the abortion crisis is a tension between structures of the state, namely the King's function as the third branch in the legislative procedure, ministerial responsibility and the influence of personal religious mores on political ideology. The nature of the debates at stake in this dissertation, namely norms regarding personal and familial LGBT rights, necessitate a better understanding of the tensions at stake during the abortion crisis. What paved the path to gender, humanist and sexual liberation. Only then can we better understand the influence of

religion, spirituality, and other so-called personal values in the Belgian legal and political context. Spirituality intersects between religion and secularism. Does the Belgian political context allow for the imagination of a spiritual framework of liberation?

Spirituality as a framework of liberation for spiritual Black lesbian and bisexual women in Belgium minimally refers to:

- First, spirituality refers to a normative framework, a system of mores and values that gives meaning to our lives and refutes any form of dehumanisation.
- Second, spirituality can be rooted in institutionalised religion, Western and non-Western philosophies. It challenges heteropatriarchy, heterocentrism, racism, nationalism, and classism in all levels of society.
- Third, spirituality promotes love, pleasure and roundness, including female sexual pleasure.
- Lastly, drawing on the notion of inspirit (which the Mariam-Webster dictionary defines as instilling life in something). Spirituality is the courage and ability to deem ourselves worthy and stand up for what feels right to us.

Spiritual Black lesbian and bisexual women can be Christian, Muslim, humanist. It is crucial to understand their spiritual invisibility in existing frameworks of Belgian political ideology and the influence of various spiritual paradigms on Belgian politics. Spirituality also offers an entirely different paradigm for spiritual Black lesbian and bisexual women to forge their own path.

At first glance, the abortion crisis is presented as an issue of competing rights between women's self-determination versus the protection of unborn life. However, on closer inspection, the crisis also ends up being about maintaining structural processes:

- saving the monarchy,
- without having to amend the Constitution,
- making sure the public does not challenge the system of checks and balances, which is supposed to protect us against the arbitrary actions of our political leaders.

In the end, the government managed to develop a legal construct that enabled it to maintain its position, secure votes for the next elections, save the King, and, most importantly, maintain its structures.

'It continues to amaze me that the political world fails to draw lessons from such important events. The problem of the conscience of the Head of State may once again become acute in the future. Indeed, of all the proposals formulated in 1990 to change the royal function, none has ever made it to the House of Representatives or the Senate' –Wilfried Martens, Former Prime Minister of Belgium.

2. A brief history of Belgian political ideology

Historically, Belgium has been divided into two strands of political ideology: Roman Catholicism and anticlericalism. Anticlericalism can be defined as the opposition to Church power and its political influence (Witte et al. 1997, 46). Anticlericalism must not be confused with anti-religion or equated with secularism. The Church's political position and influence have always been a contestation point since Belgium's independence in 1830. The longest-standing parties in the country are the Christian Party, the Liberal Party, and the Socialists. The political ideology has undergone some adjustments over time, but we can safely say that the Christian Party remains predominantly Roman Catholic oriented. The Liberal party, liberalism referring to capitalism, has been anticlerical but accepting of religious members so long as economic liberalism is upheld. The Socialist party initially focused on the interests of intellectual elites and artisans but expanded its political base to address the needs of the working class. Most parties have shifted towards religious pluralism in the voting base, but the divide between clericalism and anticlericalism remains. In the aftermath of WWII, the increased demand for labour and the rise of consumerism meant that the interests of new groups had to be included in the political system. The question has been how to attract votes from the increased political base.

2.1. The Question Royale

The country was divided about the role of King Leopold III after the German occupation between 1945 and 1950.

The King had decided to stay in Belgium while the rest of the government had fled to London. Furthermore, during his time in Belgium, the King was known to support the operations of Nazi Germany. Manifestations of His support included visits and direct congratulations to Hitler, the mingling of his entourage with persons in collaborating milieus,

and his lack of critique towards the Nazi government. However, the King also received support for his actions during the occupation. Many thought his presence in the country reassuring because he, too, suffered through the period of occupation. Others hoped his actions would also pardon their collaboration. Ultimately for many Belgians, the monarch represented Belgian authority. Closer to the end of the war, when the King joined the rest of government in London, his return became a point of contestation. Did he act within the ambit of his role? Was He acting independently as the Commander in Chief of the Belgian army, or did he disregard his ministers in his capacity as Head of State?

As mentioned in the theoretical framework of this dissertation, the King fulfils three functions according to the Belgian Constitution. He is the Commander in Chief of the Belgian army, the third branch of the legislature and the Head of State. However, the King is inviolable and only responsible for his actions through his ministers (Article 88). He appoints and discharges his ministers (Article 96). All actions taken by the King have to be co-signed by a minister (article 106) because His ministers are responsible for His actions.

In the end, the King joined His government in London. However, the country was divided about His role upon his return. Would He be reinstated or abdicated because he overstepped the Constitutional boundaries of his role? The question was voted in a referendum held in 1950. On 12th March 1950, more than half of the country voted for his return and his reinstatement in power as King. However, those against his reinstatement demonstrated, and a resolution could not be found. Of the people who had voted for the King to stay, 72% were based in Flanders. Of those who voted against, the majority were Francophone Belgians in Brussels and Wallonia (Witte et al. 1997, 272).

The compromise was to abdicate King Leopold III in favour of his, who became King Baudouin in 1950. The Catholic party was praised for its efforts to support the King. However, even though the King was abdicated because not everyone could agree with his return, the voters nevertheless supported the Christian Democrat party. As a result, the party secured 108 out of 212 seats in Parliament. Thus, resulting in a homogeneous Catholic ruling government between 1950-1954 (Huyse 2003, 30). Why is this important? In my opinion, the Catholic party represents an idealised version of Belgium as a powerful country with a monarch, with old European Christian values. Thus, it represents a royal, old ideal of Europe.

2.2. The School wars and the School pact.

Simultaneous to the Question Royale, the country was experiencing a school war from 1950-1959. As the shift in economic demands required a new workforce, more and more people needed to become educated and specialise in the new skills required on the market. A new class of employees was emerging, and someone needed to educate them.

Influencing education meant directly influencing the curricula and the development of new political minds. Moreover, not everyone could afford education, so the Parliament was in a debate about the funding of the educational system and the political ideology of educational institutions. The education system was divided into Catholic schools and universities and state schools and universities.

The Catholic members of Parliament and ministers wanted the Catholic education system to be fully funded and free. Free education meant access for even the most disadvantaged in society. On the other hand, the anticlericalists and humanists preferred a neutral state school system but would offer religious education. However, because the Catholic party had acquired an absolute majority in Parliament, they could influence the votes. In the first half of the school wars, the Catholics got many of their demands passed through Parliament. In the second half, changes in the coalition's composition meant that the Catholics no longer had an absolute majority, compromises between the various competing interests had to be made. For instance, in the end, funding depended on the number of students enrolled in the school, and parents got to choose where their children attended school within a certain radius from their homes (Witte et al. 1997, 300-310).

Although socio-class was a determining factor in the debates in Parliament, ultimately, the division of funding and the idea of subsidised education was about the access of political ideology, whether Catholic or humanist, to the political minds of tomorrow.

2.3. Women's right to vote.

It is probably surprising that the Christian Democrat party was the biggest supporter of the women's vote, most likely because we expect them to promote the idea that a woman's place is in the kitchen. However, women in Belgium, better yet Belgian women, were among

the last women in Europe to receive the vote (www.rtbf.be/). The ruling parties could not find common ground on the political participation of women.

The universal vote for women in Belgium had been on the political agenda similar to the universal vote for men. While the First World War outbreak delayed the universal singular vote for men until 1919, women's universal vote only came into effect in 1949 and was adopted by Parliament in 1948. The universal singular vote for men was passed almost immediately after WWI and, although it would have required an amendment of the Constitution, a new law allowing men to vote was promulgated on 9th May 1919, using a legal construction to bypass the issue of amending the Constitution.

Why the delay for women?

The Catholic party was confident that if women got the vote, the majority were likely to vote for them. As such, they were the most fervent advocates of the universal vote for women. The other parties were afraid that the Catholics were right: if women would indeed receive the universal vote, they would be more likely to vote for the Catholics and reaffirm the dominance of the Catholic party (Hooghe 1999, 592).

To delay the inevitable for as long as they could, the different parties launched delay tactics and tried to discourage women from demanding the vote. In as early as 1920, Emile Vandervelde, a socialist otherwise praised for his contributions to the universal singular vote for men, when asked why he thought women should not receive the vote, Vandervelde replied by saying 'women are indifferent, they lack development and they are predominantly conservative clericals' (Luyckx and Platel 1985, 448).

Before 1948, half solutions were sought to deter women from focusing on the universal vote. Finally, in 1919, a compromise was offered to three categories of women who could vote at the municipality level. First, based on the contributions in WWI by the men in their lives, the vote was granted to widows of Belgian soldiers if they did not remarry and Belgian mothers to unmarried soldiers who died during the war. Second, the only category of women who could vote in their own right were women taken into custody for patriotic actions during occupation.

In 1921, all women, except prostitutes and adulterous women, were allowed to vote at the municipality level (see www.rtbf.be/ on women's suffrage).

In 1945, immediately after liberation from WWII, all parties now agreed that women should have the right to vote. Once again, the issue of amending the Constitution was raised, but a speedy procedure was out of the question. The scepticism of certain political parties meant that passing the vote through Parliament was delayed (Hooghe 1999, 594).

Here are two examples of the tactics deployed by the socialist and communist parties to deter women from demanding their right to vote.

In as late as 1949, a slogan by the communist party read 'Who loves the deepest, who grieves strikes the most, when the war takes away her beloved? Is it not the woman? Is it not her role to defend the family, the kitchen, the future of her children? Above all, is it not her role to maintain the peace instead of fighting?'

Then the socialist party came out with the slogan: 'You who dreams of a small villa under the sun and with flowers, where healthy and happy children roam freely in open air. You who dreams of a bathroom, a fridge, a washing machine and a hoover. What do YOU offer capitalism? Two rooms in the house of your mother-in-law, on the third floor of an old house' (both slogans are translated from election campaign material found in the archives of the city of Leuven). In the end, the women's voted was adopted through the law of 27th March 1948.

2.4. The dominance of Roman Catholicism.

The contestation between clericalism and anticlericalism has been at the heart of Belgian politics since its independence. However, when we fast-forward to today, it is easy to jump to the conclusion that Belgium is a secularised state or that a strict separation between Church and State has been constitutionalised.

Instead of separating the state from the Church, the reality on the ground is that most parties operate from the idea of neutrality in politics and religious pluralism in private (Witte 1997, 273).

During the 1970s, organised humanism banded together with feminism to fight for institutionalisation and recognition as a non-religious political philosophy equal to religion. However, recognition only came in 1993 (see website www.demens.nu).

During the 1980s, the following six religions had been officially recognised and institutionalised: Catholicism since 1801, Protestantism since 1802, Judaism since 1818,

Anglicanism since 1835, Islam since 1974, and Greek Russian Orthodox since 1985. The importance of recognition and institutionalisation lies within the funding of religious communities. Once a religious community or a non-religious philosophy is recognised, its organisation structure receives funding, budgeted for in the state's annual budget (Velaers and Foblets 2010, 100).

Although Belgian politics and public authorities promote the idea of religious neutrality in public administration, the principle of religious neutrality is not enshrined in the Constitution either. However, as recently as 2008, the Council of State articulated the principle of religious neutrality for public authorities as follows:

The neutrality of the public authorities, while not enunciated in so many words in the Constitution itself, is intimately bound up with the general prohibition against discrimination, particularly with the principle of the equality of those who make use of public services. In a State governed by democratic law, the public authority is necessarily neutral because it is the authority of all citizens and for all citizens and must, therefore, in principle, be treated everyone equally. Hence, without discrimination based on religion, belief, or choice of a community or party (Opinion 44.521/AG, 20th May 2008, on a proposed law on regulating religious organisations and non-confessional religious and philosophical communities, Doc. Parl. Sénat, 2007-2008, no 4-351/2.).

Also, in 2008, socialist party members Philippe Mahoux and others (PS) submitted a bill proposing the explicit separation between Church and State. Although the bill was discussed in the Senate in 2009, it did not vote (Velaers and Foblets 2010, 102).

2.5. The vote for migrants.

In 1999, at the instigation of the green party, a bill proposing voting rights for non-EU migrants at the municipality level ultimately led to a compromise. As a result, a simplified procedure was introduced allowing non-EU migrants living in Belgium, including persons with refugee status, to acquire Belgian citizenship in a fast-track procedure.

In their election campaign, the green party promised that if they were to be elected, they would strive to have a law passed integrating non-EU migrants into the political system

at the municipality level. However, in the same election, the Liberals promised to go against a law affording political participation to non-EU migrants even if it was only at the municipality level. After the elections, the green and the liberal parties had to form a coalition government. What was at stake? The promises they had each made to their electorates.

A compromise between the parties meant that the vote for non-EU migrants at the municipality level turned into a fast-track process for Belgian citizenship through naturalisation. As a result, non-EU migrants could not vote unless they became Belgian. At the beginning of 2000, a new law introduced a fast-tracking process for migrants to acquire Belgian citizenship by applying for naturalisation before the House of Representatives. The minimum requirements for naturalisation were as follows:

- Proof of at least three years of residency in Belgium, two years for refugees.
- The Immigration Department, the State Security Department and the Public Prosecutor's Office gave an opinion.
- Social integration was judged by at least speaking one of the country's three official languages, being involved with the children's education, and being employed.

The law was adopted in 2000 with criticism. For instance, the opposition did not approve of the duration stay, which was a maximum of three years, compared to persons acquiring nationality through declaration, they had to have lived in Belgium longer.

Most critics based their opinion on the fact that Belgian nationality would now be accessible to persons who would have been illegal in the country for many years before having their stay regularised and that, as such, illegality would be awarded (CD&V, NV-A).

Finally, in 2013, after many years of criticism, the law was adjusted, and the conditions became stricter and more geographically defined. For instance, in Flanders, the criteria of integration include demonstrating fluency in Dutch, without consideration for the fact that, because French is widely spoken outside of France and Belgium, the probability of persons being able to speak Dutch/Flemish before arriving in Belgium is significantly lower than being able to speak French (opinion piece Johan Leman 2012).

Which lesson can we draw from this? First, although the green party did manage to sway political opinion such that an amendment was even possible, in the end, the various

political parties opposing the fast-track procedure found common ground against the law by picking at the procedure and claiming that it was not airtight. The procedure was not stringent enough to weed out those who should not have access to the vote, such as migrants who once resided in the country illegally. In other words, they were able to garner support by promoting distrust in the system on the premise that it would succeed in selecting good migrants.

Establishing the ideological landscape in Belgian politics is essential because, since the turn of the century and the many breakthroughs such as the development of the LGBT rights framework and the law on euthanasia (2002), Belgium has promoted itself as a modern, progressive society that has banished traditional religious mores from public morality.

While it is true that the country has made advancements towards a more open society, as long as we do not contextualise these developments within their historical context, we do not get the complete picture.

We forget that what we need to understand is the structure of the system and the minimal requirements for spiritual Black lesbian and bisexual women's liberation. Does the Belgian political context provide a spiritual framework that recognises the intersectional needs of spiritual Black lesbian and bisexual women? If not, is there room for a new liberation framework that better represents their needs?

3. The abortion crisis

In what follows, the chapter guides you through the period leading to the adoption of the partial legalisation of abortion as narrated by Wilfried Martens. Then, it shows the political manoeuvres made to protect the interests of the Christian party, the coalition government, the King, the Constitution, and the appearance of democracy. Finally, it shows that the abortion crisis marks a turning point for the gender, sexual and humanist liberation agenda, and often portrayed as the turning point from conservative Christian mores to secular gender and sexual liberation, women's issues and family values were at the periphery of the debate, while ministerial responsibility and state structure were at the centre.

Wilfried Martens died in 2013. He had studied law and philosophy at the Catholic University of Leuven and held a doctorate in Law. After his studies, he started a law firm in Ghent but fast became a prominent politician. All translations in the passages below are my own.

3.1. Presenting a unified front.

The negotiations had taught me that the strength of a president lies in the power and unity of the party he leads. Therefore, if I did not want to regain the position of an underdog at the negotiating table, the CVP(Christian People's Party)had to become stronger, and the Christian Democracy had to profile itself as the leading movement of the country. That we could not agree with the PSC (Parti Social Chrétien), Francophone fraction of the Christian Democrat Party, on Brussels and other community issues did not bother me. On the contrary, it was one of the reasons why the party split up, and each wing was able to express its points of view regarding its community. However, it was essential to reconcile our points of view in other areas such as **education, social affairs, and ethical issues**. One of those ethical problems was abortion (Martens 2006, 117).

At the time, the Christian Party was a dominant force in society, so it is only natural that Martens would emphasise these as the key points of unity within the party. Moreover, these three themes point to the critical areas of this dissertation, the epistemological, familial and spiritual invisibility.

The main thing we remembered from that press conference was that we called the liberalisation of abortion inadequate. However, our position contained a series of measures and proposals that were very progressive in the spirit of the time and especially in the Catholic milieu. Let us not forget that the ecclesiastical authorities banned the condom and that, after our press conference, Bishop Leonce Van Peteghem of Ghent declared that 'under no circumstances should one kill the child in order to save the mother.' Among other things, **we proposed abolishing the penal code's provisions on contraceptives and called on general practitioners to inform their patients about contraceptives** (Martens 2006, 117).

If you recall, in the chapter outlining the LGB movement, I mentioned that the issue of contraceptives was the first issue where the feminist movement, the humanist movement and the LGB movement found solidarity with each other because all three movements understood at that the core of their warfare was the right to self-determination.

We were willing to **review the status of the natural child.** However, we wanted more **government aid for mothers in need, an increased birth premium and child benefits for single mothers**. (Martens 2006, 118).

Natural children refer to the children born outside of marriage. They differ from legal children recognised as the children of married parents. The law required birth mother's to adopt their natural children for them to have limited rights to their mother's inheritance and property.

The distinction between natural children and legal children had far-reaching consequences. However, it was only in 1987 that Belgian law seized to distinguish between the two in the Merckx vs Belgium case. Until then, mothers having children outside of wedlock were penalised for their decision. Hence, Martens is referencing what the party would be willing to compromise on instead of legalising abortion.

On the matter of abortion itself, our opinion was as follows:

For the CVP/PSC, the question of abortion cannot be approached without compliance to the absolute fundamental rule of civilisation, which is to respect human life. Abortion, even with modern methods, continues to be an intervention meant to cause psychological and physical anguish. For the CVP/PSC, **abortion is an unacceptable means of birth control.** However, its penalisation must be abolished when abortion is carried out for gravely serious reasons, such as when the continuation of pregnancy seriously endangers the life and health of the woman. In order to ensure legal certainty, the law must be amended accordingly.

Later on, you will see that Wilfried Martens continues to refer to the use of abortion as birth control.

Finally, we called for a broad parliamentary debate in a serene environment to encourage us to arrive at a policy that lifts the community towards a more humane society. For which, at least according to the CVP/PSC, the liberalisation of abortion would be inadequate. A few months later, on 13th November 1973. After the socialists, BSP had submitted a bill entailing a far-reaching liberalisation of abortion. The division in Parliament was as follows:

The socialists, who were for the legalisation of abortion, submitted proposals that went much further than the 12 weeks. The liberals were divided, some for the legalisation, others against legalisation. The Christian Democrats presented a unified front against legalisation.

By now, we know that most parties act on the principle of religious pluralism, such that one cannot quickly draw lines among the political parties and say they are speaking from one religious tradition. However, the Christian Democrats framed the issue of abortion as oppression. To them, the legalisation of abortion on request meant pinning the stronger party, in this case, a woman requesting an abortion, against the weaker party, the unborn life.

The Christian Democrats were surprised that they were the only ones willing to defend the rights of the weaker. According to the party statement, the other parties failed to uphold one of the principles of civilisation, which is to ensure that everyone in our society has access to a dignified existence. The mother in need must not be left to her fate, and no disabled person must be expelled, the life of a child conceived but not yet born must be respected' (Martens 2006, 118).

3.2. The abortion debate in Parliament.

The ruling coalition was a government made up of Christian Democrats (CVP/PSC), socialists (PS/SP) and the Flemish nationalist party (VU). This coalition government lasted from 1988-1992.

According to Martens, the attitude of the Liberals was usually indecisive. They rejected the radical proposals of the socialists, Willy Calewaert (SP) and Leona Detiège (SP) but were not entirely against the deletion of abortion from the penal code. A shift in the position of the Liberals came in 1978, when Lucienne Herman-Michielsens (PPV), a liberal herself, president of the liberal women fraction, managed to draft a relatively moderate proposal to bridge the gap between the various parties.

Martens states the following:

In the light of further history, I have to admit that the Flemish Christian Democrats (CVP) did not react very attentively to this liberal concession at the time. On the contrary, especially in our Senate group, our stance on abortion hardened, even though public opinion had changed and become more tolerant.

The agreements between the Attorneys General not to prosecute abortion offences received a reasonably high level of popular support. However, within the CVP, we assumed,

well into the 1980s, that the cohesion among the coalition partners was so strong that there would never be a majority in favour of abortion, not even an alternative parliamentary majority.

More and more liberals, including Lucienne Herman-Michielsens, were fed up with our party's years of obstructing the bill and our stalling tactics. From 1985 onwards, a second turning point occurred. Together with the Francophone socialist Roger Lallemand, Herman-Michielsens presented yet another compromise: during the first fifteen weeks of pregnancy - twelve weeks in a later text - abortion could be carried out at the woman's request; in the following weeks, the pregnancy could only be terminated under certain conditions and subject to supervision (therapeutic abortion).

The proposal, submitted on 6th April 1986, received the support of the Socialists, most Liberals, the Greens and the FDF (francophone movement). Moreover, some coalition members, for instance, PSC's (Christian democrats) and VU-members (Flemish nationalists did not entirely disapprove.

On 22nd February 1989, discussions on the Lallemand-Michielsens proposal resumed. Before the summer recess on 20th June 1989, the Senate Committees approved the proposal by 26 votes to 15 with 2 abstentions. Among those who voted against the proposal were the 10 CVP members, 2 PSC members and one member of the People's Union (VU). 13 of the 15 votes against were from the coalition partners. On 6th November, the Senate adopted the Lallemand-Michielsens bill, almost unchanged, with a majority of 102 votes against 73 with 7 abstentions - 6 Liberals and 1 PSC.

As head of government, I kept myself out of the debate. Nevertheless, everyone knew my opinion. For example, after the summer holidays of 1989, I mentioned in an interview with broadcasting station VTM that I fully agreed with the view of the Belgian bishops. According to the Belgian bishops, the bill radically undermined the right to life in the early stages.

I did add, however, that I remain entirely loyal to the coalition agreement, which states that the vote is a matter of freedom of conscience and opinion. Every member of Parliament will therefore have to vote according to his conviction and conscience. For me, that meant voting against, but I could not put the existence of the government at risk.

Mertens makes an interesting point because he thinks that the party's political agenda would not influence the vote. Said differently, if I am chosen as a representative of the Christian Democratic Party in the House of representatives, how free am I to go against the party's political agenda? Is my vote free of consequence, or can I be reprimanded for my actions?

After the approval in the Senate, I urged my party to submit its proposal and made an effort to reach a consensus. At the beginning of February 1990, for example, I organised two talks at the castle of Stuyvenberg between the Francophone socialists Spitaels and Lallemand and the Flemish Christian democrats Jean-Luc Dehaene and Herman Van Rompuy. All kinds of formulas were tested to make a compromise possible, but the Francophone socialists lost their confidence in the CVP after the harsh reproaches they had had to face from our senators.

Although the King had never spoken directly to me about it, there was doubt whether the King would ever sign an abortion law in political circles, including within my party. I remember that the issue had been raised once before with Bishop Alfred Daelemans in Meise in the presence of Cardinal Danneels, about a year before the law's adoption. I remember saying that such a refusal could lead to a crisis of the monarchy. However, Cardinal Danneels insisted that if it came to it, we could appeal to him.

This fear reared its head again when the King left no doubt in the public imagination of the importance to him of protecting life before birth during his New Year's speech. To emphasise his stance, the King referred to the following paragraph of the Declaration of the Rights of the Child, which had been adopted internationally in 1960: the child, because of his physical and mental immaturity, needs special protection and care, including the proper legal protection, before and after birth.

Amongst our group of CVP ministers, we continuously discussed the possible refusal of the head of state to ratify the law. The refusal remained hypothetical until Flemish Minister Jan Lenssens came to tell me in mid-February that the problem of the royal signature was off the table. He said he heard it straight from the King's mouth, but how could Jan Lenssens be so wrong?

Encouraged by then party chairman Van Rompuy, the CVP ministers of the Flemish Executive drafted policy papers to take preventive action against the abortion issue. Hugo

Weckx of Public Health, Jan Lenssens of Welfare, and Daniël Coens of Education drafted texts t**o help women with unwanted pregnancies** and **adapt the existing contraception polic**y. These policies included more **opportunities for childcare, positive discrimination against unmarried mothers, and training young people in relationship skills, including promoting sexuality as a valuable human activity.**

The King showed a great deal of interest in these notes and, even before the abortion vote in the Chamber, he received the authors in the audience: Hugo Weckx on Friday 2nd February, Jan Lenssens on Thursday 15th February, and Daniël Coens on Friday 9th March.

From his conversation with the King, Jan Lenssens believed that the head of state would sign the abortion law. Lenssens had come to my cabinet to inform me about this, and he also informed party chairman Herman Van Rompuy about the conversion of the King. To me, that announcement was quite a relief.

Therefore, it was with great and sincere surprise that I was invited to the Castle of Laeken on 30th March 1990, the day after the final approval of the abortion bill by the Chamber. The King presented me with a draft letter in which he stated that his conscience did not allow him to ratify with his signature the abortion law adopted by the Parliament.

In the presence of the King, I read and reread the draft letter, which had been typed out in Dutch (an essential point because their communication would have ordinarily been in French). In the blink of an eye, I went over all the possible consequences of the refusal. Was it the muse or the holy spirit which inspired me, but I said: 'Sire, your letter raises a fundamental problem, as it is now formulated, I can only offer the resignation of my government. Your refusal could lead to a constitutional crisis and a crisis of the monarchy. If you want to avoid this, then ask me to find a solution that will unite two elements: 'your moral conscience and the proper functioning of our democratic institutions '. The King then took back his draft and had a letter delivered to me a few hours later.

Martens' framing of the two issues as combined is vital because it is now not only his problem that the monarch will not sign the resignation of his government, but the monarch's position is now at risk. Therefore, they require a joint effort to solve their problem.

3.3. The crisis.

Castle in Laeken

30th March 1990

Prime Minister,

I have spoken to several authority figures regarding my concern with the bill proposing abortion during the past few months. The text has been passed in the House of Representatives after being adopted by the Senate. I am disheartened that no consensus could be reached amongst the coalition members on such a fundamental matter. The bill put me in front of a severe moral dilemma. I fear that many people consider the bill to approve abortion during the first twelve weeks of conception. I am concerned by the article that states that abortion may be carried out after those initial twelve weeks if the child born 'will suffer from an extremely serious disorder recognised as incurable at the time of diagnosis.' Have we thought about how disabled persons and their families will receive this message? I am afraid that the bill represents a significant compromise of respect for the lives of the weakest. I am sure you can appreciate why I do not wish to be a part of this. By signing the bill, I will not only express my agreement with it as the third branch of the legislature, but I inevitably share in the responsibility of the bill becoming law. I am unable to sign the bill due to the reasons set out above. The path I have chosen is not easy, and I am aware that I risk being misunderstood by my fellow countrymen. However, this is the only path my conscience will allow me to follow. To those surprised by my decision, I ask the following question: is it normal that I am the only Belgian citizen obliged to act against His conscience in such an important matter? Does freedom of conscience apply to everyone except the King? I realise that it would be unacceptable for my decision to hinder the proper functioning of our democratic institutions. That is why I am asking the Government and Parliament to find a legal solution that does not oblige the King to act against his conscience and at the same time still guarantees the proper functioning of our parliamentary democracy. I wish to end this letter by emphasising two essential arguments at the human level. For me, my moral objection to the matter does not imply judgement towards persons in favour of the bill. Nor does my attitude in any way mean that I have no understanding of the extremely difficult, and at times dramatic situations some women may find themselves in. Prime Minister, may I ask you to convey this letter's contents to the Government and Parliament at the appropriate time?

Yours affectionately,

(get.) Baudouin

The framing of the issue as a denial of conscience for the King as the only person in this entire process is brilliant because it appeals to everyone. We want democracy, and in a democracy, we all have freedoms, even the King.

3.4. The legal construct and secrecy.

The search for such a solution began. Discussions had to be discrete, better yet, held in absolute secrecy. A leak to the press could provoke an unprecedented political crisis. The first person I informed about the royal letter was Deputy Prime Minister Philippe Moureaux (PS). His reaction: I have always feared this. I then had a conversation with Jean-Luc Dehaene (CVP). His conclusion was formal: the government must not fall for this. Otherwise, we will elect the King's role at stake. We have to find a solution, but there must be no leakage, especially to our senators, who will use the letter to prove themselves right.

That is why we agreed to inform party leader Van Rompuy (CVP) as late as possible. I then informed Deputy Prime Minister Claes (BSP/SP). The King must reconsider his decision, and he sounded gloomy. If not, the country will be on stilts. The Socialist Deputy Prime Minister was about to head an economic mission in the Soviet Union and made up an excuse to stay. He claimed to have 'urgent family reasons' to deal with at home. I could not inform Deputy Prime Minister Schiltz (VU) that Friday because he and his family had left for Portugal. I had him flown back to Brussels by government plane to read the royal letter on Saturday.

When it came down to it, the Deputy Prime Ministers of the coalition stood together with CVP, even though they disagreed with CVP's stance on abortion. By now, the stakes were higher. For the government, the issue was no longer merely about self-determination for women or the protection of unborn life. It was about losing face, staying in power and protecting the King's right to personal conscience. It was clear to the CVP that they might not be as lucky as they were during the former royal question. This time, the public was in favour of the partial legalisation of abortion.

That same Saturday evening, I invited the Deputy Prime Ministers to Stuyvenberg Castle for an initial exchange of ideas. It ended up being a brainstorming session where all possibilities were discussed, even the most radical ones. Abdication was suggested, immediately followed by the appointment of a regent or the swearing-in of a new monarch. Another proposal was to send an official delegation of high moral authorities and constitutionalists to the King to encourage Him to renounce His intention. It was also suggested that the King write an annotation to the law to make his moral objection to the law public. A constituent proclamation was also possible, followed by new elections or the Norwegian solution, whereby the King would no longer have to ratify all the laws. Most of these solutions were immediately rejected, proved impractical or met with objections from the Palace. The Secretary of the Council of Ministers, Professor André Alen, considered the so-called Norwegian solution to be the most feasible, and he suggested that it could also count on the support of the King's Head of Cabinet, Jacques van Ypersele. I was absolutely against the Norwegian solution. This solution presupposed an amendment to article 26 (now article 36) of the Constitution, which reads: the federal legislative power is exercised jointly by the King, the House of Representatives and the Senate. It also meant that article 69 (now article 109) of the Constitution, The King ratifies the laws and promulgates them, had to be amended, even though that article had been declared unamendable. What is more, it would take weeks to amend the Constitution in a highly turbulent climate. All legal objections aside, this solution would put my party in an impossible position.

It would have required a two-thirds majority to curtail the King's power (amendment of the Constitution). My party neither wanted to curtail the monarch's power nor did it want to have the abortion law ratified! The Christian Democrat party has always been in favour of the symbol of the monarch.

The Norwegian solution opened wide the door to a new royal question, a government crisis, and elections with abortion and the King's role at stake. I insisted on absolute secrecy. The outside world, the other ministers and Parliament were not informed until a viable solution could be found. Meanwhile, all the Deputy Ministers and I had visited the King separately. Their reports clearly showed the King's tenacity. The King said to me and some of the Deputy Prime Ministers that we could send the Cardinal or even the Pope if we wanted. He was unwilling to change his mind.

3.5. Finding a solution: inspiration from Jean Stengers

After we had split up that Saturday evening and the same Sunday without even a beginning of a solution, I realised more and more that only the application of article 82 (now article 93) of the Constitution would provide a quick and discrete solution.

Article 82 states that: if the King is unable to govern, the ministers, having established this impossibility, shall immediately convene the Chambers. The Chambers of the legislative power together are to provide guardianship and regency. Upon first reading, this article seems to have been intended only in the case of a severe physical or mental disability. I recalled a few passages from the book *Leopold III et le government* by Jean Stengers. I must have read that book at least three times ten years prior. There is a paragraph on 'les trois audaces' by Prime Minister Hubert Pierlot in his statement of 28th May 1940, in which he stated that King Leopold III was unable to govern.

To remind the reader that this solution is taken from the previous royal question in 1950 when King Baudouin's father, Leopold III, was abdicated, and Baudouin became King. As you might remember from the paragraphs above, the Christian Democrats and most of the population wanted the King to return from London and be reinstated. When his reinstation proved difficult because of dissent in the Francophone parts of the country, King Leopold III was abdicated, but the Catholic party won the elections with an absolute majority for their tenacity in maintaining the position of the monarch. In many ways, the current crisis was a bit of a déjà vu for the Catholic party, but the difference was that public opinion was pro-abortion. They stood to lose a lot if they could not manage to preserve the position of King and have the law on abortion passed. Even their party members might vote against them if they did not manage to save the King.

Back to Martens:

The daring interpretation of article 82 was guided by an unwritten rule, namely that of the continuity of power. According to Pierlot, this rule allowed a specific compensation between the essential organs of the state when one of them failed. Stengers noted that after the liberation in December 1944, the Court of Cassation had confirmed Hubert Pierlot's audacious interpretation of article 82.

By Monday 2nd April, our small ministerial committee of Deputy Prime Ministers had not been able not to find a workable solution, and we threatened to end up in a political impasse. That is why I vaguely explored my idea with André Alen, a professor of constitutional law. He did not reject it. On the contrary, his reaction made me decide to present my proposal to the Deputy Prime Ministers on Tuesday, 3rd April. Philippe Moureaux was quite optimistic about the proposal. It is a good approach; according to him, he had been thinking along similar lines. However, by the next day, he was overcome with doubt. I almost had to pour concrete into his spine. After all, without the support of the Francophone socialists, I would have had to cancel that solution.

I managed to convince Schiltz, Claes and Wathelet. Then, with the most significant discretion, the Deputy Prime Ministers informed their party chairmen and ministers. During that time, I had a personal audience with the King, who assured me of the Head of State's consent to apply article 82 (now article 93) and article 79 (now article 90) of the coordinated text of the Constitution. After this favourable outcome, of which at every step I had consulted with the Palace. I wrote a handwritten letter to the King. The entire correspondence between the King and I was handwritten. Some of the Deputy Ministers suggested the idea to give an authentic character to the documents. The King even rewrote his first letter dated 30th March.

Brussels, 3rd April 1990

Sire,

I have the honour of acknowledging receipt of the letter sent to me by the King on 30th March 1990 concerning the draft law on the termination of pregnancy.

I have communicated its contents to the Deputy Prime Ministers. We took note, on the one hand, of the fact that the King's conscience did not allow him to sign the bill and, on the other, of the fact that the King stressed that it would be unacceptable for his decision to impede the proper functioning of our democratic institutions. Based on these two declarations, the King asked the Government and Parliament to find a legal solution that guarantees both the King's right not to be compelled to act against his conscience whilst guaranteeing the proper functioning of our parliamentary democracy.

Having established that the King stands by his conviction, I, together with the Deputy Prime Ministers, have sought to find a solution that does not impede the proper functioning of

the institutions. Such a legal solution enables the ratification, promulgation, publication and entry into force of a draft law adopted by both Chambers of Parliament.

I, therefore, propose the following solution: subject to the King's consent, article 82 of the Constitution, which deals with the impossibility of governing, would be applied. Following article 82 of the Constitution, the Ministers, having established the King's impossibility, would immediately convene the Chambers. The impossibility to govern would be based on the fact that the King considers that He cannot sign this bill and therefore cannot act as the third branch of the legislature. Therefore, for the period of inability to govern, the constitutional power of the King will be exercised by the united council of ministers and under their responsibility. Therefore, I shall propose that they ratify and promulgate the draft law on termination of pregnancy. After the ratification, the Council of Ministers will propose to Parliament that the King resume the exercise of his constitutional powers. Then, following deliberation by the Chambers of Parliament, The chambers will declare that the impossibility of reign has seized to exist. Moreover, to avoid similar problems arising in the future, the Government intends to propose a structural change. Here are the answers, Sire, which I would like to communicate to the King, following his letter of 30th March 1990.

If the King wishes to express his consent to the application of article 82 of the Constitution, I will convene the Council of Ministers to start the procedure described above. Should the king consent to the application of article 82, then per the King's wishes, I will communicate the context of his letter dated 30th March 1990 to Parliament, together with the Government's reply.

May I ask that the King accept the expression of my reverence

(get.) Wilfried Martens.

An hour later, the King replied.

Castle of Laeken

Prime Minister,

In response to your letter of 3rd April 1990, I would like to inform you that I agree to invoke article 82 of the Constitution to remedy the situation created by my conscientious objection to signing the draft law on termination of pregnancy.

Yours affectionately,

(get.) Baudouin - 3 IV 1990

I waited late in the evening at Stuyvenberg Castle for the ministers' meeting with a thumping heart. However, first, they had to agree to the King's temporary side-step and to sign the abortion law in his place. I was only too aware of the moment's historicity and the shock that would pass through the country as soon as the media knew our solution. In a conversation just before the Council of Ministers, I had seen how the Presidents of the House and Senate, Frank Swaelen and Charles-Ferdinand Nothomb, reacted with dismay, boundless surprise and even disbelief to my account and the proposed procedure.

The Council of Ministers started at 11.20 p.m. in a charged atmosphere. Except for Robert Urbain and André Geens - excused for missions abroad - all the ministers were present. Guy Coëme arrived at the castle with some delay.

I first read the exchange of letters with the King and decided that the council of ministers adopt three acts:

- a decision establishing the King's inability to govern, dated 3rd April,
- a decision by the Council that the ministers themselves ratify and promulgate the bill on termination of pregnancy,
- a decision dated 4th April but taken after midnight, calling the House of Representatives and the Senate in United Chambers on 5th April, and asking them to establish the end of the King's inability to govern.

I made it clear that, following the adoption of the first two acts, the King would send me a new letter in which he would inform me that the impossibility of governing had ceased to exist.

Given the historical importance of the event, I am describing the course of the discussions based on the minutes of the relevant Councils of Ministers (Wilfried Martens).

Deputy Prime Minister Dehaene asked what the reaction of the Presidents of the Chamber and Senate was, as I had informed before the beginning of the meeting of the Council. I replied that, despite their surprise at the proposed procedure, they did not see any alternative and considered that it would be best not to request a roll-call vote at the meeting of the United Chambers on Thursday, 5th April.

A roll-call vote calls all members by name and asks them to reply with a 'yay' or 'nay.'

Deputy Prime Minister Wathelet explained the order of publication for the acts to be approved:

- The first decision of 3rd April will be published in a second edition of the Belgian Official Gazette at 10 a.m. on 4th April.

- The second decision, which is the law of 3rd April 1990, ratified and proclaimed by the ministers united in the Council, concerning termination of pregnancy, will be published in the Belgian Official Gazette at 7 a.m. on 5th April.

- The third decision of 4th April will be published in a second edition of the Belgian Official Gazette at 10 a.m. on 5th April. Several members intervened with comments on the procedure followed and the situation thus created.

Deputy Prime Minister Moureaux regretted that the institutions had not been able to function normally. Moreover, the publication of the King's first letter could be seen as interference by the head of state in politics, which was very regrettable and bad for the royal function and the country. However, he also stressed that the solution adopted was necessary in order to avoid the worst.

Deputy Prime Minister Dehaene concurred and added that the problem was likely to return in the future at the end of the current procedure. However, he emphasised the positive fact that the Prime Minister and the Deputy Prime Ministers had acted as one close-knit group during these difficult days. Deputy Prime Minister Claes expressed his agreement with the two previous speakers and his concern about coming. In particular, he feared that the delicate balances enshrined in the Constitution of 1831 would be fundamentally undermined but added that there could be no better solution.

Foreign Minister Eyskens said that the procedure followed by the Prime Minister and Deputy Prime Ministers, and then the ministers united in the Council, was exceptional service to the country. He also stressed that the monarchy would emerge weaker. Moreover, the procedure followed should not set a precedent. A structural solution was needed in this matter, which may involve a different role for the monarchy in the future.

Deputy Prime Minister Schiltz confirmed this and said that the changing role of the monarchy would register as a fact in the minds of people by tomorrow. Finally, Deputy Prime Minister Wathelet concurred with what his colleagues had said. He emphasised that the path chosen was necessary to avoid worse. Upon my suggestion, the Council adopted the decision establishing the King's inability to govern and each member signed off the decision. The Council decided that the united ministers would ratify and promulgate the draft law on termination of pregnancy. Each member on-site signed the bill. Just before midnight, I went to the King. After this meeting, a new Council of Ministers was to take place. In the meantime, I telephoned the foremost opposition party leaders to meet them the next day. On Wednesday 4th April, at one o'clock in the morning, I opened the new Council of Ministers at Stuyvenberg Castle.

I read the King's letter in both Dutch and French, dated 4th April 1990.

Prime Minister,

I have taken note of your communication. The ministers united in the Council, under their responsibility, have endorsed and promulgated the draft law on termination of pregnancy. As a result, the reason for my inability to govern has ceased to exist. May I ask you to communicate this to the government and the legislative chambers?

Yours Affectionately,

Baudouin.

I communicated to the Council that I had informed opposition leaders Guy Verhofstadt (PVV) and Antoine Duquesne (PRL) and that I would receive them in the morning, together with Mrs Aelvoet (Agalev), Clerfayt (FDF) and Vaes (Ecolo). Deputy Minister Moureaux suggested we agree upon the content of the government's communication to Parliament before convening both Chambers. Deputy Prime Minister Dehaene replied that only

the exchange of letters between the King and the Prime Minister should be read out with a text to bind them. The Council adopted a press release which, at the insistence of Moureaux and Dehaene, had to include the paragraph contained in my letter to the King dated 3rd April 1990: the proper functioning of the institutions, which the Head of State does not wish to impede, implies the ratification, promulgation, publication and entry into force of a draft law adopted by both chambers. After that, practical arrangements were made to ensure that there was a quorum in the United Chambers. Therefore, we refrained from making any statements until the government's announcement. Finally, I expressed the King's gratitude to the Deputy Prime Ministers for reaching a consensus on the procedure followed. The Council was disbanded at 1.30 a.m.

The die was cast, the Rubicon crossed in complete secrecy on Wednesday 4th April 1990. From 5.30 p.m., radio listeners heard for the first time that the King had refused to ratify a law approved by Parliament with his signature and that my government had declared him impossible to govern. This news struck like a bomb. At first, no one seemed to grasp the gravity of what had happened. In a rush, lawyers and constitutionalists were requested to improvise on the implications of what had happened. There was tremendous political excitement. Two socialist MEPs, Raymonde Dury of the PS and Marijke Van Hemeldonck of the SP, openly asked about Baudouin's abdication from Strasbourg. As the day progressed and speakers provided the public with necessary explanations, there was a moment of reflection.

Before addressing the United Chambers on Thursday, I had to brave a rather critical meeting of the CVP factions in Nossegem. Lawyers from the Senate, in particular, were underwhelmed by my solution. Even though they had nothing better to suggest themselves, I heard the reproachful undertones in their statements. They believed that the King was able to do what we should have done as a party. That is to create a crisis because of just how bad this law was for politics. On the morning of 5th April at 8.40 a.m., we besieged another Council of Ministers to anticipate the meeting with the United Chambers. What we wanted to avoid at all costs was a debate on government responsibility or procedural errors. The meeting simply had to establish the end of the King's inability to govern. Other issues had to be deferred to subsequent meetings in the House of Representatives or the Senate separately. Some ministers feared that a debate would unfold on whether the King's inability to govern had been appropriately established. I would reply to that statement by arguing that the correct determination of the King's incapacity to govern was implicitly included in the ministers'

decision united in the Council of 3rd April 1990. Moreover, the United Chambers would not have been able to establish the end of the King's incapacity to govern if there had not been incapacity in the beginning.

The same morning, I had to defend this position at the Conference with the Presidents of the Legislative Chambers. At noon, I began to browse through the hundreds of newspaper pages. Even in foreign newspapers, the temporary impossibility of governing made front-page news. What was striking was a survey carried out by the newspaper, *Het Laatste Nieuws*, which showed that of those questioned, only 31% thought the monarch had not done his duty, 52% understood that the King had followed his conscience, and 77% answered resolutely 'no' to the question of whether the King should resign. The newspaper comments understood the Head of State and appreciated my government for preventing a regime crisis. Calmly and confidently, in front of an overcrowded hemicycle and bulging bleachers, I gave a reading of the King's letter, of my reply and the King's replies to the government's initiatives. The meeting, chaired by the Presidents of Parliament Nothomb and Swaelen, went without a hitch. The Vlaams Blok left the Chamber before the vote. 245 MPs and senators voted in favour of reinstating the King, 93 abstained, including the VU Luyten and Caudron as the only members of the majority (coalition). The impossibility of governing lasted 36 hours, but almost everyone agreed that this was and should remain a one-off event.

3.6. In closing.

I look back at that politically eventful period with very mixed feelings. For example, the then chairman of the Davidsfonds, Lieven Van Gerven, wondered publicly why my conscience seemed to encompass more than that of the King. The answer is straightforward but perhaps complicated for the general public to grasp. As a member of the legislature, I had let my conscience speak and voted against the law. As a member of the executive, I was not a person with a conscience but a function. As a person, I voted against the bill, but as a member of the executive, I had a function to fulfil. It is a relatively simple matter, but it is fundamental for a politician. I followed my conscience in Parliament, but in another capacity, I confirmed the law. A large part of the population did not understand that. I received proof of that a few days later. The King and the Queen visited the Floralies in Ghent. The visitors were amazed by how friendly we were with each other. Many thought that a severe conflict had arisen between the King and the Prime Minister and did not understand our good relations. Any insight into what had happened had escaped public scrutiny. However, the King thanked me

warmly and afterwards for how I had rescued the monarchy from the stalemate. I thought some of his reactions showed that he was disappointed with the abortion law and that no consensus was ever found on an alternative and humane solution. I understood his attitude and fundamentally agreed with him. King Baudouin would indeed have resigned if we had let it come to a crisis. It was not Fabiola (Queen Fabiola, wife of King Baudouin who said to be unable to have children), as has often been claimed, who was the decisive factor. His personal and intimate conviction guided him. I, myself, was in favour of a limited amendment to the initial law. Had we, when it was still possible, together with the Liberals, worked out a draft law like our German Christian Democrat friends, we would now have much stricter legislation. I was, and remain, an absolute opponent of abortion on request. To lead a profligate life, not to use contraceptives and to resort to abortion after pregnancy is, in my view, degrading.

Like King Baudouin, I cannot reconcile that with my conscience.

However, Baudouin's successor, King Albert II, makes the distinction between personal conscience and function. I am confident that the late King Baudouin would never have signed the law on euthanasia. On the contrary, he would have done anything to prevent a law on euthanasia. He once confided in me and said that Queen Beatrix of the Netherlands shared that great concern with him: 'But fortunately for her she can rely on the determination of Prime Minister Ruud Lubbers.'

Finally, it amazes me that the political world fails to draw lessons from such vital events. The problem of the conscience of the Head of State may once again become acute in the future. Indeed, none of the proposals formulated in 1990 to change the royal function ever made it to the House of Representatives or the Senate. Nevertheless, everyone had agreed that this should have been a one-off solution. So, once the crisis was averted, we moved on to business as usual.

3.7. End the of the account by Martens.

I have heard multiple accounts of the abortion crisis because it was a critical moment in Belgian political ideology. However, I cannot remember reading it like this. By exploring Merten's memoirs, I realised how the perspective provided on the account is shaped by the ideology of the university and the ideology of neatly interwoven structures of society. Like Mertens mentions above, it was paramount for his party to present a united front on the following matters: **education, social affairs, and ethical issues.** Therefore epistemological,

familial and spiritual invisibility is not a coincidence. I hope my contribution to this chapter in Belgian history could help reveal something new.

4. A brief social network analysis in conclusion.

In conclusion, would like to add a few words about the bibliography and networks of some of the key figures in this chapter. My reasoning is that in hailing the heroes, we might also learn a thing or two about their ideology and motivation.

Roger Lallemand died in October 2016 and held a doctorate in Law. He had studied a master's in classics at the Université Libre Bruxelles and had been a lawyer in Brussels. He held significant positions at the ULB, including being a board member. As a representative of the PS, he was a senator for a significant part of his political career. Most notably, regarding the law on abortion, are his efforts as a lawyer, senator, and professor. He is known for defending Dr Willy Peers, a self-proclaimed advocate for abortion rights and prosecuted for administrating illegal abortions. Roger Lallemand was a member of the Freemasonry lodge Les Amis Philanthropes, which founded the ULB. Some of his famous friends included Jean-Paul Sartre and Simone de Beauvoir (see article on his life in De Morgen newspaper). Thus, Roger Lallemand was connected to the various forms of power through education, Parliament, ideological, political backing and legal representation.

Lucienne Herman-Michielsens died in 1995. She studied law at the University of Ghent. However, she opted to become a journalist instead of a lawyer. In addition to a doctorate in law, she obtained degrees in criminology and notarial studies. From 1971, Herman-Michielsens devoted her political career to family law matters and specialised in privacy, family law, public health, youth protection, adoption, abortion, and education.

United Nations declared 1975 as the International Year of Women. Lucienne Herman-Michielsens is appointed as president of the Belgian committee, together with Walloon Emilienne Brunfaut.

In 1977, Lucienne Herman-Michielsens was co-opted senator for the PVV. Although not an outspoken advocate for abortion at the time, she submitted a proposal after many had been rejected. Her proposal submitted together with Roger Lallemand in 1986 ultimately became the basis for today's law. However, Lucienne Herman-Michielsens' emancipatory

ethics have been criticised because she participated in the pro-apartheid association Protea (see Rosa, feminist group website for more information).

Protea was founded in 1977 as a lobby group to defend the South African apartheid regime. Many prominent politicians, including Lucienne Herman-Michielsens, were members. However, Lucienne Herman-Michielsens is often the only one who gets named and criticised.

Other critical political figures discussed in this dissertation include Wilfried Martens and Emile Vandervelde.

One of the features they all had in common was their legal background. Whether the figures discussed in the dissertation were members of the House of representatives or members of the Senate, the majority seemed to hold at least a master in law, if not a doctorate in law. Moreover, they were most like to have practised the law.

Whether clerical or anticlerical, most key figures shared an alma mater and other institutional networks depending on which side of the historical political divide they stood.

Emilie Vandervelde and Roger Lallemand are discussed in brief. Both socialists attended the Free University of Brussels (ULB), one founder of the Belgian Labour Party, championing universal male suffrage while fervently opposing universal female suffrage. The other championing women's abortion rights, albeit living during a different historical moment.

Emile Vandervelde, a Belgian politician, is often regarded as the founding father of socialism in Belgium. However, the early ideas of socialism, as mentioned in the theoretical framework, were not initially invested in the plight of the working class. Instead, socialism spearheaded by Emile Vandervelde was a political ideology that existed among a group of Belgian intellectual elites as a branch of the Liberal party. Thus, historically, the Belgian political landscape represented two political ideologies, either clerical and members of the Christian party or Liberal anticlericals who preferred minimal interference from the Church and State to go about their business freely.

It was in the wake of the Industrial Revolution that Vandervelde's ideas gained momentum. At the time, through the Rerum Novarum, the Church colluded with mainstream

(anticlerical!) liberalism to suppress the threat of a revolt by the working class against the system's conditions forced them to work.

There was an opportunity for a socialist agenda that could appeal to the needs of the working class. By offering something that the others were unwilling to offer, a political agenda that put forth the needs of the working class based on their lived experiences, the socialist party would gain a massive following.

However, in 1891, the universal singular vote for men had not been passed yet. Moreover, as mentioned in the chapter on spiritual invisibility, the universal singular vote had only been agreed upon by the three main parties immediately after the First World War in 1919. The three main parties then were the Liberals, the Christian Democrats and the Socialists.

Although the Constitution would require an amendment to pass the law, the three parties agreed to pass the universal singular vote using an ordinary legal process, as set out in the theoretical framework, to pass the vote.

Ordinarily, an amendment of the Constitution requires a particular procedure set out in the Constitution itself. The particular procedure intends to avoid misuse of the process of amending the Constitution. However, as the passing of the universal singular vote for men showed, when the need so arises, legal constructs can be created to bypass the tedious procedure intended to protect our democracy.

The socialist party in its current form (BWP) was founded in 1885. At its helm, Emile Vandervelde and, as its aim, the introduction of the universal singular vote for men. The party's first achievement towards that direction was the universal plural vote in 1893, only two years after the Rerum Novarum was published. Advocating for the universal right to vote for men won the socialist party seats in Parliament, and they were part of the coalition government of 1918 until 1921, with the Liberals and Christian Democrats.

Emile Vandervelde's name became synonymous with the universal singular vote for men, yet Vandervelde was against the women's vote. Furthermore, as mentioned above, it is only later on that Emile Vandervelde's socialism came to include the plight of the working class. For he belonged to Belgium's intellectual elite. A son of a judge who was a member of the Les Amis Philanthropes, a Freemasonry in which his father initiated Vandervelde. Emile Vandervelde died in 1938.

The importance of networks then begs the question of representation for spiritual Black lesbian and bisexual women in Belgium.

How are spiritual Black lesbian and bisexual women living in Belgium supposed to envision liberation if they do not have access to political networks?

Chapter 8. Conclusion

This dissertation investigated the epistemological, familial and spiritual invisibility of spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework. It argued that a one-dimensional focus on sexuality, the law and citizenship create intersectional invisibility for spiritual Black lesbian and bisexual women in Belgium. The dissertation introduced intersectional normfare as a lens to challenge this one-dimensional focus on sexuality, the law and citizenship by examining the Belgian LGBT rights framework from the tri-dimensional intersectionality of spiritual Black lesbian and bisexual women. Intersectional normfare challenges the epistemological, familial and spiritual invisibility of spiritual Black lesbian and bisexual women in Belgium based on their intersectional identity, the intersections of the norms they navigate and the intersectional levels at which these norms are produced.

Using a mixed-method comprising of literature studies- queer theory, black liberation and womanism, critical debates on sexuality in the European context, Belgian literature on LGBT rights, persons and family; Legal case studies of domestic and European case law, particularly cases brought before the European Court and Commission for Human rights regarding sexuality, gender, discrimination marriage and family; Autoethnographic research based on observations and lived experience of the researcher, and information found on websites, newspaper articles, archival material, memoir and through translation. It relied on the nation of the relationality to expose some of the critical issues that continue to perpetuate epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women across space and time.

Invisibility was a catch-all term that refers to the multiple ways critical issues for spiritual Black lesbian and bisexual women are rendered invisible and captures concepts such as exclusion, marginalisation, silencing, erasure and discrimination.

Chapter 1. Introduced the research and argued that by studying the intersection of black female homosexuality and spirituality in the Belgian context, the dissertation contributes to Black lesbian feminism, womanism and the study of Lesbian, Gay, Bisexual and Trans rights liberation frameworks in the Belgian context.

Chapter 2. The literature review discussed three critical bodies of work relevant for understanding and challenging invisibility for spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework—namely queer theory, including black lesbian feminism, womanism and critical debates on LGBT rights in (Dutch-speaking) Western Europe.

Chapter 3. The theoretical framework explored critical conceptual notions deployed throughout the research. The chapter introduced three new notions:

- spirituality as a foundation for the liberation of spiritual Black lesbian and bisexual women in Belgium.
- Intersectional normfare as a toolkit for challenging epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women in Belgium.
- A scotoma methodology, a mixed methodology approach for exposing some of the critical issues that continue to perpetuate epistemological, familial and spiritual invisibility for spiritual Black lesbian and bisexual women across space and time.

Chapter 4. The emergence of the Belgian LGBT rights framework explored the context of the Belgian Lesbian, Gay, Bisexual and Trans rights framework by examining the historical and international context within which the Belgian LGBT rights framework emerged. It argued that although Belgian promotes itself as the pioneer of sexual and gender liberation in the 21st century, the Belgian LGBT rights framework is an inherited and concerted outcome of events at the local, regional and international levels. Furthermore, positioning spiritual Black lesbian and bisexual women in Belgium as the embodiment of various intersecting identities allows us to go beyond simplistic assumptions, such as Western contexts being inherently more liberal since the introduction of secularism and automatically equating Black and African communities with tradition, religion and homophobia. Finally, the chapter posits that before we go out and educate the rest of the world on being inclusive, tolerant and equal, how about critically accessing our norms and values to challenge invisibility for members of our society.

Chapter 5. Explored epistemology invisibility for spiritual black lesbian and bisexual women in the context of international protection. The chapter set up a dilemma for the state. On the one hand, the state must protect persons fearing persecution based on their real or

perceived orientation. However, on the other hand, international protection creates a new (Black) queer diaspora, and the state needs to control access to its territory by limit the influx of persons needing its protection because once a person receives international protection, they have the right to stay in the country legally.

Moreover, based on that right to stay, a person granted international protection can confer rights to their dependents through family reunification. These rights include recognising civil status and family rights such as marriage, divorce, separation, and children that belong to the family and the various protections and benefits provided to family members. Using Fricker's notion of the responsible hearer, the chapter argues that if the state's position is influenced by its need to protect its borders, then the state might listen to counteract claims of international protection based on sexual orientation. Conversely, if the state aims to protect those fearing persecution, it might listen to hear the evidence provided to support the claims of those seeking international protection. Therefore, stereotypes and biases based on spiritual Black lesbian and bisexual women's identity might creep into seemingly objective state practices.

Chapter 6. Explored familial invisibility for spiritual Black lesbian and bisexual women through the notion of family in the law and society using the Belgian civil code and European case on familial rights. The chapter argued that historically marriage was designed and prescribed as the only legitimate way to acknowledge familial bonds and regulate access to private property. Although, the privilege was initially withheld for two persons of the opposite sex to form a nuclear family aimed at passing on lineage, positionality, name, inheritance and nationality from father to children (sons) as an extension of his personality. Inclusion of LGBT families and other forms of family formation in the civil code, such as legalising same-sex marriage, opening up adoption for same-sex couples, and comotherhood, single motherhood maintain the nuclear heteropatriarchal underpinnings of family, making all of the other forms of family, even when they have become acceptable, an exception to the rule.

Chapter 7. Explored spirituality invisibility for spiritual Black lesbian and bisexual women in the political ideology of Belgian politics. The chapter argued that the personal is political by examining the abortion crisis. The abortion crisis is often portrayed as a paradigm shift from conservative Christian mores to secular gender and sexual liberation. However, the

chapter demonstrated that the abortion crisis brought to light a few competing issues. While women's rights and family values sparked the abortion crisis, ministerial responsibility, state structure, the King's role and moral conviction became the centre of the debate. Moreover, the chapter argued that because no one party stands by critical issues that affect the lived experiences of spiritual Black lesbian and bisexual women, it is difficult for them to predict whom to endorse.

Each chapter demonstrated that a focus on sexuality and gender alone misses other intersecting factors that affect particular groups' daily lives, such as spiritual Black lesbian and bisexual women in Belgium. By placing the intersecting identity of spiritual Black lesbian and bisexual women in Belgium at the centre of inquiry, this dissertation highlighted issues for spiritual Black lesbian and bisexual women that continue to be neglected, reproducing their invisibility at the epistemological, familial and spiritual level.

Possibilities for future research:

Even though this dissertation does not explicitly address trans invisibility, trans identity formed part of the lens used in this research. In 2019, the Belgian Constitutional Court passed a judgment on gender identity as a concept within Belgian law (Constitutional Court 99/2019). Gender identity was argued before the court as an aspect of self-determination because the Belgian Constitution recognises gender, class and nationality as grounds for equality. The claimants, the interregional cooperation of the LGBT movement (including CAVARIA), addressed the matter before the Constitutional Court.

In its judgment, the court had referred to, among others, the Yogyakarta principles (2006) and maintained that for the court, accepting gender fluidity as a concept in Belgian law would require a paradigm shift in the conceptualisation of gender (Constitutional Court 99/2019, 11). According to the court, gender, the way it is conceived in the Constitution today, stems from a binary understanding of gender, assuming that one is either male or female and that this only changes once after transitioning from one to the other. This reading of gender conflates sex and gender by positing that gender is a constitutive part of our identity that cannot be changed freely in the legal realm.

The court also added that the interest of society requires predictability. The ability to change one's gender identity on legal documents multiple times goes against predictability (Constitutional Court 99/2019, 6). The court also held that the law had been amended to facilitate transitioning for transpersons. Amendments such as the fast processing of gender alteration on legal documents, the removal of a medical diagnosis of transsexuality, and the sterilisation requirement for transpersons make the transition more accessible than before.

Moving beyond these amendments would put society at risk of fraudulent practices relating to the identification of persons. Following the court's rationale begs the question to what extent protecting society from fraud amounts to a reasonable limitation of the self-determination of persons?

The Belgian civil code, in book one, regulates the law on persons and families. The law on persons regulates certain aspects of our identity that are assumed to be fixed, such as our names, age, parentage, nationality, and gender (Constitutional Court 99/2019, 6, 8 and 38). According to the general principles of law, personal status is the combination of legal characteristics attached to our person that enable our identification as legal actors and determine our legal position in society. These legal characteristics include our names, place of birth, gender, age, address, and nationality. Together they form a unique code of identification.

According to the unwritten general principles of law, which are separate from written law, personal status has four core characteristics. The first core characteristic of personal status is that it is neither interchangeable nor exchangeable; therefore, personal status cannot be sold or exchanged for money or in kind.

Second, personal status does not fall under the regime of statutes of limitations; therefore, one cannot lose or acquire personal status through the elapse of time.

Third, personal status can only be altered according to the formalities prescribed by law. For instance, the autonomous determination of gender would not be recognised unless altered formally according to the procedure prescribed by law. Furthermore, the Constitutional Case of 2019 states that it can happen only once. Third, personal status is universally recognised and respected, which is enforceable against third parties and the state itself. Fourth and lastly, personal status is singular; therefore, one cannot hold two statuses at once (i.e., be married and single at the same time). Therefore, personal status, together with familial status, form a person's civil status.

We would have to alter these fundamental principles to acknowledge gender identity as a fluid concept of Belgian law. Furthermore, as determined above, personal status combined with familial status make a person's civil status because our familial status determines our relationship to others.

As marriage is the only kind of familial relationship formalised by the law, it remains the primary condition to determine personal relationships. Fundamentally marriage was an institution between two persons of the opposite sex intending to start a family. The assumption of marriage being a privilege of two persons of the opposite sex changed with the legalisation of same-sex marriage in 2003. However, the fundamental principle remained the same. To have a legitimate family, a union had to consist of two persons and not more. Persons should be of the opposite to reproduce, and that even when two persons of the same sex would marry, this could not be to start a family.

These discussions appear ahead of amendments to the law on adoption in 2006. A fixed and determined gender has additional consequences within a family. For instance, the law prescribes that children carry the name of their fathers as a way to identify the bloodline. Initially, adoption was only possible for a married couple of a certain standing in society that could not have biological children. To ensure continuity in the name, inheritance and standing.

What this also does is contribute to the creation of a social network. As mentioned above, the importance of a social network must not be underestimated in ensuring political representation. Although adoption is widely accepted today, we often still regard adoption as secondary to biological family. Despite the conversation starting with gender and gender identity, the implications of our understanding of gender in society far exceed questions of fluidity and fraud.

Instead, debates on gender identity raise questions concerning family and the hierarchies tied to our notion of family. The same questions that underline discussions regarding co-motherhood. Whilst arguments brought forth in legal cases pointed to the lack of trust in the ability of two mothers to provide a suitable environment for children to grow up.

The question of a suitable environment points to modelling societal expectations within families. For example, if children understand that being raised by two mothers is okay, would that mean they get interesting ideas on shaping their own families? In this context, biology need not be the issue. Two mothers can have biological children, and since in the case

of adoption, we say biology is a requirement of family and that two persons of the same sex could marry and form a family based on adoption, then what complicates co-motherhood? Does the issue with co-motherhood stem from an assumption that children are extensions of their father's personality/personal status?

Is the assumption that children are the extension of their father's personality related to the sterilisation requirement for transpersons that was in place before 2007 or the inability for single mothers to be recognised as legal parents of their children before 1987? By treating gender and sex intersectionally, we uncover related themes such as the laws concerning name, parentage, inheritance, adoption, marriage and more.

Nationality is another aspect of personal status that can only be altered according to the law's prescribed procedure. Nationality was principally an aspect of the bloodline. Passed on from father to child and continued through marriage. The secondary and subordinate basis on which nationality could be determined is territory. Being born within a specific territory can confer citizenship rights. However, as we see by questioning the concept of family, adoption interrupts the principle of bloodline, while migration interferes with the principle of territory.

Moreover, the concept of colonialism disrupts the understanding of aspects of personal status such as nationality, bloodline, parentage and name.

Not in the least because the then King of Belgium, Leopold II, acquired private ownership of territory outside Belgium. To which He no links of personal or family status. Also, principles of name, bloodline, lineage, parentage appear not to have applied in Congo Free State, now the Democratic Republic of Congo. Thus, for example, the numerous children not recognised as Belgian even when their fathers were Belgian because their mothers were Black? Or Black Congolese men who could not inherit within their territory?

Thinking intersectionally from spiritual Black lesbian and bisexual women's positions requires stepping beyond national borders. For example, had the dissertation focused solely on the inclusion of Black Belgians the in Belgian LGBT rights framework, the dissertation might have missed the specific vulnerability that spiritual Black lesbian and bisexual women seeking international protection based on their sexual orientation and gender identity face. For instance, the possibility of revocation of the right to refugee status by the Council for Alien Law Litigation should it appear that a woman seeking protection based on her sexual orientation has a child, when in fact, the issue might be epistemological.

First, not everyone thinks of their sexuality in fixed terms. Some might be bisexual, pansexual, or everything in between. For others, having a child might be a way to venerate their ancestry or simply the outcome of wanting a biological child. The want of a biological child for queer mothers brings us back to the conversation of co-motherhood and family formation. Except for (Black) migrant women, the need for a biological child might mean the difference being receiving international protection and being deported. Even before we consider that, for some, being pregnant might be the outcome of sexual abuse.

Whether the issue is property, family protection, social networks, political representation, competing rights, and political crises, creative methodologies remain vital to address critical issues affecting certain social groups. Intersectional normfare that challenges invisibility at the various levels at which invisibility occurs enables and for a specific group.

What the dissertation hopes to do is remind the reader of the importance of working together. Focusing on spiritual Black lesbian and bisexual women in the Belgian LGBT rights framework shows one angle of the work needed. However, to complete the picture, we need to hear from different social groups how their invisibility occurs. If any true transformation is to occur, we should remind ourselves of the importance of solidarity and interdependency to not just survive but thrive, which is why the term spirituality in this dissertation is no coincidence. It refers to a much broader framework than religion. It is the courage we need to imagine a better world is for all of us.

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