USING FORMAL INTERPRETATIONS OF LEGAL SOURCES FOR COMPARING THE APPLICATION OF EXCLUSION CLAUSES OF THE UN REFUGEE CONVENTION

Robert van Doesburg / Tom van Engers

Ph.D. researcher, University of Amsterdam, Leibniz Center for Law
Nieuwe Achtergracht 166, 1018 WV, Amsterdam, TNL
robertvandoesburg@uva.nl; http://www.leibnizcenter.org

Professor, University of Amsterdam, Leibniz Center for Law
Nieuwe Achtergracht 166, 1018 WV, Amsterdam, NL
vanengers@uva.nl; http://www.leibnizcenter.org

Keywords: ***Interpretation models, Knowledge representation, Legal comparison, AI and Law***

Abstract: *How can explicit interpretations of sources of norms help comparing complex real life legal issues? Comparing legal cases requires interpretation of sources of law. We developed the Calculemus approach to make explicit representations of the meaning of sources of law represented in a domain specific language for expressing norms. The approach is used to analyze a traditional legal thesis on the exclusion clauses of the UN Refugee Convention. This results in concise representations of the sources concerning the application of these clauses in the UK and the Netherlands.*

1. Introduction

Like many other people working in the field of artificial intelligence and law (AI and Law) we try to find the best representation formalism for expressing sources of norms, including sources of law. We judge those formalisms by their capability to allow for automated reasoning in different contexts, including applying the rules of law to cases (case assessment). Furthermore, we would like to be able to argue about the coherence and consistency of these rules, and for that we would need a method for legal comparison. The goal of this quest is to be able to apply the formalism in agent-based reasoning models, determining equilibria and tipping points in societies governed by norms.

In our modelling approach, called Calculemus, after the famous words of Leibniz, we pay specific attention to the interpretation of the sources of norms, as we accept that different people may have different interpretations of a norm in natural language. In our approach we formalize interpretations, and we support a structured debate on differences in interpretation. In this paper, we aim to show the value of making such explicit interpretation models of sources of norms for comparing legal cases.

We have selected an example in the domain of immigration law, the 2016 PhD thesis of Zarif Yakut-Bahtiyar [Bahtiyar 2016] on the application of the exclusion clauses in Article 1F of the UN Refugee Convention [UN 1951], i.e. exclusion from the right of protection for refugees because of involvement in criminal acts, including war crimes and crimes against humanity. The research of Bahtiyar was based on, what she calls, traditional methods in legal research, i.e. consulting a variety of legal sources, including relevant legislation, literature and case law. «In addition to the ‹traditional methods› used in legal research … interviews were held» [Bahtiyar 2016, 14]. In the UK, experts from the Home Office were interviewed. In the Netherlands discussions were held with excluded asylum seekers, lawyers assisting 1F applicants and staff members from the Immigration and Naturalisation Service. The thesis is representative for legal comparison

research. Like most legal comparison studies the thesis makes little use of precise quotes from legal sources. The meaning of those sources is mostly represented by paraphrasing. The thesis does not include any tables nor schemes.

With this paper, we aim to contribute to the field of legal comparison by showing how using formal interpretation models can help to find similarities and differences in legal interpretation, and to support arguments about claims on similarities and differences in these interpretations. Relevant for the field of AI and Law is the comparison of cases in different legal domains, i.e. the UK and the Netherlands. A comparison that is not possible using traditional case-based reasoning because a court ruling in the UK is not necessarily a precedent in the same case in a law suit before a Dutch Court, or vice versa.

The interpretation of sources of law are expressed in FLINT: a formal language for the interpretation of normative theories [Doesburg 2018-1] [Doesburg 2018-2] [Doesburg 2016-1] [Doesburg 2016-2].

The research question addressed in this paper is:

– How can explicit interpretations of sources of norms help when comparing complex real life legal issues?

2. Methods

In this paper, we use FLINT, a domain specific language (DSL), for making explicit interpretations of sources of law. In FLINT, norms are represented by institutional act types. An act is an instance of an act type. The term «institutional act» is derived from «institutional facts»: facts that require human institutions for their existence, facts that depend on human agreement, e.g. it takes a human institution to turn a piece of printed paper into money [Searle 1995, 1]. An institutional fact is the attribution of a function to an object and is constituted by the function «X counts as Y in context C» [Searle 1995, 34]. This means the object X gets an additional meaning as a result of its classification as Y in the context C. Institutional acts are acts that need a human institution to assign a function to an action that can be observed in brute reality, e.g. «waving your hand» in an auction can be recognized by the auctioneer as «making an offer». The institution of a normative institutional act type is laid down in a source of norm. The application of a behavioral rule on a specific situation requires facts, anything in the world that makes a statement true. And those facts must be qualified as being part of the precondition of an institutional act.

An institutional act consists of: an «action», the «actor» performing the action, an «object» that is acted upon, the «precondition» that is required to allow the act, the «result» of the act (the creation of a new object, or the termination of an existing object), the «recipient» that is receiving the result of the act, and the source in which these elements are constituted. The precondition of an institutional act consists of «institutional facts», and Boolean relations between those facts. Table 1 shows a schematic representation of institutional act types.

An elaboration of the characteristics of FLINT can be found in [Doesburg 2018-1] [Doesburg 2018-2] [Doesburg 2016-1]. FLINT is a tool in the Calculemus approach [Doesburg 2016-2] where normative states and state transitions are analyzed in separate layers: the relevant sources of law (1), the interpretation of sources of law using FLINT (2), the description of the facts of the case (3), and the mapping of facts of the case on institutional acts or derivation rules for institutional facts (4). The separation of these layers aims to result in a systemic model of a legal issue. Reading the semi-formal representations in FLINT does not require legal knowledge nor knowledge of artificial intelligence. In [Doesburg 2016-2] we show that semi-formal FLINT expressions can be formalized in domain specific language (DSL) also a prototype for the formal representation of FLINT expressions is developed.

Sources of law	FLINT representation
Reference 1 «Quote from source of norm.» *Reference ...* «Quote from source of norm.» *Reference n* «Quote from source of norm.»	«*institutional act type*» *Action type:* verb (as mentioned in source of norm) *Actor type:* actor (as mentioned in source of norm) *Object type:* object that is acted upon (as mentioned in source of norm) *Recipient type:* recipient of the result of the action (as mentioned in source of norm) *Precondition:* [institutional fact type 1 … n] (as mentioned in source of norm), and the Boolean relation between these institutional fact types *Postcondition (creating):* object type 1 … n; «institutional act type»; ‹duty type› (as mentioned in source of norm) *Postcondition (terminating):* object 1 … n; «institutional act»; ‹duty type› (as mentioned in source of norm)

Table 1: FLINT representation of the institutional acts

In this paper only semi-formal representations are used. The semi-formal expressions are more accessible for a multidisciplinary audience. These representations do not require specific knowledge from the domain of law or artificial intelligence. In the next section, we will explain the back grounds of the use case that is core to Bahtiyar's thesis. This introduction is needed in order to be able to test the ability of FLINT in a Calculemus approach to make a concise and comprehensible representation of a legal thesis on a complex legal issue in the real world.

3. The Application of Exclusion Clauses of the UN Refugee Convention in the EU

The European Council, at its special meeting in Tampere in 1999, agreed to work towards establishing a Common European Asylum System (CEAS) based on the full and inclusive application of the Refugee Convention. According to Bahtiyar the absence of a common policy on the exclusion of asylum seekers because of criminal behavior in their countries of origin based on Article 1F, is a blind spot in the process towards a common European asylum policy. This is illustrated by the fact that of all EU Member States, only the UK and the Netherlands have an active 1F policy [Bahtiyar 2016].

In her thesis, Bahtiyar promotes equal application of the exclusion clauses of the Refugee Convention in the EU. Additionally, she promotes granting of a right to legal stay to excluded asylum seekers that are protected from refoulement by Article 3 of the ECHR [Council of Europe 1950, 6]. In this paper, we will address the issue of equal application of the exclusion clauses of the Refugee Convention.

The central issue in the thesis is the assessment of members of the Afghan intelligence services «Khadimat-e Atalát-e Dowlati» and «Wazarat-e Amaniat-e Dowlati» (KhAD/WAD) under the communist government (1978–1992). The Netherlands developed a 1F policy in the 1990's, after members of the Afghan intelligence services fled for the Taliban regime that came to power in 1994. In the Netherlands, KhAD/WAD officers met their victims in the Dutch centers for asylum seekers. An active 1F policy was introduced to address this problem.

In the UK, the development of a 1F policy started in 2001, after the attacks on the World Trade Center in New York on 11 September 2001. According to Bahtiyar other EU Member States do not have an active 1F policy. Persons that are excluded from protection in the UK or the Netherlands, would have been eligible

for protection in other EU Member States. Bahtiyar even gives examples of people who were excluded in the Netherlands based on Article 1F, and got a (non-asylum related) residence permit in Belgium [Bahtiyar 2016, 176].

The main propositions of Bahtiyar that relate to this issue is:

– UK and the Netherlands apply the rules of Article 1F differently. Bahtiyar uses the categorical exclusion of KhAD/WAD officers in the Netherlands as proof that national situation reports lead to different application of 1F policies in EU Member States, a policy much debated in the legal domain. She for pleas for a European institution for asylum related situation reports [Bahtiyar 2016, 242].

4. FLINT Representations of the Application of 1F Exclusion

We used FLINT expressions to make an explicit representation of the grounds for Bahtiyar's claim that the UK and the Netherlands apply the rules of Article 1F differently. As a first step, we made interpretation models of the relevant sources of law. Making these interpretation models of sources of law allows us to make a comparison between decisions of the court in the UK and the Netherlands.

The sources for the representation are: Article 31 (1) Aliens Act [Minister of Justice 2001-1], Article 3.107 (1) and (2) Aliens Decree [Minister of Justice 2001-2], Article 1F and Article 33 Refugee Convention [UN 1951], Article 3 ECHR [Council of Europe 1950, 6], ECLI:NL:RVS:2009:BJ8654 of the Dutch Council of State [Council of State 2009], Case No: C5/2008/0942, 0942(A) of the UK Court of Appeal [Court of Appeal 2009, 16–25]. The decision of the Council of State, the Aliens Act (Vreemdelingenwet) and the Aliens Decree (Vreemdelingenbesluit) are in Dutch. The English translations in this paper are unofficial translations by the authors. In subsection 4.1 we describe the case of the former KhAD/WAD officer X is. In subsection 4.2 we describe a comparable case in the UK, about the former KhAD/WAD director DS.

4.1. FLINT Representation of the Case of Mr. X in the Netherlands

Mr. X is a former KhAD/WAD officer. His application for granting a residence permit was rejected because, in the opinion of the State Secretary, Mr. X is a person as referred to in Article 1F (a) and (b) of the Refugee Convention. The application of Mr. X was rejected based on Article 31 (1) Aliens Act. Mr. X successfully appealed the decision with the District Court of The Hague. In this paper, we will only analyze the decision of the Council of State, the highest court for administrative law in the Netherlands.

The «temporary asylum permit, as referred to in Article 28» is substituted by the term «temporary asylum residence permit» to make the term perceivable when it is used outside the context of the Aliens Act. For the same reason «Our Minister» is substituted by the «Minister of Justice», who his represented in the lawsuits by his State Secretary. The formal analysis of delegation and mandating of powers is not addressed in this paper.

If an alien has demonstrated that its application is based on circumstances which constitute a legal basis for granting a temporary asylum residence permit, his application cannot be rejected, see Table 2. Table 3 shows an elaboration of the condition [alien has demonstrated that its application is based on circumstances which constitute a legal basis for granting a temporary asylum residence permit]. Article 3.107 (2) Aliens Decree links the rejection of the application of X to Article 1F Refugee Convention. Table 4 gives the FLINT representation of Article 1F, and its relation to Article 3.107 (1) Aliens Decree.

In order to proof that X is a person as referred to in Article 1F (a) and (b) Refugee Convention, the Minister of Justice uses a situation report of the Foreign Minister's Office on Security Services in Communist.

Sources of law	FLINT representation
Article 28 (1) Aliens Act Our Minister is authorized: a. to grant, reject, or disregard the application for granting a temporary asylum residence permit; b. to grant, reject, or disregard the application for extending the period of validity if the permit; c. to withdraw a temporary asylum residence permit *Article 31 (1) Aliens Act* An application granting a temporary asylum permit, as referred to in Article 28, is rejected if the alien has not demonstrated that his application is based on circumstances which constitute a legal basis for granting a permit.	«*reject application for a temporary asylum residence permit*» *Act:* reject *Actor:* State Secretary *Object:* application for a temporary asylum residence permit *Recipient:* alien *Precondition:* NOT [alien has demonstrated that its application is based on circumstances which constitute a legal basis for granting a temporary asylum residence permit] *Postcondition (creating):* rejection of the application for a temporary asylum residence permit *Postcondition (terminating):* application for a temporary asylum residence permit; lawful residence pending a decision on an application for granting a temporary asylum residence permit

Table 2: FLINT representation of the institutional act: «reject application for a temporary asylum residence permit»

Sources of law	Derivation rule
Article 31 (1) Aliens Act An application granting a temporary asylum permit, as referred to in Article 28, is rejected if the alien has not demonstrated that his application is based on circumstances which constitute a legal basis for granting a permit. *Article 3.107 (2) Aliens Decree* If Article 1F of the Refugee Convention prohibits the granting of a residence permit to the alien under Article 29 (1) (a) of the Act, that alien shall not be granted a residence permit on one of the other grounds in Article 29 of the Act.	[circumstances which constitute a legal basis for granting a temporary asylum residence permit] AND NOT [Article 1F of the Refugee Convention prevents the granting of a temporary asylum residence permit to an alien]

Table 3: Derivation of institutional fact: [alien has demonstrated that its application is based on circumstances which constitute a legal basis for granting a temporary asylum residence permit]

Sources of law	Derivation rule
Article 1F Refugee Convention The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that: (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; (c) he has been guilty of acts contrary to the purposes and principles of the United Nations. *Article 3.107 (1) Aliens Decree* A person who has turned on, or otherwise participated, in the crimes or acts mentioned in article 1F, counts a person as referred to in Article 1F of the Refugee Convention.	[person has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments] OR [person has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee] OR [person has been guilty of acts contrary to the purposes and principles of the United Nations] OR [person has urged others to commit crimes or acts mentioned in Article 1F, or otherwise participated in those crimes or acts]

Table 4: Derivation of institutional fact: [Article 1F of the Refugee Convention prevents the granting of a temporary asylum residence permit to an alien, who is a refugee]

Para-graph	Quotes from the decision of the Council of State
2.1.3.	«[The] Secretary of State [...] has decided that ... from the situation report ... it can be deduced that [X] given his officer function must have been personally involved in crimes as referred to in Article 1F, preamble and under (a) and (b).»
2.2.1.	«[A] situation report ... [should] provide information, in an impartial, objective and insightful manner, with the indication of the sources from which it is derived, as far as possible and reasonable.»
2.2.1.	«[The] State Secretary [can] rely on the accuracy of the information in the situation report, unless there are specific points of concern for doubt as to the accuracy or completeness thereof.»
2.2.5.	«The District Court, however, was wrong to consider the UNHCR Note as a specific point of reference for doubt as to the accuracy and completeness of the situation report.»
2.2.5.	«The District Court, however, was wrong to consider [the opinion of Giustozzi as referred to in] the UNHCR Note as a specific point of reference for doubt as to the accuracy and completeness of the situation report.»
2.2.6.	«[The] State Secretary [was] right to use the situation report as a ground to decide that [X] was responsible for crimes as referred to in Article 1F (a) and (b) .»

Table 5: The decision of the Dutch Council of State on the qualification of X as a person as referred to in Article 1F (a) and (b) Refugee Convention

Afghanistan of 29 February 2000 [Ministery of Foreign Affairs 2001]. Table 5 gives on overview of quotes from the decision of the Council of State on the exclusion of X based on Article 1F (a) and (b) Refugee Convention. In short, the decision of the Council of State [Council of State 2009] is that the Minister of Justice was right to use an official situation report by the Dutch Foreign Minister's Office as a ground to decide that X was responsible for crimes as referred to in Article 1F (a) and (b). In a written defense X refers to a UNHCR Note [UNHCR 2003] and the opinion of the academic expert dr. Giustozzi as grounds for claiming that not all officers of the KhAD/WAD were involved in criminal activities.

The court rules that the State Secretary, representing the Minister of Justice, can rely on the information in a situation report of the Foreign Minister's Office because that the situation report gives unbiased, objective and insightful information, indicating – as far as possible and reasonable – the sources from which the information is derived. The UNHCR Note and the opinion of dr. Guistozzi contain, on relevant matters, information that is different than that in the situation report. However, in a previous lawsuit a District Court was wrong to consider this new information as a concrete point of reference for doubt as to the accuracy and completeness of the situation report.

In view of the foregoing, the State Secretary was correct to conclude that there are serious grounds for believing that the applicant is personally responsible for committing crimes as referred to in Article 1F, preamble and (a) and (b) of the Refugee Convention. This ruling is the basis of the categorical exclusion in the Netherlands of officers of the KhAD/WAD from protection by the Refugee Convention.

4.2. FLINT Representation of the Case of DS in the UK

In her thesis Bahtiyar refers to the case of DS [Court of Appeal 2009] to proof the different application of the exclusion clauses in the Refugee Convention in the UK, compared to the practice in the Netherlands. DS is a national of Afghanistan who claimed asylum on arrival in the UK in October 2002. His claim was refused by the Secretary of State. The issue in the case before the Court of Appeal is the exclusion of DS by protection from Refugee Convention. The relation between British sources of law and Article 1F Refugee Convention is Section 55 Immigration, Asylum and Nationality Act 2006 [UK Parliament 1995], see table 6.

The derivation of the institutional fact [Article 1F applies to him (whether or not he would otherwise be entitled to protection)] is represented in table 7. This table has great resemblance with table 4, that represents the Dutch situation. The only difference is the absence of a source of law that resembles Article 3.107 (1) Aliens Decree. As a result, in the UK there is no explicit source stating that a person that has urged others to commit crimes or acts mentioned in Article 1F or otherwise participated in those crimes or acts, counts as a person that is referred to in Article 1F. However, the explicit exclusion of persons that urged others to commit acts as mentioned in Article 1F, can be seen as an instance of Article 1F (c). This leads to the conclusion that there is no material difference in the legal framework for applying the exclusion clauses of the Refugee Convention in the Netherlands and the UK.

Table 8 gives an overview of quotes from the decisions of the Court of Appeal in the case of DS. In the case, there is no material dispute about DS's account of his life in Afghanistan. DS was recruited into the Intelligence Service (KhAD) after his graduation. He became Deputy Director for Panjsher district in 1985. He was appointed Director in 1986. In 1988, he was transferred to Kabul and was transferred from operational to administrative duties. In 1992, he was promoted to the rank of colonel, just before the communist regime fell and he surrendered his barracks.

Sources of law	Derivation rule
Section 55(1) Immigration, Asylum and Nationality Act 2006 (1) This section applies to an asylum appeal where the Secretary of State issues a certificate that the appellant is not entitled to the protection of Article 33(1) of the Refugee Convention because – (a) Article 1(F) applies to him (whether or not he would otherwise be entitled to protection), or (b) Article 33(2) applies to him on grounds of national security (whether or not he would otherwise be entitled to protection).	[Article 1F applies to the person issuing an asylum appeal (whether or not he would otherwise be entitled to protection)]

Table 6: Establishing the relation between Article 1F Refugee Convention and British sources of law

Sources of law	Derivation rule
Article 1F Refugee Convention The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that: (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.	[person has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments] OR [person has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee] OR [person has been guilty of acts contrary to the purposes and principles of the United Nations]

Table 7: Derivation of institutional fact: [Article 1(F) applies to him (whether or not he would otherwise be entitled to protection)]

The Court of Appeal rejects the Secretary of State's attempts to impugn the immigration judge's conclusion that the «crimes against humanity» exclusion in Article 1F (a) was not engaged on the facts of this case. The definition of «crime against humanity» as described in Article 7 of the Rome Statute of the International Criminal Court 1998, reads: «any of the following acts when committed as part of a widespread or systematic attack directed at any civilian population, with knowledge of the attack: (a) murder … (f) torture … (k) other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health». The Court of Appeal upholds the opinion of the Immigration Judge that the exclusion clauses should be interpreted narrowly.

The Immigration Judge concludes that the KhAD undertook acts of the type described in Article 7 of the Rome Statute and that these could be described as widespread and systematic, particularly during the early 1980s. However, she also concludes that these acts were not primarily directed against the civilian population as whole. The actions were «primarily directed at insurgents and … they do not therefore fall within the definition of ‹crimes against humanity›» [Court of Appeal 2009, 20].

Paragraph	Quotes from the decision of the Council of State
55	«KhAD committed human rights violations on a large scale.»
55	«The [Dutch situation] report ... concluded that KhAD was a brutal organisation which used torture in a systemic manner against anyone suspected of not supporting the government.»
55	«Dr Giustozzi ... [accepts] that torture had been used extensively by KhAD ... and that it was unclear whether the persons targeted by KhAD could properly be described as civilians or insurgents.»
58	«The attacks carried out by KhAD were primarily directed at insurgents and … they do not therefore fall within the definition of ‹crimes against humanity›.»
68	«[The] absence of a specific statement by Dr Giustozzi that KhAD was targeting insurgents rather than civilians is [not] sufficient to undermine the immigration judge's conclusion on the issue ... as to the applicability of … ‹crime against humanity› in Article 1F(a)).»
75	«[The] Secretary of State might have had a case against DS under Article 1F(b) or (c) had the evidence and argument been presented in that way. But that was not the case advanced.»

Table 8: The decision of the UK Court of Appeal on the qualification of DS as a person as referred to in Article 1F (a) Refugee Convention

Though another judge might have used a different interpretation of «attack directed at any civilian population» the facts of the case allow the decision of the Immigration Judge, and therefore the senior Immigration Judge and the Court of Appeal both do not consider the opinion that DS was not involved in «crimes against humanity» to be a material error of law.

The immigration judge was not required to determine the case under Article 1F (b) or (c) on the basis of the existing material. The Secretary of State might have had a case against DS under Article 1F(b) or (c) had the evidence and argument been presented in that way. But that was not the case advanced. The Immigration Judge and the Senior Immigration Judge made similar statements in their rulings. The Secretary of State's appeal is dismissed and thus the immigration judge's decision stands.

4.3. Comparing Policies on the Application of Exclusion Clauses

Comparing the decision of the Dutch Council of State in the case of X with the decision of the UK Court of Appeal in the case of DS leads to the conclusion that there, based on the cases presented in this paper, no material difference in the Article 1F policies of the UK and the Netherlands. The assessment of the Dutch situation report on the KhAD/WAD [Ministery of Foreign Affairs 2001] is also essentially the same in the UK and the Netherlands. The different outcome of the cases of X in the Netherlands and DS in the UK, is caused by the procedural error by the UK Home Office to ask for exclusion of DS solely on the basis of Article 1F (a).

Both the UK and the Dutch court qualify the KhAD/WAD as a brutal organization which used torture in a systemic manner against anyone suspected of not supporting the government. In the UK, the court rules that those brutal acts cannot be qualified as «crimes against humanities». Therefore, DS cannot be excluded based on Article 1F (a) Refugee Convention. The decision of the Court of Appeal makes it abundantly clear that the crimes of the KhAD/WAD would certainly qualify as a «serious non-political crime outside the country of refuge prior to his admission to that country as a refugee» as mentioned in Article 1F (b) and as «acts contrary to the purposes and principles of the United Nations» as mentioned in Article 1F (c).

In the Netherlands, the qualification of the crimes of the KhAD/WAD are not disputed in court. Most likely because in the Dutch case the exclusion was based upon Article 1F (a) and (b), which is the legal way of stating the logical (a) OR (b).

Since Bahtiyar does not present other examples of policy differences related to the assessment of Article 1F Refugee Convention in [UN 1951], the proposition that the UK and the Netherlands apply the rules of Article 1F differently, is defeated.

5. Discussion and Conclusion

We have shown that an explicit representation of a complex legal issue using FLINT reveals detailed information from sources of law in a concise format. Primarily we aimed at showing how our formal interpretation models could help in legal comparison. The analysis of the case at hand showed that with traditional legal methods, in this specific case lead to questionable results.

The explicit representation of the decision of the UK Court of Appeal in the case of DS using FLINT, showed the inaccuracy of the representation of this case in the PhD thesis of Bahtiyar that remained unnoticed by the thesis committee. Though any other explicit representation of the case of DS would have given the same result, we do not know a method that involves precise references to sources of norms in a way that enables structured arguments on the semantics of sources of norms in a multidisciplinary setting.

We showed how interpretation models expressed as FLINT representations can be used to concisely present complex legal issues within simple frames that can be formalized, but are also comprehensible for a multidisciplinary audience. The direct links between the frame-based expression and the sources of law they represent allow for debate on differences of opinion, which constitutes the essence of the legal profession.

6. References

Bahtiyar, Z. Yakut, Exclusion clauses of the Refugee Convention in relation to national immigration legislations, European policy and human rights instrument, WLP, Nijmegen (The Netherlands) 2016.

Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, Geneva, 1950.

Council of State, Administrative Jurisdiction Division, ECLI:NL:RVS:2009:BJ8654 (in Dutch).

Court of Appeal, DS (Afghanistan) v. Secretary of State for the Home Department, [2009] EWCA Civ 226, 2009.

Doesburg, Robert van/Engers, Tom van, A Formal Method for Interpretation of Sources of Norms, AI and Law, 26-1, 2018 (to be published).

Doesburg, Robert van/Engers, Tom van, Arguments on the Interpretation of Sources of Law, AICOL, 2018 (to be published).

Doesburg, Robert van/Engers, Tom van, Perspectives on the Formal Representation of the Interpretation of Norms, Frontiers in Artificial Intelligence and Applications, 2016, pp.183–186.

Doesburg, Robert van/Storm, Tijs van der /Engers, Tom van, CALCULEMUS: Towards a Formal Language for the Interpretation of normative Systems, Artificial Intelligence for Justice Workshop, ECAI, 2016.

Minister of Justice, Vreemdelingenwet (Aliens Act), Version 25 March 2009, http://wetten.overheid.nl/jci1.3:c:BWBR0011823&z=2009-03-25&g=2009-03-25 (all websites accessed on 31 October 2017), 2001 (in Dutch).

Minister of Justice, Vreemdelingenbesluit (Aliens Decree), Version 2 May 2009, http://wetten.overheid.nl/jci1.3:c:BWBR0011825&z=2009-05-02&g=2009-05-02, 2001 (in Dutch).

Ministry of Foreign Affairs, Asylum and Migration Division, Security services in Communist Afghanistan (1978–1992), The Hague, 2001.

Searle, John, The Construction of Social Reality, 1995.

UK Parliament, Immigration, Asylum and Nationality Act 2006 (version of 24 December 2008), London, 2006.

UN, Convention and protocol relating to the status of refugees, Geneva, 1951.

UNHCR, Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees, Geneva, 2003.