

## **MAITRAYEE PATHAK\***

### **Justice Above All Else**

#### Introduction

A million plus migrants and refugees crossed into Europe in 2015, sparking a crisis as countries struggled to cope with the influx and creating division in the European Union (EU) over how best to deal with resettling people. There were primarily four routes that migrants took to enter mainland Europe namely Western African Route, Western Mediterranean Route, Central Mediterranean Route and an Eastern Mediterranean Route.

The route between Senegal, Mauritania and Morocco (Western African) though once the busiest irregular entry point for the whole of Europe gradually dropped by 60 per cent in 2007 following bilateral agreements between Spain and Senegal and Mauritania, including repatriation agreements. Strengthened border controls also helped. Migrants on this route were mostly from Morocco and Senegal, with others from Niger, Nigeria and Mali. They generally travelled in fishing boats. The numbers continued to drop from 2007, until by 2012 there were just 170 arrivals although it rose to 874 in 2015. Smuggling on this route is not well developed. Sea passages tend to be arranged by individuals working independently rather than using the services of organized networks. Drug smuggling was the primary goal of these journeys.

The Morocco to Spain route (Western Mediterranean) had been a noted pressure point for years – certainly since 2005, when thousands of sub-Saharan migrants made world headlines by trying to climb over the fence in the Spanish enclave of Melilla. Co-operation between Spain and Morocco has since kept migrant numbers comparatively low on this route. Migrants are also more inclined to depart from Libya because the likelihood of being returned by EU authorities is much lower. A decade ago, migrants from Morocco to Spain were typically economic ones from Algeria and Morocco, hoping for jobs in Spain, France and Italy. Since then, however, they have increasingly been joined by sub-Saharan Africans, driven northwards by conflicts in Mali, Sudan, South Sudan, Cameroon, Nigeria, Chad and the Central African Republic. In 2015, Syrians accounted for the biggest share of detections on this route.

West Africans reach Morocco or Algeria via two land routes. One follows the West African coastline; the shorter one crosses the Sahara. The coastal route is naturally

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preferred by migrants leaving Senegal and Mauritania, but also, often, by nationals of countries further afield – such as Nigeria, Côte d'Ivoire or Benin – because the Sahara crossing is judged so dangerous. There are various reasons for the fluctuation of overall numbers on this route, including increased numbers of coastal patrols, maritime surveillance systems and bilateral agreements. Spain has also strengthened border checks at the main ports, a significant deterrent for would-be migrants secreting themselves aboard trucks and containers on ferries headed to Almeria and Algeciras – the traditional method of irregular entry. Rising unemployment in Spain, and therefore fewer opportunities for migrant workers, is also thought to be a factor in reductions. This route has also long been a major conduit for drug-smugglers moving cannabis and cocaine towards the lucrative markets of the EU. Evidence suggests that the speedboats traditionally deployed by the smugglers are increasingly being replaced by small planes and helicopters.

The Central Mediterranean route remained under intense migratory pressure in 2015, although the total number of migrants arriving in Italy fell to 154,000 (10%) when compared to previous years. The main reasons for the drop were the shift of Syrians to the Eastern Mediterranean route and a shortage of boats faced by smugglers in the latter part of the year. Smuggling networks remain well established in Libya, where migrants gather before crossing the sea. In 2015 Eritreans, Nigerians and Somalis accounted for the biggest share of the migrants making the dangerous journey. Human traffickers typically put migrants aboard old, unseaworthy fishing boats, or even small rubber dinghies, which are much overloaded and thus prone to capsizing. These vessels are generally equipped with poor engines, lack proper navigation systems and often have insufficient fuel to reach Europe. For these reasons, the vast majority of border control operations in the Central Mediterranean turn into Search and Rescue (SAR) operations. Libya emerged as a collecting point for African migrants partly due to its relative economic prosperity thereby providing good job opportunities for migrant workers from African countries. Workers used it as a final destination, or as a transit country where they could earn money to pay the smugglers for the last leg of their journey to the EU. The sea route has long been popular. In 2008, nearly 40,000 migrants were detected, mostly near the islands of Lampedusa and Malta, the majority of them from Tunisia, Nigeria, Somalia and Eritrea. The migration almost completely stopped in 2009 following a bilateral agreement between Italy and Libya. With the Arab Spring in 2011 the situation changed dramatically with a large rise in economic migrants from African countries. A large number of the migrant arrivals on Lampedusa and, to a smaller degree, on Sicily and Malta were the consequences of forced expulsions by the Gaddafi regime. A large number of them applied for asylum in Italy. The collapse of the Gaddafi regime in August 2011 stemmed the flow of migrants almost entirely till almost 2013. But by then the state of Libya imploded and with rising unrest and civil war the numbers of migrants once again accelerated. The human traffickers were aided by the fact that the State had failed (Libya) to enforce any affective laws to stop or even control the perpetrators of such offenses.

In 2015, some 885,000 migrants arrived in the EU via the Eastern Mediterranean route<sup>1</sup>. The vast majority of them arrived on several Greek islands, most on Lesbos. The numbers increased peaked in October and eased slightly in November and December with

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<sup>1</sup> [https://commons.wikimedia.org/wiki/File%3AMap\\_of\\_the\\_European\\_Migrant\\_Crisis\\_2015.png](https://commons.wikimedia.org/wiki/File%3AMap_of_the_European_Migrant_Crisis_2015.png); Maximilian Dörrbecker (Chumwa) [CC BY-SA 2.0 (<http://creativecommons.org/licenses/by-sa/2.0>)] via Wikimedia Commons. (2017. 03. 10.)

the onset of winter, but were still well above the figures from previous years. Most of the migrants on this route in 2015 originated from Syria, followed by Afghanistan and Somalia. There are also increasing numbers of migrants coming from sub-Saharan Africa. Most of the migrants continued their journeys north, leaving Greece through its border with the Former Yugoslav Republic of Macedonia.

The Eastern Mediterranean has been under pressure from irregular migration for many years. Even in 2008-2009, more than 40,000 people entered using this route, accounting for some 40% of all migrants arriving in the European Union. The sea route to the Aegean islands is far from being the only one used in the region. The air route remains popular with those who can afford it, with migrants flying directly to European cities from Istanbul. Others have entered Greece via the land border, or else exited Turkey directly into southern Bulgaria. There are other sea routes, though significantly less prominent, such as via Cyprus. 2010 saw a sudden increase in the arrivals of irregular migrants, mostly from Iraq and Afghanistan, along River Evros, which marks the land border between Greece and Turkey.<sup>2</sup> The number of migrants detected here peaked in October 2010. Despite a raft of other measures implemented by Greece, including erecting a 12km fence at Orestiada, numbers climbed again in 2011, with a total of 57,000 (Fifty-Seven Thousand) irregular border crossings along the Turkish frontier. The Greek response produced a 'displacement effect' to the Bulgarian land border. The choice of sea routes also became innovative. Some smugglers even took the passage from Turkey to Italy. People-smuggling has developed into an important industry in Turkey, with networks active not just in Istanbul but also in Izmir, Edirne and Ankara. The nationalities of people smugglers vary, frequently mirroring the nationality of their customers. The relaxation of Turkey's visa rules towards many African countries has created another pull factor for migrants from this continent, who arrive in Turkey by plane before attempting entry into the EU.

The vast majority arrived by sea but some migrants have made their way over land, principally via Turkey and Albania. Even harsh winter has not stemmed the flow of people with 135,711 people reaching Europe by sea since the start of 2016, according to the UNHCR. The conflict in Syria continues to be by far the biggest driver of migration. Afghanistan, Iraq, Eritrea and Kosovo are among the leading sources of migration for escape from poverty and or conflict. Although Germany has had the most asylum applications in 2015, Hungary had the highest in proportion to its population, despite having closed its border with Croatia in an attempt to stop the flow in October. Tensions in the EU have been rising because of the disproportionate burden faced by some countries, particularly the countries where the majority of migrants have been arriving: Greece, Italy and Hungary.

#### Non Conflict Migration

Climate refugees are people who must leave their homes and communities because of the effects of climate change and global warming. Human induced Climate change brought about through activities like burning fossil fuels and cutting down forests contribute to global warming because they release greenhouse gases. Greenhouse gases trap heat in the atmosphere. Rising temperatures associated with global warming cause glaciers and ice caps

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<sup>2</sup> [https://commons.wikimedia.org/wiki/File%3AMap\\_of\\_the\\_European\\_Migrant\\_Crisis\\_2015.png](https://commons.wikimedia.org/wiki/File%3AMap_of_the_European_Migrant_Crisis_2015.png); Maximilian Dörrbecker (Chumwa) [CC BY-SA 2.0 (<http://creativecommons.org/licenses/by-sa/2.0>)] via Wikimedia Commons. (2017. 03. 10.)

to melt. This can cause flooding and make sea levels rise. Rising temperatures also lead to droughts and desertification – the transformation of arable land to desert. Some of these effects, such as sea level rise, can put land completely underwater, making it uninhabitable. Others effects, such as drought, make it impossible for people in the region to support themselves. Climate refugees belong to a larger group of immigrants known as environmental refugees. The International RedCross estimates that there are more environmental refugees than political refugees fleeing from wars and other conflicts. It is believed that 36 million people were displaced by natural disasters in 2009, the last year such a report was taken Scientists predict this number will rise to at least 50 million by 2050<sup>3</sup>. One striking example is the Amhara plateau in Western Ethiopia.

Owing to its location in the tropical latitudes, its areas of lower elevation experience climatic conditions typical of tropical savanna or desert. However, relief plays a significant role in moderating temperature, so higher elevations experience weather typical of temperate zones. Thus, average annual temperatures in the highlands are in the low 60s F (mid-10s C), while the lowlands average in the low 80s F (upper 20 C). There are three seasons in Ethiopia. From September to February is the long dry season known as the bega; this is followed by a short rainy season, the belg, in March and April. May is a hot and dry month preceding the long rainy season (kremt) in June, July, and August.

Erratic temperatures and rains, which culminated last year in the total failure of the Belg. This has struck the locals hard. Owing to pas incidences of famines (80's and 90's ) reduced crop yields are seen as a sign of looming disaster, as almost all of the populations relies on sustenance agriculture for its livelihoods. The weak rains are compounded by extremely cold (unprecedented) winters that make life more difficult. Tilling operations are becoming more and more difficult (lack of alternative technology options due to financial constraints imply no access to mechanized \farming or due to small parcel sizes, its economic non-viability). Also, division of property amongst a large household of children (high fertility rates) implies that the already small parcels of land become micro once they are divided. With population growth overwhelming meager services at the same time as intense weather plagues farmland, more and more people from the region appear to be following the example of refugees from violence-afflicted parts of Africa, and making a break for Europe. Droughts have caused conflict between communities fighting over food and resources around Ethiopia's Lake Turkana. People who have been left landless or incapable to farm the miniature parcels either have to escape out as refugees or end up drawn into wars or other conflicts as potential soldiers. This includes a large number of children who advertently or inadvertently fall into the hands of smugglers or extremists wanting to use them as cannon fodder in wars.

There is compelling evidence that migration in sub-Saharan Africa is indeed partly due to extreme weather. 70% of the continent's migrants have left their homes because of poverty or a lack of work, according to research provided by the UN Environment Program (UNEP). The authorities estimate the number of migrants by counting the bodies of those who've succumbed to the heat. An estimated 64% of Africans – and close to 90% of Ethiopians – earn their living from agriculture.

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<sup>3</sup> <http://www.unhcr.org/4a1e4e342.html>. (2017. 03. 01.)

*“Considering the very low baseline, where 25% of the continent go to bed hungry, where over 50% live on less than \$1,25 per day, and where youth unemployment is at 60%, climate induced declines in productivity in the agricultural sector indirectly drive migration”.*

The routes forged by largely Syrian, Iraqi, and Afghan refugees of war have opened up new possibilities for east Africans where none existed a few decades back. The demand stemming from these geopolitical turn of events has only led smugglers to lower their prices and expand their knowhow. For many East Africans, the sense that the sparse rains and unpredictable temperature shifts are both worse than before and here to stay has tipped the scales. The traditional wisdom of these people employed in agriculture for an eternity shows them irreversible signs that the land may not support future generations. The impacts of climate change are amplified by human actions devoid of serious long term planning. Ethiopian dam projects have taken water from the Nile in Egypt, forcing farmers who relied on it for irrigation to turn to wells. Since the Blue Nile is a highly seasonal river, the dam would reduce flooding downstream of the dam, including on the 40 km stretch within Ethiopia. On the one hand, the reduction of flooding is beneficial since it protects settlements from flood damage. On the other hand, it can be harmful, if flood recession agriculture is practiced in the river valley downstream of the dam since it deprives fields from being watered.

In Cairo, where many Ethiopians, Eritreans, and Sudanese congregate before attempting the dangerous maritime hop, refugee activists say new arrivals from Sub-Saharan Africa may have as much as doubled over the past year, as higher food prices and tougher climes bite further south. According to campaigners and Aid workers the choice of the illegal sea passage is the most obvious for these migrants, owing to the difficulties faced due to race issues and lack of formal education. The laws pertaining to climate refugees also make it more difficult for such migrants to get refugee status and resettlement in the West. In spite of this many are desperate to risk the journey, as it is seen as a better option that staying back. In 1990, the UN's Intergovernmental Panel on Climate Change (IPCC) projected that shoreline erosion, coastal flooding, and agricultural disruption would displace up to 200 million migrants by 2050. According to a recent World Bank study climate change will pitch at least 100 million people back into poverty, mostly in Africa, by 2030.

A few Western governments have mooted plans to help struggling African countries counter the consequences of a changing climate. The UK's Department for International Development, for one, gave £10 million (then about \$15 million) in December to help Sudanese farmers boost their “resilience” and combat desertification. But with Europe already struggling to cope with the relatively small numbers of war refugees, it seems unlikely that current immigration policies will do much to dissuade climate migrants, many of whom feel they have nothing to lose.

Climate Justice has been viewed primarily as one dimensional environmental issue. Rather as it turns out climate change is both an actor as well as an impacted entity with continuous and dynamic feedbacks to social, economic and environmental stressors. Local or regional geo-political instabilities only aggravate the nonlinear and adverse feedbacks to and from climate change impacts on the three pillars of sustainability (social, environmental and economic). With the passage of the Paris Accord where the world reaffirmed its commitment to a more sustainable future for all we need to start correlating climate change impacts to concepts of justice, particularly environmental justice and social justice and by

examining issues such as equality, human rights, collective rights, and the historical responsibilities for climate change.

Be it wars or climate change consequences or combination of these two and other politico-economic factors, both the triggers of mass migrations/potential mass migrations globally and more specifically towards mainland Europe has already taken crisis proportions. We face dire challenges not only from the point of view of immediate humanitarian obligations and resettlement processes, but also medium to long term management of integration of the displaced peoples into mainstream Europe both socio-culturally and economically with equity and justice for all stakeholder, not just those displaced.

A very nuanced approach is essential for a win-win outcome and with this premise we set forward to examine the problem and apply the “Conflict Representation and Resolution” framework<sup>4</sup> to analyze the landscape by specifically targeting “*questions that bring out the complexity of the subject matter*” i.e. in our specific case of EU migration, country responses to the crisis and how these responses could further elucidate answers to the above mentioned questions of justice, in a larger EU context. We do not intent to aggregate country specific learnings, rather the intent is integration. In the following sections we first outline broadly the foundations of the “Framework”.<sup>5</sup>

#### Theoretical foundations

The human capabilities approach to justice as propounded by Mahabub ul Haq and further enriched by the works of others including Sen,<sup>6</sup> form the central tenet in the evaluation of level of justice or the prevalence of injustice. The envelope of Individualistic Capability Assessment and improvements on human capability can be representative as measures of quantifiable movement towards more just societies. It is illuminating to refer to the work of Sen on delineating three principles of departure from contemporary political philosophy for his theory of justice, that form the basis of his ideas on justice. Firstly he argues of justice as a mode of continuous improvement in human lives, expansion of freedoms and reduction of barriers, than as an absolute outcome that society should aim to reach. This may be termed as a “process view” in contrast to a “outcomes view” and applied in the context of sustainability it would imply at a continuous movement towards more sustainable views than to look at a perfect recipe view of sustainability in absolute form, be it in the form of institutional interventions or otherwise. Secondly, quoting Sen, “while many comparative questions of justice can be successfully resolved and agreed upon in reasoned arguments, there could well be other comparisons in which conflicting considerations were not fully resolved”.<sup>7</sup> The argument being that, there can exist several distinct reasons of justice, each of which survives critical scrutiny, but yields divergent conclusions, termed as “valuational pluralities”. Thirdly, he argues that the presence of remediable injustice may well be connected with behavioral transgressions rather than with institutional shortcomings.<sup>8</sup> This point of view to when used to examine role of institutions

<sup>4</sup> VARADARAJAN, Venugopal – PATHAK, Maitrayee: *Farewell Kyoto: A series of Research Monographs*. Amazon India, Kindle Edition, ASIN: B00RJTZJMO Dec 28. 2014. 80-84.

<sup>5</sup> VARADARAJAN, 2014. 80-84.

<sup>6</sup> SEN, Amartya: Elements of a theory of human rights. *Philosophy and Public Affairs* 32 (2004).

<sup>7</sup> SEN, Amartya: What do you want from a theory of Justice. *Journal of Philosophy* 5 (2006) 103.

<sup>8</sup> SEN, 2006. 103.

in the current constitutions, concedes that, wherein the institution in itself may be well meaning, however the actors may be engaged in transgressions, a view echoed in other writings as well.<sup>9</sup> Power and politics can transgress on equity and sustainability critical paving way for biased outcomes from well-meaning centers of governance. Though power is not absolute and there is an asymmetry between individuals, obligating its wise discharge,<sup>10</sup> many instances can be found where behavior is quite on the contrary, be it individuals, groups or institutions.<sup>11</sup>

Apart from these three principles of departure, there is one more dimension that needs elucidation. Contextual Knowledge is as much a core element of the broad approach to Justice and in particular within the “sustainability context”. All decision making begins with an intent to make informed choices in the light of existing subject knowledge. However, knowledge creation rests critically on the advancement of science and technology. Our depth of knowledge undergoes finer refinement as we develop competencies and the field matures. During the process, however, we may often come across, situations where probabilistic assessments of stochastic models form the crux of the decision paradox. Here, there are always inherent limitations to what can be known, given infinite time and resources and what cannot be known with certainty, even with infinite time and resources at our disposal. The separation of the two and the process of decision making while factoring all this in is very pertinent to advancing the cause of justice.

In the context of the “sustainability” narrative, using the broad base of these four departures, our narrative (CRARF) undertakes an examination of constitutional institutions globally firstly, in terms of their commitment to “sustainability” from ideas and ideas to structural interventions to finally law and policies that are implemented though the analysis represented in Figure 1 later on.

The four principles of departure denote the four vertices of a quadrilateral representing the foundation structure of justice system that looks at Equity and Sustainability, together in a sense. On this foundation, A four level abstraction Model is presented to envelope the work within this theoretical foundation of analysis for analysis on conflict and its resolution in institutional settings globally. Figure 1, described in detail later, illustrates a schematic view of the Analysis Framework. As we move from Ideas and beliefs we descend the abstraction pyramid and move closer to specifics of representation. The movement scheme through abstract to specifics helps us in gaining a clearer understanding of the relevance of deeper concepts in the light of specific conflict scenarios, at the ground level, through better visualization.

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<sup>9</sup> GALBRAITH, John Kenneth: *American Capitalism: The concept of Counter-vailing Power*. MA. Houghton Mifflin, Boston, 1952.; GANDHI, Mohandas Karamchand: *The collected Works of Mahatma Gandhi*, Government of India, New Delhi, 1960.

<sup>10</sup> BUDDHA, Gautama: *The Sutta- Nipata: A collection of discourses*. Translated from Pali by V.Fausboll (eds.), Oxford at the Clarendon Press, 1898.

<sup>11</sup> GALBRAITH, 1952.

Table 1: A level of abstraction model is described.

TABLE 1: FOUR LEVEL ABSTRACTION MODEL			
LAYER OF ABSTRACTION MODEL DESCRIPTION (Descending order)			
LEVEL 4 CONCEPT	LEVEL 3 REPRESENTATION	LEVEL 2 INTEVENTIONS	LEVEL 1 SCENARIO
Sustainability, Equity and or justice are foundations	Formulation of these principles into actionable primitives needs structures	Foundational principles of charters delineate the creation, management and sustenance of institutional and non-institutional interventions by means of actors.	A simplified representation of the intervention driven conflict.
Reduction of the gap from the present day status quo to more equitable and just futures	These structures include, regimes, conventions, frameworks, empowered committees etc.	Actors may be political, legislative or judicial or independent third party groups local , regional or international in their reach and jurisdiction	Idea is visualization and better understanding of the mechanics and dynamics of the conflict
The process of reduction of this gap can be termed as “justice”	Level 3 abstraction aims at moving from the theoretical foundations to more empirical deliverables	Interventions are often based on myopic priorities; hence when facilitated result in scenarios of conflict for multiple stakeholders and often globally.	Complexity portrayal is at its finest
The highest level of abstraction is the concept from which we drill downwards	The structures vary in their organizational structure, culture. Form and inclusivity of stakeholders	Often structures may be intra institutional but with gulf of difference in their intents and urgency of priorities.	Interdependency and connectivity can be visualized
Examples include the Sustainability Doctrine, Principles of equity and justice etc.	Examples include legislative or executive domestic, bi-lateral or multilateral groupings like United Nations	Examples include Framework Conventions like UNFCCC	A Statute or Act or Policy primitive (planned or executed) is the focus Ex; Kyoto Protocol, Paris Accord, EU treaties etc.

Source: Farewel Kyoto: A series of research Monographs, Section 1, Chapter 4.

The issues of conflict arise at the ground level of decision making, or policy formulation, implementation or post implementation, owing to a complex interplay of financial, political, social, economic and environmental themes. Institutions and interventions are often myopic in their objectives, or unaware of the complexity of



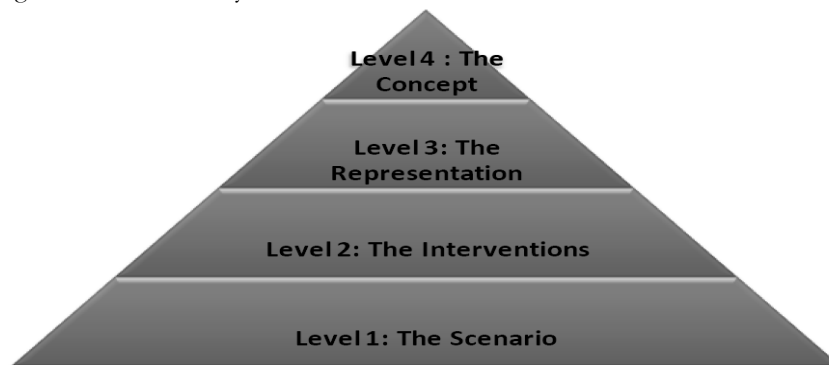
interplay, resulting in adopting of defensive positions on priority issues. A conflict is often a mere representation of underlying notional and behavioral assumptions of “intractability”, which creates an environment of distrust or noncooperation affecting decision-making as well as implementation stages of policies and procedures. These Conflicts may be local or non-local, inter institution or intra institution and of varying levels of complexity.

Here the abstraction approach is used for analysis confined to the climate change theme. Climate Legislation has been used to showcase a narrow view representation of how complexity increases. Intention is to bring out multiple such themes into the scope of work to have a greater breadth and diversity of exposure. The end objective is moving closer to a conflict Analysis and resolution framework useful for a diverse range of actors from judiciary to the legislative and the executive.

#### The Framework

Figures 1 and 2 represent the two key aspects of the Conflict Analysis and Resolution Framework. They need a brief description.

Figure 1: Abstraction Pyramid



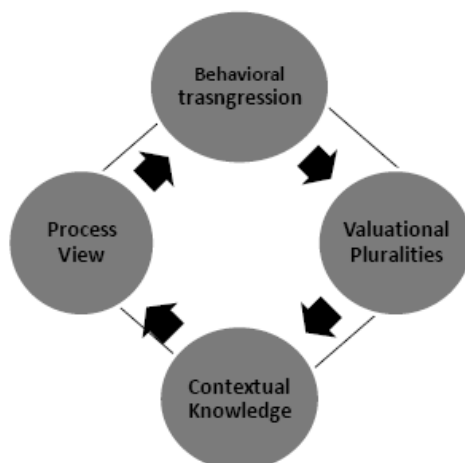
Source: Farewell Kyoto: A series of research Monographs, Section 1, Chapter 4.

Figure1 represents the Abstraction aspect of the Framework. It has been convenient to use ladder of abstraction principles in expounding theories, first popularized by S.L.Hayakawa. The ladder of abstraction aims to reduce the effort in explaining certain non-trivial to grasp theoretical concepts by drilling through the base concept and reaching to a real world analogy or otherwise practical application. The idea of abstraction ensures that as the user moves through the ladder, he or she gains a deeper understanding of ground applications as well as other way round as was previously explained. The bidirectional movement is a critical aspect in the idea. The higher levels represent a general or point Concept or Idea primitive which as we move through the lower levels undergoes translation into a more practical and quantifiable outcomes. The Ladder is replaced by a pyramidal structure. As one transcends upwards and the apex narrows, its relevance in the “Sustainability” context is represented by movement towards ideological origins that define the Concept itself. Sustainability doctrines, Ideas of Justice and equity all form the Pinnacle of this system. These ideas and Opinions define the foundations of “Sustainability”. Upon

Movement downwards from the Concept Phase, we pass through the Levels of representation and Interventions before finally reaching the ground Scenario. Each phase adds a unique attribute to the information from previous level and expands it further into actionable outcomes. Table1 describes the Levels individually with examples.

One more Aspect that is critical in the Conflict Resolution Framework represented in Figure 2 as “The Base”.

Figure 2: Quadrilateral Base



Source: Farewel Kyoto: A series of research Monographs, Section 1, Chapter 4.

“The Base” is represented in a quadrilateral geometry to indicate four dimensions of Interest (Figure 2) in our analysis, that provide the broadness required to deal with any Sustainability theme. These four dimensions have already been examined in the previous sections. A critical point of observation that would merit attention is the significance of a converging pattern as we move upwards. This geometric shape has no real world physical significance; therefore it might seem unnecessary that there should be a converging pattern. However, this attribute is absolutely essential for the framework to be meaningful. As the structure converges, the area enclosed by the quadrilateral also converges. Note that the four dimensions are represented as circles. These circles would hypothetically tend to come closer as we move upwards as the base quadrilateral’s area reduces. This is meant to imply that the extent of overlap of these circles can only increase as we move to higher levels, a significant point. The isolation of individual dimensions to justice becomes more and more elusive as one transcends upwards, which is also true because we are moving from finer specifics to grosser and grosser ideas. Conflict Analysis needs to ensure that causality is tractable. As we move upwards the tractability of causality becomes more and more indeterminate. A practical example is the Kyoto protocol. At the levels of formulation of protocols and agreements, stakeholders have a certain probabilistic idea of how the outcomes might work out to be, however, at this stage a conflict analysis finds attribution of causality more difficult than at the Level 4 scenario, wherein we are talking specifics of implementation and are present in a broader area. This means that there is higher

tractability of causality in conflict at some locations. Therefore it was felt that a converging structure would be ideal for the framework.

Given that medium to long term needs had to be met for all stakeholders for a uniform consensus on resettlement, the passage of binding EU legislations on “Resettlement of migrants” without a uniform consensus (political) from all domestic stakeholders (Vise Grad) has created further tensions and complicated the process of reconciliation of differences.

In the following section a mechanistic Analysis (overview) of a specific case in point “The Hungarian Referendum Question” through the prism of the CRARF framework.

#### Background

- Hungary was one of the affected countries during the European migrant crisis.
- June 2015, Viktor Orbán's *Fidesz* government announced the construction of a 175-kilometre-long fence along its southern border with Serbia.<sup>12</sup>
- September 2015, the European Union approved a plan to relocate 120,000 asylum seekers over two years from the frontline states Italy, Greece and Hungary to all other EU countries, while Hungary should have to accept 1,294 refugees from other member states.
- Hungary voted against the relocation plan, as a result its 54,000 asylum seekers were not taken into consideration that number relocated to Italy and Greece instead.<sup>13</sup>
- Following the decision, Hungary and Slovakia took legal action over EU's mandatory migrant quotas at the European Court of Justice in Luxembourg.<sup>14</sup>
- February 2016, Prime Minister announced that the Hungarian government would hold a referendum on whether to accept the European Union's proposed mandatory quotas for relocating migrants.
- May 2016, after examining the legal challenges, the Supreme Court (Kúria) allowed the holding of the referendum.<sup>15</sup>
- The National Assembly officially approved the referendum initiated by the government.
- Supreme Court rejected attempts to invalidate the referendum.
- Referendum happened in Oct 2016.

The referendum was held on the 2<sup>nd</sup> of October 2016. The question before the country was “Do you want the European Union to be able to mandate the obligatory resettlement of non-Hungarian citizens into Hungary even without the approval of the National Assembly?”

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<sup>12</sup> Hungary to fence off border with Serbia to stop migrants. *Reuters* 17 June 2015. (2017. 03. 05.)

<sup>13</sup> Migrant crisis: EU ministers approve disputed quota plan. *BBC News*. 22 September 2015. (2017. 03. 05.)

<sup>14</sup> EU braces for turbulent summit after divisive deal on refugee quotas. *The Guardian* 23 September 2015.

<sup>15</sup> Lehet népszavazni Orbánék kérdéséről (in Hungarian). *Népszabadság* 2016.05. 03.

The turnout and responses for the referendum are as follows:

Table 2: Results

Choice	Votes	%
Yes	56,163	01.64%
No	3,362,224	98.36%
Valid votes	3,418,387	93.83%
Invalid or blank votes	224,668	06.17%
Total votes	3,643,055	100.00%
Registered voters/turn out	8,272,625	44.04%

Source: [https://en.wikipedia.org/wiki/Hungarian\\_migrant\\_quota\\_referendum,\\_2016](https://en.wikipedia.org/wiki/Hungarian_migrant_quota_referendum,_2016). (2017. 03. 05)

The results were clearly in favor of an overwhelming “No” vote (98.36%). However there were 6.17% “Invalid” votes resulting in an effective turnout of 44.04%. This was below the stipulated threshold of 50% for technically validating the vote. Therefore it was invalid vote.

The representation of the Referendum Question

The Question formulation itself brings out clear confusion in terms of the meaning of a particular vote outcome (be the turnout as it may).

Do you want the European Union to be able to mandate the obligatory resettlement of non-Hungarian citizens into Hungary even without the approval of the National Assembly?

Semantically speaking; we can spit the Question diagrammatically into parts of speech combinations based on Chomsky Context grammar representations<sup>16</sup> as follows: Parse Output (Figure given the tree diagram representation)<sup>17</sup>

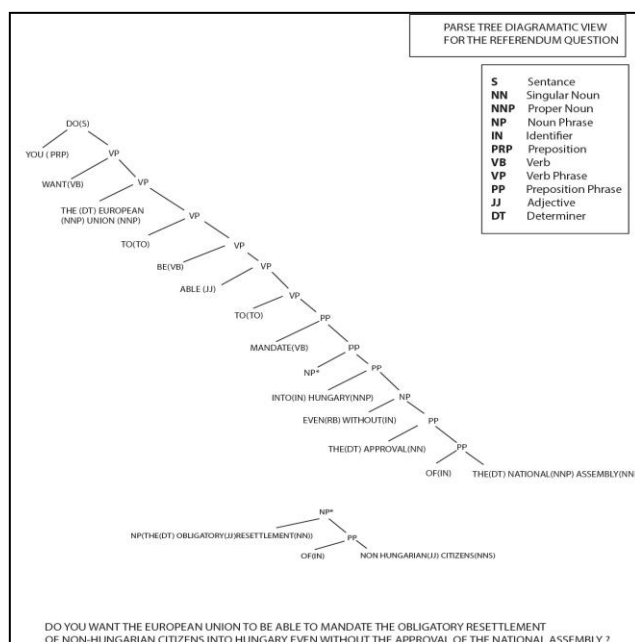
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(ROOT
(SQ (VBP Do)
(NP (PRP you))
(VP (VB want)
(S
(NP (DT the) (NNP European) (NNP Union))
(VP (TO to)
(VP (VB be)
(ADJP (JJ able)
(S
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<sup>16</sup> [https://en.wikipedia.org/wiki/Chomsky\\_normal\\_form](https://en.wikipedia.org/wiki/Chomsky_normal_form) (2017. 03. 05.)

<sup>17</sup> We use the Stanford NLP parser online version. <http://nlp.stanford.edu:8080/parser/index.jsp> (2017. 03. 05.)

(VP (TO to)  
 (VP (VB mandate)  
 (NP  
 (NP (DT the) (JJ obligatory) (NN resettlement)  
 (PP (IN of)  
 (NP (JJ non-Hungarian) (NNS citizens)  
 (PP (IN into)  
 (NP (NNP Hungary)  
 (PP (RB even) (IN without)  
 (NP  
 (NP (DT the) (NN approval))  
 (PP (IN of)  
 NP (DT the) (NNP National) (NNP Assembly)

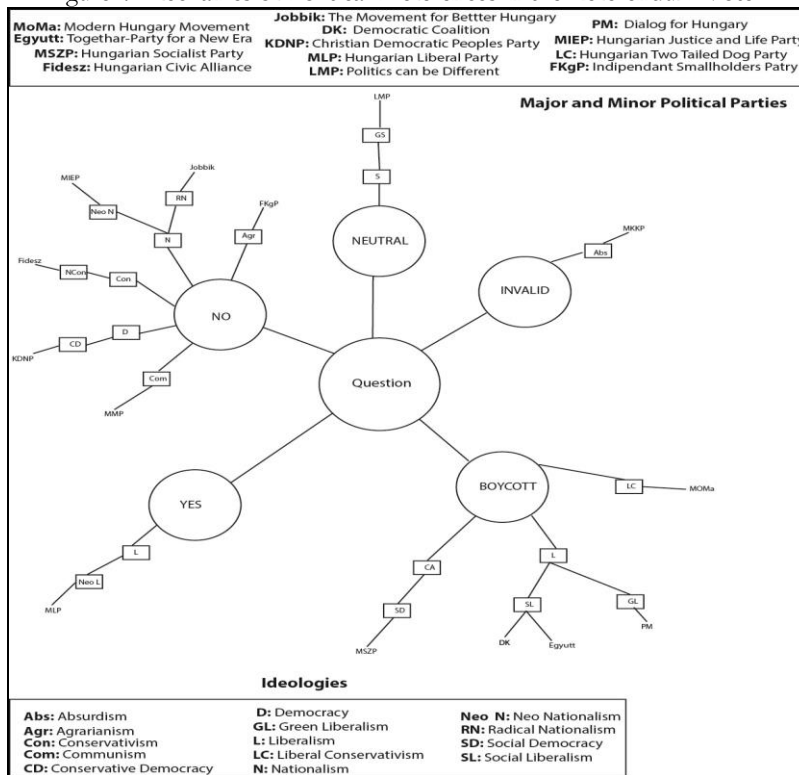
Figure 3: Parse tree diagram for Referendum Question



Source: Self Created, 2017.

The key political players in Hungary (major and minor) and their orientations towards the Referendum Question is detailed in the following table. We draw out further inferences on the parties based on their ideological moorings and the detailed schematic of the mechanics of the orientations and voting preferences are provided in Figure 3.

Figure 4: Mechanics of Political Preferences in the Referendum Vote



Source: Self Created, 2017.

Conclusions

We can see from the mechanics schematic that though there are opposed ideologies amongst parties some of them have a similar position on the Question. For example the Communists (MMP) and Christian Democrats (KDNP) are completely poles apart on religious view but together in saying “No” to the question. At the same time Green Socialists (LMP) and Green Liberals (PM) though have a similar position on environmental issues and its relevance they have very opposed views on the question. LMP has a “Neutral” view while PM is clearly “Boycott” preference.

Neo liberals (MLP) are also on completely opposed view “Yes” when compared with other liberals in the mix (Green liberals (PM) and Social Liberals (DK, Egyutt) have a “Boycott” view); though ideologically their roots lie in the same philosophy of “Liberalism”.

We can see that the nuances of the preferences need to be brought out in detail.

Next coming to the question itself we can see from the Semantic Structuring of the “Sentence” that the Question can be easily broken down into three distinct logical components highlighted by the presence of phrasal elements (grouping keywords) as detected by the parse tree. These are as follows:

- European Union
- mandate
- obligatory resettlement non-Hungarian citizens
- approval
- into Hungary
- national assembly

Here we ignore Determiners, Identifiers and prepositions focusing on Noun forms and Verbs.

Therefore while actual voting the voter has logically three distinct sub questions he has to answer that is

- Accept or Reject Role of EU
- Accept or Reject Mandate of obligatory resettlement
- Accept or Reject Role of National Assembly.

Assuming that he/she has “Yes” preference for two of these sub-questions and “No” preference for the third or vice versa “No” preference for two of the three questions and “Yes” preference for the third, then should he vote as an overall “Yes” or “No”. This is problematic and creates gaps in understanding actual voter preferences on the deep nuances within the issue of resettlement.

As closing comments we believe that the analysis of Conflict in any policy sphere is complex. Simplified schematic of the Conflict at Level 1 Abstraction pertaining to “Resettlement related Referendum” has been shown cased. The exhaustive analysis of the dynamics of the conflict with strategic and operational perspectives of each stakeholder is required, for an initial basic understanding. This would include their Motivations, Historical Behavior, Positional views, and advocacy interests among other points of examination. Post Analysis, outcomes are converted into quantifiable probabilistic assessments, of Conflict Stakeholder Engagements with other Stakeholders. There are various tools that can be employed in deconstructing choices and preferences in multi stakeholder systems with diverse viewpoints and ideologies. These include some of those applies including “Semantic Analysis, Mechanistic preference diagramming amongst others.

In order to achieve breakthroughs in negotiations for consensus building we require effective engagement between all stakeholders and secondly convergence on ideas/solutions that may be termed “just” for all parties concerned. The Engagement Matrix and the Causality Matrix described briefly below help in this regard.

The Engagement matrix as represented in Table 2, examines two aspects of the Engagement; frequency and Amplitude. Frequency and Amplitude terms are used in a specific context. Each cell of the Engagement Matrix provides two probability values one for each term. They need not be combined as they have mutually exclusive relevance.

This is followed by conversion of post analysis outcomes form the previous exhaustive analysis into quantifiable probabilistic assessments of Causality of Engagement. The Causality Matrix as represented in Table 3 provides two aspects of causality; firstly Impact Factor Probability representing the impact potential of a particular dimension of Justice for a given stakeholder. Secondly it provides the Impact relevance probability representing the Choice Preference Probability for a particular dimension by a given stakeholder over other dimensions. The product of these two factors is the cell output of the Matrix represented as Conditional Probability that a particular dimension would be given choice preference

and that particular dimension would have highest impact on the Engagement outcomes for a given stakeholder, displayed in terms of his positions and views on the Conflict Scenario. These Matrices would provide a better understanding of the mechanics of Conflict at level 4 for a given Policy sub system in a specific Conflict scenario, represented here as “Resettlement related Referendum”. There is scope for further expansions and refining of the tools of analysis within this abstraction approach based Conflict Analysis Framework with a 4 dimensional perspective, as applied in cross cutting “Sustainability” themes. Diverse Scenarios of Analysis can be brought in into the Framework, especially relevant to Consensus building on national and regional levels, directed impact engagement with key stakeholders and effective bargaining potential in negotiations for long term solutions among others.

Table 3: Conflict Engagement; Frequency and Amplitude

	MLP	FKgP	MoMa	Egyutt	MSZP	Fidesz	PM	MIEP	DK	LC	Jobbik	KDNP	LMP
MLP	X												
FKgP		X											
MoMa			X										
Egyutt				X									
MSZP					X								
Fidesz						X							
PM							X						
MIEP								X					
DK									X				
LC										X			
Jobbik											X		
KDNP												X	
LMP													X

Engagement Matrix  
 Every Cell has a value  $V = f \cdot a$   
 Where  $f$ , and  $a$  range between (0-1).  $f$  represents Frequency of engagement and  $a$  represents Amplitude(Extent) of Engagement.  
 The engagement is qualitatively rated on frequency and Amplitude which is then converted into a number (decimal)  
 based on the following conversion factors  
 Very High : 0.80  
 High : 0.65  
 Moderate: 0.5  
 Low : 0.35  
 Very Low : 0.20  
 Therefore the maximum value of a cell can be **0.64** and the minimum can be **0.04**

Source: Self Created, 2017.



Table 4: Causality Matrix

	MLP	FKgP	MoMa	Egyutt	MSZP	Fidesz	PM	MIEP	DK	LC	Jobbik	KDNP	LMP
Process View													
Behavioral Transgressions													
Valuational Pluralities													
Contextual Knowledge													

Causality Matrix  
Every Cell has a value  $V = P_i * r$   
Where  $P_i$  and  $r$  range between (0.20-0.80).  $P_i$  represents Impact factor Probability and  $r$  represents Choice preference.  
The engagement is qualitatively rated on Impact factor probability and Choice preference which is then converted into a number (decimal) based on the following conversion factors  
Very High : 0.80  
High : 0.65  
Moderate: 0.50  
Low : 0.35  
Very Low : 0.20  
Therefore the maximum value of a cell can be **0.64** and the minimum can be **0.04**.  
Note that Impact factor probability is the potential impact from a particular dimension of justice for the stakeholder from an unbiased perspective while choice relevance refers to the relevance of a particular dimension to a stakeholder in his engagement with other stakeholders. Both relevances and impact probabilities are ranked in the same manner qualitatively (very low to very high).  
The idea of the product is to ensure that individual biases in relevance do not affect the objectivity of the Causality matrix as relevance is always in relation to a standard set standard (probabilistic) for scenario specific relevance of each of the four dimensions of justice.

Source: Self Created, 2017.

## MAITRAYEE PATHAK

### Justice Above All Else

#### (Summary)

The paper focusses on a framework that can provide means to see a common thread of equity through issues of climate change related migration and geopolitically driven migrations.

A million plus migrants and refugees crossed into Europe in 2015, sparking a crisis as countries struggled to cope with the influx and creating division in the European Union (EU) over how best to deal with resettling people. The vast majority arrived by sea but some migrants have made their way over land, principally via Turkey and Albania. Approximately 135,711 people reached Europe by sea since the start of 2016, according to the UNHCR. The conflict in Syria continues to be by far the biggest driver of migration.

Afghanistan, Iraq, Eritrea and Kosovo are among the leading sources of migration for escape from poverty and or conflict. Although Germany has had the most asylum applications in 2015, Hungary had the highest in proportion to its population, despite having closed its border with Croatia in an attempt to stop the flow in September. Tensions in the EU have been rising because of the disproportionate burden faced by some countries, particularly the countries where the majority of migrants have been arriving: Greece, Italy and Hungary. However this is not always the case, as in the case of climate refugees.

Climate refugees are people who must leave their homes and communities because of the effects of climate change and global warming. Human induced Climate change is causing rising temperatures which contribute to flooding and sea level rise. Rising temperatures also lead to droughts and desertification results in the transformation of arable land to desert. Some of these effects, such as sea level rise, can put land completely underwater, making it uninhabitable. Others effects, such as drought, make it impossible for people in the region to support themselves. Climate refugees belong to a larger group of immigrants known as environmental refugees. The International Red Cross estimates that there are more environmental refugees than political refugees fleeing from wars and other conflicts. UNHCR says 36 million people were displaced by natural disasters in 2009, the last year such a report was taken Scientists predict this number will rise to at least 50 million by 2050. The thread that runs through both the triggers of mass migrations/potential mass migrations globally is the question of “justice for the aggrieved”.

It is impossible to look at the question purely from a humanitarian perspective. We present a framework that can guide policy makers and legislators to be able to both look at “the human aspect” and also the “valuation pluralities” simultaneously not as antagonistic but as complementary.

Is there a possibility to leave aside all border laws for sake of “Justice above all else”? Climate Justice must be viewed as humanitarian, ethical and political issue, rather than one that is purely environmental or physical in nature. This is done by relating the effects of climate change to concepts of justice, particularly environmental justice and social justice and by examining issues such as equality, human rights, collective rights, and the historical responsibilities for climate change.

The paper focusses on a conflict representation and analysis framework that can provide a core of logical coherence to apply the principles of “Equity and Justice” while attempting to deal with both these potential conflict scenarios (climate/geopolitical forced migrations). It lays out using the essential Ladder of Abstraction Approach Theory, the mechanics and dynamics of conflict scenarios borne through the beliefs of the various stakeholders.