

Chapter 8

The Multidisciplinary, Interdisciplinary, and International Global Policy Outlook of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography



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What Role Does the General Comments of Human Rights Instruments Have in the Community Structure of the Asylum-Seeking Refugee Child?: Introduction

The Asylum-Seeking Child in Vulnerable Situations

Child law, in the international context, provides provisions for children displaced across borders that unquestionably is designed to protect children in vulnerable situations. International research supports the premise that policy and practice on relocation encounters a phenomena of precarious child detention, abduction, trafficking-in-persons (Palermo Trafficking Protocol, article 3),¹ and a myriad of child-specific exploitations² (Save the Children, 2006; UN General Assembly Report, 2019). The Oxford Handbook of Refugee and Forced Migration links the trafficking of children to both in-country and cross-border migrations (Gil Loescher,

¹For a comprehensive and legally accurate definition of trafficking please see Art. 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (Trafficking in Persons Protocol), which supplements the UN Convention against Transnational Organized Crime (A/RES/55/25 of 15 Nov 2000).

²Children are often trafficked for child-specific forms of exploitation, such as illegal adoption, child labour, child prostitution, child pornography, and forced recruitment into armed forces or groups. Other forms of exploitation to which children are often exposed include domestic service, agricultural work, mining, forced and early marriage, and begging. It is important to note that any recruitment, transfer, harbouring or receipt of children for the purpose of exploitation is considered a form of trafficking regardless of the means used.

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2014). A host of global literature expands the discourse of migration to examine the long-term physical and psychological outcomes of cross border and internally displaced children's (IDP) adverse childhood experiences (ACE) from detention and trafficking, as well as the proffered remedies to address social structures that impact and target ethnic groups (Jeremiah et al., 2017; National Work Group for Sexually Exploited Children, 2008). This research investigates the seldom studied role of General Comments across human rights instruments and State obligations. It proposes furtherance of a State's positive obligation to the Committee on the Protection of the Rights of all Migrant Workers and Members of their Families (CMW), and the UNCRC Committee's Joint General Comment 4 (2017) and 23 (2017); and UNCRC Committee General Comments 6 (2005) and 14 (2013) to close protection gaps in international community structures for the accompanied and unaccompanied asylum-seeking refugee child.

Human Rights Instruments and the General Comments

General comments are also referenced as 'general recommendations' expand over a large spectrum of human rights themes constituting a cover a range of topics that constitute explanations, clarity, or interpretations of substantive as clarification or an interpretation of substantive provisions of the respective treaty. The focal principles of general comments center on the right to life. The general comments outline the treaty interpretation on the basic subsistence such as food, shelter, and is inclusive of issues surrounding violence against vulnerable persons, the rights of minorities and the disabled, and the continuing emergence of the general comments focus on the right to life, food, and encompasses a range of evolving issues of violence against vulnerable persons, rights of the disabled and minorities, among other emerging human rights matters (International Human Rights Instruments, 2008; OHCHR Human Rights Treaty Bodies – General Comments, 2021).

The CRC Committee expound its general comments with the intent to provide clarity on the normative context and content of the specific rights as indicated under the Convention on the Rights of the Child, the thematic content pertinent to the CRC, which is also inclusive of implementation guidance and measures for compliance. Unlike other human rights instruments' general comments, the CRC Committee General comments provide an authoritative interpretation to States Parties on expectations for implementation and the carrying out of obligations.³ The full and consolidated listing of the CRC Committee's general comments has been published on the Office of the High Commissioner United Nations Human Rights (OHCHR.org) or on the Child Rights International Network (CRIN) at: <http://www.crin.org/resources/infoDetail.asp?ID=8043&flag=report>. The CRIN's report also

³Child Rights net provides a fact sheet in English, French, and Spanish at: Child Rights Net – Legal Updates on Child Rights Law.

includes General comment No. 16 (2013) on States Parties obligation regarding business sector on children's rights. Article 43 of the CRC sets out the authority and provisions of the Committee on the Rights of the Child. Collectively with arts 44 and 45, art 43 are part of the provisions for international monitoring:

CRC Committee, *Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States Parties under article 44, para 1(b), of the Convention on the Rights of the Child* (3 March 2015) CRC/C/58/Rev.3 Rule 77; CRC Committee, *General guidelines regarding the form and content of initial reports to be submitted by State Parties under article 44, para 1(a) of the Convention* (30 October 1991) CRC/C/5. CRC Committee, *Revised guidelines regarding initial reports to be submitted by States Parties under article 12, para 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (3 November 2006) CRC/C/OPSC/2; CRC Committee, *Revised guidelines regarding initial reports to be submitted by States Parties under article 8, para 1, of the Optional Protocol to the Convention on the Rights of the Child on Involvement of children in armed conflict* (19 October 2007) CRC/C/OPAC/2.

The reporting structure is detailed under Art 44 in the form of eight clusters under four themes, 'factors and difficulties encountered', 'progress achieved', 'implementation priorities', and 'specific goals'. The standard reporting procedures for periodic reports, the States Parties have a requirement to submit a report and written replies to what is identified as a 'list of issues' (CRC art 44).⁴

Convention on the Rights of the Child, Article 22

CRC art 22 affirms the States' obligation for the best interest principle, under CRC art 3, affirms protection and care of refugee children by providing implementation guidance with CRC Committee *General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*. CRC Committee *General comment 14* adds further clarity to member State protection responsibilities as it explains that a child in circumstances and situations of vulnerability may not be the same from one child to the other.⁵ Author Kristen Sandberg (2015, 2018) explains that one child's situation may not be the same as another child's vulnerable situation – 'each child is unique, and each situation must be assessed according to the child's uniqueness'. The CRC further obliges State parties to identify particular groups/subgroups of children as vulnerable for the purposes of implementing special measures for these groups, CRC Committee *General comment 14*.

⁴CRC Committee, *Working methods for the participation of children in the reporting process of the Committee on the Rights of the Child* (16 October 2014) CRC/C/66/2 para 8 and 15–28.

⁵UNCRC, General comment No 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (art 3, para 1), 62nd session, UN Doc CRC/C/GC/14 (2013) ('General comment No 14') [76].

CRC art 22 outlines the State obligation to child refugees or children, who are seeking refugee status in their respective territory under the positive obligations under international human rights and humanitarian law. The three primary elements of art 22:

1. adequate protection and humanitarian assistance
2. cooperation with organisations linked to the UN when providing protection and assistance;
3. and, the establishment of an adequate environment of care for children, either by reunification with their family or by finding alternative state protection.

The child protection and assistance declaration are required to take place according to the relative domestic and international law. Accordingly, art 22 refers to the 2018 Global Compact for Migration⁶ as being guided by art 1, the best interest principle as an international protection for asylum seeking and refugee children to all children in the jurisdiction of a State Party that lack citizenship or migration status (Pobjoy, 2015). Following art 3.1's guidance Global Compact for Migration (2018) states are called on to provide:

accurate, timely, accessible, and transparent information on migration-related aspects for and between states, communities and migrants at all stages of migration' ... 'child-sensitive and gender-responsive support and counseling' and information (para 19, c, d)

Gaps in the State obligations to international protection of an asylum-seeking child has judicial references discussed further within the text, *I.A.M. v Denmark*, No 3/2016, 25 January 2018. The case and others related under Art 22.1 does not draw a distinction between accompanied and unaccompanied children, therefore, the provisions of assistance and rendering of protection does not vary. However, there is an exception, whereas para 2 avers accommodation for the unaccompanied child and children separated from family. The CRC Committee recognizes the heightened vulnerability of the unaccompanied child and includes legal empowerment/access to justice in processing of decisions in its General comment 6; whereas states are obliged to provide an adequate standard of living as well as material assistance and support 'with regard to nutrition, clothing and housing'.⁷

CRC Art 22 provides a definition of a refugee. CRC Committee GC 6 refers to the 1951 Refugee Convention but indicates that the refugee status may be based upon child-specific forms of persecution that incorporates the CRC ruling of *I.A.M. v Denmark* where the assessment includes persecution of kin, under-age recruitment; tracking of children for prostitution; and sexual exploitation or subjection to female genital mutilation'.⁸ Non-refoulment is addressed under CRC art 22.1, which refers to the enjoyment of rights not only in the CRC but also in other

⁶Global Compact for Safe, Orderly and Regular Migration (2018) Global Compact for Safe, Orderly and Regular Migration para 19(c) and (d).

⁷CRC General comment 6: Treatment of unaccompanied and separated children outside their country-of-origin para 68.

⁸*CRC Committee, General comment 6: Treatment of unaccompanied and separated children outside their country of origin*, para 74.

international human rights or humanitarian instruments to which the states are parties. Embraced within art 22 are substantive references to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Non-refoulement is a central tenet of international law content and the Refugee Convention prohibits States Parties from expelling or returning:

a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of particular social group or political opinion.

Prominently used as an authoritative interpretation under CRC Committee's GC 22, which provides States Parties guidance in the application of the fundamental children's rights principles, or often referred to as general principles of non-discrimination, best interests, participation, and the right to life, survival, and development (CMW and CRC Committee Joint General Comment 4/23, para 45–46). Each are also designating of non-refoulement to be a fundamental principle of the human rights of children in the context of migration (CRC Committee General comment 6).

The content of protection and assistance for asylum-seeking and refugee children have been litigated in regional human rights systems and added clarity to the obligatory protection and assistance. Precedent setting cases at the EctHR has referenced CRC art 22 on State obligations for humanitarian assistance and protections whether a child is alone or accompanied by his or her parents (*Popov v France* 2012).⁹

Joint Stakeholders: Human Rights Committees and Treaty Bodies

The global community, as responsible stakeholders, has a bottom-up and top-down tenet role in forming structures that protect the human rights of unaccompanied asylum-seeking children. On the international human rights platform, Human Rights Committees are comprised of global representatives, who serve as appointed independent experts guiding the monitoring and implementation of the ten human rights treaty bodies¹⁰ that bind State parties. The Office of the High Commissioner for Human Rights (OHCHR) described these treaty bodies as:

⁹ *Popov v France* (Application nos. 39,472/07 and 39,474/07) Judgment (European Court of Human Rights (EctHR) 2012 para 91.

¹⁰ According to the United Nations Human Rights Office of the High Commissioner, as of 2021, there are ten human rights treaty bodies that monitor implementation of the core international human rights treaties:

- Committee on the Elimination of Racial Discrimination (CERD)
- Committee on Economic, Social and Cultural Rights (CESCR)
- Human Rights Committee (CCPR)
- Committee on the Elimination of Discrimination against Women (CEDAW)

...nine of these treaty bodies monitor implementation of the core international human rights treaties while the tenth treaty body, the Subcommittee on Prevention of Torture, established under the Optional Protocol to the Convention against Torture, monitors places of detention in States parties to the Optional Protocol (OHCHR, 2021).

Simply stated, these appointed independent experts emerge from a host of professions that reflect the State parties and serve as vital stakeholders of their community. These experts are keenly aware of critical human rights issues and render their expertise within the scope, functions, and implementation of core international human rights treaties. Hence, the effete of these treaties is highly contingent upon implementation goals and expectations set by State leadership from the top for social change across both natural and human endogenous factors. Analogously, the bottom up is indicative of the treaty implementation and its application in contrast of endogenous to exogenous factors, which include migration (the shifting flow of people), economic shifts pushed by migration, and the government rules and decisions imposed by the treaty at the State level (Kaufman, 2004). Sociological scholars working in endogenous and exogenous factors argue that there are a multitude of thresholds that influence outcomes, change, and adaptation of government policies to control, anchor, or organize the implementation of human rights instruments (Swidler, 1986, 2001).

At the international top-level, the Human Rights Council operates as a separate entity from the OHCHR. The Human Rights Council has separate mandates derived by the General Assembly,¹¹ a principal organ of the United Nations (UN),¹² whose powers, functions, and composition are set out in Chapter IV of the United Nations Charter.¹³ Nonetheless, the OHCHR renders the substantive support for the Human Rights Council sessions and the subsequent follow-up deliberations. In summary, the Human Rights Council forum's principal mandate is 'to prevent abuses,

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- Committee against Torture (CAT)
 - Committee on the Rights of the Child (CRC)
 - Committee on Migrant Workers (CMW)
 - Subcommittee on Prevention of Torture (SPT)
 - Committee on the Rights of Persons with Disabilities (CRPD)
 - Committee on Enforced Disappearances (CED)

¹¹The only body in which all UN members are represented, the General Assembly exercises deliberative, supervisory, financial, and elective functions relating to any matter within the scope of the UN Charter.

¹²The United Nations has six principal organs: The General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat.

¹³United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI; The Charter was signed at San Francisco on 26 June 1945. The amendments included here are: Amendments to Articles 23, 27 and 61, 557 UNTS 143, adopted by the General Assembly Resolutions 1991A and B (XVIII) of 17 December 1963, entered into force on 31 August 1965 for all Members; – Amendment to Article 109, 638 UNTS 308, adopted by the General Assembly Resolution 2101 (XX) of 20 December 1965, entered into force on 12 June 1968 for all Members; Amendment to Article 61, 892 UNTS 119, adopted by the General Assembly Resolution 2847 (XXVI) of 20 December 1971, entered into force on 24 September 1973 for all Members.

inequity, and discrimination, protecting the most vulnerable, while exposing perpetrators' (UNHR, 2021). Hence, Special Procedures is characterized as an established mechanism of the Human Rights Council and can take the shape of a workgroup or a special rapporteur (an individual) (UNHR, 2021). The outcomes of Special Procedures result in the examination, monitoring, advising, and submission of public reports that focus on human rights situations in identified territories, countries, and concern worldwide thematic mandates. As of 1 August 2017, there are 44 thematic mandates with 12 country mandates, which includes a mandate for 'Ending immigration detention of children and providing adequate care and reception of them' (UNHR, 2021; UN General Assembly 20 July, 2020, A/75/183).

This chapter links the international community structure with endogenous and exogenous factors to explain the State obligation, compliance, roles, or gaps in the roles of protecting accompanied and unaccompanied asylum-seeking children. Communities are people, functioning amongst a problem of social changes, which is a constant in the central foci of sociological 'why' inquiries and 'how can the behaviors change (Maheshwari, 2016). The consensus of literature is expressed to describe social change, where change is law and places great emphasis on foundations to migratory resistance of anyone, including children, due to geographical conditions, the composition of ideologies and diffusions of communities. The content then conducts an analogy of community structures through the lens of international law. Beginning with State obligations to the Children's Rights Convention (CRC),¹⁴ article 22, precedent setting children's rights' case law, and binding instruments to include:

- (a) the Committee on the Protection of the Rights of all Migrant Workers and Members of their Families (CMW) and the UNCRC Committee's Joint General Comment 4 (2017) and 23 (2017)¹⁵;
 - *(Joint General comment No 4 and 23: State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination, and return)*;

¹⁴UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3; The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force on 2 September 1990, in accordance with article 49.

¹⁵UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, 16 November 2017, CMW/C/GC/4-CRC/C/GC/23.

(b) UNCRC Committee General Comments 6 (2005)¹⁶

- (*General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin* and 14 (2013)¹⁷ (*General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration*); and,

(c) the 20 July 2020 A/75/183 mandate focused on the immigration detention of children.

The Obligation

The commitment to fulfil the positive obligations set out in treaties is underpinned by the 1965 Vienna Convention on the Law of Treaties.¹⁸ Around the world, community structures and processes rely heavily upon the preventions and protections for the refugee child and the respective States compliance, where article 1(b) VCLT provides the defining role of ratification and accession as an international act of being bound by a treaty, articles 11–17.¹⁹ To guide the implementation and contextual interpretation of a treaty, VCLT article 3(3) further sets out the highly authoritative

¹⁶UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6.

¹⁷UN Committee on the Rights of the Child (CRC), General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC/C/GC/14.

¹⁸*Rantsev v. Cyprus and Russia*, Application no. 25965/04, Council of Europe: European Court of Human Rights, 7 January 2010.

¹⁹VCLT, article 11–17:

- Article 11

Means of expressing consent to be bound by a treaty

The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

- Article 12

Consent to be bound by a treaty expressed by signature

1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when: the treaty provides that signature shall have that effect; it is otherwise established that the negotiating States were agreed that signature should have that effect; or the intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.
2. For the purposes of paragraph 1: the initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed; the signature ad referendum of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

- Article 13

Consent to be bound by a treaty expressed by an exchange of instruments constituting a treaty

The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when: the instruments provide that their exchange shall have that

character of General Comments/recommendations where it notes that the treaty needs continuous contextual interpretation. The United Nations Convention on the Rights of a Child (CRC),²⁰ article 43, establishes the role and authority of the Committee to set out the rules of procedure, the continuous, and contextual interpretation of the CRC. Whereas Article 45 clarifies that the UNCRC is a treaty amongst states, and that 45(c)(d) obliges States parties to grant the Committee the power to make suggestions, general recommendations, establish reporting obligations, and the implementation of the CRC.

The CRC's thematic areas in health, migration, and best interest continue to be globally remarkable issues of human rights committee's General Comments and State party implementation guidance, specifically General Comment 4,²¹ 6,²² and

effect; or it is otherwise established that those States were agreed that the exchange of instruments should have that effect.

- Article 14

Consent to be bound by a treaty expressed by ratification, acceptance or approval

1. The consent of a State to be bound by a treaty is expressed by ratification when the treaty provides for such consent to be expressed by means of ratification; it is otherwise established that the negotiating States were agreed that ratification should be required; the representative of the State has signed the treaty subject to ratification; or the intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.
2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

- Article 15

Consent to be bound by a treaty expressed by accession The consent of a State to be bound by a treaty is expressed by accession when: the treaty provides that such consent may be expressed by that State by means of accession; it is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or all the parties have subsequently agreed that such consent may be expressed by that State by means of accession.

- Article 16

Exchange or deposit of instruments of ratification, acceptance, approval, or accession Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon: their exchange between the contracting States; their deposit with the depositary; or their notification to the contracting States or to the depositary, if so agreed.

- Article 17

Consent to be bound by part of a treaty and choice of differing provisions

1. Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.

²⁰The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force on 2 September 1990, in accordance with article 49.

²¹UN Committee on the Rights of the Child (CRC), General comment No. 4 (2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child, 1 July 2003, CRC/GC/2003/4.

²²UN Committee on the Rights of the Child (CRC), General comment No. 4 (2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child, 1 July 2003,

23, each detailed further in the chapter to exclaim the critical survival issues of health, migration, and best interest. Whether State parties heed their respective positive obligations by respecting, protecting, and fulfilling the rights of the CRC, inclusive of the adjoined General comments, is contingent upon the shall endeavor spectrum of the positive obligation. Response to the shall endeavor may have adverse impact upon the unaccompanied or accompanied asylum-seeking refugee child. The chapter's investigation evaluates divergence in the varying layers of the community's application of the CRC Committee general comments and the CRC Article 22 in relation to an asylum-seeking child, the case of *I.A.M. v Denmark* (2018),²³ to include the standards set by *Rantsev v Cyprus*' 2010²⁴ European Court of Human Rights case to guide future strategies for actionable change. Both cases will be discussed in more detail further in the text.

The Dichotomy of the Positive Obligation, *Shall Endeavor*

Compliance with human rights treaty obligations is troublesome in that the language translates into questionable compliance (O'Flaherty & O'Brien, 2007; Oette, 2018). Could treaty language and interpretation be the root cause? International communities are consistently competing with cultural challenges, social structures, and social equalities within the scope of natural and human endogenous factors (Kaufman, 2004). A potential root-case influencing component is the language of 'shall endeavor' in treaty interpretation. Legal theorist Richard Gardiner (2008) and Serge Sur (1974), among others, support the concept that there is not any component of the law of treaties where the text-writer approaches more vicariously than the interpretation²⁵ (ILC, 1966).

To gain a better understanding of endeavor, a review of the Vienna Convention on the Law of Treaties is silent on the interpretation of endeavor, but commercial contract case law serves as a guide (Fachiri, 1929). Actions of State parties in response to their human rights obligations can be compared to commercial contract law, which inserts a qualification that parties are concurring to 'try' to achieve the particular obligation. However, this brings into question the lengths a party, or in this case the member-States to the CRC Convention and its instruments, will pursue in 'trying' to achieve the obligation, refer to Fig. 8.1. It is clear from the commercial contract case law that there is a spectrum of endeavors, with 'best endeavors at one

CRC/GC/2003/4.

²³*I.A.M. (on behalf of K.Y.M.) v Denmark*, communication No. 3/2016, CRC/C/77/D/3/2016, UN Committee on the Rights of the Child (CRC), 25 January 2018.

²⁴*Rantsev v. Cyprus and Russia, Application no. 25965/04*, Council of Europe: European Court of Human Rights, 7 January 2010.

²⁵Report of the ILC on the Work of its 18th -Session: Draft Articles on the Law of Treaties with Commentaries (A/6309/Rev1), vol. II. Extract from the Yearbook of the International Law Commission.

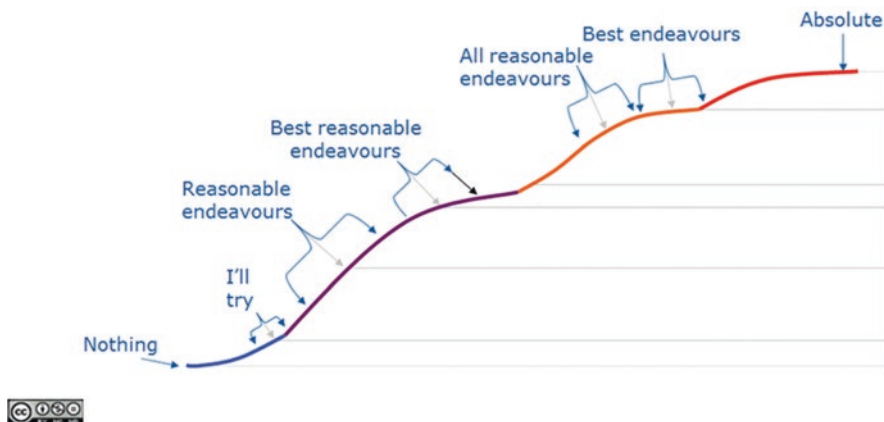


Fig. 8.1 Spectrum of reasonable endeavors

end and ‘nothing’ at the other. An example can be found in the civil law case of *Jet2.com v Blackpool Airports*, 2012,²⁶ where best endeavors had to be used even if the airport endured a commercial loss.

A further interpretation can be made those circumstances have a key role when the issue of enforceability arises in determining a breach, as illustrated in the civil case of *Astor Management AG and others v Atalaya Mining PLC*.²⁷ Similarly, in *Phillips Petroleum Co UK Ltd v Enron Europe Limited, Court of Appeal (Civil Division)*,²⁸ where the court raised the question on the lengths a party must exercise in ‘trying to achieve that obligation’. When placed in juxtaposition to the States’ obligation further clarity can be obtained from the European Court of Human Rights ruling in *Rantsev v Cyprus and Russia*, paras 64–65; paras. 264–268, where State positive obligations denote:

²⁶ *Jet2.com Limited v Blackpool Airport Limited* [2012] EWCA Civ 417, The Court of Appeal has ruled in favour of *Jet2.com* in a case concerning the construction of a 15 year old agreement relating to the use of Blackpool Airport by a low cost carrier; Blackpool Airport Limited (‘BAL’), 95% owned by Balfour Beatty plc, had argued unsuccessfully before HHJ Mackie QC at trial that it was not obliged to keep Blackpool Airport open to accommodate *Jet2.com*’s schedules beyond its promulgated opening hours. BAL had contended that the provisions of the agreement that obliged it to cooperate and use best endeavors to promote *Jet2.com*’s low-cost services from Blackpool Airport and use all *reasonable endeavors* to provide a cost base that would facilitate *Jet2.com*’s low-cost pricing did not require it to sacrifice its own commercial interests. BAL renewed that argument on appeal, namely that *best and all reasonable endeavors* entitled it to consider its own commercial interests before those of *Jet2.com*

²⁷ *Astor Management Ag and Another V Atalaya Mining Plc and Others*, [2017] 1 Lloyd’s Rep. 476.

²⁸ *Phillips Petroleum Co UK Ltd v Enron Europe Limited, Court of Appeal (Civil Division)*, [1997] CLC 329.

- (a) Enactment of appropriate legislation,
- (b) Introduction of review procedures for the operation of certain businesses known to be a cover for human trafficking,
- (c) Establishment of punishments commensurate to the nature of the crime of trafficking,
- (d) Introduction of measures to discourage demand,
- (e) Assurance of the training of law enforcement for the identification of trafficking victims and for building trust amongst victims and law enforcement,
- (f) Encouragement of research, information campaigns, awareness law enforcement, and
- (g) Vigorous investigation of allegations of human trafficking.

Plotting an obligator's endeavor spectrum on the graph, Fig. 8.1 reflects the categorical performance of the endeavor clause of the positive obligation.

Note, Fig. 8.1, The spectrum of 'shall endeavors' is charted on the graph to assess the State's actions and omissions of its treaty obligations.²⁹

Absolute/Best Endeavors to the Positive Obligation

Absolute obligation entails the State's complete fulfilment of the obligation. An example of absolute can be found in two court rulings.³⁰ First, in referring to *Siliadin v France*,³¹ where States are under an obligation to 'adopt laws to combat trafficking and to strengthen policies and programmes to combat trafficking', where the question could arise of 'shall endeavor', *Siliadin v France*. The second tier would encompass the courts' ruling of *Rantsev v Cyprus and Russia* where a States' obligation for absolute compliance would be met.

However, the term 'best endeavors' has been highly judicially scrutinized, as in the case of *IBM United Kingdom Ltd v Rockware Glass Ltd*³² where it is judged by

²⁹Graphic adopted from Ashurst Business Services LLC for educational purposes only.

³⁰'States are required to' are used, the reference is to a mandatory provision. Otherwise, the language used in the legislative guide is 'required to consider', which means that States are strongly asked to seriously consider adopting a certain measure and make a genuine effort to see whether it would be compatible with their legal system.

³¹*Siliadin v. France*, 73,316/01, Council of Europe: European Court of Human Rights, 26 July 2005

³²This case is cited by: Cited – Overseas Buyers v Granadex ([1980] 2 Lloyd's Rep 608); The court considered the meaning of a promise by one party to use its best endeavours. Held: Mustill J said: 'it was argued that the arbitrators can be seen to have misdirected themselves as to the law to be applied. Cited – Rhodia International Holdings Ltd. Rhodia UK Ltd. v Huntsman International Llc ComC (Bailii, [2007] EWHC 292 (Comm), Times 06-Apr-07, [2007] 2 Lloyd's Reports 325); The parties contracted for the sale of a chemical surfactants business. The claimant had contracted to use reasonable endeavours to obtain the consent of a third party for the assignment of a contract to supply energy to the business. The defendant. Cited – EDI Central Ltd. v National Car Parks Ltd. SCS (Bailii, [2010] ScotCS CSOH – 141). Cited – R and D Construction Group Ltd. v Hallam Land Management Ltd. SCS (Bailii, [2010] ScotCS CSIH – 96, 2011 GWD 2-85, 2011 SLT 326).

standards of reasonableness. Wherein, the ruling conveys that the term ‘best endeavors’ has the most tangible of the ‘endeavors’ formulations. Usually, the best endeavor obligation, in contract law, is demonstrated through the obligor taking all reasonable steps, or steps that are within their power to take. ‘Best endeavors’ obligation and ‘absolute’ appear to align with the mandatory measures and are reflected at the far-right peak of the spectrum as illustrated in Fig. 8.1 (reading right to left – absolute red sections through to all reasonable endeavors, orange lined sections of the spectrum).

Best Reasonable Endeavors/All Reasonable Endeavors/Reasonable Endeavors to the Obligation

The endeavor is ‘less stringent’ than the application of best endeavors where the party takes on one reasonable course of action, but not all courses of action available to meet the obligation.³³ Referring to the realm of contract law again, all reasonable endeavors is frequently adopted as a compromise between best endeavors and reasonable endeavors. In the case of *Rhodia International Holdings Ltd and another v Huntsman International LLC*, the court ruled that ‘an obligation to use reasonable endeavors was less stringent than one to use best endeavors. The commercial court held:

‘There might be a number of reasonable courses which could be taken in a given situation to achieve a particular aim. An obligation to use reasonable endeavors to achieve the aim probably only required a party to take one reasonable course, whereas an obligation to use best endeavors probably required a party to take all the reasonable courses she could. In that context, it might well be that an obligation to use all reasonable endeavors’ (*Rhodia International Holdings Ltd and another v Huntsman International LLC* [2007] EWHC 292).

In that context, an interpretation can be made that an obligation to use ‘all reasonable endeavors’ equates with using ‘best endeavors’. In contrast, if the same obligation instrument uses ‘both expressions’, which is often seen in treaty instruments, for different obligations, then based upon *Rhodia International Holdings Ltd and another v Huntsman International LLC*’s ruling, it could be presumed an intention was to impose a different standard. The reasonable endeavor aligns with measures that indicate States have the latitude to consider absolute compliance or

Cited – *Dhanani v Crasnianski ComC* (Bailii, [2011] EWHC 926 (Comm)) The parties disputed the terms of a contract between them under which the defendant was to provide substantial sums for the claimant to invest.

³³*Rhodia International Holdings Ltd. Rhodia UK Ltd v Huntsman International Llc*: ComC 21 Feb 2007. References: [2007] EWHC 292 (Comm); where the court summarised by a judge in *Rhodia International v Huntsman* summarised it nicely when he explained that an obligation to use reasonable endeavours probably only requires a party to take one reasonable course, not all of them, whereas an obligation to use best endeavours probably requires a party to take all the reasonable courses he can.

‘endeavor’ to comply²⁸⁷. In the case of *Rantsev v Cyprus and Russia* the court ruled that Cyprus’ legislation had prohibited trafficking and sexual exploitation. However, the Ombudsman criticized Cyprus’ implementation in prohibiting trafficking and sexual exploitation of a child, but ruled the laws were satisfactory. Moreover, the Council of Europe Commissioner found Cyprus’ laws as ‘suitable’. On Figure 1’s graph, and the concerns expressed regarding implementation in *Rantsev v Cyprus and Russia*, Cyprus would likely fit on the graph between ‘best reasonable endeavors’ and ‘reasonable endeavors’.

‘I’ll Try’ to ‘Nothing’ Obligation

The ‘I’ll try’ endeavors present the most difficult posture of the three categories. There is a high degree of disagreement and uncertainty as to where reasonable endeavors is plotted on the graph and ‘I’ll try’. Circumstances and the difference of opinion weigh heavily in the determination between ‘reasonable endeavors’, ‘I’ll try’, and ‘nothing’. An example could easily be the Cyprus legislation situation. On one hand, Cyprus was criticised, but in totality, Cyprus did fulfil the ‘reasonable endeavors’ of the obligation.

Yet, the AIRE Centre voiced extreme concern as to what can be best described as the ‘reasonable endeavors’ by Cyprus was insufficient. The case notations reflect that AIRE Centre cited the wording to ‘consider’ or ‘endeavors’ to introduce certain measures was hortatory and often lacked practical and effective rights for the protection of victims. AIRE Centre’s posture would place the States’ ‘reasonable endeavors’ closer to the ‘I’ll try’ or possibly to ‘nothing’ plot on the graph and viewed as non-compliant by the court with the treaty obligation. Consequently, determining whether a State breached an obligation is contingent upon the circumstances, situation, and case law.

The Due Diligence Obligation Standard

Examining the case of *Rantsev c Cyprus and Russia* as it cites *Larissis et al v Greece*,³⁴ international law makes clear that States are under a legal obligation to investigate and prosecute trafficking with due diligence, imposing a positive duty as in the case of *Larissis et al v Greece* and *Rantsev c Cyprus and Russia*. Due diligence obligations are obligations that are one of conduct or means, thus leaving some discretion for the state in practice (ILA, 2014). This discretion explains why the record of compliance with these obligations is not highly satisfactory. For many

³⁴ *Larissis et al v Greece*, Apps nos 140/1996/759/958–960 Council of Europe: European Court of Human Rights, 24 February 1998.

years, international human rights law has been thought to not be serious and is often referred to as ‘soft law’ (Guzman, 2010).³⁵

Considering trafficking of children, the state’s duty is to combat not only trafficking, but also the demand for the services of human trafficking. States are obliged to combat child human trafficking and exploitation that hinder human rights within its jurisdiction through the States’ criminal laws.³⁶ There are a range and latitude of measures that states can adopt to combat human trafficking of asylum-seeking children, accompanied or unaccompanied. The international obligations on states are frequently stated in general terms. Subsequently, parties to a legal instrument are permitted to adopt measures that are best suited to their respective national legal systems.

In contradiction, multiple cases before the Inter-American Court of Human Rights, European Court of Human Rights, and the UN Human Rights Committee shine a different light on how States are being held in violation of their international legal obligations to human rights.³⁷ In *Rantsev v Cyprus and Russia*, in relation to trafficking, the European Court of Human Rights identified an obligation on State parties to investigate cases of trafficking. The Court placed emphasis on the requirements for investigations to entail the full spectrum of the trafficking allegation through to the recruitment and exploitation (*Rantsev v Cyprus and Russia*). The court’s ruling for the States’ positive obligation for investigation was to be ‘full and effective’ (*Rantsev v Cyprus and Russia*, para 307, p 76).

The positive obligation extended to the various States potentially involved in human trafficking—States of destination, States of transit, and States of origin (*Rantsev v Cyprus and Russia*, para 389, p. 71). The same court ruling obliged States to ‘take such steps as are necessary and available in order to secure relevant evidence’ regardless of where the investigation leads in or outside of the territory. The court ruled that:

³⁵International agreements come in a multitude of forms. Some have dispute resolution while others do not, monitoring provisions vary from significant to nonexistent, and some are highly detailed while others are frustratingly vague; For example, the International Covenant on Civil and Political Rights (ICCPR) provides for the submission of reports by the parties when so requested by the Human Rights Committee (‘the Committee’), and the Committee is authorized to review and comment on these reports. See International Covenant on Civil and Political Rights, art 40(1)(b)(4), Dec. 16, 1966, 999 U.N.T.S. 171. The Genocide Convention, on the other hand, does not provide for any formal monitoring system. See Convention on the Prevention and Punishment of the Crime of Genocide, Jan. 12, 1951, 78 U.N.T.S. 277.

³⁶The prohibition against exploitation of children is a general prohibition under human rights law: The 1989 UN Convention on the Rights of the Child, 1577 UNTS 3, arts 34–37(a); the 2000 UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, G.A. Res. 54/263, Annex II, 54 U.N. GAOR supp (no 49) at 6, U.N. Doc. A/54/49, vol III (2000), arts 3(1)(b) and (2).

³⁷For state-party compliance with the European Convention on Human Rights, see Christian Tomuschat, *Quo Vadis, ‘Argentoratum’? The Success Story of the European Convention on Human Rights - and a Few Dark Stains* (1992) 13 Hum. RTS. L. J. 401; For state-party compliance with the American Convention on Human Rights, see Annual Reports of the Inter-American Court of Human Rights.

...in addition to the obligation to conduct a domestic investigation within the respective territory, member States are also subjected to a duty in cross-border trafficking cases to cooperate effectively with the relevant authorities of other States concerned in the investigation of events which occurred outside their territories' (*Velásquez Rodríguez v Honduras* 1988).³⁸

The European Union was integrally involved in the decision on *Velásquez-Rodríguez*,³⁹ in 1988, which brought the due diligence doctrine to the forefront for acts by private entities. States responsibility to prevent breaches of international obligations has been discussed in several legal decisions. In Chile, *Question of the Fate of Missing and Disappeared Persons*, led by Judge Abdoulaye Dieye in Senegal, 1979, was the actual pioneer due diligence case (UN Doc A/34/583/Add.1 (1979), paras 172–175). Yet, the *Velásquez-Rodríguez*, the most memorable case, paved legal ground, and the case is often referenced as the Commission alleged that Honduras, violated 'art 4 —Right to Life, art 5 —Right to Humane Treatment, and art 7 —Right to Personal Liberty, and in relation to art 1(1) —Obligation to Respect Rights. The monumental impact to States' responsibility to due diligence can be attributed to the outcomes of *Velásquez-Rodríguez* (1988)⁴⁰ case where the court ruled:

...the state's failure to *prevent* the disappearance, to investigate it, and to *punish* the perpetrators was a violation of the obligation in the Inter-American Convention to "ensure" the full exercise of rights and freedoms in the Convention, including the right to life'.⁴¹

³⁸*Velásquez Rodríguez v Honduras*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) no 4, 147(g)(i) (July 29, 1988); the first case decided by the Inter-American Court of Human Rights. The *Velásquez Rodríguez* case, together with the *Godínez Cruz*, *Fairén Garbi*, and *Solís Corrales* cases, all considered by the Court around the same time, form a trio of landmark cases targeting forced disappearance practices by the Honduran government during the early 1980s.

³⁹*Velásquez Rodríguez v Honduras*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) no 4, 147(g)(i) (July 29, 1988); the first case decided by the Inter-American Court of Human Rights. The *Velásquez Rodríguez* case, together with the *Godínez Cruz*, *Fairén Garbi*, and *Solís Corrales* cases, all considered by the Court around the same time, form a trio of landmark cases targeting forced disappearance practices by the Honduran government during the early 1980s.

⁴⁰*Velásquez Rodríguez v Honduras*, *Velásquez Rodríguez Case*, Inter-Am.Ct.H.R. (Ser. C) no 4 (1988), Inter-American Court of Human Rights (IACrtHR), 29 July 1988.

⁴¹American Court of Human Rights (IACrtHR), 29 July 1988; Loy. L.A. Int'l & Comp. L. Rev. [vol 36:1913]; Inter-American Court decision of *Velásquez Rodríguez*, in 1988; The case notes: 'The judgment on compensatory damages delivered by the Inter-American Court of Human Rights (hereinafter 'the Inter-American Court' or 'the Court') on July 21, 1989 in the *Velásquez Rodríguez Case*, in which it established at seven hundred and fifty thousand lempiras the compensatory damages that the State of Honduras (hereinafter 'Honduras') must pay to the next of kin of Mr. Angel Manfredo Velásquez-Rodríguez and decided that the Court would supervise 'execution of payment of [this] compensation ... and that only after it was settled [would] the case be closed.'; No Pecuniary damages; The Court ordered the State to pay \$93,750 to Ms. Emma Guzmán Urbina de Velásquez, the wife of Mr. Velásquez Rodríguez, for psychological damage and loss of income from losing her husband; The Court ordered the State to pay \$281,250 dollars to the three children of Mr. Velásquez Rodríguez: Héctor Ricardo, Herling Lizzett, and Nadia Waleska Velásquez, for psychological harm due to the forced disappearance of their father, and for loss of income from

A comparison of the Convention on the Rights of the Child can be made to the General comment on the International Covenant on Civil and Political Rights' (ICCPR)⁴² torture prohibition, where it states:

It is the duty of the State Party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by art 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity (UNHRC, 2021, CPR GC 20).

Research findings imply that asylum-seeking children are forced to engage in a multitude of low-range remunerative activities as well as petty crime, substance abuse, and prostitution. The UN Human Rights Committee (HRC) also indicates that whether the trafficking is internal or cross-border, the crime is inextricably connected to the involuntary or deceitful movement of people to achieve the end-object sexual, labor, child marriage, organ removal, or a multitude of other forms of exploitation (CCPR General comment no. 20).⁴³ Guidance for States can also be found in the UN Doc. A/RES/63/156, GA Res. 63/156, 'Trafficking in Women and Girls', where it outlines:

States have an obligation to exercise due diligence to prevent, investigate, and punish perpetrators of trafficking in persons, and to rescue victims as well as provide for their protection, and that not doing so violates and impairs or nullifies the enjoyment of the human rights and fundamental freedoms of the victims.⁴⁴

There have been minimal cases to address where the State has been responsible for failure to provide due diligence. Also, there are two cases in Austria that have a correlation to the Rohingya critical case where the court emphasizes the 'State should have known' but failed to exercise due diligence. The first is in the case of *Goekce v Austria*,⁴⁵ where the State was found accountable for failure to provide

losing their father as a provider; \$375,000 in costs and expenses; each cost by the State was directed to commence within 90-days and five consecutive months thereafter'.

⁴²The aim of the provisions of article 7 of the International Covenant on Civil and Political Rights is to protect both the dignity and the physical and mental integrity of the individual.

⁴³UN Human Rights Committee (HRC), CCPR General comment no 20; art 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), 10 March 1992

⁴⁴UN Doc. A/RES/63/156, 'Trafficking in Women and Girls' GA Res. 63/156 (30 January 2009).

⁴⁵*Goekce v Austria, Sahide Goekce (deceased) v Austria*, Comm. 5/2005, U.N. Doc. A/62/38, at 432 (2007), Committee on the Elimination of Discrimination against Women, 2007, CEDAW, domestic and intimate partner violence, international law; Sahide Goekce's husband shot and killed her in front of their two daughters in 2002. Police reports show that the law enforcement failed to respond in a timely fashion to the dispute that resulted in Ms. Goekce's death. The complaint to the Committee on behalf of the decedent stated that Austria's Federal Act for the Protection against Violence within the Family provides ineffective protection for victims of repeated, severe spousal abuse and that women are disproportionately affected by the State's failure to prosecute and take seriously reports of domestic violence. The Committee found that although Austria has established a comprehensive model to address domestic violence, it is necessary for State actors to investigate reports of this crime with due diligence to effectively provide redress and protection. The Committee concluded that the police knew or should have known that Ms. Goekce was in serious danger and were therefore accountable for failing to exercise due diligence in protecting her.

protection and exercise due diligence by actions of its organs (the police department and State prosecutor) in the instances of domestic violence and diminishing the importance of violence against women. Notably, in each application of the theory of a States' responsibility for vicarious liability, three principles are consistent: a) *respondent superior* (let the principal be liable), b) *Qui facit per alium facit per se* (he who acts through another does it himself), and c) socialization of compensation.⁴⁶ In the Optional Protocol for the sale of children, art 9(3), States 'shall' 'ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

References

- Gardiner, R. K. (2008). *Treaty interpretation*. Oxford University Press.
- Gil Loescher, G. (2014). *The Oxford handbook of refugee and forced migration* (Political Science, International Relations, Comparative Politics, online publication). Retrieved from <http://10.1093/oxfordhb/9780199652433.013.0003>.
- Guzman, A. T. (2010). International soft law. *Journal of Legal Analysis*, 2(1), 171–225. Retrieved from <https://scholarshiplaw.berkeley.edu/facpubs>
- International Human Rights Instruments (IHR). (2008). *Compilation of general comments and General recommendations adopted by human rights treaty bodies*. Retrieved from https://www.ohchr.org/Documents/HRBodies/TB/HRI-GEN-1-REV-9-VOL-I_en.doc HRI/GEN/1/REV.9(VOL.I) and HRI/GEN/1/REV.9(VOL.II).
- International Law Association. (2014). *Study group on due diligence in international law*, First Report, 7 March 2014. Retrieved from <https://ila.vettoreweb.com/Storage/Download.aspx?DbStorageId=1429&StorageFileGuid=fd770a95-9118-4a20-ac61-df12356f74d0>
- International Law Commission. (1966). Retrieved from https://www.researchgate.net/publication/231814719_Interpretation_of_Treaties
- Jeremiah R. et al. (2017). Exposing the culture of silence: Inhibiting factors in the prevention, treatment, and mitigation of sexual abuse in the eastern Caribbean. *Child Abuse & Neglect*, 66, 53–63. Retrieved from: <https://doi.org/10.1016/j.chiabu.2017.01.029>. Epub 2017 Feb 24. PMID: 28242101.
- Kaufman, J. (2004). Endogenous explanation in the sociology of culture. *Annual Review of Sociology*, 30, 335–357. Retrieved from <http://www.jstor.org/stable/29737697>
- Maheshwari, V. K. (2016). *Social change: Theoretical rationale*. Retrieved from <http://www.vkmaheshwari.com/WP/?p=2163>
- National Working Group for Sexually Exploited Children and Young People. (2008). *How is child sexual exploitation defined?* Retrieved from <http://www.nwgnetwork.org/who-we-are/what-is-child-sexual-exploitation>
- O'Flaherty, M., & O'Brien, C. (2007). Reform of UN human rights treaty monitoring bodies: A critique of the concept paper on the high Commissioner's proposal for a unified standing treaty body. *Human Rights Law Review*, 7, 147–172.
- Oette, L. (2018). The UN human rights treaty bodies: Impact and future. In G. Oberleitner (Ed.), *International human rights institutions, tribunals, and courts*. *International human rights*. Springer. https://doi.org/10.1007/978-981-10-4516-5_5-1

⁴⁶ *Rudul Shah v State of Bihar*, (1983) 4 SCC 141; *State of Andhra Pradesh v Challa Ramkrishna Reddy*, (2000) 5 SCC 712; *D K Basu v State of West Bengal*, (1997) 1 SCC 416.

- Office of the High Commissioner, United Nations Human Rights. (2021). *Human rights treaty bodies – General comments*. Retrieved from <https://www.ohchr.org/EN/HRBodies/Pages/TBGeneralComments.aspx>
- Pobjoy, J. (2015). The best interests of the child principle as an independent source of international protection. *International and Comparative Law Quarterly*, 64(2), 327–363. <https://doi.org/10.1017/S0020589315000044>
- Sandberg, K. (2015). The convention on the rights of the child and the vulnerability of children. *Nordic Journal of International Law*, 84, 221–47, 229. ISSN 1891-8131.
- Sandberg, K. (2018). Children’s rights to protection under the CRC. In A. Falch-Eriksen & E. Backe-Hansen (Eds.), *Human rights in child protection implications for professional practice and policy*. Palgrave Macmillan. ISBN 978-3-319-94799-0.
- Save the Children UK. (2006). *Save the children cross-border project against trafficking and exploitation of migrant and vulnerable children* (Save the Children Resource Center). Retrieved from <https://resourcecentre.savethechildren.net/sites/default/files/documents/2708.pdf>
- Sur, S. (1974). *The interpretation of public international law*. LGDJ.
- Swidler, A. (1986). Culture in action; symbols and strategies. *American Sociological Review*, 41(2), 273–286.
- Swidler, A. (2001). *Talk of love: How culture matters*. University of Chicago Press.
- UN Document. (1979). *Documents of the conference*. (A/34/583/Add.1, paras. 172–175). Retrieved from https://treaties.un.org/doc/source/docs/A_CONF.62_121-E.pdf
- UN General Assembly Report. (2019). Estimated 17 million children displaced by violence, special rapporteur tells third committee as delegates tackle modern slavery, exploitation (UN General Assembly 3rd Committee, 74th Session, 35th meeting, GA/SHC/4275 25 October 2019) Retrieved from <https://www.un.org/press/en/2019/gashc4275.doc.htm>
- UN General Assembly Report. (2020). *Ending immigration detention of children and providing adequate care and reception for them*. Retrieved from <https://www.undocs.org/A/75/183>
- UNHR Office of the High Commissioner. (2021). *Human Rights Treaty Bodies – General Comments*. Retrieved from <https://www.ohchr.org/EN/HRBodies/Pages/TBGeneralComments.aspx>