



THE INTERNATIONAL LAW OF MIGRANT SMUGGLING

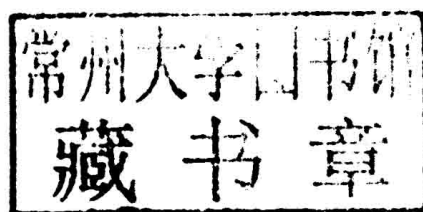
Anne T. Gallagher and Fiona David

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The International Law of Migrant Smuggling

ANNE T. GALLAGHER AO

FIONA DAVID



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THE INTERNATIONAL LAW OF MIGRANT SMUGGLING

Whether forced into relocation by fear of persecution, civil war, or humanitarian crisis, or pulled toward the prospect of better economic opportunities, more people are on the move than ever before. Opportunities for lawful entry into preferred destinations are decreasing rapidly, creating demand for a range of services that is increasingly being met by migrant smugglers: individuals or criminal groups who facilitate unauthorized entry into another country for profit.

This book, a companion volume to the award-winning *The International Law of Human Trafficking*, presents the first-ever comprehensive and in-depth analysis of the international law of migrant smuggling. The authors call on their direct experience of working with the United Nations to chart the development of new international laws and to link these specialist rules to other relevant areas of international law, including law of the sea, human rights law, and international refugee law. Through this analysis, the authors identify and explain the major legal obligations of States with respect to migrant smuggling, including those related to criminalization, interdiction and rescue at sea, protection, prevention, detention, and return.

Anne T. Gallagher AO is a lawyer, practitioner, teacher, and independent scholar with an established reputation in international affairs, particularly in human rights and the administration of criminal justice. She is a former United Nations Official (1992–2003) and was Special Adviser to Mary Robinson, the UN High Commissioner for Human Rights and former president of Ireland, from 1998 to 2002. In that capacity Dr. Gallagher participated directly in the development of the new international legal framework around transnational organized crime including the Migrant Smuggling Protocol. She continues to advise the United Nations and since 2003 has led a high-profile intergovernmental initiative that aims to strengthen legislative and criminal justice responses to human trafficking and related exploitation in South East Asia. According to the U.S. government, Dr. Gallagher is “the leading global authority on the international law on human trafficking.” She is the author of many publications, including *The International Law of Human Trafficking*, which was awarded the 2011 American Society of International Law Certificate of Merit – Honorable Mention.

Fiona David is a Visiting Fellow at the Centre for International and Public Law at the Australian National University, where she teaches Transnational Criminal Law in the postgraduate program. As a lawyer and criminologist, she has nearly twenty years of experience working on migrant smuggling and human trafficking throughout Australia, Asia, and Africa, with organizations including the UN Office of Drugs and Crime and the International Organization for Migration, and on projects funded by AusAID, USAID, and the European Union. She was the principal Drafter of the UNODC *Model Law against the Smuggling of Migrants* and of the UNODC *Model Legislative Provisions against Organized Crime*. She is the Executive Director of Global Research at Walk Free Foundation, an international human rights organization.

From the perspective of international law, any Government of a sovereign State, as a general rule if it deems necessary in its own interest, has the right to admit or not admit and to expel or not expel aliens who wish to enter or who reside in its territory, as well as to impose conditions on their entry or residence if it deems it necessary in the interest of its tranquility or domestic or international security, or of the health of its inhabitants.

Rolin-Jaquemyns, "The Right of Expulsion of Aliens," *Annuaire de l'Institut de droit international*, vol. X (1888–1889),
Lausanne session, p. 235

What men, what monsters, what inhuman race,
What laws, what barbarous customs of the place,
Shut up a desert shore to drowning men,
And drive us to the cruel seas again?

Virgil, *Aenid I*, 539–540, Dryden's translation 1 (760–763),
cited in Grotius, *The Freedom of the Seas* (1633)

Table of Cases

I. INTERNATIONAL DECISIONS

Permanent Court of International Justice

Factory at Chorzów (Germany v. Poland), Jurisdiction, [1927] PCIJ Rep, Series A, No. 9	323
Factory at Chorzów (Germany v. Poland), Merits, [1928] PCIJ Rep, Series A, No. 17	324, 595 n. 221
German Settlers in Poland, Advisory Opinion, [1923] PCIJ Rep, Series B, No. 6	282 n. 28
Mavrommatis Palestine Concessions (Greece v. Great Britain), [1924] PCIJ Rep, Series A, No. 2	129 n. 10
Nationality Decrees in Tunis and Morocco, [1923] PCIJ Rep, Series B, No. 4	209 n. 25
SS Lotus (France v. Turkey), Judgment, [1927] PCIJ Rep, Series A, No. 10	83 n. 380, 222 n. 94, 243, 419, 420 n. 73
Treatment of Polish Nationals in the Danzig Territory, Advisory Opinion, [1932] PCIJ Rep, Series A/B, No. 44	130 n. 15

International Court of Justice

Aegean Sea Continental Shelf (Greece v. Turkey), Jurisdiction, [1978] ICJ Rep 3	209 n. 25
Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), [2010] ICJ Rep 639	183 n. 261, 186 n. 274, 216 n. 63, 475 n. 337, 642 n. 236, 667, 672, 708
Anglo-Norwegian Fisheries (United Kingdom v. Norway), [1951] ICJ Rep 116	111 n. 539, 232 n. 144

- Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Serbia and Montenegro*), [2007] ICJ Rep 43 282, 289–300
- Application of the International Convention on the Elimination of All Forms of Racial Discrimination (*Georgia v. Russian Federation*) (Provisional Measures), [2008] ICJ Rep 353 256 n. 304, 468 n. 310
- Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), [2005] ICJ Rep 168 256 n. 302, 291 n. 65, 468 n. 310, 469 n. 311
- Arrest Warrant of 11 April 2000 (*Democratic Republic of the Congo v. Belgium*), [2002] ICJ Rep 3 217 n. 65, 221
- Avena and Other Mexican Nationals (*Mexico v. United States of America*), [2004] ICJ Rep 12 596 n. 223, 645 n. 255, 645 n. 258
- Barcelona Traction, Light and Power Company Limited (*Belgium v. Spain*), Second Phase, [1970] ICJ Rep 3 115 nn. 556–557, 216 n. 59, 328 n. 253, 335 n. 290
- Case Concerning the Vienna Convention on Consular Relations (*Paraguay v. United States*), Request for the Indication of Provisional Measures, [1998] ICJ Rep 248 645 n. 255
- Certain Phosphate Lands in Nauru (*Nauru v. Australia*), [1992] ICJ Rep 240 314
- Continental Shelf (*Libyan Arab Jamahiriya v. Malta*), [1985] ICJ Rep 13 113 n. 547, 241 n. 204
- Continental Shelf (*Tunisia v. Libyan Arab Jamahiriya*), [1982] ICJ Rep 18 241 n. 204
- Corfu Channel (*United Kingdom v. Albania*), [1949] ICJ Rep 4 116 n. 565, 208 n. 22, 281 n. 17, 282 n. 22, 314 n. 174, 327 n. 247
- Delimitation of the Maritime Boundary in the Gulf of Maine Area (*Canada v. United States of America*), [1984] ICJ Rep 246 230 n. 130
- Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights (Advisory Opinion), [1999] ICJ Rep 62 284 n. 32
- East Timor (*Portugal v. Australia*), [1995] ICJ Rep 90 329 n. 258
- Elettronica Sicula S.p.A (ELSI) (*United States of America v. Italy*), [1989] ICJ Rep 15 281 n. 20
- Fisheries Jurisdiction (*United Kingdom v. Iceland*), Merits, [1974] ICJ Rep 3 114 n. 550
- Gabcikovo–Nagymaros Project (*Hungary v. Slovakia*), [1997] ICJ Rep 7 114 n. 550, 280 n. 15
- Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, [1980] ICJ Rep 73 344 n. 335
- LaGrand (*Germany v. United States of America*), [2001] ICJ Rep 466 216 n. 63, 326 n. 245, 595, 645

- Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276, Advisory Opinion, [1971] ICJ Rep 16 114 n. 550
- Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, [2004] ICJ Rep 136 253 n. 278, 254 n. 285, 256, 468 n. 310, 469 n. 311
- Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, [1996] ICJ Rep 226 329 n. 258
- Legality of Use of Force (Yugoslavia v. Spain), Request for the Indication of Provisional Measures, [1999] ICJ Rep 761 314 n. 170
- Legality of Use of Force (Yugoslavia v. United States of America), Request for the Indication of Provisional Measures, [1999] ICJ Rep 916 314 n. 170
- Maritime Delimitation and Territorial Questions (Qatar v. Bahrain), [1995] ICJ Rep 6 114 n. 550
- Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States of America), Merits, [1986] ICJ Rep 14 111 n. 540, 113 n. 546, 206 n. 13, 230 n. 130, 281 n. 17, 289, 290
- North Sea Continental Shelf Cases (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands), [1969] ICJ Rep 3 111 n. 538, 229 n. 120
- Nottebohm (Liechtenstein v. Guatemala), [1955] ICJ Rep 4 209 n. 26
- Nottebohm (Liechtenstein v. Guatemala), Second Phase, [1955] ICJ Rep 4 696 n. 151
- Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment, (not yet reported) (ICJ, July 20, 2012) 227 n. 110
- Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, [1949] ICJ Rep 174 205 n. 7, 281 nn. 17 & 20, 344 n. 336
- South West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa), Second Phase, [1966] ICJ Rep 6 148 n. 103
- United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran), [1980] ICJ Rep 3 299 n. 103, 306 n. 138, 327

UN Committee against Torture

- Agiza v. Sweden, UNCAT Comm. No. 233/2003, UN Doc. CAT/C/34/D/233/2003, May 24, 2005, decided May 20, 2005, 177 n. 235, 717 n. 272
- J.H.A v. Spain, UNCAT Comm. No. 323/2007, UN Doc. CAT/C/41/D/323/2007, Nov. 21, 2008, decided Nov. 10, 2008 255 nn. 203–205, 468 n. 309
- Shek Elmi, Sadiq v. Australia, UNCAT Comm. No. 120/1998, UN Doc. CAT/C/22/D/120/1998, May 25, 1999, decided May 14, 1999 179 n. 239

UN Human Rights Committee

- A. v. Australia, UNHRC Comm. No. 560/1993, UN Doc. CCPR/C/59/D/560/1993, Apr. 30, 1997, decided Apr. 3, 1997 194 nn. 307–308, 195 nn. 316–317, 196 n. 323, 338 n. 306, 476 n. 342–343, 604 n. 31, 611 n. 65, 615 n. 91, 616–617, 626 n. 150, 627–628, 630 n. 171, 659 n. 320
- Alzery v. Sweden, UNHRC Comm. No. 1416/2005, UN Doc. CCPR/C/88/D/1416/2005, Nov. 10, 2006, decided Oct. 25, 2006 177 n. 235
- A.P. v. Italy, UNHRC Comm. No. 204/1986, UN Doc. CCPR/C/31/D/204/1986, Nov. 2, 1987, decided Nov. 2, 1987 535 n. 222
- Arévalo Perez, Elcida et al. v. Colombia, UNHRC Comm. No. 181/1984, UN Doc. CCPR/C/37/D/181/1984, Nov. 22, 1989, decided Nov. 3, 1989 609 n. 53
- A.R.J. v. Australia, UNHRC Comm. No. 692/1996, UN Doc. CCPR/C/60/D/692/1996, Aug. 11, 1997, decided July 28, 1997 177 n. 234
- Baban, Omar Sharif et al v. Australia, UNHRC Comm. No. 1014/2001, CCPR/C/78/D/1014/2001, Sept. 18, 2003, decided Aug. 6, 2003 338 n. 306, 613 n. 80, 617 nn. 105–107, 627 n. 159, 628 n. 161
- Bakhtiyari v. Australia, UNHRC Comm. No. 1069/2002, UN Doc. CCPR/C/79/1069/2002, Nov. 6, 2003, decided Oct. 29, 2003 195 n. 317, 627 n. 159, 628 n. 160
- Bleier, Eduardo v. Uruguay, UNHRC Comm. No. 30/1978, UN Doc. CCPR/C/15/D/30/1978, Mar. 29, 1982, decided Mar. 29, 1982 609 n. 53
- Burgos, Sergio Euben Lopez v. Uruguay, UNHRC Comm. No. R.12/52, UN Doc. Supp. No. 40 (A/36/40), at 176, July 29, 1981, decided June 6, 1979 610 n. 53
- C. v. Australia, UNHRC Comm. No. 900/1999, UN Doc. CCPR/C/76/D/900/1999, Nov. 13, 2002, decided Oct. 28, 2002 177 n. 234, 195 n. 318, 338 n. 306, 617 n. 105, 618 nn. 106–109, 626 n. 150, 627 n. 159, 628 nn. 160–161, 657 n. 308
- Canepa, Giosue v. Canada, UNHRC Comm. No. 558/1993, UN Doc. CCPR/C/59/D/558/1993, June 20, 1997, decided Apr. 3, 1997 190 n. 288, 695 n. 146
- Casariago, Celiberti de v. Uruguay, UNHRC Comm. No. 56/1979, UN Doc. CCPR/13/D/56/1979, July 29, 1981 252 n. 273, 258 n. 312
- Celepli v. Sweden, UNHRC Comm. No. 456/1991, UN Doc. CCPR/C/51/D/456/1991, Aug. 2, 1994, decided July 18, 1994 610 n. 56
- D. and E. v. Australia, UNHRC Comm. No. 1050/2002, CCPR/C/87/D/1050/2002, Aug. 9, 2006, decided July 11, 2006 618 n. 108
- El Ghar, Loubna v. Socialist People's Libyan Arab Jamahiriya, UNHRC Comm. No. 1107/2002, UN Doc. CCPR/C/82/D/1107/2002, Nov. 15, 2004, decided Mar. 29, 2004 154 n. 134, 696 n. 152

- F.K.A.G. et al v. Australia, UNHRC Comm. No. 2094/2011, UN Doc. CCPR/C/108/D/2094/2011, October 28, 2013, decided July 26, 2013 619 n. 110, 628 n. 161, 631 n. 184
- G.K. v. The Netherlands, UNHRC Comm. No. 1801/2008, UN Doc. CCPR/C/104/D/1801/2008, Ju n. 4, 2012, decided Mar. 22, 2012 177 n. 234
- K.A.L. and A.A.M.L. v. Canada, UNHRC Comm. No. 1816/2008, UN Doc. CCPR/C/104/D/1816/2008, May 10, 2012, decided Mar. 26, 2012 177 n. 234
- Karker, Salah v. France, UNHRC Comm. No. 833/1998, UN Doc. CCPR/C/70/D/833/1998, Oct. 30, 2000, decided Oct. 26, 2000 610 n. 56
- Lichtensztejn, Samuel v. Uruguay, UNHRC Comm. No. 77/1980, UN Doc. CCPR/C/18/D/77/1980, Mar. 31, 1983, decided Mar. 31, 1983 264 n. 342
- Lopez, Burgos/Delia Saldias de v. Uruguay, UNHRC Comm. No. 52/1979, UN Doc. CCPR/C/OP/1 at 88, 1984, decided July 29, 1981 251 nn. 271–273, 258 n. 312
- Maroufidou, Anna v. Sweden, UNHRC Comm. No. 58/1979, UN Doc. CCPR/C/12/D/58/1979, Apr. 8, 1981, decided Apr. 8, 1979 671 n. 31
- M.M.M. et al v. Australia, UNHRC Comm. No. 2136/2012, UN Doc. CCPR/C/108/D/2136/2012, October 28, 2013, decided July 25, 2013 619 n. 110, 628 n. 161, 631 n. 184
- Montero, Mabel Pereira v. Uruguay, UNHRC Comm. No. 106/1981, UN Doc. CCPR/C/18/D/106/1981, Mar. 31, 1983, decided Mar. 31, 1983 252 n. 274
- Mukong v. Cameroon, UNHRC Comm. No. 458/1991, UN Doc. CCPR/C/51/D/458/1991, July 21, 1994 630 n. 171, 638 n. 211
- Munaf v. Romania, UNHRC Comm. No. 1539/2006, UN Doc. CCPR/C/96/D/1539/2006, Aug. 21, 2009, decided July 30, 2009 253 nn. 281–282, 265 n. 345
- Nystrom v. Australia, UNHRC Comm. No. 1557/2007, UN Doc. CCPR/C/102/D/1557/2007, Sep. 1, 2011, decided July 18, 2011 158 n. 156, 695 n. 148
- Quinteros, María del Carmen Almeida de et al. v. Uruguay, UNHRC Comm. No. 107/1981, UN Doc. CCPR/C/19/D/107/1981, July, 21, 1983, decided July 21, 1983 158 n. 156, 695 n. 148
- Shafiq, Danyal v. Australia, UNHRC Comm. No. 1324/2004, CCPR/C/88/D/1324/2004, Nov. 13, 2006, decided Oct. 31, 2006 195 n. 317, 618 nn. 106–108, 625, 629 n. 168
- Shams and Others v. Australia, UNHRC Comm. Nos. 1255, 1256, 1259, 1260, 1266, 1268, 1270, 1288/2004, UN Doc. CCPR/C/90/D/1255,1256,1259,1260,1266,1268,1270&1288/2004, Sep. 11, 2007, decided July 20, 2007 195 n. 318, 618 n. 108
- Simunek et al v. Czech Republic, UNHRC Comm. No. 516/1992, UN Doc. CCPR/C/54/D/516/1992, July 31, 1995, decided July 19, 1995 148 n. 102
- Spakmo v. Norway, UNHRC Comm. No. 631/1995, UN Doc. CCPR/C/67/D/631/1995, Nov. 5, 1999 630 n. 171

- Stewart, Charles E. v. Canada, UNHRC Comm. No. 538/1993, UN Doc. CCPR/C/58/D/538/1993, Dec. 16, 1996, decided Nov. 1, 1996 695 n. 146
- Valcada, Edgardo Dante Santullo v. Uruguay, UNHRC Comm. No. 9/1977, UN Doc. CCPR/C/8/D/9/1977, Oct. 26, 1979, decided Oct. 26, 1979 626 n. 152, 641 n. 232
- van Alphen, Hugo v. The Netherlands, UNHRC Comm. No. 305/1988, UN Doc. CCPR/C/39/D/305/1988, Aug. 15, 1990, decided July 23, 1990 194 n. 308, 196 n. 323, 476 n. 343, 615, 617, 630 nn. 171–173
- V.M.R.B. v. Canada, UNHRC Comm. No. 236/1987, CCPR/C/33/D/236/1987, July 26, 1988, decided July 18, 1988 616
- Warsame, Jama v. Canada, UNHRC Comm. No. 1959/2010, UN Doc. CCPR/C/102/D/1959/2010, Sep. 1, 2011, decided July 21, 2011 177 n. 234
- Winata v. Australia, UNHRC Comm. No. 930/2000, UN Doc. CCPR/C/72/D/930/2000, Aug. 16, 2001, decided July 26, 2001 183 n. 262

International Criminal Court

- Prosecutor v. Bemba, Case ICC-01/05-01/08, ICC Pre-Trial Chamber II, June 15, 2009 284 n. 35

International Criminal Tribunal for the Former Yugoslavia

- Prosecutor v. Aleksovski, Case IT-95-14/1-T, ICTY Trial Chamber, June 25, 1999 284 n. 35
- Prosecutor v. Blaskic, Case IT-95-14-T, ICTY Trial Chamber, Mar. 3, 2000 284 n. 35
- Prosecutor v. Delalic et al, Case IT-96-21-T, ICTY Trial Chamber, Nov. 16, 1998 284 n. 35
- Prosecutor v. Delalic et al, Case IT-96-21-A, ICTY Appeals Chamber, Feb. 20, 2001 284 n. 35
- Prosecutor v. Erdemovic, Case IT-96-22-T, ICTY Trial Chamber, May 31, 1996 284 n. 35
- Prosecutor v. Furundzija, Case IT-95-17/1-T, ICTY Trial Chamber, Dec. 10, 1998 329 n. 258, 377 n. 66
- Prosecutor v. Hadzihasanovic, Case IT-01-47-T, ICTY Trial Chamber, Mar. 15, 2006 284 n. 35
- Prosecutor v. Halilovic, Case IT-01-48-T, ICTY Trial Chamber, Nov. 16, 2005 284 n. 35
- Prosecutor v. Kordic and Cerkez, Case IT-95-14-2, ICTY Trial Chamber, Feb. 21, 2001 284 n. 35
- Prosecutor v. Krnojelac, Case IT-97-25-T, ICTY Trial Chamber, Mar. 15, 2002 284 n. 35
- Prosecutor v. Kvocka et al, Case IT-98-30/1, ICTY Trial Chamber, Nov. 2, 2001 284 n. 35
- Prosecutor v. Naletilic and Martinovic, Case IT-98-24-A, ICTY Appeals Chamber, May 3, 2006 284 n. 35
- Prosecutor v. Tadić, Case IT-94-1-A, ICTY Appeals Chamber, July 15, 1999 289 n. 58

International Criminal Tribunal for Rwanda

- Prosecutor v. Baglishema, Case ICTR-95-1A-A, ICTR Appeals Chamber,
July 3, 2002 284 n. 35
- Prosecutor v. Kajelijeli, Case ICTR-98-44A-A, ICTR Appeals Chamber,
May 23, 2005 284 n. 35
- Prosecutor v. Kayishema and Ruzindana, Case ICTR-95-1-T, ICTR Trial
Chamber, May 21, 1999, 284 n. 35
- Prosecutor v. Ntagerura et al, Case ICTR-99-46-T, ICTR Trial Chamber,
Feb. 25, 2004 284 n. 35

Special Court for Sierra Leone

- Prosecutor v. Brima et al, Case SCSL-04-16-T, SCSL Trial Chamber,
June 20, 2007 284 n. 35

II. REGIONAL DECISIONS*African Commission on Human and Peoples' Rights*

- Social and Economic Rights Action Center and Center for Economic and Social
Rights v. Nigeria, Case No. ACHPR Comm. No. 155/96 (African Commission
on Human and Peoples' Rights, May 27, 2002) 305 n. 137
- Rencontre Africaine pour la Défense des Droits de l'Homme v. Zambia,
ACHPR Comm. No. 71/92 (African Commission on Human and People's
Rights, Aug. 2, 1996) 181 n. 255
- Union Inter Africaine des Droits de l'Homme and Others v. Angola, ACHPR
Comm. No. 159/96 (African Commission on Human and People's Rights,
Nov. 11, 1997) 181 n. 255

European Commission on Human Rights

- X and Y v. Switzerland, Admissibility, 9 DR 57 (EurComm'n on HR,
July 14, 1977) 312

European Court of Human Rights

- A. and Others v. United Kingdom, (2009) 49 EHRR 29 (ECHR,
Feb. 19, 2009) 194 n. 312, 631-632, 671 n. 31, 672 n. 42

- Abdolkhani and Karimnia v. Turkey, Application No. 30471/08
(ECHR, Sept. 22, 2009) 608 n. 49, 611, 613 n. 79, 620 n. 115,
621 n. 123, 624 n. 140, 626 nn. 150–153
- Akkoç v. Turkey, (2002) 34 EHRR 51 (ECHR, Oct. 10, 2000) 305
- Aksoy v. Turkey, (1997) 23 EHRR 553 (ECHR, Dec. 18, 1996) 527 n. 187
- Aktas v. Turkey, (2004) 38 EHRR 18 (ECHR, Apr. 24, 2003) 379 nn. 74–75
- Al-Jedda v. United Kingdom, (2011) 53 EHRR 23 (ECHR, July 7, 2011) 261 n. 324, 469 n. 313
- Al-Saadoon and Mufdhi v. The United Kingdom, Admissibility, (2009) 49 EHRR
SE11 (ECHR, June 30, 2009) 260 n. 322
- Al-Saadoon and Mufdhi v. United Kingdom, Merits, (2010) 51 EHRR 9 (ECHR,
Mar. 2, 2010) 265 n. 345
- Al-Skeini and Others v. United Kingdom, (2011) 53 EHRR 18
(ECHR, July 7, 2011) 261, 263 n. 339, 469 n. 313
- Alzery v. Sweden, Application No. 10786/04 (Decision of Admissibility), [2004]
ECHR 2004IV- (ECHR, Oct. 26, 2004) 186 n. 275
- Amuur v. France, (1996) 22 EHRR 533 (ECHR,
June 25, 1996) 159 n. 165, 192 n. 297, 608 n. 47, 610, 613 n. 73, 613 n. 78, 622
- Ananyev and Others v. Russia, (2012) 55 EHRR 18 (ECHR, Jan. 10, 2012) 640 n. 227
- Andric v. Sweden, (1999) 28 EHRR CD218 (ECHR, Feb. 23, 1999) 181 n. 253
- Assenov and Others v. Bulgaria, (1999) 28 EHRR 652 (ECHR, Oct. 28, 1998) 527 n. 187
- Austin and Others v. United Kingdom, (2012) 55 EHRR 14 (ECHR, Mar. 15, 2012) 611 n. 64
- Banković and Others v. Belgium and Others, (2007) 44 EHRR SE5
(ECHR, Dec. 12, 2001) 259–261, 469 n. 312
- Behrami and Behrami v. France; Saramati v. France, Germany and Norway,
(2007) 45 EHRR 10 (ECHR, May 2, 2007) 320 n. 203, 345 n. 337
- Çakici v. Turkey, [1999] ECHR 43 (ECHR, July 8, 1999) 527 n. 187
- Chahal v. The United Kingdom, (1997) 23 EHRR 413
(ECHR, Nov. 15, 1996) 194 n. 305, 621–623, 626 n. 149, 629 n. 165, 630 nn. 174–175
- Čonka v. Belgium, (2002) 34 EHRR 54 (ECHR, Feb. 5 2002) 181 n. 253, 678
- Cruz Varas and Others v. Sweden, (1991) 14 EHRR 1 (ECHR, Mar. 20, 1991) 177 n. 233
- D. v. United Kingdom, (1997) 24 EHRR 423 (ECHR, May 2, 1997) 177 n. 233
- Drozdz and Janousek v. France and Spain, (1992) 15 EHRR 745
(ECHR, June 26, 1992) 312 n. 159
- Edwards, Paul and Audrey v. United Kingdom, (2002) 35 EHRR 487
(ECHR, Mar. 14, 2002) 527 n. 187
- Ergi v. Turkey, (2001) 32 EHRR 18 (ECHR, July 28, 1998) 527 n. 187
- Ertak v. Turkey, [2000] ECHR 193 (ECHR, May 9, 2000) 527 n. 187
- Finucane v. United Kingdom, (2003) 37 EHRR 29
(ECHR, July 1, 2003) 588 n. 183, 590 n. 190
- Florea v. Romania, Application No. 37186/03 (ECHR, Sept. 14, 2010) 640 n. 228

F.N. and Others v. Sweden, Application No. 28774/09 (ECHR, Dec. 18, 2012)	691 n. 133
Hirsi Jamaa and Others v. Italy, (2012) 55 EHRR 21 (ECHR, Feb. 23, 2012)	7 n. 21, 7 nn. 23–25, 106 n. 513, 107–110, 118 n. 578, 181 n. 253, 262, 338 n. 306, 424, 440 n. 186, 442 n. 191, 444 n. 195, 464 n. 295, 470, 477, 480 n. 368, 481 n. 369, 482–483, 666 n. 9, 678, 680, 690 n. 130, 692 n. 137
HLR v. France, (1997) 26 EHRR 29 (ECHR, Apr. 29, 1997)	178 n. 239
Ilaşcu and Others v. Moldova and Russia, (2005) 40 EHRR 46 (ECHR, July 8, 2004)	260 n. 323, 289 n. 58, 469 n. 313
Ireland v. United Kingdom, (1979–80) 2 EHRR 25, (ECHR, Jan. 18, 1978)	379 n. 76, 380 n. 78
Issa and Others v. Turkey, (2005) 41 EHRR 27 (ECHR, Mar. 30, 2005)	260 n. 323, 469 n. 313
Kalashnikov v. Russia, (2003) 36 EHRR 34 (ECHR, July 15, 2002)	640 n. 228
Kaya v. Turkey, [1998] ECHR 10 (ECHR, Feb. 19, 1998)	527 n. 187
Kurt v. Turkey, [1998] ECHR 44 (ECHR, May 25, 1998)	527 n. 187
Lopez Ostra v. Spain, (1995) 20 EHRR 277 (ECHR, Dec. 9, 1994)	301 n. 110
Lupsa v. Romania, (2008) 46 EHRR 36 (ECHR, June 8, 2006)	671 n. 34
Mandic and Jovic v. Slovenia, Application Nos. 5774/10 and 5985/10 (ECHR, Jan. 20, 2012)	640 n. 227
McCann v. United Kingdom, (1996) 21 EHRR 97 (ECHR, Sept. 27, 1995)	588 n. 183
Medvedyev and Others v. France, (2010) 51 EHRR 39 (ECHR Mar. 29, 2010)	262, 469
Mentes and Others v. Turkey, [1997] ECHR 98 (ECHR, Nov. 28, 1997)	527 n. 187
Mikolenko v. Estonia, [2009] ECHR 1471 (ECHR, Sept. 8, 2009)	666 n. 11
Modârca v. Moldova, (2009) 48 EHRR 39 (ECHR, May 10, 2007)	640 n. 228
M.S.S. v. Belgium and Greece, (2011) 53 EHRR 2 (ECHR, Jan. 21, 2011)	198 n. 328, 482 n. 377, 601 n. 15, 638, 639 nn. 221–223, 690 n. 128, 693 n. 139
Mubilanzila Mayeka and Kaniki Mitunga v. Belgium, (2008) 46 EHRR 23 (ECHR, Oct. 12, 2006)	192 n. 296, 732 n. 352
Muskhadzhiyeva and Others v. Belgium, Application No. 41442/07 (ECHR, Jan. 19, 2010)	732 n. 352
Osman v. The United Kingdom, (2000) 29 EHRR 245 (ECHR, Oct. 28, 1998)	186, 305
Özkan, Ahmet and Others v. Turkey, [2004] ECHR 133 (ECHR, Apr. 6, 2004)	527 n. 187
Pavalache v. Romania, Application No. 38746/03 (ECHR, Oct. 18, 2011)	640 n. 228
Platform “ÄrtzeFür das Leben” v. Austria, (1991) 13 EHRR 204 (ECHR, June 21, 1988)	301 n. 112
Rantsev v. Cyprus and Russia, (2010) 51 EHRR 1 (ECHR, Jan. 7, 2010)	301 n. 113, 314 n. 174, 527 n. 187, 588–589

Riera Blume and Others v. Spain, (2000) 30 EHRR 632 (ECHR, Oct. 14, 1999)	613 n. 76, 629 n. 164
Saadi v. Italy, (2009) 49 EHRR 30 (ECHR, Feb. 28, 2008)	177 n. 233
Saadi, ShayanBaram v. The United Kingdom, (2008) 47 EHRR 17 (ECHR, Jan. 29, 2008)	604 n. 31, 620–621, 623 nn. 131–132, 656 n. 306
Sanchez, Ramirez v. France, (2007) 45 EHRR 49 (ECHR July 4, 2006)	640 n. 226
Seekh Salah v. The Netherlands, (2007) 45 EHRR 50 (ECHR, Jan. 11, 2007)	178 n. 239
Selçuk and Asker v. Turkey, [1998] ECHR 36 (ECHR, April 24, 1998)	527 n. 187
Sharifi and Others v. Italy and Greece, Application No. 16643/09 (ECHR, June 24, 2009)	679 n. 75
Shchukin and others v. Cyprus, [2010] ECHR 1210 (ECHR, July 29, 2010)	720 n. 285
Soering v. United Kingdom, (1989) 11 EHRR 439 (ECHR, July 7, 1989)	176 n. 233, 534 n. 218
Štruel and Others v. Slovenia, Application Nos. 5903/10, 6003/10 and 6544/10 (ECHR, Oct. 20, 2011)	640 n. 227
Sultani v. France, Application No. 45223/05, [2007] ECHR 2007-IV (ECHR, Sep 20, 2007)	181 n. 253, 678
Tabesh v. Greece, Application No. 8256/07, [2009] ECHR 2224 (ECHR, Nov. 26, 2009)	198 n. 329, 639 nn. 224–225
Tanrikulu v. Turkey, (2000) 30 EHRR 950 (ECHR, July 8, 1999)	527 n. 187
Tekin v. Turkey, [1998] ECHR 53 (ECHR, June 9, 1998)	527 n. 187
Timurtas v. Turkey, [2000] ECHR 222 (ECHR, June 13, 2000)	527 n. 187
Yasa v. Turkey, (1999) 28 EHRR 408 (ECHR, Sept. 2, 1998)	527 n. 187
Yordanov v. Bulgaria, Application No. 56856/00, [2006] ECHR 2006-V (ECHR, Nov. 10, 2006)	380 n. 78
X and Y v. the Netherlands, (1986) 8 EHRR 235 (ECHR, Mar. 26, 1985)	301 n. 111
X. v. Turkey, Application No. 24626/09 (ECHR, Oct. 9, 2012)	640 n. 226
Xhavera and Fifteen Others v. Italy and Albania, Application No. 39473/98 (ECHR, Jan. 11, 2001)	103 n. 496, 156–157, 186 nn. 276–278, 260–261, 312, 313 n. 167, 338 n. 306, 469–470, 475
Z.N.S. v. Turkey, (2012) 55 EHRR 11 (ECHR, Jan. 19, 2010)	611 n. 64, 622 n. 130

European Court of Justice

Achughbabian, Alexandrev. Préfet du Val-de-Marne (Court of Justice of the European Union, C-329/11 (not yet published), Dec. 6, 2011)	635–636
El Dridi v. Italy (Court of Justice of the European Union, C-61/11 PPU, Apr. 28, 2011)	635, 716

European Parliament v. Council of the European Union (Court of Justice of the European Union, C-355/10 (not yet published), Sep. 5, 2012)	104 n. 505
Kadzoev v. Bulgaria (Court of Justice of the European Union, C-357/09 PPU, Nov. 30, 2009), OJ C 24/17	634 n. 201, 635 n. 202
Minh Khoa Vo (Court of Justice of the European Union, C-83/12 PPU, Apr. 10, 2012)	398 n. 173

Inter-American Commission on Human Rights

Alejandre et al v. Cuba, Case No. 11.589 Report No. 86/99, Inter-AmCHR Doc. OES/Ser.L/V/II.111 Doc. 10 (Inter-Am Comm. H.R., Sept. 29, 1999)	257–259
Coard et al. v. The United States, Case No. 10.951 Report No. 109/99 OEA/Ser.L/V/II.106 (Inter-Am Comm. H.R., Sep. 29, 1999)	257
Haitian Centre for Human Rights et al v. United States, Case No. 10.675 Report No. 51/96, Inter-AmCHR Doc. OEA/Ser.L/V/II.95 Doc. 7 rev (Inter-Am Comm. H.R., Mar. 13, 1997)	269 n. 366
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Inter-American Court of Human Rights

Godínez Cruz v. Honduras, Inter-Am Ct. H.R. (ser. C) No. 5, Jan. 20, 1989	303 n. 120
Godínez Cruz v. Honduras, Interpretation of the Compensatory Damages, Inter-Am Ct. H.R. (ser. C) No. 10, Aug. 17, 1990	594 n. 214
Juridical Conditions and Rights of Undocumented Migrants, Advisory Opinion OC-18/03, Inter-Am Ct. H.R. (ser. A) No. 18, Sept. 17, 2003	148 n. 102
Sánchez v. Honduras, Inter-Am Ct. H.R. (ser. C) No. 99, June 7, 2003	589 n. 190
The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law, Advisory Opinion OC-16/99, Inter-American Court of Human Rights (ser. A) No. 16, Oct. 1, 1999	644 n. 251, 645 n. 253
The Word “Laws” in Article 30 of the American Convention on Human Rights, Advisory Opinion OC-6/86, Inter-American Court of Human Rights (ser. A) No. 6, May 9, 1986	613 n. 71
Velásquez Rodríguez v. Honduras, Inter-Am Ct. H.R. (ser. C) No. 4, July 29, 1988	286, 302–306, 588 n. 181, 592 n. 202
VélezLóor v. Panama, Inter-Am Ct. H.R. (ser. C) No. 218, Nov. 23, 2010	623 nn. 133–135
Villagrán Morales et al v. Guatemala (The Street Children Case), Inter-Am Ct. of H.R. (ser. C) No. 63, Nov. 19, 1999	527 n. 187

International Arbitral Tribunals

Affaire Chevreau (France v. United Kingdom), (1949) 2 UNRIAA 1113 (Permanent Court of Arbitration, June, 9 1931)	312 n. 159
Caire (France v. Mexico), (1952) 5 UNRIAA 516 (French–Mexican Claims Commission, June 7, 1929)	286
Guyana v. Suriname, (2008) 47 ILM 166 (Permanent Court of Arbitration, Award of Sept. 17, 2007)	429 n. 123
Island of Palmas Case (Netherlands v. United States), (1949) 2 UNRIAA 829 (Permanent Court of Arbitration, Apr. 4, 1928)	205, 207 n. 14, 208, 294 n. 88
Janes Case (United States v. Mexico), (1951) 4 UNRIAA 82 (Mexican–United States General Claims Commission, Nov. 16, 1926)	302 n. 115
Kate A. Hoff (United States of America) v. United Mexican States, (1951) IV UNRIAA 444 (Apr. 2, 1929)	459
Lusitania (Germany v. United States), (1956) 7 UNRIAA 32 (United States–Germany Mixed Claims Commission, Nov. 1, 1923)	325 n. 239
Petrolane Inc. v. Islamic Republic of Iran (1991) 27 Iran-USCTR 64 (Iran–US Claims Tribunal, Aug. 14, 1991)	286 n. 40, 526 n. 184
Spanish Zones of Morocco Claims Case (Great Britain v. Spain), (1949) 2 UNRIAA 615 (May 1, 1925)	117
SS “I’m Alone” (Canada v. United States), (1935) 3 RIAA 1609	247 n. 256
Zafiro Case (Great Britain v. United States), (1955) 6 UNRIAA 160 (Great Britain–United States Arbitral Tribunal, Nov. 30, 1925)	302 n. 114

International Tribunal for the Law of the Sea

M/V Saiga (No. 2) (St Vincent and the Grenadines v. Guinea), [1999] ITLOS Rep 10	240 n. 199, 249 n. 264, 417, 427 n. 112, 428 n. 114, 428 nn. 117–118, 429, 474 n. 334
Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area, Advisory Opinion, (2011) ITLOS Case No. 17 (Feb. 1, 2011)	302 n. 116

III. NATIONAL DECISIONS

Australia

A. v. Minister for Immigration and Multicultural Affairs [1999] FCA 227 (Jan. 1, 1999)	173 n. 222
Al-Kateb v. Godwin (2004) 219 CLR 562 (Aus. HC, Aug. 6, 2004)	629 n. 166, 629 n. 168