

Duty of Care under Public International Law

Background

→ Situations of global interest

Individuals in the hands of foreign states acting extraterritorially

→ Their lives are 'closely and directly affected' by foreign state decisions and action, e.g.:

→ Maritime migration / SAR

→ Effects of sea level rise on small island states

Theoretical starting point

→ Louise Arbour
(*Review of International Studies*, 2008)

→ Duty of care in international law and practice (R2P)

→ 'Global web of interdependence'

→ Obligation of conduct and not results

→ **Permanent duty of care** established by relationship of **proximity, influence and knowledge**

Legal foundation?

→ Sources of law?

→ What will it look like?

→ **Obligation to act** (public powers)

→ **Foreseeable risk**

→ **Special relationship:**
→ **Proximity, influence, knowledge**

→ **Sense of international justice & responsibility** (supporting SDG 16)
→ **Fairness, equity, humanity**

Collective responsibility?

→ Scholarly discourse seeking new model of collective international responsibility

→ Developments already occurring in international law practice and scholarship, e.g.:

→ Global compacts on refugees and migration

→ IHRL – Human Rights Committee

→ Climate change litigation and legal scholarship

→ **Obligation of best-efforts and not results**