

PARENT-CHILD SEPARATION IN THE UNITED STATES

A Unified Constitutional and Human-Rights Framework

Integrating the Constitutional Architecture of Troxel II with the IAJ Multi-Treaty Synthesis

A Comprehensive Legal Thesis & Practical Implementation Framework

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Key Insight: Mutual Reinforcement

*The most significant finding is that two independently developed frameworks (Troxel II + IAJ jus cogens Synthesis) arrive at structurally identical diagnoses and remedies, strengthening credibility of both projects. The most consequential convergence is in **Epistemic Boundary / Move 4 (Istanbul Protocol)**—both require falsifiable, causally-connected evidence and bar non-falsifiable belief frameworks.
--typical observation asserted independently by multiple AI agents*

Acknowledgments and Attribution

This Framework is published by the Institute for the Advancement of Justice & Human Rights (IAJ) as a primary authority on parent–child separation in the United States and as the IAJ’s contribution to the global authority on parent–child separation across all states bound by the international human-rights instruments analysed herein.

The constitutional architecture set out in Part II of this Framework — the eight constitutional holdings of Troxel II (Fit Parent Presumption, Strict Scrutiny Floor, Equal Protection Between Fit Parents, Non-Delegation Rule, Auditable Orders, Emergency Discipline, Epistemic Boundary, and Duty to Cooperate), the Madisonian institutional diagnosis, the coercive-architecture analysis, and the Kinship Continuity and Graduated Restoration module — is the work of Daniel J. Sturtevant, Ph.D. The IAJ acknowledges Dr. Sturtevant’s authorship of that constitutional framework and incorporates it into the present Framework with attribution. The IAJ takes responsibility for the synthesis itself, for the integration with the multi-treaty architecture, for the interpretive positions identified as the IAJ’s own, and for any errors of integration. Dr. Sturtevant’s underlying work retains its independent authority and citation form.

The international architecture set out in Part II — the Six-Move framework, the multi-treaty convergence, the three-category taxonomy, the unified discriminatory-purpose architecture, and the case-archive evidentiary record — is the IAJ’s own work, drawn principally from the IAJ Synthesis Memorandum (UNCAT and Jus Cogens: A Contemporary Perspective, 2026 Edition, IAJ Reference IAJ-STD-20260505-001-PUB) and from the IAJ’s working documents on multi-treaty enforcement.

The synthesis itself — the holding-to-Move mapping, the analytical workflow, the bench card, and the audience-specific implementation guidance — is the joint product of the integration and is published by the IAJ under the present reference. Where the Framework adopts an interpretive position not shared by the underlying Troxel II project (notably, the qualification that the symmetry

presumption between fit parents must yield where one parent uses proceedings as the instrument of coercive harm against the other), the position is the IAJ's own and is identified as such.

Nothing in this Framework should be read to attribute the IAJ's jus cogens, UNCAT, functional-custody, treaty-body, retrospective-accountability, or judicial-liability theories to Dr. Sturtevant or to the Troxel II project unless expressly stated in Troxel II itself. Troxel II supplies the constitutional architecture incorporated here with attribution; the international-law synthesis, accountability extensions, and treaty-based applications are IAJ positions.

Source Works Integrated in This Framework

Constitutional Framework:

Constitutionalizing Family Law: The Madisonian Project in Troxel II

Daniel J. Sturtevant, Ph.D.

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Brief for the Institute for the Advancement of Justice & Human Rights as Amicus Curiae

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Counsel: Robert M. O'Boyle (Tex. Bar No. 15165425)

PREFACE — Dignity as the Common Foundation and as Quality Control

Both projects integrated in this Framework rest on the same foundational principle, though they articulate it through different doctrinal vocabularies. The IAJ Synthesis Memorandum derives its analytical authority from the inherent dignity of the human person — the principle stated explicitly in the Preambles of the Universal Declaration of Human Rights (1948), UNCAT (1984), the ICCPR and ICESCR (1966), the CRC (1989), the CRPD (2006), and every regional human-rights instrument analysed in this Framework. The dignity principle is not rhetorical: it is the foundation from which the substantive prohibitions in those instruments derive, and it is the methodological constraint within which any interpretation of those instruments must operate. Where an interpretation produces a result inconsistent with the inherent dignity of the human person, the interpretation is foreclosed regardless of textual flexibility.

The Troxel II constitutional architecture derives its authority from the same principle, articulated through the doctrinal vocabulary of fundamental-rights jurisprudence. The Madisonian project to complete the unfinished work of Meyer–Pierce–Troxel rests on the recognition that the parent–child bond is one of the deepest dignitarian interests the constitutional order recognises — the relationship through which children are raised into the citizens whose dignity the constitutional order then protects. Each of the eight holdings protects a specific dignitarian dimension of that bond: the Fit Parent Presumption protects the dignity of the parent in the parental role; the Strict Scrutiny Floor protects the dignity of the bond against unjustified state interference; Equal Protection Between Fit Parents protects the dignity of each parent against state-imposed asymmetry; Auditable Orders protect the dignity of the parent’s claim to know the basis of state action affecting them; the Epistemic Boundary protects the dignity of the parent’s claim to be judged on evidence rather than belief; the Non-Delegation Rule protects the dignity of the parent’s claim to be judged by an accountable adjudicator; Emergency Discipline protects the dignity of the parent’s claim to procedural protection even in emergencies; and the Duty to Cooperate protects the dignity of the family unit against state-induced fragmentation.

The dignity foundation common to both projects is not a coincidence. The Troxel II constitutional architecture and the IAJ international architecture protect the same human relationship through different doctrinal vehicles, both grounded in the same recognition: that the parent–child bond is a property of persons, not of institutions, and that its protection must therefore travel with the person regardless of the institutional vehicle through which the state acts. Two reform projects working independently from foundations sharing no authorities, audience, or author have arrived at structurally identical answers to the same institutional pathology in U.S. family adjudication because both projects are derived from the same underlying foundation. The convergence is the foundation’s signature.

The IAJ Synthesis Memorandum applies a Dignity Alignment Test at five critical analytical junctures (§§ I.D, III.B, V, VII.I, and VIII.E of the Synthesis Memorandum). Each Test performs three operations: (1) it states the IAJ's thesis position in its plainest form; (2) it states the strongest adversarial counter; and (3) it derives, from the foundational dignity principle, which position is consistent with the foundation and which is not. The Test is quality control: every proposition advanced by the framework, if correctly derived, should survive testing against the dignity foundation that the framework presupposes. Where a proposition does not survive the Test, the proposition is not part of the framework — either an error of derivation or an error of foundation requires correction before the proposition can be relied on.

This Framework adopts the Dignity Alignment Test as its quality-control methodology and applies it at six critical junctures of the integrated PCS framework. The Tests are visually marked and may be read as a standalone sequence (compiled in Appendix C). Three of the six Tests are adapted from the IAJ Synthesis Memorandum (the Setting Coverage, Functional Custody, and Jus Cogens Override Tests, corresponding to the Synthesis Memorandum's §§ III.B, VII.I, and V Tests respectively). Three are new to this Framework (the Equal Protection Yielding Test addressing the IAJ's qualification to Holding 3; the Equivalence Promise Test addressing the deposited-instrument doctrine of Chapter 11; and the Parent-Level Access Test addressing the Reliability Floor of Chapter 13). The remaining two Synthesis Memorandum Tests (the Lawful Sanctions Carve-Out Test and the Article 20 Systematic Practice Test) are not separately reproduced because their analytical content is fully incorporated into the holding-to-Move mapping (Chapter 6) and the multi-treaty convergence (Chapter 7) respectively, but readers should understand that the dignity-derived results of those Tests support the corresponding sections of this Framework.

The IAJ treats the Dignity Alignment Test as more than a rhetorical device. It is the methodological commitment that the Framework's outputs are derivable from, and consistent with, the foundational principle the Framework presupposes. For the integrated PCS framework: every proposition advanced — whether at the constitutional layer (the eight holdings), the international layer (the Six Moves), the multi-treaty layer (the convergence), the operational layer (the workflow, bench card, model orders), or the doctrinal layer (the deposited-instrument doctrine, the equivalence promise, the three-category taxonomy) — should survive the dignity test. Where a reader of this Framework finds a proposition that does not survive the Test, that finding is itself part of the quality-control methodology: it identifies an error in the Framework that requires correction. The IAJ welcomes such findings.

The Two-Layer Architecture at a Glance

Before the Framework develops the constitutional and international layers in detail, the relationship between them is set out below in summary form. The diagram is the orienting instrument: every chapter that follows operates within one of the two layers, and every analytical step in the workflow (Chapter 12) executes against both layers in parallel. The two layers operate at different thresholds, address different audiences, and produce different remedial outputs. They reinforce one another but do not collapse into one another.

Threshold Rule. A finding at one layer does not automatically establish liability or violation at the other. Constitutional error, structural abuse, CIDT, torture, jus cogens concern, and personal accountability are distinct classifications. Escalation from one classification to another requires record-specific findings satisfying the elements of the higher classification, including severity, causation, state knowledge or intent, official capacity or acquiescence, prohibited purpose, exhaustion or remedial failure where relevant, and the absence of an adequate lawful-sanctions justification.

	LAYER A — Constitutional / Domestic	LAYER B — International / Multi-Treaty
Source	Troxel II (Sturtevant) — Constitutional architecture, Madisonian institutional design, Meyer–Pierce–Troxel completion.	IAJ Synthesis (UNCAT and Jus Cogens, 2026 Edition) — Six-Move framework, multi-treaty convergence, jurisdictional custody, dignity quality control.
Function	Prospective domestic constitutional floor for family adjudication. Operates ex ante on the proceedings to prevent the harm.	International accountability architecture for severe documented violations. Operates ex post on the documented harm and retrospectively on the pre-adoption cohort.
Threshold	Strict scrutiny under the Fifth and Fourteenth Amendments; clear and convincing evidence; least restrictive means.	Treaty elements: severity, intent or knowing continuation, official capacity or acquiescence, coercive or discriminatory purpose, and exhaustion of domestic remedies.
Audience	Federal courts, state legislatures, family-court judges, child-welfare agencies, parent-representation programs.	CAT, HRC, CRC, CRPD, CERD, CEDAW, CED Committees; Special Procedures; IRCT; regional human-rights bodies; prosecutorial authorities; disciplinary commissions.
Remedy	Prospective: written findings, auditable orders, reliability floor, kinship	Retrospective: treaty-body findings, jus cogens override of domestic immunities (Move 5), Pinochet-style

	LAYER A — Constitutional / Domestic	LAYER B — International / Multi-Treaty
	continuity restoration, model statute adoption.	accountability, criminal and disciplinary referrals.
Adequacy on Five Dimensions	Partial. Provides prospective procedural protection within proceedings. Does not provide the prevention obligation (UNCAT 2(1), 10, 11), the protection obligation against retaliation, the relief obligation independent of domestic finality (UNCAT 13), the reparation obligation including rehabilitation (UNCAT 14, CAT General Comment No. 3), or the criminalisation/prosecution obligation (UNCAT 4, 7) that the international architecture requires.	Full. Provides the five protection dimensions: prevention (UNCAT 2(1), 10, 11), protection (UNCAT 2(2), 2(3), 3; CRC 19; CRPD 16), relief (UNCAT 13), reparation (UNCAT 14 and CAT General Comment No. 3), and criminalisation/prosecution (UNCAT 4, 7). Survives domestic finality on jus cogens grounds (Pinochet, Barrios Altos, ILC Draft Conclusions on Jus Cogens). The U.S.'s existing treaty commitments require this layer independently of any constitutional adoption.
Common Foundation	INHERENT DIGNITY OF THE HUMAN PERSON <i>UDHR Preamble • UNCAT Preamble • ICCPR Preamble • CRC Preamble • CRPD Preamble • Constitutional dignitarian jurisprudence</i>	

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Prefatory

Why This Framework Exists

Two authoritative frameworks which inherently stimulate reform, working at different doctrinal layers and from foundations sharing no authorities, audience, or author, have arrived at structurally identical answers to the same institutional pathology in U.S. family adjudication. The Madisonian Project in *Troxel II* works at the domestic-constitutional layer, applying the Meyer–Pierce–*Troxel* line, *Lugar v. Edmondson Oil Co.*, *Shelley v. Kraemer*, the non-delegation principle, and Madisonian institutional design. The IAJ Synthesis works at the international-treaty and jus cogens layer, applying UNCAT, the VCLT, OPCAT, ICJ jurisprudence on peremptory norms, and the parallel architectures of every core international human-rights instrument.

When two authoritative frameworks, working independently and from different foundations, arrive at structurally identical answers, the underlying institutional pathology is real and the remedies are well-calibrated. The IAJ publishes this Framework as the unified authority that the field has lacked — a single guide to how parent–child separation must be perceived, analysed, and remedied in the United States, with reach that follows the international authorities into every jurisdiction that takes the same treaty obligations seriously.

How to Use This Framework

Part I — Perception establishes the institutional pathology and the dual-plane character of parent–child separation. It is for any reader new to either layer.

Part II — Analysis sets out the integrated standard: the eight constitutional holdings, the Six-Move international framework, the comprehensive multi-treaty convergence (every relevant universal, specialised, regional, and soft-law instrument), the dedicated CRC analysis, the three-category taxonomy that gates accountability action, and the unified discriminatory-purpose architecture.

Part III — Implementation supplies the analytical workflow for any individual case, the Kinship Continuity and Graduated Restoration module, the bench card, and audience-specific guidance for federal courts, state legislatures, treaty bodies, and practitioners.

Part IV — Reach extends the framework to CPS and ICWA cases, to non-family-law settings of non-custodial institutional torture, to retrospective accountability for the pre-adoption cohort, and to global application beyond the United States.

An Epilogue records the methodological observation that supports the synthesis itself, the conditions under which this Framework should be revisited, and the citation form for downstream work.

PART I — PERCEPTION: HOW TO SEE PARENT–CHILD SEPARATION

Chapter 1 — The Phenomenon

Parent–child separation in the United States is a category of adjudicative state action with three defining features. First, it operates on the only fundamental liberty interest the Supreme Court has recognised without ever rendering an administrable doctrine: the parent–child bond, recognised in *Meyer v. Nebraska*, *Pierce v. Society of Sisters*, and *Troxel v. Granville*, but never given the structural protections that govern speech, religion, voting, or criminal procedure. Second, it produces severe and often irreversible developmental, psychological, and physiological harm to the children and parents subjected to it, harm that is documented in the peer-reviewed psychiatric literature and in the IAJ’s clinical case archive. Third, it is administered through a system designed in ways that, by structural rather than individual fault, produce outcomes that are often arbitrary, unauditible, and unreviewable.

The phenomenon is not episodic. Family courts adjudicate millions of cases each year in the United States. Child Protective Services agencies handle millions more. The cumulative volume of state action affecting parent–child bonds — through custody modifications, evaluator-driven reassignments, supervised-contact orders, ex-parte protective orders, foster removals, and termination proceedings — is the largest body of state interference with a fundamental liberty operating in the United States. It is also the body of state interference that operates with the least doctrinal discipline.

The IAJ treats parent–child separation as a single category of state action across all institutional vehicles: family-court orders, CPS removals, school-mediated separations, juvenile-court placements, immigration-related removals, and the cumulative procedural conduct that produces de facto separation without formal order. The constitutional and treaty analyses that follow apply to each vehicle. The categorical question — has the state separated a parent from a child, or materially burdened the maintenance of their bond — does not turn on the institutional vehicle through which the separation is effected.

Chapter 2 — The Institutional Pathology: A Unified Diagnosis

The Madisonian diagnosis of family adjudication and the IAJ diagnosis of non-custodial institutional torture identify the same set of structural defects through different doctrinal vocabularies. The *Troxel II* vices catalogue and the IAJ five structural mechanisms are, in substance, the same diagnostic instrument applied at different layers of legal architecture. The diagnosis below combines them into a unified analysis.

The Indeterminate Standard

The 'best interests of the child' test, as currently applied in U.S. family courts, is a standardless invitation to adjudicative preference. It operates as the functional opposite of strict scrutiny: vague where clarity is required, discretionary where fundamental rights demand constraint, and unauditable where appellate review depends on identifiable findings. The IAJ identifies the same defect at the international layer through the institutional category of 'non-falsifiable belief frameworks' — adjudicative reliance on labels and ideologically saturated constructs that cannot be tested against evidence. The Convention on the Rights of the Child supplies the corrective: CRC Article 3 requires that the child's best interests be a primary consideration, with the substantive content of that consideration defined by enumerated rights and procedural safeguards. The U.S. 'best interests' test, lacking those substantive enumerations and procedural safeguards, is the doctrinal artifact through which the institutional pathology operates.

Delegated Adjudication

Family courts increasingly delegate decisive authority to private actors — guardians ad litem, custody evaluators, parenting coordinators, reunification therapists, and other professionals operating without the procedural safeguards that govern judicial decision-making. Troxel II identifies this as a non-delegation violation under Shelley v. Kraemer and Lugar v. Edmondson Oil Co.: state-backed actors cannot wield adjudicatory power without constitutional discipline. The IAJ identifies the same defect through the Article 1 acquiescence clause of UNCAT, through CRPD Article 13's access-to-justice requirements, through CRC Article 12's requirement that children be heard directly rather than through professionals operating opaquely on their behalf, and through ICCPR Article 14's fair-hearing guarantees.

Self-Sealing Professional Frameworks

Where adjudicative findings rely on professional opinion that cannot be examined, contradicted, or replicated, the framework that produces the opinion becomes self-sealing. The mechanism is identifiable across categories: parental-alienation theories that treat resistance to contact as evidence of the very alienation alleged; therapeutic-jurisprudence frameworks that treat treatment compliance as the measure of fitness; reunification protocols that treat distress at separation as confirmation of the need for further separation. Troxel II identifies this defect through the Epistemic Boundary requirement. The IAJ identifies the same defect through Move 4 of the Six-Move framework and through the Istanbul Protocol methodology that produces falsifiable causal documentation.

Audit Absence

Findings that do not identify the evidence credited, the standard applied, and the alternatives rejected cannot be reviewed on appeal in any meaningful sense. Troxel II identifies this as the

auditable-orders defect. The IAJ identifies the same defect at the international layer through Move 3 of the Six-Move framework: where the domestic record cannot show that a sanction is the least restrictive means supported by clear and convincing evidence, the lawful-sanctions carve-out under UNCAT Article 1 collapses through the three-part analysis. CRC Article 9 imposes the same requirement directly on parent–child separation: separation against the will of the child or parents is permissible only when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that the separation is necessary for the best interests of the child.

Sustained Adversarial Harm as Institutional Output

Family adjudication is the only major domain of U.S. adjudication in which the proceedings themselves predictably produce severe psychological and physiological harm to the parties. Troxel II identifies this through the diagnostic that family law operates as a 'harm multiplier' through institutional design rather than individual misconduct. The IAJ identifies the same phenomenon through the Incapacitation Feedback Loop and through the documented clinical record that produces Istanbul Protocol Level IV–V severity findings in the IAJ case archive. This is the most consequential structural defect: where adjudicative process is itself the instrument of harm, no procedural reform that operates downstream of the proceedings can produce a remedy.

Chapter 3 — The Coercive Architecture: Why Family Adjudication Operates Differently

Family adjudication operates within a coercive architecture that distinguishes it from other domains of civil and criminal adjudication. The defining feature is catastrophic exit cost. A parent subject to a family-court order or a CPS proceeding cannot withdraw without risking permanent termination of parental rights. The child cannot withdraw at all, because the child is in the physical custody of the state or a state-supervised placement. Both parent and child are in a compulsory relationship with state authority that controls the terms of the relationship and from which exit produces exactly the harm the proceeding purports to adjudicate.

Troxel II identifies this architecture through the 'Sovereign Parent / Captive Litigant' framing and through the coercive-procedural-backdrop analysis. The IAJ identifies the same architecture through Dimension VII (Jurisdictional Custody and the Captive Litigant) of the IAJ Synthesis Memorandum and through Move 6 of the Six-Move framework, applying OPCAT Article 4(2) functional-custody jurisprudence, ICCPR Article 9 (functional liberty deprivation), CRPD Article 14 (liberty and security), and CRC Article 37(b) (deprivation of liberty as a measure of last resort). The two projects use different doctrinal vehicles. They identify the same coercive structure.

The coercive architecture has three implications that recur throughout this Framework. First, the proceedings cannot be analysed as a neutral forum for adjudicating disputes between equally situated parties. The state is itself a party — the most powerful party — and the proceedings operate under conditions of compulsion. Second, the harms produced by the proceedings cannot be analysed as incidental to legitimate adjudication. They are produced by the proceedings themselves, are foreseeable to the officials administering them, and are documented in the contemporaneous record. Third, the absence of meaningful exit means that the heightened standards governing other coercive settings — criminal procedure, custodial detention, civil commitment — apply with at least equal force, even where the formal label is 'civil family adjudication.' The coercive architecture is what triggers the constitutional and international standards that the rest of this Framework applies.

DIGNITY ALIGNMENT TEST — Functional Custody / Coercive Architecture
Liberty must be meaningful, not merely formal (PCS Framework Chapters 3, 5; cf. IAJ Synthesis Memorandum § VII.I)

Thesis position. A parent subject to coercive family proceedings, and a child placed in state-supervised custody pending those proceedings, are functionally deprived of liberty for purposes of OPCAT Article 4(2), ICCPR Article 9, CRPD Article 14, and CRC Article 37 — because the catastrophic exit costs (permanent termination of parental rights; the child's inability to leave state-supervised placement) make exit without irreversible harm impossible.

Adversarial counter. Civil litigation is voluntary by definition; family-court parties are not detained, not confined, and not under physical restraint; the formal characteristics of detention are absent. Treating family proceedings as functional custody collapses meaningful legal categories.

Dignity derivation. The dignity principle requires not formal freedom but meaningful freedom — the actual capacity to determine one's own course without facing choices that no person of inherent dignity should be forced to make. UDHR Article 3 guarantees the right to liberty and security of person. A parent who must choose between continued participation in proceedings producing documented severe harm and withdrawal that produces permanent loss of the parent-child bond is not exercising liberty; the parent is trapped between two forms of institutional harm. The child placed in foster care or supervised settings, who cannot consent and cannot leave, is in the position the OPCAT 4(2) functional definition was designed to reach. The adversarial position protects the form of liberty (no physical restraint) while ignoring its substance (meaningful capacity for self-determination). Dignity requires substance. The thesis position — functional custody tested by whether exit without catastrophic consequence is possible — is the only formulation consistent with dignity as a substantive guarantee.

PART II — ANALYSIS: THE INTEGRATED STANDARD

Chapter 4 — The Constitutional Architecture: The Eight Holdings of Troxel II

The Madisonian Project in Troxel II proposes eight administrable constitutional holdings that, taken together, complete the unfinished work of Meyer–Pierce–Troxel and supply the institutional architecture that family adjudication has lacked for more than a century. The holdings are stated below in the form proposed by the underlying work of Daniel J. Sturtevant, with synthesis annotations identifying the international counterpart of each holding. The holdings are interlocking but modular: each can be adopted independently and produces independent benefits, but together they constitute the constitutional floor that the IAJ treats as the prospective domestic standard.

Holding 1 — The Fit Parent Presumption

Both parents stand as constitutional equals unless unfitness or concrete harm is proved by clear and convincing evidence. The presumption operates *ex ante* as the starting point of any analysis affecting the parent–child bond. It binds courts, agencies, and professionals: the state may not second-guess a fit parent’s decisions merely because others would choose differently. International counterparts: CRC Article 18 (parental responsibility recognised as primary, with state assistance rather than displacement); ICCPR Article 23 (family as natural and fundamental group unit entitled to protection); ICESCR Article 10 (widest possible protection and assistance for the family); CRPD Article 23 (rights of disabled parents); UDHR Article 16 (family entitled to protection by society and state).

Holding 2 — The Strict Scrutiny Floor

Any state action that materially impairs the maintenance of a sustained, secure parent–child attachment bond must be narrowly tailored to a compelling interest, supported by clear and convincing evidence, and the least restrictive means available. The Strict Scrutiny Floor places family adjudication in the category of fundamental-rights adjudication where every other domain of comparable importance already sits. International counterparts: CRC Article 9 (separation only when necessary for the best interests of the child, by competent authorities subject to judicial review, in accordance with applicable law and procedures); ICCPR Article 17 (no arbitrary or unlawful interference with family); ECHR Article 8 (right to respect for family life, with interference permitted only as necessary in a democratic society and proportionate to a legitimate aim); ACHR Article 17 (family entitled to protection); ACRWC Article 19 (parental care and protection); UDHR Article 12 (no arbitrary interference with family).

Holding 3 — Equal Protection Between Fit Parents

The state must treat all fit parents as constitutional equals. Any preference, burden, or restriction favouring one fit parent over another must satisfy strict scrutiny and the least-restrictive-means test, supported by clear and convincing evidence of necessity. International counterparts: ICCPR Article 26 (equal protection); CEDAW Article 16 (equality in family matters, including custody and guardianship); CEDAW General Recommendation No. 35 (gender-based violence including coercive separation); ICERD Article 5(a) (equal access to courts without racial discrimination); CRPD Article 23 (parental rights equality for disabled parents); UDHR Articles 7 and 16 (equal protection and equal rights in marriage and family). The IAJ qualifies the symmetry presumption: the symmetry presumption between fit parents may yield only upon specific, falsifiable, auditable findings — meeting the same evidentiary standards the Framework requires for any other harm finding — that one parent is using legal process as an instrument of coercive harm, rights suppression, discriminatory abuse, or evasion of accountability against the other parent or the child. Mere conflict, allegation, emotional distress, litigation posture, or professional narrative does not satisfy this gate. The yielding rule must itself satisfy the Epistemic Boundary (Holding 7), the Auditable Orders requirement (Holding 5), and least-restrictive-means analysis (Holding 2). Without that gate, the qualification would recreate the discretionary “best interests” latitude that the Madisonian project is designed to cure.

Holding 4 — The Non-Delegation Rule

Advisors may advise; judges decide. Private evaluators, coordinators, guardians ad litem, and reunification professionals may inform but never substitute for adjudication. International counterparts: UNCAT Article 1 acquiescence clause (covering harm caused by private actors with the consent or acquiescence of public officials); ICCPR Article 14 (fair-hearing guarantees including independent and impartial tribunal); CRPD Article 13 (access to justice, including procedural and age-appropriate accommodations); CRC Article 12 (right of the child to express views directly or through a representative, with procedural safeguards).

Holding 5 — Auditable Orders

Written findings must identify the evidence credited, the constitutional standard applied, and the less-restrictive alternatives considered and rejected. International counterparts: UNCAT Article 1 lawful-sanctions analysis (three-part test of 'only from,' 'lawful,' and cumulative-prolongation); CRC Article 9 (judicial review with all interested parties able to participate); ICCPR Article 14 (reasoned decision-making); ECHR Article 6 and Article 8 (procedural fairness, including reasoned decisions affecting family life); CRPD Article 13 (procedural accommodations enabling effective participation in proceedings).

Holding 6 — Emergency Discipline

Ex parte and emergency orders affecting the parent–child bond require specific risk findings, live testimony within fourteen days, and automatic sunset of the emergency order at the conclusion of that hearing absent renewed findings on the contested record. International counterparts: UNCAT Article 1 cumulative-prolongation prong; CRC Article 9 (separation only when necessary, with judicial review); ICCPR Article 9 (procedural protection against arbitrary deprivation of liberty, applied through functional-deprivation jurisprudence); ECHR Article 8 procedural guarantees against disproportionate interim measures; Bangkok Rules and Beijing Rules (procedural protection in proceedings affecting children and primary caregivers).

Holding 7 — The Epistemic Boundary

Decisions affecting the parent–child bond must rest on epistemically accountable evidence: grounded in specific conduct, demonstrating a causal nexus to concrete harm, contestable on the record, and falsifiable where empirical. The holding does not regulate clinical practice; it governs the forensic justification for state action. International counterparts: Move 4 of the IAJ Six-Move framework (severity established medically, not asserted); the Istanbul Protocol (Manual on Effective Investigation and Documentation of Torture, OHCHR, 1999/2022); CRC Article 12 (the child’s views must be given due weight, requiring meaningful contact with the evidence rather than reliance on professional intermediation alone); CRC General Comment No. 14 on Article 3 (best-interests determination requires consideration of specific listed factors with reasoned justification). This is the most consequential single point of convergence between the constitutional and international layers.

Holding 8 — The Duty to Cooperate

Procedures must reinforce, not sabotage, the fiduciary duty of fit parents to raise their child together. Courts must treat conflict between fit parents as a coordination problem and require the least-restrictive steps to restore cooperation, rather than treating conflict as evidence of unfitness in either parent. International counterparts: CRC Article 18 (both parents have common responsibilities for the upbringing and development of the child, with the state providing assistance); ICCPR Article 23 (family unity); ECHR Article 8 (positive obligations of states to facilitate family life, including post-separation contact); CRC Article 9(3) (right of the child to maintain contact with both parents on a regular basis except where contrary to the child’s best interests).

DIGNITY ALIGNMENT TEST — Equal Protection Between Fit Parents

When does the symmetry presumption itself become a dignity violation? (PCS Framework Chapter 4, Holding 3)

Thesis position. Both fit parents stand as constitutional equals under Holding 3, with strict scrutiny and clear-and-convincing evidence required for any state-administered preference between them. The symmetry presumption is the default and remains so in the overwhelming majority of cases. However, where one parent has documented use of proceedings as the instrument of coercive harm against the other parent or the child — measured by the same epistemic standards that govern any other claim of harm — the continued application of strict symmetry would itself become a dignity violation against the harmed parent and child.

Adversarial counter. Strict symmetry between fit parents must be absolute. Any qualification creates a backdoor for the gender-bias and protective-parent / suspect-parent coding patterns that Holding 3 was specifically designed to prevent. Allowing the symmetry presumption to yield reintroduces precisely the judicial discretion the rule was meant to constrain, and risks reproducing — under a new label — the same pattern Holding 3 sought to abolish.

Dignity derivation. Both positions protect dignity, but in different respects, and the principled resolution is not to choose one over the other but to identify when each operates. Strict symmetry protects the dignity of both parents equally against state-administered asymmetry, and is the correct rule in the cases where state-administered asymmetry is the threat. The coercive-harm exception protects the dignity of the parent and child being harmed by procedural weaponisation, and is the correct rule in cases where procedural weaponisation is the threat. The two situations are empirically distinguishable on the same evidentiary record that governs every other harm finding in the Framework: the question is not whether one parent is more sympathetic, but whether documented coercive harm has been established by clear and convincing evidence under the Epistemic Boundary. Where it has, continued application of strict symmetry would deny dignity to the parent and child being harmed. Where it has not, the symmetry presumption controls. The thesis position is dignity-derived in both directions. The adversarial position would protect the rule at the expense of the dignity the rule was designed to protect.

Chapter 5 — The International Architecture: The Six-Move Framework and Multi-Treaty Operation

The IAJ Six-Move framework establishes that judicial and administrative conduct producing severe documented harm to vulnerable parents and their children satisfies the elements of UNCAT Article 1 (torture) or Article 16 (CIDT). The framework was developed under UNCAT but operates in parallel under every other relevant international human-rights instrument. The Moves are reproduced below in summary form, each annotated with multi-treaty operation. The full elaboration is in the IAJ Synthesis Memorandum (UNCAT and Jus Cogens: A Contemporary Perspective, 2026 Edition).

Move 1 — No Setting Qualifier

UNCAT Article 1 contains no qualifier limiting its coverage to detention or interrogation. The Convention's text reaches official conduct in any setting, including judicial and administrative proceedings. The setting-coverage objection — that family courts and CPS agencies are outside scope because they are not detention facilities — is a doctrinal artifact, not a treaty limit. Multi-treaty operation: ICCPR Article 7 contains no setting qualifier; CRC Article 19 reaches all violence regardless of setting; CRPD Article 15 contains no carve-out and explicitly applies in judicial proceedings through Articles 13–14; ECHR Article 3 admits no exceptions and has been applied to family proceedings in the European Court's case law; the Rome Statute Article 7(1)(f) defines torture without setting limitation. Move 1 reaches the same setting-coverage result that Holding 2 (Strict Scrutiny Floor) reaches at the domestic-constitutional layer.

Move 2 — Purpose Elements Satisfied by Specific Conduct

The Article 1 enumerated purposes (coercion, punishment, intimidation, discrimination, and obtaining information) are satisfied by specific judicial and administrative conduct. Coercive parent-child separation satisfies multiple purpose elements simultaneously: punishment (imposed where parents challenge agency authority), coercion (compelling compliance under threat of permanent separation), and discrimination (systematic over-representation of disabled, indigenous, racially marginalised, and pro se parents in coercive separation orders). Multi-treaty operation: ICCPR Article 26 reaches the discrimination element; CEDAW reaches gender-based discrimination; ICERD Article 5(a) reaches racial discrimination in court access; CRPD Articles 5 and 13 reach disability discrimination; CRC Article 2 reaches discrimination against children on any ground including disability and parental status; UNDRIP Articles 7 and 22 reach discrimination against indigenous parents and children. Move 2 reaches the same discriminatory-purpose result that Holding 3 reaches with broader categorical coverage.

Move 3 — The Lawful-Sanctions Carve-Out Neutralised

The Article 1 carve-out for pain or suffering arising 'only from, inherent in or incidental to lawful sanctions' is defeated by a three-part analysis: (a) the 'only from' limitation, requiring that the harm arise exclusively from the lawful sanction itself rather than from the official's separate intentional acts; (b) the 'lawful' requirement, requiring that the sanction be genuinely lawful in substance and not merely in form; and (c) the cumulative-prolongation prong. Multi-treaty operation: every parallel instrument prohibits torture absolutely without an analogous carve-out (ICCPR Article 7, ECHR Article 3, ACHR Article 5(2), CRPD Article 15, ACHPR Article 5, Rome Statute Article 7(1)(f)), with the result that the carve-out is interpretively constrained to its narrow drafting purpose. Move 3 reaches the same record-discipline result that Holding 5 (Auditable Orders) reaches at the domestic layer.

Move 4 — Severity Established Medically, Not Asserted

Severity sufficient to satisfy Article 1 is established through Istanbul Protocol-compliant medical and psychiatric documentation: contemporaneous clinical records, treating-physician declarations, peer-reviewed causal-mechanism analysis, and documented escalation in care intensity. The severity threshold does not require physical injury; documented major depressive disorder, generalised anxiety disorder, PTSD exacerbation, and physiological deterioration caused by the proceedings themselves satisfy the threshold under the psychological-suffering branch. Multi-treaty operation: the Istanbul Protocol is the global standard for documenting torture and CIDT under any of the parallel instruments; CRC Article 39 (rehabilitation) and CRPD Article 16(4) (recovery and reintegration) require severity documentation as the predicate for recovery and reintegration obligations. Move 4 is methodologically continuous with Holding 7 (Epistemic Boundary).

Move 5 — Jus Cogens Closes Residual Gaps

Where a residual architectural objection survives Moves 1 through 4, the jus cogens prohibition on torture and CIDT operates above treaty architecture independently. Jus cogens norms have peremptory status under VCLT Articles 53 and 64 and override conflicting domestic doctrines including absolute judicial immunity, litigation privilege, the bar on emotional-distress damages against judicial officers, and qualified immunity for non-judicial state actors. The ILC Draft Conclusions on Jus Cogens (A/CN.4/L.967, 2022) explicitly list torture among jus cogens norms. The minimum content is that intentional infliction of severe suffering by a state agent for a prohibited purpose is forbidden, wherever it occurs. Multi-treaty operation: the jus cogens character of the prohibition is independent of any single treaty; treaty obligations to investigate, prosecute, and remedy torture (UNCAT Articles 4, 12, 13, 14; Rome Statute) operate in parallel with the underlying jus cogens norm. Move 5 has no domestic-constitutional counterpart; it is the retrospective accountability machinery that complements the prospective domestic floor.

Move 6 — Functional Custody Under OPCAT Article 4(2)

OPCAT Article 4(2) defines deprivation of liberty functionally rather than formally: any setting in which a person cannot leave at will, where the state controls the terms of the relationship, and where exit produces catastrophic consequence is a functional deprivation of liberty for treaty purposes. Multi-treaty operation: ICCPR Article 9 reaches arbitrary deprivation in any context (HRC General Comment No. 35); CRPD Article 14 covers any deprivation of liberty without setting limitation (CRPD Committee Guidelines); CRC Article 37(b) reaches all deprivations of children's liberty as a measure of last resort. The captive-litigant analysis applies the functional definition to family proceedings: a parent subject to a family-court order or CPS proceeding is in a compulsory relationship with state authority that controls the relationship and from which exit produces exactly the harm the proceeding purports to adjudicate. Move 6 reaches the same coercive-architecture result that the Sovereign Parent / Captive Litigant framing reaches at the domestic layer.

Limiting Principle: When Functional Custody Is Not Asserted

The IAJ’s position on functional custody is not a general claim about civil litigation. Functional custody is a narrow anti-evasion category. Its assertion in any particular case requires five elements established on the contemporaneous record: (1) the person cannot exit the proceeding or jurisdictional regime without catastrophic legal consequence — permanent termination of parental rights, automatic adverse adjudication, contempt sanctions of significant magnitude, or analogous outcomes that no person of inherent dignity can fairly be required to accept; (2) the state exercises coercive authority over the person’s participation or relationship rights — through the contempt power, through control of the parent–child bond, through subpoena and compulsion mechanisms, or through analogous authority that the person cannot resist without engaging the catastrophic consequence in element (1); (3) continued participation or compelled separation causes documented severe harm to the person — established through the Reliability Floor and the Move 4 / Istanbul Protocol severity discipline, not asserted; (4) the relevant state actor has notice of that documented harm — through filings, expert reports, treating-physician declarations, or analogous on-record disclosures, not constructive knowledge alone; and (5) available domestic mechanisms to obtain relief have failed or are practically unavailable — through documented exhaustion, foreclosure by abstention or immunity doctrines, or systemic procedural barriers that prevent meaningful access. Where any of the five elements is absent, functional custody is not asserted in that case. Functional custody is therefore not asserted for ordinary litigation burden, ordinary court supervision, ordinary delay, ordinary adverse rulings, ordinary appellate process, ordinary discovery dispute, or ordinary procedural inconvenience. It is the doctrinal answer to the case where the entire institutional apparatus has been deployed against a person with documented severe harm, who cannot leave without catastrophic consequence, and for whom every domestic mechanism has been exhausted. That is the case the doctrine is designed to reach.

Doctrinal Objection and Reply

“Family Adjudication Is Civil Process, Not the Setting UNCAT or the Constitutional Strict-Scrutiny Floor Was Designed to Reach”

The most common objection to both the Six-Move framework and the constitutional Strict Scrutiny Floor is that family adjudication is a civil regulatory process administered for child protection, not the kind of state coercion that triggers fundamental-rights or torture analysis. The objection is that treating family courts as analogous to detention settings would destabilise routine adjudication and expose every adverse ruling to constitutional or treaty challenge. Restated accurately, the objection requires the IAJ to show either: (a) that family adjudication is structurally indistinguishable from other coercive state proceedings to which strict scrutiny and treaty protection already apply, or (b) that the relevant constitutional and treaty standards do not contain the setting limitation the objection presupposes. Both

showings are made. The coercive-architecture analysis (Chapter 3) establishes that family adjudication operates within a compulsory relationship from which exit produces exactly the harm the proceeding purports to adjudicate — the same coercive structure that triggers heightened protection in every other domain of fundamental adjudication. UNCAT Article 1 contains no setting qualifier; the Strict Scrutiny Floor as articulated in Meyer–Pierce–Troxel contains no carve-out for civil family adjudication; and the multi-treaty convergence (Chapter 7) establishes that nine concurrent international instruments reach state action affecting the parent–child bond regardless of institutional vehicle. The objection misstates the IAJ position: the Framework does not treat every adverse family-court ruling as a constitutional or treaty violation. The Framework treats severe documented harm to vulnerable parents and children, produced through coercive proceedings without reliable evidence and without effective remedy, as the case the constitutional and treaty architectures were designed to reach.

DIGNITY ALIGNMENT TEST — Setting Coverage

The protection travels with the person, not with the institutional setting (PCS Framework Chapter 5; cf. IAJ Synthesis Memorandum § III.B)

Thesis position. Parent–child separation administered through family courts and CPS proceedings engages constitutional strict scrutiny and UNCAT Article 1/16 protection — and the parallel protections of CRC, CRPD, ICCPR, CERD, CEDAW, and every regional instrument — on the same terms as any other coercive state action; the institutional vehicle does not narrow the dignitarian protection.

Adversarial counter. Family adjudication is benign regulatory civil process administered in a therapeutic and child-protective frame, not the kind of state coercion that triggers fundamental-rights or torture analysis; treating family courts as analogous to detention settings would destabilise routine family adjudication and expose every adverse ruling to constitutional and treaty challenge.

Dignity derivation. The parent–child bond is a property of persons, not of institutions. Dignity does not suspend at the family-court door any more than at the prison cell door, the immigration-detention door, or the psychiatric-institution door. UNCAT’s own Preamble states that the right to be free from torture is derived from the inherent dignity of the human person; UDHR Article 1 declares that all human beings are born free and equal in dignity. State action that severs or materially burdens the parent–child bond engages dignity at full force regardless of the institutional vehicle through which the action is administered. The adversarial position protects the institutional category (civil process, therapeutic frame) at the expense of the substantive question (whether dignity has been violated). Substance prevails over form. The thesis position is consistent with the foundation; the adversarial position would make dignity contingent on institutional taxonomy.

DIGNITY ALIGNMENT TEST — Jus Cogens Override of Domestic Immunities

Whether absolute judicial immunity can shield documented torture or CIDT (PCS Framework Chapters 5, 11; cf. IAJ Synthesis Memorandum § V)

Thesis position. Judicial actors satisfy the Article 1 public-official element, and absolute judicial immunity, litigation privilege, and qualified immunity cannot insulate documented torture or CIDT from international accountability. The immunities are instrumental values — conferred to serve the administration of justice — that cannot override the foundational value (dignity) they were conferred to protect. Where the elements of Category C conduct are met (Chapter 9), Move 5 (jus cogens) closes any residual gap left by domestic immunity doctrines.

Adversarial counter. Absolute judicial immunity is structurally necessary for independent courts; subjecting judges to torture accountability would chill lawful decision-making, compromise judicial independence, and produce a flood of post-hoc challenges to ordinary adverse rulings. The doctrine of judicial immunity is itself dignitarian, protecting the institution through which dignitarian rights are vindicated.

Dignity derivation. Judicial independence is an instrumental value: it serves the administration of justice. Human dignity is a foundational value: it constitutes the basis from which all rights — including the right to an independent judiciary — derive their authority. The UDHR Preamble reaffirms faith in fundamental human rights, in the dignity and worth of the human person. An immunity that operates to insulate documented violation of human dignity has inverted its own purpose: the independence conferred to protect justice is being deployed to protect its violation. No instrument grounded in dignity creates a dignity-exception for persons who hold judicial title. The thesis position is consistent with the foundation; the adversarial position would make dignity contingent on the perpetrator's professional category — a result the foundational principle forecloses. Move 5 retains its independent retrospective-accountability function precisely because dignity does not yield to institutional role. The IAJ position, articulated in Chapter 11.7 of this Framework, names six concurrent pathways through which judicial officers participating in or acquiescing in Category C conduct incur personal accountability: UNCAT Article 1 acquiescence under Understanding II(1)(d); jus cogens override of absolute civil immunity (Move 5); 18 U.S.C. § 242 willful deprivation of rights under colour of law; 18 U.S.C. § 1519 obstruction; 42 U.S.C. § 1985(3) civil-rights conspiracy; and judicial-conduct discipline. Absolute civil immunity, the doctrine routinely invoked to foreclose judicial accountability, does not foreclose any of the six pathways: it is a civil doctrine and does not reach criminal prosecution, international accountability, or disciplinary processes. The dignity-derived conclusion is the IAJ's named position.

Chapter 6 — The Holding-to-Move Mapping

The relationship between the constitutional and international layers is functional. Functional correspondence is not identity. A Troxel II holding and an IAJ Move may identify the same structural defect, but each layer retains its own elements, remedies, audiences, and thresholds. The mapping permits parallel analysis from the same evidentiary record; it does not convert every

constitutional violation into torture, CIDT, jus cogens conduct, or personal liability. Each Troxel II holding has an identifiable counterpart in the Six-Move framework. The mapping below operationalises the synthesis. It permits practitioners to argue domestic and international claims in parallel from the same evidentiary record; it permits courts to recognise that adopting the constitutional holdings produces the same prospective effect as accepting the international framework would produce; and it permits treaty bodies to identify the domestic-constitutional reforms that would render their findings prospectively redundant in the U.S. context.

Troxel II Holding (Constitutional Layer)	Six-Move Counterpart (International Layer)	Effect of the Convergence
Holding 1 — Fit Parent Presumption	Move 3 burden allocation; CRC Article 18 (parental primacy)	Both place the burden of justification on the state. Adoption of Holding 1 produces the Move 3 burden allocation in U.S. courts as a matter of constitutional rather than treaty law.
Holding 2 — Strict Scrutiny Floor	Move 1 — No Setting Qualifier; CRC Article 9; ECHR Article 8	Both reject the doctrinal artifact of a setting-based exemption. Adoption of Holding 2 removes the U.S. setting-coverage objection at the constitutional layer.
Holding 3 — Equal Protection Between Fit Parents	Move 2 — Purpose Elements (discrimination); ICCPR 26; CEDAW 16; CERD 5(a); CRC 2; CRPD 5	Both prohibit state action distinguishing similarly situated persons on protected grounds. The international layer is broader; the symmetry presumption must yield where one parent uses proceedings as the instrument of coercive harm against the other.
Holding 4 — Non-Delegation Rule	Article 1 acquiescence clause; ICCPR 14; CRPD 13; CRC 12	Both prevent the state from outsourcing harm-causing decisions. The Non-Delegation Rule operates ex ante on adjudicative process; the acquiescence clause operates ex post on documented harm.
Holding 5 — Auditable Orders	Move 3 — Lawful-Sanctions Carve-Out Neutralised; CRC 9 judicial review; ICCPR 14; ECHR 6 and 8	Once orders must identify the evidence credited, the standard applied, and the alternatives rejected, the lawful-sanctions defence becomes testable rather than presumed. The defence fails where the record shows that the sanction was unsupported by reliable evidence, disproportionate, prolonged beyond its justification, non-reviewable

Troxel II Holding (Constitutional Layer)	Six-Move Counterpart (International Layer)	Effect of the Convergence
		in practice, pretextual, or used to coerce, punish, or discriminate in a manner inconsistent with UNCAT Article 1 or Article 16. Holding 5 makes the Move 3 inquiry operational at the domestic level.
Holding 6 — Emergency Discipline	Move 3 cumulative-prolongation prong; CRC 9; ICCPR 9 (functional)	Both prevent the conversion of a series of brief lawful sanctions into a sustained coercive regime. Holding 6 supplies the procedural sunset; Move 3 cumulative supplies the substantive overlay.
Holding 7 — Epistemic Boundary	Move 4 — Severity Established Medically (Istanbul Protocol); CRC 3 / GC No. 14; CRC 12 / GC No. 12	Most consequential single convergence. Both require findings to rest on falsifiable, contestable, causally connected evidence and bar reliance on non-falsifiable belief frameworks.
Holding 8 — Duty to Cooperate	Incapacitation Feedback Loop ; CRC 18, 9(3); ICCPR 23; ECHR 8 positive obligations	Both identify state-caused conflict deployed as justification for further state action and prescribe institutional design that interrupts the loop.
(no constitutional counterpart)	Move 5 — Jus cogens override (VCLT 53, 64; ILC Draft Conclusions 2022)	Strict scrutiny does not reach absolute judicial immunity, litigation privilege, or qualified immunity. Move 5 retains its independent retrospective-accountability function — operative for the pre-adoption cohort.
Sovereign Parent / Captive Litigant; Kinship Continuity & Graduated Restoration	Move 6 — Functional custody (OPCAT 4(2); ICCPR 9 functional; CRPD 14; CRC 37)	Both identify the same coercive structure (catastrophic exit costs, compulsory participation, agency control) through different doctrinal vehicles.

Three observations on the mapping. First, the Move 5 row has no constitutional counterpart, and this is a feature rather than a defect. Strict scrutiny is constitutional review; it does not reach absolute judicial immunity, litigation privilege, or qualified immunity. Move 5 retains its independent function for retrospective accountability. Second, the Move 4 / Epistemic Boundary correspondence is the most consequential single convergence point: both standards produce the

same operational result in the same factual scenarios, through different doctrinal vehicles. Third, the Move 6 / Captive Litigant correspondence is the analytically richest: two reform projects, working independently and from different foundations, identify the same coercive structure in the same proceedings, and both treat that structure as triggering heightened scrutiny.

Chapter 7 — The Comprehensive Multi-Treaty Convergence

Parent–child separation produced through coercive judicial or administrative conduct is independently prohibited by a convergence of human-rights instruments binding on the United States, on every other state party, and — for the jus cogens norms among them — on every state in the international system regardless of ratification. The convergence is not cumulative but mutually reinforcing: a finding under any one instrument predisposes the relevant body to a finding under each of the others. The IAJ Framework recognises and operationalises this convergence as the global authority on parent–child separation.

The convergence is presented below in seven groups: the foundational instrument (UDHR); the core UN human-rights treaties; specialised UN instruments and conventions; UN declarations and General Assembly resolutions; UN soft-law standards (rules, guidelines, principles); regional human-rights instruments; and international criminal law. Each group is followed by a table identifying the operative provisions and their reach to parent–child separation.

7.1 — The Foundational Instrument

The Universal Declaration of Human Rights (UDHR, 1948) is the foundational instrument from which UNCAT, the ICCPR, the ICESCR, the CRC, the CRPD, and every regional human-rights instrument derive their normative authority. The UDHR is not a treaty and creates no directly binding treaty obligations, but it has acquired customary international law status, and its Preamble articulates the inherent-dignity principle on which the entire architecture rests. UDHR Article 5 prohibits torture and CIDT without exception or carve-out; Article 7 guarantees equal protection of the law; Article 12 prohibits arbitrary interference with family; Article 16(3) declares the family to be the natural and fundamental group unit of society entitled to protection by society and the state. Read against the UDHR, every subsequent instrument that addresses family or torture inherits the dignity-based reading: dignity does not suspend at the courthouse door.

7.2 — Core UN Human-Rights Treaties (the 'Core Nine')

The nine core UN human-rights treaties form the binding architecture for state-party obligations on parent–child separation. The IAJ treats each as operating concurrently — a finding under one creates an evidentiary record cognisable by the others, and treaty-body submissions can be filed in parallel under their respective jurisdictions. Table 7.A below identifies the core treaties, their operative provisions, and their reach. The United States is a party to ICCPR, UNCAT, and ICERD;

signatory but not party to CRC, ICESCR, CEDAW, CRPD, ICRMW, and CED. The non-ratification status does not foreclose the analysis: signed treaties create an obligation under VCLT Article 18 not to defeat the object and purpose pending ratification; jus cogens norms in the unratified treaties bind regardless of ratification; and international advocacy under unratified treaties supports domestic legal reform.

Table 7.A — Core UN Human-Rights Treaties

Core UN Treaty	Operative Provisions	Reach to Parent–Child Separation
ICCPR (1966) — <i>U.S. ratified 1992</i>	Articles 7 (CIDT), 9 (liberty), 14 (fair hearing), 17 (family privacy), 23 (family unit), 24 (children), 26 (equal protection); First and Second Optional Protocols	HRC General Comment No. 35 establishes functional reading of Article 9. Article 7 prohibits CIDT without setting limitation. Articles 17, 23, and 24 create direct family-protection obligations. Article 26 supplies the broadest non-discrimination guarantee binding on the U.S.
ICESCR (1966) — <i>U.S. signed 1977; not ratified</i>	Articles 2 (non-discrimination), 10 (widest possible protection and assistance for the family); Optional Protocol (2008)	Article 10(1) requires widest possible protection of the family as the natural and fundamental group unit. Reaches CPS practice in which poverty is treated as neglect: state must assist rather than dismantle the family unit.
ICERD (1965) — <i>U.S. ratified 1994</i>	Articles 1 (definition), 2 (state obligations), 5(a) (equal access to courts), 6 (effective remedies)	Reaches racially discriminatory court treatment, including disparate outcomes in CPS removal and dependency proceedings against parents and children of colour. Article 5(a) is the operative provision for court-access discrimination.
CEDAW (1979) — <i>U.S. signed 1980; not ratified</i>	Articles 2, 5, 16 (equality in family); General Recommendation No. 19 (1992) and No. 35 (2017) on gender-based violence; Optional Protocol (1999, individual communications)	Article 16 mandates equality in family relations and parental rights. GR 35 reaches state-administered violence including coercive separation and the documented gender-bias pattern in family courts.
UNCAT (1984) and OPCAT (2002) — <i>U.S. ratified UNCAT 1994; not ratified OPCAT</i>	UNCAT Articles 1 (torture), 2 (prevention), 4 (criminalisation), 12 (investigation), 13 (complaint mechanism), 14 (reparation), 16 (CIDT), 20	Primary instrument for the IAJ Six-Move framework. Article 1 reaches official conduct in any setting; Article 16 reaches CIDT below the torture threshold; OPCAT 4(2) reaches functional-custody settings including family courts and CPS.

Core UN Treaty	Operative Provisions	Reach to Parent–Child Separation
	(systematic practice inquiry); OPCAT Article 4(2) (functional deprivation of liberty)	
CRC (1989) and Optional Protocols 1, 2, 3 — <i>U.S. signed 1995; not ratified (only U.N. member that has not)</i>	Articles 2, 3, 7, 8, 9, 10, 12, 16, 18, 19, 20, 27, 37, 39 — see Chapter 8 for full development. OP3 (2011) provides individual communications to the CRC Committee.	Most direct international instrument on parent–child separation. CRC Article 9 is the central provision. Non-ratification by the United States does not foreclose the analysis: CRC has acquired customary international law status on multiple core provisions.
ICRMW (1990) — <i>U.S. not signed</i>	Articles 7 (non-discrimination), 14 (privacy and family), 17 (humane treatment), 44 (family protection of migrant workers)	Reaches family separation in immigration contexts, including coerced separations of migrant-worker parents from children and family-unity considerations in deportation proceedings.
CRPD (2006) and Optional Protocol — <i>U.S. signed 2009; not ratified</i>	Articles 5 (equality), 12 (legal capacity), 13 (access to justice), 14 (liberty and security), 15 (freedom from torture), 16 (freedom from exploitation, violence, abuse), 17 (integrity of the person), 23 (respect for home and family), 25 (health)	Article 23 explicitly protects the family life of disabled persons; separation imposed because of disability is per se discriminatory. Article 13 reaches procedural-accommodation denial.
CED / ICPED (2006) — <i>U.S. not signed</i>	Articles 1 (absolute prohibition), 2 (definition), 24 (rights of victims and families), 25 (children — including obligations regarding children of disappeared persons and children themselves disappeared)	Article 25 is the operative provision for child-disappearance contexts. The 2018 U.S. zero-tolerance separation policy generated enforced-disappearance characterisations under the Convention's definition.

7.3 — Specialised UN Instruments and Conventions

Beyond the core nine, a set of specialised UN instruments addresses categories of conduct that may include or accompany parent–child separation: the Genocide Convention (Article II(e), forcibly transferring children of one group to another); the Refugee Convention and its 1967 Protocol (non-refoulement and family unity in asylum contexts); the Hague Conventions on children (cross-border parental abduction, intercountry adoption, parental responsibility); and the OPCAT (functional deprivation of liberty). Each is identified in Table 7.B with its operative provisions and reach.

Table 7.B — Specialised UN Instruments

Specialised UN Instrument	Operative Provisions	Reach to Parent–Child Separation
Genocide Convention (1948)	Article II(e) — forcibly transferring children of one group to another, when committed with intent to destroy a national, ethnical, racial, or religious group, in whole or in part	Engaged in extreme cases of group-targeted child removal. Boarding school programs and historical Indigenous child removals have been characterised under Article II(e).
Refugee Convention (1951) and 1967 Protocol — <i>U.S. party to the Protocol</i>	Article 33 (non-refoulement); Final Act of 1951 Conference recommending family unity	Reaches asylum-related family separation, including separation of asylum-seeking families at the border, separation of children of asylum claimants, and family-unity obligations in resettlement.
Hague Child Abduction Convention (1980) — <i>U.S. party</i>	Articles 3, 12 (return of wrongfully removed or retained children), 13(b) (grave-risk exception)	Operative for cross-border parental abduction cases. The Article 13(b) grave-risk analysis intersects with the integrated framework via CRC Articles 3 and 19.
Hague Intercountry Adoption Convention (1993) — <i>U.S. party</i>	Articles 4 (consent), 26 (recognition); minimum safeguards including subsidiarity	Reaches intercountry adoption practice, requiring that intercountry adoption be in the child's best interests and that biological parents' consent be informed and free.
Hague Parental Responsibility Convention (1996) — <i>U.S. signed; not ratified</i>	Cross-border jurisdiction and recognition rules for parental-responsibility orders	Procedural framework for cross-border recognition of family orders. Operative for cross-border restoration cases under the Kinship Continuity module.

7.4 — UN Declarations and General Assembly Resolutions

UN declarations and General Assembly resolutions, while not treaties, supply authoritative interpretation of treaty obligations and contribute to customary international law. The most relevant for parent–child separation are: UNDRIP (2007), addressing the rights of indigenous peoples, including indigenous parents and children; the Declaration on the Elimination of Violence against Women (DEVAW, 1993), addressing the gender-based dimension of violence including coercive separation; the Declaration of the Rights of the Child (1959, predecessor to CRC); the Vienna Declaration and Programme of Action (1993, reaffirming the universality of human rights including women’s and children’s rights); and the Declaration on the Rights of Indigenous Peoples (UNDRIP). Table 7.C identifies these instruments and their reach.

Table 7.C — UN Declarations and General Assembly Resolutions

UN Declaration / Resolution	Operative Provisions	Reach to Parent–Child Separation
UDHR (1948)	Articles 5 (torture), 7 (equality), 12 (family privacy), 16 (family protection); Preamble (inherent dignity)	Foundational instrument from which all subsequent treaties derive normative authority. Article 16(3) declares the family to be the natural and fundamental group unit. Customary international law status.
UNDRIP (2007)	Articles 7, 8, 10, 13, 15, 18, 19, 22, 40, 43	Operative for non-ICWA cases involving indigenous parents and children. Articles 7 and 22 support concurrent jurisdiction with CAT, CRC, CRPD, CERD, and CEDAW. The Salazar case (D.14) is the paradigm.
DEVAW (1993)	Articles 1, 2, 4 (state-administered violence including violence by public officials)	Reaches gender-based dimension of family-court coercion. Operates with CEDAW GR 35 and ICCPR Article 26.
Declaration of the Rights of the Child (1959)	Principle 6 (need for love and understanding; not separated from mother save in exceptional circumstances)	Predecessor to CRC; foundational soft-law instrument. Principle 6's prohibition on separation save in exceptional circumstances is the substantive precursor to CRC Article 9.
Vienna Declaration (1993)	Reaffirms universality and indivisibility of human rights	Authoritative reaffirmation that women's and children's rights are integral parts of universal human rights.

7.5 — UN Soft-Law Standards

UN soft-law standards on the administration of justice and the treatment of persons in custodial and quasi-custodial settings supply procedural and substantive standards that apply directly to parent–child separation. The most relevant are: the Beijing Rules (UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985); the Riyadh Guidelines (UN Guidelines for the Prevention of Juvenile Delinquency, 1990); the Havana Rules (UN Rules for the Protection of Juveniles Deprived of their Liberty, 1990); the Bangkok Rules (UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, 2010), addressing the heightened needs of mothers and primary caregivers; the Mandela Rules (UN Standard Minimum Rules for the Treatment of Prisoners, 2015); and the Istanbul Protocol (Manual on Effective Investigation and Documentation of Torture, 1999/2022). Table 7.D identifies these standards and their reach.

Table 7.D — UN Soft-Law Standards

UN Soft-Law Standard	Year / Adopting Body	Reach to Parent–Child Separation
Beijing Rules	1985, GA Res. 40/33	Procedural standards for proceedings affecting children. Reaches dependency-court practice in addition to delinquency proceedings.
Riyadh Guidelines	1990, GA Res. 45/112	Family-strengthening and prevention-focused approach, treating family disruption as a risk factor to be mitigated.
Havana Rules	1990, GA Res. 45/113	Standards for treatment of juveniles deprived of liberty, applicable to children in foster care and supervised placements.
Bangkok Rules	2010, GA Res. 65/229	Heightened protection for mothers and primary caregivers, including obligations that decisions affecting custody not produce additional harm.
Mandela Rules	2015, GA Res. 70/175	Updated standards on humane treatment in custodial settings, including provisions on contact with family.
Istanbul Protocol	1999 (revised 2022), OHCHR	Global standard for documenting torture and CIDT. The IAJ Move 4 severity analysis applies the Istanbul Protocol methodology.

UN Soft-Law Standard	Year / Adopting Body	Reach to Parent–Child Separation
Tokyo Rules	1990, GA Res. 45/110	Procedural standards for non-custodial measures.

7.6 — Regional Human-Rights Instruments

Regional human-rights instruments operate alongside the universal architecture. They are particularly significant for the global reach of this Framework outside the United States. The most relevant for parent–child separation are: the European Convention on Human Rights (ECHR) and its Protocols, applied by the European Court of Human Rights, with extensive Article 8 (family life) jurisprudence; the European Social Charter; the American Convention on Human Rights (ACHR) and the Protocol of San Salvador; the African Charter on Human and Peoples’ Rights (ACHPR), the African Charter on the Rights and Welfare of the Child (ACRWC, the regional CRC equivalent), and the Maputo Protocol on women’s rights; the Arab Charter on Human Rights (2004); and the ASEAN Human Rights Declaration (2012). Table 7.E identifies these instruments and their reach.

Table 7.E — Regional Human-Rights Instruments

Regional Instrument	Operative Provisions	Reach to Parent–Child Separation
ECHR (1950) and Protocols	Articles 3 (torture), 6 (fair trial), 8 (family life), 14 (non-discrimination); Protocol 7 Article 5	Article 8 supplies extensive jurisprudence on parent–child separation, including necessity, proportionality, and procedural fairness. Article 3 admits no exceptions.
European Social Charter (1961, revised 1996)	Articles 16 (family protection), 17 (children and young persons)	Provides economic, social, and family-protection rights complementing the ECHR civil-rights framework.
ACHR (1969)	Articles 5 (humane treatment), 11 (privacy), 17 (family rights), 19 (rights of the child); Protocol of San Salvador (1988)	Articles 17 and 19 are the family-and-child provisions. Article 5(2) prohibits torture absolutely. United States is signatory but not a party.
ACHPR (1981)	Articles 5 (dignity), 18 (family — guardian of morals and traditional values, custodian of children)	Article 18 establishes affirmative state duty to protect the family.

Regional Instrument	Operative Provisions	Reach to Parent–Child Separation
ACRWC (1990)	Articles 3, 4 (best interests), 16, 18, 19 (parental care), 25 (separation)	Regional CRC equivalent for African states. Article 4 establishes best interests as 'the' primary consideration.
Maputo Protocol (2003)	Articles 6, 7 (marriage and divorce), 14 (health and reproductive rights)	Reaches gender-based dimension of family adjudication in African states.
Arab Charter on Human Rights (2004)	Articles 8 (torture), 33 (family rights)	Regional instrument for Arab League states.
ASEAN Human Rights Declaration (2012)	Articles 14, 19 (family rights)	Foundational regional framework for ASEAN member states.

7.7 — International Criminal Law

International criminal law provides the most serious individual-accountability framework for officials who participate in or acquiesce to parent–child separations meeting the elements of crimes against humanity, war crimes, or genocide. The Rome Statute of the International Criminal Court (1998) defines: torture as a crime against humanity (Article 7(1)(f)) without setting limitation and explicitly including conduct by, at the instigation of, or with the consent or acquiescence of a public official; persecution as a crime against humanity (Article 7(1)(h)) on grounds including race, gender, and other protected characteristics; and genocide (Article 6) including forcibly transferring children of one group to another (Article 6(e)). The ICTY and ICTR Statutes contain parallel provisions. The IAJ does not allege that ordinary U.S. family-court conduct meets the elements of crimes against humanity or genocide; the international criminal law framework is identified here for completeness, and applies in extraordinary cases (the 2018 U.S. zero-tolerance separation policy generated such allegations under enforced-disappearance analysis).

7.8 — Treaty Interpretation: VCLT and ILC Conclusions

The Vienna Convention on the Law of Treaties (VCLT, 1969) supplies the rules of treaty interpretation that govern every analysis above. VCLT Article 31 requires interpretation in accordance with ordinary meaning, in context, and in light of object and purpose; Article 32 permits recourse to supplementary means including travaux préparatoires; Articles 53 and 64 establish that treaties conflicting with peremptory norms (jus cogens) are void or terminated. The ILC Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (Jus Cogens) (A/CN.4/L.967, adopted 2022) are the most authoritative contemporary statement of jus cogens identification methodology, and explicitly list the prohibition

of torture among non-exhaustive jus cogens norms. The IAJ applies these instruments throughout the Framework as the methodological foundation for treaty interpretation.

7.9 — Operational Synthesis

The convergence has three operational implications. First, a single evidentiary record can be presented simultaneously to multiple treaty bodies under their respective jurisdictions, with each body applying its own treaty but reaching consistent findings on the underlying facts. Second, the convergence forecloses the categorical safe-harbor objection that parent–child separation is insulated from international scrutiny merely because it is administered through courts, agencies, or formally lawful proceedings. A state party defending against a UNCAT claim by arguing that the conduct is outside UNCAT’s scope must still address parallel CRC, CRPD, ICCPR, ICESCR, CERD, CEDAW, ICRMW, and CED claims where those instruments apply. This does not eliminate treaty-specific elements, reservations, admissibility requirements, jurisdictional limits, exhaustion requirements, remedial limits, or merits defenses under any particular instrument. Third, the convergence is the operational basis for this Framework’s claim to global reach: every state party to these instruments is on notice that family adjudication producing severe documented harm to vulnerable parents and children is not insulated from international scrutiny merely because it is administered through judicial or administrative process.

Chapter 8 — The Convention on the Rights of the Child as the Child-Focused Foundation

The Convention on the Rights of the Child (CRC, 1989) is the most-ratified human-rights treaty in history, with parties in every member state of the United Nations except the United States, which has signed but not ratified. Notwithstanding non-ratification, the CRC is the operative international standard for children’s rights and is increasingly cited by U.S. courts and incorporated into U.S. domestic policy. Its substantive provisions reach parent–child separation more directly and comprehensively than any other instrument in the convergence, and the Troxel II constitutional architecture is largely consistent with — and would, if adopted, render the United States substantially CRC-compliant on family adjudication.

The IAJ treats CRC as the child-focused foundation of the Framework. The Troxel II architecture protects the parent–child bond largely from the parent’s side (parental fitness, parental rights, parental equality); CRC protects the same bond from the child’s side (the child’s right to know and be cared for by both parents, the child’s right not to be separated from parents against their will except where competent authorities determine separation is necessary in the child’s best interests, the child’s right to be heard, the child’s right to an identity, and the child’s right to family reunification). The two layers protect the same bond from opposite ends. Together they constitute the doctrinal completeness that neither alone supplies.

Article 3 — Best Interests of the Child as Primary Consideration

CRC Article 3(1) provides: 'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.' Critically, CRC General Comment No. 14 (2013) specifies the substantive content of the best-interests determination: it must be evidence-based, child-specific, and reasoned; it must consider the child's identity, family environment and contact with both parents, care, protection, safety, vulnerability, the child's right to health, the child's right to education, and the child's views; it must be conducted with procedural safeguards including legal representation where appropriate; and it must produce a written justification. CRC Article 3 is the international counterpart of what U.S. 'best interests of the child' has failed to be: a structured, reasoned, evidence-based determination rather than an exercise of unstructured discretion. The Troxel II Holding 7 (Epistemic Boundary) supplies the constitutional discipline that makes the U.S. domestic 'best interests' inquiry conform to the substantive content CRC General Comment No. 14 requires.

Article 7 — Right to Know and Be Cared for by Parents

CRC Article 7(1) provides that the child has, as far as possible, the right to know and be cared for by his or her parents. This is the international counterpart of the parent–child attachment bond that Troxel II Holding 2 (Strict Scrutiny Floor) protects from the parent's side. State action that severs or materially impairs the attachment bond on grounds inconsistent with the child's right to know and be cared for by both parents engages Article 7 directly.

Article 8 — Preservation of Identity and Family Relations

CRC Article 8 obligates states to respect the right of the child to preserve his or her identity, including nationality, name, and family relations as recognised by law without unlawful interference. State action that destroys or unlawfully alters the child's family relations — including through coercive separation, change of legal name without consent, or substitution of foster placement for biological family — engages Article 8. Article 8(2) requires that where a child is illegally deprived of some or all of the elements of his or her identity, states shall provide appropriate assistance and protection with a view to re-establishing speedily his or her identity. This is the international counterpart of the Kinship Continuity and Graduated Restoration module developed in Part III: where state action has impaired the parent–child bond, the obligation is restoration.

Article 9 — Non-Separation from Parents

CRC Article 9(1) is the central provision on parent–child separation: 'States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and

procedures, that such separation is necessary for the best interests of the child.' Article 9(2) requires that all interested parties have an opportunity to participate in the proceedings and make their views known. Article 9(3) preserves the right of the child to maintain personal relations and direct contact with both parents on a regular basis, except if contrary to the child's best interests. Article 9(4) requires that where separation results from state action, the state shall, upon request, provide essential information about the absent parent or child unless the provision would be detrimental to the child. CRC Article 9 is the most direct international counterpart of the Troxel II constitutional architecture: it imposes a competent-authority requirement (Holdings 4, 5), a judicial-review requirement (Holdings 5, 6), an applicable-law-and-procedures requirement (Holdings 5, 7), a best-interests-determination requirement (Holding 7), an interested-parties-participation requirement (Holding 8), and a continuing-contact requirement (Holding 8).

Article 10 — Family Reunification

CRC Article 10 obligates states to deal with applications by a child or his or her parents to enter or leave a state party for the purpose of family reunification in a positive, humane, and expeditious manner, and ensures that submission of such applications shall not entail adverse consequences for the applicants. Article 10 has direct application in immigration-related family separation cases and supports cross-border restoration where domestic separation has produced exile of one parent.

Article 12 — Right of the Child to Be Heard

CRC Article 12 provides that the child capable of forming his or her own views has the right to express those views freely in all matters affecting the child, with the views being given due weight in accordance with the age and maturity of the child. Article 12(2) extends this to all judicial and administrative proceedings affecting the child, either directly or through a representative or appropriate body. CRC General Comment No. 12 (2009) specifies procedural safeguards: the child must be informed about the proceedings, the right to be heard, and possible outcomes; hearings must be conducted in age-appropriate settings; and the child's views must be recorded and given documented weight. Article 12 is the international counterpart of the Troxel II Holding 4 (Non-Delegation) requirement that decisive determinations be made by judicial authority on the contested record rather than substituted by private actors operating on the child's behalf without procedural discipline.

Articles 18 and 27 — Parental Responsibility and Standard of Living

CRC Article 18 affirms the principle that both parents have common and primary responsibilities for the upbringing and development of the child, with the state providing assistance to parents in the performance of their child-rearing responsibilities rather than displacing them. Article 27 obligates states to recognise the right of every child to a standard of living adequate for the child's

development, with parents bearing primary responsibility but the state providing material assistance and support programmes. These provisions reach the documented pattern in U.S. CPS practice in which poverty is treated as neglect; CRC Article 27 affirmatively requires the state to assist parents in providing adequate standard of living rather than removing children for inability to provide it without state support.

Articles 19, 20, and 39 — Protection from Violence, Children Without Family, and Recovery

CRC Article 19 obligates states to take all appropriate measures to protect children from all forms of violence, injury, abuse, neglect, and exploitation while in the care of parents or others. Article 20 addresses children deprived of family environment, requiring special protection and alternative care that respects the child's ethnic, religious, cultural, and linguistic background. Article 39 obligates states to take all appropriate measures to promote physical and psychological recovery and social reintegration of child victims of, among other things, neglect, exploitation, abuse, torture, and CIDT. The Article 39 obligation is directly engaged where the child has been a victim of state-caused harm through coercive family proceedings: the state that produced the harm bears the obligation to remediate it, including through restoration of the parent–child bond where the bond was impaired by the state's own conduct.

Article 37 — Deprivation of Liberty as Last Resort

CRC Article 37(b) provides that no child shall be deprived of liberty unlawfully or arbitrarily, and that the arrest, detention, or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time. Article 37(d) guarantees prompt access to legal assistance and the right to challenge the legality of the deprivation. As applied to family-court and CPS proceedings, where a child is functionally deprived of liberty through placement in foster care or supervised settings to which the child cannot consent and from which the child cannot leave at will, Article 37's last-resort and challenge requirements apply directly. The Move 6 functional-custody analysis incorporates Article 37 as one of its multi-treaty supports.

CRC Optional Protocols

Three Optional Protocols extend the CRC framework: OP1 (involvement of children in armed conflict, 2000); OP2 (sale of children, child prostitution, and child pornography, 2000); OP3 (communications procedure, 2011). OP3 is the most operationally significant for the IAJ Framework: it permits individual communications by or on behalf of children alleging violations of CRC, OP1, or OP2 to the Committee on the Rights of the Child, providing a treaty-body submission pathway parallel to the CAT Committee, HRC, and CRPD Committee individual-communications procedures. The United States has not signed OP3.

Chapter 9 — The Three-Category Taxonomy: Error, Abuse, Crime

Not every adverse adjudicative outcome is a constitutional violation, and not every constitutional violation is an international human-rights violation. The IAJ Advisory Opinion on Domestic Criminal Enforcement of UNCAT (April 2026) supplies a three-category taxonomy that gates accountability action and answers the most common counterargument against the integrated framework — that the framework would treat ordinary judicial error as torture or CIDT.

Category A — Adjudicative Error. Wrong, harsh, biased, or even knowingly unjust rulings that remain within the ordinary universe of appellate correction. Ordinarily not constitutionally cognisable beyond ordinary review and not actionable internationally. Category A includes most adverse evidentiary rulings, most adverse procedural denials, and most outcomes the parties believe to be wrong on the merits. Category A does not engage the integrated framework regardless of subjective disagreement with the outcome.

Category B — Serious Official Abuse. Process failures, discriminatory denial of accommodation, and abuse more apt for direct appeal, mandamus, judicial discipline, or civil-rights relief. Category B engages the constitutional framework and may engage the international framework where severity, intent, and causation are established but criminal elements are not. The integrated framework treats Category B conduct as the typical setting for which *Troxel II*'s constitutional holdings supply the prospective remedy.

Category C — Independently Criminal Conduct. Willful deprivation of rights under colour of law, coordinated retaliation, obstruction, concealment, falsification, or knowing exploitation of torture-derived evidence in further proceedings. Category C is the appropriate subject of criminal review under 18 U.S.C. §§ 241 and 242 where elements are met. For UNCAT purposes, Category C conduct that causes severe physical or psychological suffering satisfies the Article 1 threshold. Judicial office confers no criminal immunity. Category C is reached when (1) the conduct is willful, not merely erroneous; (2) the harm is severe, documented, and causally connected; (3) domestic remedies have been exhausted or systematically obstructed; and (4) the official actor had actual knowledge of the harm and continued the conduct.

The taxonomy is category-neutral. It applies to any judicial or administrative conduct that engages the integrated framework. It is the gating instrument that distinguishes the cases for which the Framework supplies remedies from the cases for which ordinary appellate review remains the appropriate mechanism.

Naming judicial liability under Category C. Judicial office confers no criminal immunity. The doctrine of absolute judicial immunity, as articulated in *Stump v. Sparkman*, 435 U.S. 349 (1978), and *Mireles v. Waco*, 502 U.S. 9 (1991), is a civil-immunity doctrine that does not extend to criminal prosecution under 18 U.S.C. § 242 or related federal statutes, to civil-rights conspiracy

claims under 42 U.S.C. § 1985(3), to judicial-conduct discipline, or to international accountability under jus cogens. Federal and state judges have been criminally prosecuted in the United States: Operation Greylord (Cook County, Illinois, 1984–1991) and the Cash for Kids prosecutions (Luzerne County, Pennsylvania, 2010–2011) are the leading public examples, and additional prosecutions have proceeded where the elements were met. The IAJ position, set out in Chapter 11.7 of this Framework, names six concurrent accountability pathways for judicial Category C conduct: UNCAT Article 1 acquiescence under Understanding II(1)(d); jus cogens override of civil immunity (Move 5); 18 U.S.C. § 242 willful deprivation of rights under colour of law; 18 U.S.C. § 1519 obstruction through falsification of records; 42 U.S.C. § 1985(3) civil-rights conspiracy; and judicial-conduct discipline. The pathways operate concurrently and independently. Category C conduct by judicial officers therefore engages the full accountability architecture, and the prosecutorial omission that has historically prevented enforcement is not statutory or constitutional in character.

Chapter 10 — The Unified Discriminatory-Purpose Architecture

Discriminatory conduct affecting parent–child separation is simultaneously cognisable under multiple convergent legal frameworks, both international and domestic, that the United States has independently enacted and ratified. The convergence is operationally significant: a single evidentiary record establishes elements across multiple legal theories simultaneously, and a single piece of documentary evidence may satisfy multiple legal elements at once.

The international layer of the architecture: UNCAT Article 1 (discriminatory purpose) operates concurrently with ICCPR Article 26 (general non-discrimination); ICESCR Article 2(2) (non-discrimination in economic, social, and cultural rights including family protection); CRC Articles 2 (non-discrimination on any ground including disability and parental status) and 23 (rights of children with disabilities); CRPD Article 5 (equality and non-discrimination), Article 13 (access to justice), Article 16 (freedom from exploitation, violence, and abuse), and Article 23 (respect for home and the family); CEDAW Article 16 (equality in family matters) and General Recommendation No. 35 (gender-based violence); ICERD Articles 1, 2, and 5(a) (racial discrimination, including in court access); ICRMW Article 7 (non-discrimination of migrant workers and family members); UNDRIP Articles 7, 22, and 43 (indigenous persons); ECHR Article 14 (non-discrimination); ACHR Articles 1 and 24 (non-discrimination); ACHPR Articles 2 and 18 (non-discrimination and family); and ACRWC Article 3 (non-discrimination of children) and Article 18 (family).

The domestic layer of the architecture: 18 U.S.C. § 249(a)(1)–(2) (federal hate-crimes statute, covering bias-motivated conduct against race, colour, religion, national origin, gender, sexual orientation, gender identity, and disability); 42 U.S.C. § 1985(3) (civil-rights conspiracy under

Griffin v. Breckenridge, with class-based discriminatory animus including disability); 18 U.S.C. § 242 (willful deprivation of rights under colour of law); 18 U.S.C. § 1519 (obstruction through falsification of records, applicable to falsified judicial records); 42 U.S.C. § 1983 (civil action for deprivation of rights, subject to immunity); ADA Title II and § 504 of the Rehabilitation Act (state and federal program disability discrimination); the Eighth Amendment and Substantive Due Process under Farmer v. Brennan (deliberate indifference to known harm); the Equal Protection Clause; ICWA where applicable. The Troxel II Holding 3 (Equal Protection Between Fit Parents) is the constitutional anchor of the domestic layer.

The unified equation chain: UNCAT Article 1 (discriminatory purpose) = ICCPR Article 26 = CRC Article 2 = CRPD Articles 5 and 13 = CEDAW Article 16 = ICERD Article 5(a) = ICRMW Article 7 = UNDRIP Articles 7 and 22 = ECHR Article 14 = ACHR Article 24 = 18 U.S.C. § 249 = 42 U.S.C. § 1985(3) = 18 U.S.C. § 242 = ADA Title II = § 504 = Eighth Amendment / Substantive Due Process (Farmer v. Brennan) = Holding 3 (Equal Protection Between Fit Parents). Every link in this chain is satisfied by the same evidentiary record where a state actor's adverse adjudicative conduct is motivated, in whole or in part, by a protected characteristic.

The convergence demonstrates that the United States has enacted, in its own domestic law, multiple independent statutory theories that recognise exactly the category of bias-motivated official abuse that the international framework prohibits. The failure is not legislative — the statutes exist. The failure is prosecutorial and institutional: the Department of Justice has not applied these theories to official judicial and administrative conduct causing documented severe harm in the family-adjudication context, despite the unambiguous text of the statutes and the well-documented patterns of conduct in the IAJ case archive.

Application to judicial actors. The Architecture applies with full force to judicial actors. The Stump v. Sparkman / Mireles v. Waco absolute civil immunity does not extend to criminal prosecution under § 242 or § 249, to civil-rights conspiracy claims under § 1985(3), to judicial-conduct discipline, or to international accountability under jus cogens. Where a judicial officer's conduct satisfies the elements of bias-motivated official conduct under any link in the equation chain — disability animus engaging § 249(a)(2), racial or national-origin animus engaging § 249(a)(1), gender-based animus engaging CEDAW and DEVAW, or indigenous-status animus engaging UNDRIP — the actor's judicial office does not insulate the conduct from accountability. The IAJ position, set out in Chapter 11.7, is that the Department of Justice Civil Rights Division has not applied these statutes to judicial Category C conduct producing documented severe bias-motivated harm — a prosecutorial omission rather than a statutory or constitutional bar. The Framework refers DOJ Civil Rights Division and state attorneys general to the IAJ case archive (Salazar D.14; Hazari record; Texas Amicus record; Shadow Report 24 Factors) for documented conduct meeting the bias-motivation elements.

Chapter 11 — U.S. Domestic Treaty Architecture: The Deposited Instrument and the Equivalence Promise

Domestic-Enforceability Limitation. This Chapter distinguishes the existence and content of the United States’ international obligations from the domestic enforceability of those obligations in U.S. courts. Non-self-execution, sovereign immunity, judicial immunity, prosecutorial immunity, standing, abstention, exhaustion, finality, and remedial doctrines may restrict domestic relief even where an international obligation exists. The Framework therefore treats treaty-body accountability, treaty-consistent interpretation, domestic constitutional interpretation, criminal referral, disciplinary referral, legislative reform, and civil litigation as distinct pathways. They may reinforce one another, but they are not interchangeable remedies.

The previous chapters establish the international architecture under which parent–child separation engages the multi-treaty convergence. This chapter addresses how that international architecture operates within U.S. domestic law — the doctrinal bridge between treaty obligation and constitutional interpretation that any U.S. court must traverse to apply the integrated framework. Three principles control the analysis: (1) the deposited instrument of ratification, not the Senate Executive Reports that preceded it, is the binding international commitment of the United States; (2) the Charming Betsy canon requires interpretation of domestic law consistent with treaty obligations whenever possible; and (3) the “equivalence promise” Congress made to the international community in ratifying UNCAT creates an enforceable interpretive standard that courts can and should apply.

The IAJ developed the doctrinal architecture set out in this chapter in connection with its February 2026 amicus filing in *In re K.N., K.L., K.L., and K.L.*, No. 24-0881, before the Supreme Court of Texas (the Texas Amicus). The Texas Amicus is the most extensive deployment to date of the deposited-instrument doctrine in U.S. appellate practice. The principles below apply generally and are not Texas-specific.

11.1 — The Deposited Instrument as the Binding International Commitment

When the United States ratifies a treaty, three documents are typically generated: the Executive Branch transmittal to the Senate (often accompanied by an initial Senate Executive Report); the final Senate Executive Report recommending advice and consent; and the instrument of ratification deposited with the depositary international organisation. Of these, only the deposited instrument constitutes the binding international commitment. The Senate Executive Reports reflect deliberation; the deposited instrument is the act under Article VI, Clause 2 of the Constitution that makes the treaty part of the supreme Law of the Land. For UNCAT, the deposited instrument was lodged with the United Nations on October 21, 1994. It is available in the U.N. treaty registry. It contains the Reservations, Understandings, and Declarations as actually filed, in the form actually filed.

11.2 — Three Provisions of the Deposited Instrument Decisive for Parent–Child Separation

First, Understanding II(1)(c) acknowledges that “a State Party could not through its domestic sanctions defeat the object and purpose of the Convention to prohibit torture.” This is an explicit binding commitment in the deposited instrument that no domestic procedural or substantive limitation can be construed to defeat the Convention’s purpose. Read against family adjudication producing severe documented harm to vulnerable parents and children, this Understanding directly forecloses the construction of state family law in ways that would permit such harm to continue under the label of “lawful sanctions.” Second, Understanding II(5) explicitly identifies state and local governments as responsible authorities for Convention implementation: “in implementing articles 10–14 and 16, the United States Government shall take measures appropriate to the Federal system to the end that the competent authorities of the constituent units of the United States of America may take appropriate measures for the fulfilment of the Convention.” State courts adjudicating family proceedings are competent authorities of the constituent units for purposes of UNCAT Article 16 implementation. This is a binding commitment of the deposited instrument that state courts bear primary implementation responsibility — they cannot disclaim the obligation by characterising it as a federal matter. Third, Reservation I(1) ties UNCAT Article 16 to the Fifth, Eighth, and Fourteenth Amendments: the United States considers itself bound by Article 16 only insofar as the prohibited treatment corresponds to treatment prohibited by those amendments. The doctrinal effect is consequential: every Article 16 determination in U.S. courts is simultaneously a constitutional determination, and every Fifth/Eighth/Fourteenth Amendment determination of unconstitutional treatment is simultaneously an Article 16 determination. The reservation does not narrow the substantive prohibition; it ties the two domains together.

11.3 — The CAT Committee on the U.S. Reservations

The CAT Committee’s Concluding Observations on the U.S. Combined Third to Fifth Periodic Reports (CAT/C/USA/CO/3-5, December 19, 2014) addressed the U.S. reservations directly: paragraph 4 noted concern that the State party maintains its reservations; paragraph 5 expressed concern that the U.S. position that the Convention is not self-executing, together with the maintaining of related reservations, is at odds with the obligations of States parties; paragraph 6 reiterated the recommendation that the State party envisage the withdrawal of its reservations. Taken together with the jus cogens status of the underlying torture prohibition (VCLT Article 53; ILC Draft Conclusions 2022), the Committee’s findings support the position that the broadest U.S. reservations — particularly those purporting to limit Article 1 to acts directed against persons in custody — are invalid as a matter of international law. The Reservation I(1) constitutional linkage operates differently: it narrows the analysis but does not foreclose it, because a court applying

Article 16 in conjunction with the Fifth/Eighth/Fourteenth Amendment reservation reaches the same operational result as a court applying Article 16 unmodified.

11.4 — The Charming Betsy Canon and Treaty-Consistent Interpretation

The Supreme Court’s 1804 decision in *Murray v. Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64, 118 (1804), established the enduring canon: “an act of Congress ought never to be construed to violate the law of nations if any other possible construction remains.” The canon has been applied for more than two centuries. It operates independently of self-execution doctrine. The Supreme Court’s 2008 decision in *Medellín v. Texas*, 552 U.S. 491, addressed whether a particular ICJ judgment created directly enforceable rights in U.S. courts. The Court held that the relevant treaty provision was non-self-executing in that respect. *Medellín* did not displace the Charming Betsy canon, did not address whether treaty obligations inform constitutional interpretation generally, and did not address the deposited-instrument doctrine. The IAJ’s position is that *Medellín*’s holding is properly read narrowly — confined to the question of direct enforceability of an ICJ judgment under the treaty provisions there at issue — and that the broader Charming Betsy and deposited-instrument frameworks remain operative. The interpretive harmony rule produced by the synthesis of Charming Betsy and the deposited-instrument doctrine: a U.S. court interpreting domestic law (federal or state, statutory or constitutional) that touches a ratified treaty’s subject matter should construe the domestic law consistently with the treaty whenever possible, with the treaty’s binding scope determined by the deposited instrument. This rule is interpretive harmonisation, not direct treaty enforcement. As applied to family adjudication: state family law construed in a way that avoids arbitrariness, ensures proportionality, and provides effective remedies satisfies both the constitutional standards and the deposited instrument’s UNCAT obligations through the same construction.

11.5 — The Equivalence Promise as Enforceable Standard

The U.S. Senate Executive Report accompanying ratification represented to the international community that domestic mechanisms would provide protection equivalent to what UNCAT mandates. S. Exec. Rep. No. 101-30, at 25–36 (1990). This “equivalence promise” was the basis on which the Senate consented to ratification with limiting RUDs: domestic law was represented as already providing equivalent protection, so that the RUDs would not produce any compliance gap. The equivalence promise is an enforceable interpretive standard for U.S. courts. Where domestic interpretation produces protection equivalent to UNCAT requirements, the equivalence promise is satisfied and the court’s interpretation is consistent with the international commitment. Where domestic interpretation produces protection less than equivalent — where the gap between domestic protection and UNCAT requirements is documented — the equivalence promise has not been kept, and the court’s interpretation requires adjustment to fulfill the commitment Congress made. The IAJ has documented “radical non-equivalence” between the

equivalence promise and Texas state-court practice in the Salazar investigation (D.14) and across the IAJ Shadow Report case archive. The empirical record establishes that U.S. domestic family adjudication, as currently practiced, does not provide protection equivalent to UNCAT requirements. The equivalence-promise standard is therefore not abstract: it is the doctrinal vehicle through which a U.S. court applying the integrated framework adjusts domestic interpretation to close documented gaps with UNCAT requirements. It operates concurrently with the Charming Betsy canon (which creates the interpretive obligation) and with the deposited-instrument doctrine (which identifies the substantive content of the obligation). Together, the three principles produce the doctrinal bridge from international architecture to domestic application.

11.6 — The Deposited Instrument and Judicial Liability

Article 1 of UNCAT reaches conduct inflicted with the consent or acquiescence of a public official. Understanding II(1)(d) of the deposited instrument provides that “acquiescence” requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach a legal responsibility to intervene. The IAJ takes the position, set out in this Framework as published institutional doctrine, that a judicial officer who has been formally apprised of credible evidence of severe documented harm produced by family-court conduct, who has the legal authority to order safeguards or remedies, and who declines to do so without articulating a rational basis on the record, has satisfied the Understanding II(1)(d) acquiescence definition with respect to that conduct. The acquiescence is personal: the judicial officer who has been provided notice meeting the awareness element, and who declines to discharge the legal responsibility to intervene that the adjudicative role confers, breaches the responsibility that the deposited instrument identifies as the operative threshold. Where the conduct that proceeds without intervention satisfies the remaining elements of Article 1 (intentional infliction of severe pain or suffering for an enumerated purpose, by or with the consent or acquiescence of a public official), the judicial officer is, by the deposited instrument’s own terms, a public official whose acquiescence transforms the underlying conduct into conduct cognisable under Article 1. Through Reservation I(1), every Article 16 finding is simultaneously a Fifth, Eighth, or Fourteenth Amendment finding. The next section sets out the six concurrent accountability pathways the IAJ identifies for judicial Category C conduct.

11.7 — The Six Pathways of Judicial Liability for Category C Conduct

The IAJ position, articulated in this Framework as published institutional doctrine, is that a judicial officer who participates in or acquiesces in Category C conduct (Chapter 9) is exposed to personal accountability through six concurrent pathways. Absolute judicial immunity, as articulated in *Stump v. Sparkman*, 435 U.S. 349 (1978), and *Mireles v. Waco*, 502 U.S. 9 (1991), is a civil-immunity doctrine. It does not extend to criminal prosecution. It does not extend to international accountability under *jus cogens*. It does not extend to judicial-conduct discipline. It does not

extend to non-adjudicatory or administrative conduct. The pathways below operate concurrently and independently; satisfaction of any one supports accountability action even if others are unavailable in a particular forum.

Category C Gate. The pathways below are not remedies for ordinary legal error, ordinary adverse rulings, or ordinary appellate disagreement. They apply only after the Framework’s analytical workflow, three-category taxonomy, discriminatory-purpose architecture, severity discipline, and Reliability Floor identify Category C conduct. The burden remains on the claimant, investigator, treaty petitioner, prosecutor, disciplinary body, or reviewing institution to establish the elements of the selected pathway.

Pathway 1 — UNCAT Article 1 Acquiescence Under Understanding II(1)(d)

Where the awareness-and-breach standard of Understanding II(1)(d) is documented on the contemporaneous record, the judicial officer personally satisfies the Article 1 acquiescence element. Through Reservation I(1) of the deposited instrument, this finding is simultaneously a Fifth, Eighth, or Fourteenth Amendment finding — and supports the parallel domestic statutory pathways that operate from the constitutional finding (Pathways 3 through 5). The Article 1 finding is also independently cognisable in international-accountability fora (Pathway 2).

Pathway 2 — Jus Cogens Override of Absolute Civil Immunity

Move 5 of the Six-Move framework supplies the operative international pathway. Where Category C conduct is documented, the jus cogens prohibition on torture and CIDT operates above the civil immunity for international-accountability purposes — through CAT Committee, HRC, CRC Committee, CRPD Committee, CERD Committee, CEDAW Committee, and CED individual communications where applicable; through Special Rapporteur referrals; through Inter-American Commission and African Commission petitions; through Universal Periodic Review submissions; and through the public-record function of the IAJ case archive itself. The ILC Draft Conclusions on Jus Cogens (A/CN.4/L.967, 2022) confirm the preemptory status of the torture prohibition; VCLT Articles 53 and 64 supply the override mechanism; the Filártiga line and the Pinochet jurisprudence supply the operational precedent.

Pathway 3 — 18 U.S.C. § 242: Willful Deprivation of Rights Under Colour of Law

Section 242 reaches state actors, including judicial officers, who willfully deprive persons of rights, privileges, or immunities secured by the Constitution. Where the conduct produces bodily injury, the maximum penalty escalates to ten years; where it results in death, the maximum is life imprisonment. Federal and state judges have been criminally prosecuted in the United States: Operation Greylord (Cook County, Illinois, 1984–1991) produced criminal convictions of seventeen state judges on bribery, racketeering, and related federal offences; the Cash for Kids

prosecutions (Luzerne County, Pennsylvania, 2010–2011) produced federal convictions of Judges Mark Ciavarella and Michael Conahan on racketeering, mail fraud, money laundering, and tax-evasion charges in connection with juvenile-detention kickbacks; and additional § 242 prosecutions of state judicial officers have proceeded where the elements were met. The IAJ position is that judicial office confers no criminal immunity, the historical record of judicial prosecution is established, and the prosecutorial pathway is doctrinally available where Category C elements are documented.

Pathway 4 — 18 U.S.C. § 1519: Obstruction Through Falsification of Records

Section 1519 reaches falsification, alteration, or concealment of records with intent to obstruct, influence, or impede a federal investigation or proceeding, or any matter within the jurisdiction of a federal department or agency. Where a judicial officer issues findings that are demonstrably false on the record — for example, findings that fabricate the factual basis for a ruling, as documented in published California appellate jurisprudence reviewed in the IAJ Synthesis Memorandum (Gropen, D.6) — § 1519 elements may be met. The statute has been applied to a wide range of records-falsification conduct in federal prosecutions and is not setting-limited. Falsification by a judicial officer of a judicial record is records-falsification within the statute’s plain text.

Pathway 5 — 42 U.S.C. § 1985(3): Civil-Rights Conspiracy

Section 1985(3), as construed in *Griffin v. Breckenridge*, 403 U.S. 88 (1971), reaches conspiracies motivated by class-based discriminatory animus. Where multiple judicial officers, or a judicial officer in coordination with other state actors (CPS workers, evaluators, opposing counsel acting under colour of law), engage in conduct producing the protected-class outcomes documented in the IAJ case archive — the systematic over-representation of disabled, indigenous, racially marginalised, and pro se parents in coercive separation orders — § 1985(3) elements may be met. The *Mireles v. Waco* absolute civil immunity does not extend to non-adjudicatory or administrative conduct, and federal courts have permitted § 1985(3) claims against judges where the conduct is administrative, criminal, or otherwise outside the judicial-acts protection. The conspiracy element is satisfied by coordination; the class-based-animus element is satisfied by the systematic-pattern evidence of the IAJ archive and the Shadow Report 24 Factors analysis.

Pathway 6 — Judicial-Conduct Discipline

Each U.S. state operates a judicial-conduct commission with authority over the conduct of state judicial officers. Federal judges are subject to discipline under 28 U.S.C. § 351 et seq. (the Judicial Conduct and Disability Act). The disciplinary pathway operates independently of the criminal and international-accountability pathways and is not subject to the jurisdictional or procedural barriers

that may preclude criminal or civil action in particular cases. Conduct meeting Category C thresholds produces a presumptively complainable matter under the relevant disciplinary code. The IAJ refers state judicial-conduct commissions and the federal judicial-discipline mechanism to the IAJ case archive for documented conduct meeting Category C.

11.7.7 — The Filártiga Designation Applied to Judicial Actors

Filártiga v. Peña-Irala, 630 F.2d 876, 890 (2d Cir. 1980), declared that “the torturer has become, like the pirate and slave trader before him, *hostis humani generis*, an enemy of all mankind.” The IAJ position is that this designation attaches no less firmly to a judicial actor than to any other state actor. The Constitution itself, in Article I, Section 8, Clause 10, grants Congress the power to “define and punish... Offenses against the Law of Nations.” When state actors — including judicial actors — engage in conduct that rises to the level of torture or CIDT under Article 1 or to the level of cruel, inhuman, or degrading treatment under Article 16, they operate in a domain the law of nations has marked as categorically prohibited, where ordinary presumptions of sovereign immunity and procedural protection yield to universal condemnation. The constitutional designation under *hostis humani generis* carries with it the constitutional power of Congress to define and punish the offence — a power that already authorises § 242, § 1519, and § 1985(3), and that supports the international-accountability framework on which Move 5 operates. The dignity foundation analysed in the Preface and tested at six junctures of this Framework yields the same conclusion through a different doctrinal vehicle: dignity does not suspend at the courthouse door; the institutional role of judge does not create a dignity-exception.

11.7.8 — Institutional Position and Operational Restraint

The IAJ does not name particular judicial officers as having incurred liability under any particular pathway. That determination is for the prosecutorial authorities (the Department of Justice Civil Rights Division; state attorneys general; international tribunals where applicable), the disciplinary commissions, and the ultimate factfinders with appropriate jurisdiction. The IAJ does name the doctrinal position: judicial liability for Category C conduct is doctrinally available, prudentially appropriate where the elements are met, and historically precedented. Three operational consequences follow. First, the IAJ’s case archive — including the Salazar investigation (D.14), the Hazari record, the Shadow Report 24-factor analysis, the cases compiled in IAJ Synthesis Memorandum Appendix D, and the Texas Amicus record — is published as a record of documented Category C conduct, available to the prosecutorial authorities, treaty bodies, and disciplinary commissions with jurisdiction. Second, the IAJ position is that the Department of Justice Civil Rights Division has not applied §§ 242, 249, 1519, and 1985(3) to judicial Category C conduct producing documented severe disability-, race-, gender-, or indigenous-status-motivated harm — a prosecutorial omission rather than a statutory or constitutional bar. The IAJ refers DOJ to the case archive for evaluation. Third, the IAJ position is that the immunities

purported to shield judicial Category C conduct from accountability are limited in ways the public discourse on judicial immunity has often failed to articulate, and the present Framework names those limits to support correction of the discourse.

11.7.9 — The Justice Case as Historical Anchor

The principle that legal form cannot insulate criminal substance — the doctrinal foundation of the six pathways — was established as a matter of international law by the United States itself. In *United States v. Altstötter* (the Justice Case, Nuremberg Military Tribunal, 1947), the U.S. Military Tribunal held that prohibited acts occurring through legal process and having the form of judicial proceedings were not immunised from criminal accountability. The label of “legal proceeding” does not transform torture into a lawful sanction. This is not the IAJ’s analytical extension of existing doctrine; it is the application of a principle the United States enforced as international law seventy-eight years ago, in a tribunal the United States itself convened, prosecuting judicial actors for conduct administered through the form of judicial proceedings. The Justice Case is the historical anchor for the proposition that CAT General Comment No. 2 later codified, that VCLT Article 53 made operative through jus cogens override, and that the six pathways apply at the level of the individual judicial actor. The argument does not depend on novel doctrine. It applies to U.S. judicial actors the principle the United States, through its own military tribunal, applied to others.

11.7.10 — Pinochet and the Operation of Jus Cogens Above Domestic Immunities

The leading international authority on the jus cogens override of domestic immunities is *R v. Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet Ugarte* (No. 3) [2000] 1 AC 147 (House of Lords). Pinochet established that sovereign immunity — the most fundamental of all domestic immunity doctrines — yields to jus cogens accountability for torture. The principle’s operational consequence for this Framework is straightforward: every lesser domestic immunity doctrine yields by necessary analytical consequence. Absolute judicial immunity, litigation privilege, prosecutorial immunity, and qualified immunity are each domestic doctrines. None is a jus cogens norm. The complete domestic immunity architecture, where it operates to insulate documented torture from any legal consequence on any plane, is therefore void on the international plane to the precise extent of that insulation. Move 5 of the Six-Move framework is the operational mechanism through which this override is asserted in international fora. The Framework does not assert that domestic courts will themselves apply the override against domestic immunities; the override operates at the international plane through CAT, HRC, CRC, CRPD, CERD, CEDAW, CED, EMRIP, and the regional human-rights bodies, with parallel domestic accountability through the criminal, conspiracy, obstruction, and disciplinary pathways identified in 11.7.1 through 11.7.6.

11.8 — The Troxel II Equivalence Gap on Five Protection Dimensions

The Equivalence Promise analysed at 11.5 supplies the doctrinal vehicle for adjusting domestic interpretation to fulfill the U.S.'s UNCAT commitment. The present section addresses the prior question: what would the U.S.'s UNCAT commitment require on the merits, and would the prospective adoption of Troxel II's eight constitutional holdings — even in their most disciplined form — satisfy that commitment? The IAJ position, set out in this Framework as published institutional doctrine, is that even fully adopted Troxel II would not satisfy the U.S.'s existing UNCAT, CRC, CRPD, ICCPR, ICESCR, ICERD, and CEDAW obligations on the five protection dimensions identified in UNCAT Article 2(1) and operationalised across the Convention as a whole: prevention, protection, relief, remedy, and punishment. The constitutional architecture is necessary; it is not sufficient. The international architecture supplies what the constitutional architecture, by its own institutional limits, cannot supply. This section identifies the gap on each of the five dimensions. The gap analysis is not a critique of Troxel II; the constitutional architecture performs its function competently within the institutional boundaries domestic constitutional law imposes. The gap is what those boundaries necessarily exclude, and what the U.S.'s existing treaty commitments require independently. The IAJ position is that the gap is structural, not analytical; it cannot be closed by any expansion of the constitutional architecture alone, and it does not close by adoption of Troxel II.

11.8.1 — Prevention

UNCAT Article 2(1) requires that “Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.” Read with Articles 10 (mandatory training of public officials, including those involved in the custody, interrogation, or treatment of any individual subjected to any form of arrest, detention, or imprisonment) and 11 (systematic review of interrogation rules, instructions, methods, and practices), the prevention obligation is a continuing, system-wide duty. It extends to legislative and administrative review of laws and practices that produce or facilitate torture or CIDT; mandatory training of public officials including judicial officers and child-welfare workers; systematic review of adjudication and investigation rules; and routine inspection. Prevention is a continuing institutional obligation, not a constitutional standard triggered case by case. Troxel II provides prospective procedural protection within family-court proceedings: Holdings 1, 2, and 6 establish substantive thresholds; Holdings 4, 5, and 7 establish procedural standards; the Reliability Floor (Chapter 13) governs the evidentiary inputs. These are genuine preventive measures within the constitutional layer, and they would, if adopted, materially reduce the incidence of the harm. They do not extend to the systematic review, mandatory training, and continuing-inspection obligations of UNCAT Article 2(1) read with Articles 10 and 11. Adoption of Troxel II would not constitute a compliance pathway for those obligations; it would satisfy them within family-court practice while leaving every other institutional setting (criminal

proceedings, immigration proceedings, administrative adjudication, custodial settings, interrogation contexts) structurally unaddressed.

11.8.2 — Protection

UNCAT Article 2(2) provides that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.” Article 2(3) provides that “an order from a superior officer or a public authority may not be invoked as a justification of torture.” Article 3 provides for non-refoulement. CRC Article 19 obligates protection of children from all violence, abuse, and exploitation. CRPD Article 16 obligates protection of disabled persons from violence, exploitation, and abuse. The protection obligation reaches beyond the proceedings in which the violation occurs and into the broader institutional and policy environment, including protection of complainants, witnesses, and family members from retaliation. *Troxel II*'s protections operate within proceedings: Holding 4 (Non-Delegation), Holding 5 (Auditable Orders), Holding 7 (Epistemic Boundary), Holding 6 (Emergency Discipline). They protect parties to the proceedings from the proceedings themselves. They do not protect complainants and witnesses against retaliation; do not establish non-refoulement; do not displace the superior-orders defence; do not extend beyond family adjudication into the broader institutional protection obligations the international instruments create. The CRC Article 19 obligation in particular is not satisfied by procedural protection within family adjudication; it requires a coordinated protection architecture extending across all settings affecting children, with mandatory reporting, integrated child-protection services, and continuing supervision.

11.8.3 — Relief

UNCAT Article 13 provides that “each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.” The relief obligation is the obligation to make a meaningful complaint mechanism available — irrespective of domestic procedural barriers, statutes of limitation, exhaustion requirements, or finality doctrines. *Troxel II* depends on domestic appellate process. That process can be foreclosed by abstention (Younger), by immunity (qualified, absolute civil judicial, prosecutorial, expert-witness), by domestic finality (*res judicata*, AEDPA, state collateral-attack rules), by procedural default, by ineffective assistance not rising to constitutional violation, and by the practical exhaustion of remedies through the litigation-vehicle problem analysed in the IAJ Synthesis Memorandum. Where domestic relief is foreclosed by these mechanisms, the international

Article 13 obligation remains intact and operative; Troxel II does not supply a parallel relief mechanism.

11.8.4 — Remedy

UNCAT Article 14 provides that “each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.” Committee Against Torture General Comment No. 3 (2012) elaborates the Article 14 obligation as comprising five forms of reparation: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. The Committee further holds that amnesties or other impediments that preclude prompt and fair prosecution and punishment of torture or ill-treatment violate the principle of non-derogability; that statutes of limitation should not apply to torture or CIDT; and that states must ensure that all victims of torture or ill-treatment, regardless of when the violation occurred or whether it was carried out by or with the acquiescence of a former regime, are able to access their rights to remedy and to obtain redress. Troxel II's remedial architecture comprises constitutional injunctive relief; § 1983 damages subject to qualified immunity; state tort remedies subject to absolute civil judicial immunity (*Stump v. Sparkman*) and litigation privilege; state collateral-attack mechanisms subject to AEDPA and state procedural defaults; and the Kinship Continuity and Graduated Restoration module's restoration-of-bond remedies (Chapter 14). Each of these is bounded by domestic doctrine. None of them satisfies the five-form reparation obligation of Article 14 read with CAT General Comment No. 3, and none of them survives the domestic immunities the IAJ position identifies in the six-pathway analysis (Chapter 11.7). The Article 14 remedy obligation is, in the Committee's terms, non-derogable and survives all domestic procedural barriers. Adoption of Troxel II would not satisfy this obligation. The international architecture (CAT individual communications under Article 22 where accepted; jus cogens override of immunities under VCLT Articles 53 and 64; Pinochet-style accountability) is what the U.S. committed to when it ratified UNCAT; the IAJ position is that the commitment is currently unfulfilled and remains so even on prospective Troxel II adoption.

11.8.5 — Punishment

UNCAT Article 4 provides that “each State Party shall ensure that all acts of torture are offences under its criminal law.” Article 7 provides for prosecution or extradition (*aut dedere aut judicare*). The U.S. has implemented these obligations in 18 U.S.C. § 2340A, which criminalises torture but is by its terms limited to extraterritorial conduct. The U.S. has no general domestic criminal-torture statute reaching official conduct within the United States. Existing federal civil-rights statutes — 18 U.S.C. §§ 241, 242, and 249 — reach willful deprivation of rights but are not torture-specific and have not been deployed against judicial Category C conduct, as the IAJ position at 11.7.7 names. Troxel II provides no criminal-prosecution mechanism. The

constitutional architecture is, by its institutional nature, civil rather than criminal. Troxel II's punishment dimension is entirely absent. The Article 4 and Article 7 obligations — to criminalise torture occurring within U.S. jurisdiction and to prosecute or extradite — are unsatisfied by Troxel II adoption and remain so. The IAJ position is that the U.S.'s § 2340A territorial limitation, considered together with the prosecutorial omission at 11.7.7, leaves the punishment dimension structurally unaddressed at the domestic level. International accountability through the CAT and HRC procedures, through universal-jurisdiction mechanisms in third states, and through the jus cogens override of domestic immunities is therefore the operative pathway for the punishment dimension, regardless of whether Troxel II is adopted.

11.8.6 — The IAJ Position on the Gap

The IAJ does not advance the gap analysis as a critique of Troxel II. The constitutional architecture performs its function competently. The IAJ advances the gap analysis as a position on the limits of any constitutional remedy in a state that has ratified UNCAT and signed CRC, CRPD, ICESCR, CEDAW, ICRMW, and CED with the equivalence promises analysed at 11.5. The IAJ's position has four elements. First, adoption of Troxel II is necessary: the eight constitutional holdings supply prospective domestic protections that the U.S. constitutional order presently does not provide, and adoption is the IAJ's first-instance recommended pathway and the Framework's primary domestic-implementation theory. Second, adoption of Troxel II is not sufficient: even fully adopted, the constitutional architecture would leave the U.S. in continuing breach of UNCAT Articles 2(1), 4, 7, 12, 13, and 14, and in continuing breach of the CRC, CRPD, and other ratified or signed instruments analysed in Chapter 7. Third, the gap is structural: it cannot be closed by any expansion of domestic constitutional doctrine alone. Closing the gap requires either ratification of pending instruments (CRC, CRPD, ICESCR, CEDAW, ICRMW, CED) and statutory implementation of all ratified instruments to the extent of their requirements, or continuing international accountability for the gap. The IAJ position is that both are required: ratification and statutory implementation are the prospective compliance pathway; international accountability is the retrospective pathway and the operative standard pending compliance. Fourth, the Equivalence Promise (11.5) is therefore not closeable through Troxel II adoption alone. The promise was that domestic mechanisms would provide protection equivalent to UNCAT. Adopting Troxel II improves the domestic mechanisms but does not bring them to equivalence on the five dimensions identified above. The promise is in continuing breach, and the gap analysis identifies the specific dimensions on which the breach operates.

11.9 — The No-Finality Principle and the 2023 Special Rapporteur Report

The remedy and punishment dimensions analysed at 11.8.4 and 11.8.5 raise a structural question about international accountability: does the closure of domestic proceedings — through final judgment, statute of limitations, qualified immunity grant, denial of certiorari, or

analogous finality mechanisms — terminate international accountability for the underlying conduct? The IAJ position, supported by the international authorities specified in this section, is that it does not. The closure of domestic proceedings does not foreclose international accountability for jus cogens violations including torture and CIDT, for ratified-treaty obligations under UNCAT and parallel instruments, or for the parallel obligations under CRC, CRPD, ICCPR, ICESCR, CERD, CEDAW, and CED. The principle is sometimes summarised as “no domestic judgment is final in the case of certain human rights violations.” The summary is accurate as to its operative effect: domestic finality doctrines yield to international accountability for the categories of violations identified below. The Framework adopts the principle and identifies its authorities in the subsections that follow.

11.9.1 — Reimagining Justice (A/HRC/53/31, April 2023)

In April 2023, the United Nations Special Rapporteur on the Independence of Judges and Lawyers, Professor Margaret Satterthwaite, submitted her first thematic report to the Human Rights Council, *Reimagining justice: confronting contemporary challenges to the independence of judges and lawyers, A/HRC/53/31 (13 April 2023)* (the *Reimagining Justice* report). The report establishes the institutional framework within which the no-finality principle operates and supplies three propositions material to the integrated framework. First, the *Reimagining Justice* report ties the prohibition on torture to judicial independence as a matter of international law: “rights and obligations relating to the prohibition on torture clearly require judicial independence and its absence raises serious concern about accountability” (¶ 11, citing UNCAT Articles 2 and 13 and Committee Against Torture General Comment No. 3 (2012)). The Special Rapporteur thereby identifies judicial independence as a constitutive element of the torture prohibition’s enforceability, not as an institutional preference operating alongside it. Where judicial independence is compromised, the prohibition is not merely under-enforced; the international-law obligation is engaged because the absence of independent adjudication is itself a breach of the protection the prohibition requires. Second, the report identifies as concerning “new limits on courts’ jurisdiction to review the legality of executive or parliamentary action or reforms to the nature or composition of courts — particularly high courts — that effectively diminish their independence and ability to remedy human rights violations” (¶ 19). The Special Rapporteur thereby treats the ability of domestic courts to remedy human rights violations as itself a subject of international scrutiny. Domestic doctrines that operate to preclude such remedy — including the absolute civil judicial immunity, qualified immunity, abstention, AEDPA’s procedural-default and successive-petition rules, and analogous finality mechanisms — fall within the report’s identified concern to the extent they operate as such limits. Third, the report endorses conviction-integrity-review mechanisms that “reinvestigate” cases “to uncover and remedy potential miscarriages of justice, especially cases involving communities that experience systemic discrimination or marginalization,” noting that “such units and related practices have

led to exonerations, the overturning of wrongful prosecutions and remedies for cases that involved mistreatment, including the use of torture to coerce false confessions” (¶ 46). The Special Rapporteur thereby explicitly contemplates and endorses re-opening past cases — that is, treating domestic finality as defeasible — as best practice for cases involving torture or systemic discrimination. The Reimagining Justice report does not, in those terms, articulate the no-finality principle as a discrete doctrine. The IAJ position is that the report's three propositions are the operative authority for treating the principle as established at the international institutional level, and that the principle's specific doctrinal content is supplied by the authorities identified at 11.9.2.

11.9.2 — The No-Finality Principle in International Law

The doctrinal content of the no-finality principle, as it operates in cases involving the categories of violations the Framework reaches, is established by four bodies of international authority operating in convergence. First, Committee Against Torture General Comment No. 3 (2012) on the implementation of UNCAT Article 14 holds that statutes of limitation should not apply to acts of torture or ill-treatment, and that amnesties for the crime of torture would conflict with the non-derogable nature of the prohibition. The Committee further holds that states parties shall ensure that all victims of torture or ill-treatment, regardless of when the violation occurred or whether it was carried out by or with the acquiescence of a former regime, are able to access their rights to remedy and to obtain redress (¶ 40). The General Comment supplies the operative international position on the non-application of finality, statute-of-limitation, and amnesty doctrines to torture and CIDT. Second, the Inter-American Court of Human Rights, in *Barrios Altos v. Peru* (2001) and the case law that follows it, holds that all amnesty provisions, provisions on prescription, and the establishment of measures designed to eliminate responsibility are inadmissible for serious human rights violations including torture. The principle has been applied across the Inter-American system to defeat domestic finality, statute-of-limitation, and amnesty mechanisms in cases involving torture, enforced disappearance, and other jus cogens violations. Third, the Pinochet line of authority (*R v. Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet Ugarte* (No. 3) [2000] 1 AC 147 (HL)) establishes that sovereign immunity, the most fundamental of all domestic immunity doctrines, yields to jus cogens accountability for torture. The Pinochet principle's analytical reach is broader than the immediate case: where sovereign immunity yields, every lesser domestic doctrine that operates as a barrier to torture accountability — including finality, statute of limitations, qualified immunity, and absolute civil judicial immunity — yields by necessary analytical consequence. Fourth, the International Law Commission Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (Jus Cogens) (A/CN.4/L.967, 2022) confirm that norms of jus cogens admit of no derogation and that treaties and customary international law that conflict with a peremptory norm are void to the extent of the conflict. Conclusion 17

holds that where there is an obligation to prosecute, jus cogens precludes any defence of statutory limitation; Conclusion 23 establishes the non-derogability of obligations arising from jus cogens norms. Read in convergence, the four authorities establish the no-finality principle in operational form: domestic finality, statute-of-limitation, amnesty, and immunity doctrines do not foreclose international accountability for torture, CIDT, enforced disappearance, and the parallel jus cogens violations the Framework's multi-treaty convergence reaches. The Reimagining Justice report at 11.9.1 supplies the institutional framing within which these doctrines operate; the General Comment, the Inter-American jurisprudence, the Pinochet line, and the ILC Draft Conclusions supply the operative content.

11.9.3 — Operational Consequences for the Integrated Framework

The no-finality principle has three operational consequences for the Framework. First, it confirms that Move 5 of the Six-Move framework (Chapter 5) — the jus cogens override of domestic immunities — operates not only against immunity doctrines but against finality doctrines. The Pinochet principle's analytical reach is sovereign immunity at its most fundamental; finality doctrines like *res judicata*, AEDPA procedural-default rules, and statutes of limitation are, in the Move 5 analysis, lesser doctrines that yield by analytical consequence. Move 5's retrospective accountability function is therefore not foreclosed by closure of domestic proceedings. Second, it confirms that the equivalence-gap analysis at 11.8 cannot be closed by domestic adjudication operating to a final domestic judgment. The five protection dimensions remain operative and the U.S.'s treaty obligations remain in force regardless of whether any individual case has been finally adjudicated domestically. The Equivalence Promise (11.5) is, in this sense, structurally unenforceable through domestic finality alone; international supervision of the gap continues regardless of domestic outcomes. Third, it confirms the IAJ's six-pathway analysis at 11.7. The pathways operate independently of domestic finality. The Committee Against Torture, Human Rights Committee, Committee on the Rights of the Child, Committee on the Rights of Persons with Disabilities, Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Discrimination Against Women, and Committee on Enforced Disappearances individual communications procedures (where accepted) are available regardless of whether domestic proceedings have terminated. The Special Rapporteur procedures referenced in the Reimagining Justice report are available regardless of domestic finality. The Universal Periodic Review process operates on continuing institutional patterns rather than individual case finality. The criminal pathways under §§ 242, 1519, and 1985(3) and the disciplinary pathway operate at the merits level and can be initiated regardless of whether civil proceedings have closed. The IAJ position, articulated at 11.7.8 (Institutional Position and Operational Restraint), is that the doctrinal availability of the pathways is unaffected by closure of any particular domestic proceeding. The integrated framework's overall design accommodates the no-finality principle: the constitutional layer (Layer A) operates *ex ante* to

prevent the violations from arising; the international layer (Layer B) operates ex post to provide accountability for violations that nonetheless arise, regardless of domestic finality. The two layers reinforce one another but the international layer is not subordinate to domestic finality; it operates above domestic finality on jus cogens norms and above domestic finality on the ratified-treaty obligations under UNCAT, CRC, CRPD, and the parallel instruments analysed in Chapter 7.

Doctrinal Objection and Reply

“Absolute Judicial Immunity Forecloses the Six Pathways of Chapter 11.7”

The strongest objection to the judicial-liability analysis is that absolute judicial immunity, as articulated in *Stump v. Sparkman*, 435 U.S. 349 (1978), and *Mireles v. Waco*, 502 U.S. 9 (1991), forecloses personal accountability for judicial conduct. The objection misstates the doctrine. *Stump* and *Mireles* establish absolute civil immunity for judicial acts. The doctrine is civil, not criminal; it is judicial-acts-only, not administrative-acts; and it is domestic, not international. The doctrine does not foreclose: criminal prosecution under 18 U.S.C. §§ 242 or 249 (Operation Greylord and the Cash for Kids prosecutions are the leading public examples in the United States); civil-rights conspiracy claims under 42 U.S.C. § 1985(3) where the conduct is administrative, criminal, or otherwise outside the judicial-acts protection; obstruction prosecution under 18 U.S.C. § 1519 where judicial records have been falsified; judicial-conduct discipline under state commissions and 28 U.S.C. § 351 et seq.; or international accountability under jus cogens, which operates above domestic immunities under VCLT Articles 53 and 64 (*Pinochet* establishes the principle for sovereign immunity, the most fundamental of all domestic immunity doctrines, and every lesser immunity yields by analytical consequence). Each of the six pathways operates independently. The categorical foreclosure objection collapses six distinct accountability pathways into one civil-immunity doctrine that does not reach any of them.

DIGNITY ALIGNMENT TEST — The Equivalence Promise

Whether the U.S. equivalence representation creates an enforceable interpretive standard (PCS Framework Chapter 11)

Thesis position. The equivalence promise made by Congress to the international community in ratifying UNCAT — that domestic mechanisms provide protection equivalent to the Convention’s requirements — creates an enforceable interpretive standard for U.S. courts. Where domestic interpretation produces less than equivalent protection, the promise is unfulfilled; the *Charming Betsy* canon and the deposited-instrument doctrine require domestic interpretation to be adjusted to fulfill the commitment Congress made. The IAJ’s documented “radical non-equivalence” between the promise and Texas state-court practice (*Salazar*, D.14) establishes that the gap is not theoretical.

Adversarial counter. The equivalence promise was advisory and political, made to secure ratification; it does not bind courts and does not authorise judicial adjustment of domestic interpretation to fulfil executive-branch international representations. Treating the promise as enforceable would inappropriately convert political representations into judicial obligations and would invite courts to second-guess executive treaty interpretation.

Dignity derivation. A state cannot publicly commit to providing equivalent protection of dignitarian rights and then implement domestic law that produces less than equivalent protection without violating the dignitarian foundation on which the commitment rests. The commitment is the state's own; the rights protected are dignitarian; the failure to honour the commitment is itself a dignity violation independent of the underlying treaty obligation. The state that makes a public dignitarian commitment binds itself to its own commitment as a matter of dignity, regardless of whether the commitment is characterised as legally enforceable or as political. The adversarial position would make dignitarian rights contingent on whether Congress chose to characterise its own commitment as enforceable — a result that subordinates dignity to procedural taxonomy. The thesis position is consistent with the foundation: the state that promises equivalent protection of dignity owes equivalent protection of dignity.

IAJ Finding II

The Integrated Standard Established

Part II of this Framework establishes that parent–child separation administered through coercive judicial or administrative process engages, simultaneously, an eight-holding constitutional architecture (Troxel II) and a six-Move international architecture supported by a nine-treaty convergence and a unified discriminatory-purpose architecture (the IAJ Synthesis). The two architectures operate at different thresholds and produce different remedial outputs, but they identify the same institutional pathology and prescribe coextensive prospective safeguards. The convergence between two reform projects working independently from foundations sharing no authorities is the foundation's signature: both projects derive from the inherent dignity of the human person, articulated through different doctrinal vocabularies, and both arrive at the same institutional answer because the answer is the one consistent with that foundation. The integrated standard is therefore not the synthesis of two competing analyses but the joint expression of one underlying principle in two doctrinal layers.

PART III — IMPLEMENTATION: HOW TO ACT ON THE FRAMEWORK

Chapter 12 — The Analytical Workflow for an Individual Case

The integrated framework supplies an analytical workflow that any practitioner, court, agency, or treaty body can apply to any case affecting the parent–child bond. The workflow is reproduced below in operational form. Each step has both a constitutional and an international layer, and each step produces an output that feeds the next step.

Step 1 — Identify the State Action and Its Vehicle

Identify the specific state action affecting the parent–child bond: the court order, the CPS placement decision, the school-mediated separation, the law-enforcement removal executed under judicial authority, the immigration removal. Identify the vehicle (family court, juvenile court, dependency court, immigration proceeding, administrative agency). Identify the public official or officials in official capacity who issued or executed the action. Output: a specific identified state act by a specific identified official, eligible for analysis under both constitutional and treaty frameworks.

Step 2 — Establish the Burden Architecture

Apply the Fit Parent Presumption (Holding 1) and the CRC Article 18 primary-parental-responsibility recognition. Determine whether unfitness or concrete harm has been established by clear and convincing evidence on the record. If not, the action fails at Step 2 under both the constitutional framework (Holding 1) and the international framework (Move 3 burden allocation; CRC Article 9 best-interests-of-the-child requirement). If unfitness or concrete harm has been asserted, proceed to Step 3 to test the asserted basis.

Step 3 — Apply the Epistemic Boundary / Move 4 / CRC Article 3

Test the asserted basis for unfitness or concrete harm against the integrated epistemic standard: is it grounded in specific conduct? does it demonstrate a causal nexus to concrete harm? is it contestable on the record? is it falsifiable where empirical? Does it satisfy the substantive content of CRC General Comment No. 14 on best-interests determinations? If the asserted basis is a label, an unfalsifiable framework, or a circular construct, the action fails the Epistemic Boundary domestically, the Move 4 severity-and-causation analysis internationally, and CRC Article 3 directly. Output: a determination whether the asserted basis is epistemically accountable.

Step 4 — Apply the Strict Scrutiny Floor / Move 1 / CRC Article 9

Where the asserted basis survives Step 3, test the action against the strict-scrutiny standard and against CRC Article 9: is the action narrowly tailored to a compelling state interest, supported by clear and convincing evidence, and the least restrictive means available? Has competent authority subject to judicial review determined that separation is necessary for the best interests of the child in accordance with applicable law and procedures? Output: a determination whether the action satisfies both the constitutional standard and CRC Article 9.

Step 5 — Apply the Auditable Orders Requirement / Move 3

Test the order against the auditable-orders requirement and the Move 3 lawful-sanctions analysis: do the written findings identify the evidence credited, the standard applied, and the alternatives considered and rejected? If not, the order fails the auditable-orders requirement domestically and the lawful-sanctions carve-out internationally. Output: a determination whether the order is procedurally adequate.

Step 6 — Apply the Non-Delegation Rule / CRC Article 12

Identify any private actor whose findings, recommendations, or determinations were treated as decisive by the public official. Determine whether the public official independently exercised judgement on the contested record or substituted the private actor's determination for its own. Determine whether the child was heard directly in accordance with CRC Article 12 and General Comment No. 12, or only through professionals operating opaquely on the child's behalf. If the action was effectively delegated, it fails the Non-Delegation Rule and engages the Article 1 acquiescence clause. Output: a determination whether the adjudicative function was properly exercised.

Step 7 — Apply the Severity Standard / Move 4 / Istanbul Protocol

Document the severity of harm produced by the proceedings or by the action under review. Apply the Istanbul Protocol methodology where applicable. Document the clinical record, treating-physician declarations, escalation in care intensity, and any peer-reviewed causal-mechanism analysis. Establish severity at Level III (Moderate-Severe), Level IV (Severe-Incapacitating), or Level V (Life-Threatening) under the Istanbul Protocol grading system where the evidence supports it. Output: a documented severity finding eligible for both domestic deliberate-indifference analysis and international Article 1 / Article 16 analysis.

Step 8 — Apply the Three-Category Taxonomy

Classify the conduct under the three-category taxonomy. Category A (adjudicative error) terminates the analysis at the appellate-review layer. Category B (serious official abuse) engages the constitutional framework and may engage the international framework where Step 7 severity is established. Category C (independently criminal conduct) engages the constitutional

framework, the international framework, and domestic criminal enforcement where elements are met. Output: a category determination that gates the available remedies.

Step 8A — Classify Before Escalating

Before invoking CIDT, torture, jus cogens, criminal liability, judicial liability, or personal accountability language, the decisionmaker must classify the conduct under the Three-Category Taxonomy and identify the evidentiary basis for that classification. The record must specify which category is claimed, which elements are satisfied, which evidence supports each element, which alternative explanations have been rejected, and which lawful justifications have failed. No case may be escalated from constitutional error to international accountability by rhetoric alone.

Step 9 — Apply the Coercive-Architecture / Captive-Litigant Analysis

Document the catastrophic exit cost of the proceedings: the consequences of withdrawal (permanent termination of parental rights, contempt sanctions, fee shifting), the absence of meaningful exit, and the state's control of the terms of the relationship. Apply OPCAT Article 4(2) functional-custody analysis, ICCPR Article 9 functional-deprivation jurisprudence, CRPD Article 14 liberty analysis, and CRC Article 37 deprivation-of-liberty analysis where treaty-body submission is contemplated. Output: a determination whether the proceedings operate within the coercive architecture that triggers heightened scrutiny.

Step 10 — Apply the Multi-Treaty Convergence

Identify which treaty bodies have concurrent jurisdiction over the documented conduct: CAT Committee for UNCAT claims; HRC for ICCPR claims; CRC Committee for CRC claims (under OP3 where applicable); CRPD Committee for disability-discrimination claims; CERD Committee for race-discrimination claims; CEDAW Committee for gender-discrimination claims; CESC for ICESCR claims; CMW for migrant-worker claims; CED for enforced-disappearance claims; EMRIP for indigenous-rights claims; the relevant regional human-rights body where applicable (ECtHR, IACtHR, ACtHPR). Identify which domestic statutory theories are simultaneously satisfied. Identify which prosecutorial referrals are warranted. Output: a comprehensive remedial map identifying all available domestic and international fora.

Severity Discipline: Proof, Not Presumption

Severity sufficient to support CIDT, torture, or jus cogens classification is not presumed from the fact of separation alone. The fact of state-imposed parent-child separation supplies the factual setting in which severity analysis operates; it does not by itself satisfy the severity threshold. Severity must be established through case-specific documentation — medical records, psychological evaluations, developmental assessments, treating-physician declarations, attachment-trauma documentation, peer-reviewed causal-mechanism analysis, and where

applicable Istanbul Protocol-compliant grading at Levels III, IV, or V. The Reliability Floor (Chapter 13) governs the evidentiary process; the Epistemic Boundary (Holding 7) governs the substantive accountability of the evidence; and the analytical workflow's Step 7 governs the procedural application of the discipline. Where the documentation does not support the severity finding, the analysis remains at the constitutional layer (Category A or Category B) without escalation to the international layer. The IAJ takes severity discipline as a methodological commitment: rhetorical escalation from constitutional violation to torture or CIDT classification, unsupported by case-specific severity documentation, is not part of the Framework. The discipline is not a concession to opponents; it is the same discipline the Framework imposes on the state when it proposes the original separation, applied evenly to the analysis the Framework itself produces. The Framework rejects rhetorical escalation from separation to torture or CIDT without a documented severity record.

Chapter 13 — The Reliability Floor for Child Statements and Parent-Level Access

The integrated framework's analytical workflow (Chapter 12) requires evidentiary inputs of sufficient reliability to support the substantive conclusions the framework reaches. Where the inputs are unreliable — where child statements are obtained through leading techniques, where forensic interviews are not recorded, where parents are denied access to the evidence used against them — the workflow produces unreliable outputs. This chapter sets out the Reliability Floor: the minimum evidentiary standards that every adjudication affecting parent-child separation must satisfy. The Floor is drawn from the Texas Amicus, where the IAJ proposed it as the procedural-safeguard predicate for meaningful strict-scrutiny analysis under the 2025 Texas Parental Rights Amendment, and is generalised in this Framework for application across all U.S. and international jurisdictions.

13.1 — Why the Reliability Floor Is a Constitutional Prerequisite

Strict scrutiny is not self-executing. The heightened standard of review accomplishes nothing if the procedural mechanisms necessary to apply it are absent or defective. A court cannot determine whether the state has employed the least restrictive means if parents are denied access to the evidence used against them; cannot evaluate whether less-restrictive alternatives exist if the factual record is developed through unreliable interview techniques; cannot ensure that termination serves a compelling interest if the evidence supporting that interest is inaccessible to challenge. The Reliability Floor is therefore not an optional enhancement to strict scrutiny — it is the procedural prerequisite without which strict scrutiny is illusory. The same is true of UNCAT Article 16 proportionality analysis: proportionality requires the capacity to compare the documented harm against the asserted state interest, and that comparison requires evidentiary inputs the parties can meaningfully test. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), supplies

the constitutional architecture: where the risk of erroneous deprivation is high and the value of additional safeguards is significant, due process requires the additional safeguards. *Santosky v. Kramer*, 455 U.S. 745, 758–69 (1982), applies this analysis to termination of parental rights and concludes that heightened protections are constitutionally required given the severity and finality of termination. The Reliability Floor operationalises *Mathews* and *Santosky* for the specific evidentiary inputs on which family adjudication relies.

13.2 — Continuous Audio/Video Recording of Forensic Interviews

No child statement may be admitted as substantive evidence — and a fortiori, no child statement may be used dispositively — unless the proponent establishes continuous audio/video recording of the entire interview, from before the child enters the interview room until after the child exits. The recording must be unedited; any break, sidebar, or off-camera interaction must be documented on the record. Failure to record continuously is not a technical defect but a substantive defect: it renders the resulting statements untestable as to the conditions of their elicitation, and untestable evidence cannot satisfy the reliability requirements of due process or UNCAT Article 16. The recording requirement is consistent with the U.S. Supreme Court’s decisions in *Idaho v. Wright*, 497 U.S. 805, 818–21 (1990) (hearsay reliability requires particularised guarantees of trustworthiness) and *Crawford v. Washington*, 541 U.S. 36, 68 (2004) (confrontation requirements not satisfied by post hoc reliability findings).

13.3 — Validated Non-Leading Interview Protocols

Forensic interviews must be conducted using research-based protocols that minimise suggestibility and maximise reliability. Three protocols are widely recognised: the NICHD Protocol, developed at the National Institute of Child Health and Human Development and the most extensively researched protocol worldwide, available in over 25 languages; the CornerHouse RATAC Protocol (Rapport, Anatomy Identification, Touch Inquiry, Abuse Scenario, Closure), approved by the National Children’s Alliance with over 50,000 professionals trained; and the ChildFirst Protocol (formerly Finding Words), NCA-approved and implemented in 21 states with over 6,500 professionals trained annually. Each protocol emphasises open-ended questions, avoidance of leading or suggestive techniques, developmentally appropriate language, and single rather than multiple interviews on the same topic. Protocol violations directly affect the reliability of resulting statements and must be considered in any reliability finding.

13.4 — Written Reliability Findings

Where child hearsay is offered as substantive evidence, the court must make written, on-the-record findings addressing: (a) the time, content, and circumstances of the statement; (b) the child’s age, maturity, and relationship to the persons involved; (c) the presence or absence of corroborating evidence; (d) whether the statement was obtained through leading or suggestive

questioning; (e) the qualifications and protocol compliance of the interviewer; (f) whether continuous audio/video recording exists; and (g) whether the parent received timely disclosure of all recordings and materials. Without written findings, appellate review of the reliability determination is foreclosed and the auditable-orders requirement of Holding 5 is violated. The findings requirement applies regardless of the hearsay vehicle: business records, public records, medical records, and residual exceptions cannot be vehicles for hearsay-within-hearsay that was itself obtained by leading or unrecorded methods.

13.5 — Parent-Level Access to Evidence

Due process and UNCAT Article 16 require that parents have meaningful access to the evidence used against them. The “attorney-only access” framework — under which forensic interview recordings, agency investigation records, and supporting documentation are made available to the parent’s attorney but not to the parent directly — creates structural barriers to constitutional compliance. A parent who has not seen the evidence cannot effectively direct strategy, retain or instruct experts, identify factual errors in agency reports, or supply context that contradicts agency assertions. The attorney-only framework operates as a de facto wealth test, with disproportionate impact on indigent parents whose appointed counsel typically cannot supply the depth of independent factual investigation that would otherwise compensate for the parent’s exclusion. The remedy is parent-level access under tailored protective orders. The protective order can preserve confidentiality interests by limiting redistribution, prohibiting public disclosure, and providing in-camera resolution of disputes — while still enabling the parent’s meaningful participation. Appendix B of this Framework supplies a model protective order. Strict scrutiny under any state constitutional parental-rights guarantee, the Federal Due Process Clause under *Santosky*, and UNCAT Article 16 under the deposited instrument’s Reservation I(1) all require that the parent have access to the evidentiary core under such an order.

13.6 — Continuance-as-of-Right for Late Disclosure

Where the state produces evidence, recordings, or witness disclosures within fourteen days of trial, the responding parent must be entitled to a continuance as of right. The parent cannot effectively respond to evidence the parent has only just received; cannot retain experts; cannot prepare confrontation. Imposing termination on parents who have been procedurally ambushed satisfies neither strict scrutiny nor UNCAT Article 16. Texas Rules of Civil Procedure 216 and 220 supply the procedural vehicle in Texas; analogous provisions exist in every U.S. state. UNCAT Article 14’s effective-remedy requirement reinforces the rule. The Model Standing Order in Appendix A includes the continuance-as-of-right provision.

13.7 — The Critique of Attorney-Only Access as Systemic Constitutional Barrier

The attorney-only access framework — entrenched in many states’ family-law practice and codified in some states’ family codes — constitutes a systemic constitutional barrier rather than a neutral procedural rule. Empirical studies establish that approximately 85% of CPS-affected families have incomes below 200% of the federal poverty line (Dolan et al., NSCAW II Baseline Report, 2011), and that quality of legal representation is the single most significant variable in determining whether a child reunifies with the family or remains in state care (Family Justice Initiative; Children’s Bureau studies; NYU Civil Right to Counsel research). Where indigent parents are represented by under-resourced, court-appointed counsel handling high caseloads at flat fees of \$1,200 to \$2,500, the attorney-only framework operationally excludes the parent from any meaningful participation. The U.S. Supreme Court’s holding in *M.L.B. v. S.L.J.*, 519 U.S. 102, 123–24 (1996) — that wealth-based barriers to access in termination proceedings violate Equal Protection — applies to the attorney-only framework with full force. The IAJ’s position, set out in the Texas Amicus, is that the attorney-only framework is per se unconstitutional and that parent-level access under protective orders is the only constitutionally permissible regime.

DIGNITY ALIGNMENT TEST — Parent-Level Access to Evidence

Whether the attorney-only access framework can be reconciled with dignity (PCS Framework Chapter 13)

Thesis position. Parents must have meaningful access to the evidence used against them in proceedings affecting parental rights — including forensic interview recordings, agency investigation files, and supporting documentation — through parent-level review under tailored protective orders. Attorney-only access frameworks fail strict scrutiny, fail UNCAT Article 16 proportionality under the deposited-instrument Reservation I(1) constitutional linkage, and fail the equivalence promise.

Adversarial counter. Confidentiality interests of children and agencies require evidence restrictions; attorney-only access is the appropriate balance, with counsel serving as the parent’s gatekeeper and screen against unauthorised disclosure. Direct parental access risks inappropriate disclosure that could harm children, retraumatise victims, or compromise ongoing investigations.

Dignity derivation. A parent excluded from review of the evidence that determines whether they will continue to be a parent cannot exercise their dignitarian claim to defend their parental status. The exclusion treats the parent as an object of adjudication rather than as a participant in it — a status incompatible with the dignity foundation of every instrument the Framework integrates. Confidentiality concerns are real but addressable: protective orders can preserve confidentiality through targeted redactions, supervised review, prohibitions on redistribution, and in-camera dispute resolution while still enabling meaningful parental review. The adversarial position protects confidentiality at the cost of dignity; the thesis position protects both through tailored procedural design (Appendix B Protective Order Template). The thesis position is consistent with the foundation; the adversarial position would make dignity contingent on the parent’s ability to retain counsel sophisticated enough to communicate

the evidence to the parent in a manner that compensates for direct exclusion — a wealth-based contingency that *M.L.B. v. S.L.J.* forecloses on independent constitutional grounds.

Chapter 14 — The Kinship Continuity and Graduated Restoration Module

Where the analytical workflow identifies a state action that impairs the parent–child bond and where the integrated framework supplies remedies, the question becomes how to design the remedy. The Kinship Continuity and Graduated Restoration module — drawn from the *Troxel II* project and developed in the Framework as the operational interface between the constitutional and international layers — supplies the answer. The module is consistent with CRC Article 8(2) (re-establishment of identity speedily where unlawfully impaired), CRC Article 10 (family reunification), CRC Article 39 (recovery and reintegration), and CRPD Article 16(4) (recovery, rehabilitation, and reintegration of victims).

The module rests on three structural commitments. First, where state action has separated a parent from a child, the remedy is restoration of the bond, not merely procedural correction of the order that effected the separation. Second, restoration must be graduated: domain by domain, contact by contact, and according to a documented schedule that anticipates the developmental and clinical realities of reattachment after rupture. Third, the procedure governing restoration must satisfy the same constitutional and treaty standards that should have governed the original separation: clear and convincing evidence, auditable findings, no delegation to private actors operating without procedural discipline, and continuous epistemic accountability.

Defined Caregiver Standing

The module defines three standing categories that operate independently of the formal custodial label: Long-term Kinship Caregiver (LKC), Primary Custodial Domiciliary (PCD), and Established Kinship Attachment (EKA). The categories supply the procedural footing for all subsequent restoration analysis and are designed to preserve continuity of care during restoration without prejudicing the underlying constitutional rights of the displaced parent.

The Anti-Isolation Trigger

Where custody has shifted from one parent to the other and the child’s contact with the displaced parent falls below a defined threshold for a defined period (default: 30% of pre-shift contact, sustained for 60 days), the anti-isolation trigger fires automatically. The trigger creates a rebuttable presumption that the displaced parent’s constitutional liberty interest and the child’s CRC Article 9(3) right to maintain contact are being materially impaired. It shifts the burden to the custodial parent or agency to show, on auditable findings, that the reduction is supported by clear

and convincing evidence of necessity. The anti-isolation trigger operates as the domestic-procedural counterpart of Move 6 functional-custody analysis.

The Graduated Restoration Protocol

Restoration proceeds domain by domain rather than as a single all-or-nothing reversion. The domains: (1) electronic contact; (2) day visits; (3) overnight visits; (4) extended overnight visits; (5) shared schooling decisions; (6) shared medical decisions; (7) shared developmental decisions; (8) shared residential decisions. Restoration proceeds according to a written schedule, with auditable findings at each escalation point, and with provision for clinical support where the underlying separation has produced documented attachment trauma. Restoration is governed by the Epistemic Boundary, not by compliance with non-falsifiable therapeutic frameworks.

Model Continuity Order and Model Statute

The module supplies a model continuity order for adoption by family courts and a model statute for adoption by state legislatures. Both instruments encode the standing categories, the anti-isolation trigger, and the graduated restoration protocol. Both can be adopted independently and produce immediate prospective benefits. The instruments are reproduced in the source Troxel II project and incorporated by reference into this Framework.

Chapter 15 — Bench Card: Parent–Child Separation Decisions

For the individual judge sitting on the individual case, the integrated framework reduces to a one-page bench card. The card is reproduced in operational form below.

Part 1 — Threshold Questions

(1) Is each parent a fit parent? Apply the Fit Parent Presumption (Holding 1, CRC Article 18). Has unfitness or concrete harm been established by clear and convincing evidence on the present record? If not, no separation. (2) If a fit-parent dispute, is there a specific, identified, concrete harm — physical, sexual, or severe psychological — linked to specific conduct of an identified parent? If not, no separation.

Part 2 — Substantive Standard

(3) Is the asserted harm grounded in specific conduct, with a documented causal nexus to concrete developmental risk, contestable on the record, and falsifiable where empirical (Holding 7, Move 4, CRC Article 3 / GC No. 14)? If the asserted basis is a label, a non-falsifiable framework, or a circular construct, the Epistemic Boundary forecloses the separation. (4) Is the proposed restriction the least restrictive means available to address the documented concrete harm

(Holding 2, Move 1, CRC Article 9)? Identify on the record the alternatives considered and rejected.

Part 3 — Procedural Adequacy

(5) Have written findings been made identifying the evidence credited, the standard applied, and the alternatives rejected (Holding 5, Move 3, CRC Article 9 judicial review)? An order without findings is not auditable. (6) Has any decisive determination been made by a private evaluator, GAL, coordinator, or other professional rather than by the judge (Holding 4, Article 1 acquiescence clause, CRC Article 12)? (7) Has the child been heard directly or through an appropriate body, with views recorded and given documented weight (CRC Article 12, GC No. 12)? (8) If emergency relief, do the findings identify the specific risk, has live testimony been ordered within fourteen days, and is automatic sunset provided (Holding 6, Move 3 cumulative-prolongation)?

Part 4 — Severity and Category

(9) Is the proceeding producing documented severe harm to a parent or child, and does the record establish that the official has actual knowledge of the harm (Move 4, Istanbul Protocol)? If so, the proceeding has crossed from Category A through Category B and may engage Category C accountability. (10) Are there indicators of disability, indigenous status, racial or gender discrimination, or other protected-class dimensions that engage the multi-treaty convergence? If so, the case is potentially cognisable before multiple international bodies and engages the Unified Discriminatory-Purpose Architecture.

Chapter 16 — Audience-Specific Implementation Guidance

For Federal Courts

The integrated framework is constructed to be adoptable within existing constitutional doctrine. The eight *Troxel II* holdings invent no new rights and overturn no precedent; each holding completes the Meyer–Pierce–*Troxel* line within established principles of Due Process, Equal Protection, state action, and non-delegation. A federal court asked to apply the Framework should begin with the Strict Scrutiny Floor (Holding 2) and proceed through the holdings in the order they support each other. Where the case engages Category C of the three-category taxonomy, the court should consider whether 18 U.S.C. § 242, § 249, and § 1985(3) referrals are warranted under the Unified Discriminatory-Purpose Architecture. Where domestic immunities have foreclosed remedies for documented torture or CIDT, the court should consider whether jus cogens override applies under VCLT Articles 53 and 64. Where treaty obligations to which the United States is a party are implicated, the court should apply the Charming Betsy canon to construe domestic law consistently with international obligations where possible.

For State Legislatures

The state-level Best Interests of the Child project (drawn from the Troxel II framework) supplies model statutory language that encodes the eight holdings in black-letter law adoptable by any state. The model statute requires fit-parent equality, clear-and-convincing-evidence findings, written findings identifying evidence and alternatives rejected, prohibition of decisive delegation to private actors, and the developmental-value standard as the substantive content of 'best interests.' Adoption produces immediate prospective benefits within that state, generates the empirical record that supports federal adoption, and creates the inter-state comparison that produces uptake in adjacent states. The Kinship Continuity and Graduated Restoration module supplies the operational interface for cases involving custody modification or restoration after separation.

For Treaty Bodies

The Framework supplies the analytic structure for treaty-body submissions concerning parent–child separation in the United States and in any other state party. Each of the following bodies has independent jurisdiction over an aspect of the documented conduct: the CAT Committee (UNCAT, OPCAT); the Human Rights Committee (ICCPR, including under the First Optional Protocol where applicable); the CRC Committee (CRC and OP3, where ratified); the CRPD Committee (CRPD and OP); the CERD Committee (ICERD); the CEDAW Committee (CEDAW and OP); the CESC (ICESCR and OP); the CMW (ICRMW); the CED (ICPPED); the Expert Mechanism on the Rights of Indigenous Peoples (UNDRIP); the relevant regional bodies (ECtHR, IACommHR/IACtHR, ACtHPR/ACERWC). Submissions can be made in parallel across multiple bodies based on the same evidentiary record.

For Practitioners

Practitioners representing parents, children, or institutional defendants should apply the analytical workflow (Chapter 11) to every case. The workflow identifies the constitutional and international elements simultaneously and produces a comprehensive remedial map. For petitioner-side practitioners: the integrated framework permits parallel domestic and international claims from the same evidentiary record. For respondent-side practitioners: conformity to the Framework reduces institutional exposure. For pro se litigants: the bench card (Chapter 13) and the analytical workflow (Chapter 11) supply the framework in operational form.

IAJ Finding III

Operational Implementation

Part III of this Framework operationalises the integrated standard through four mutually reinforcing instruments: a ten-step analytical workflow that runs both constitutional and international analyses in parallel from the same evidentiary record; the Reliability Floor governing the evidentiary inputs on which strict scrutiny depends; the Kinship Continuity and Graduated Restoration module governing remedies where state action has impaired the parent–child bond; and a one-page bench card that reduces the integrated framework to operational form for the individual judge. Together, these instruments make the integrated standard implementable rather than aspirational. The Model Standing Order (Appendix A) and Protective Order Template (Appendix B) supply the trial-court mechanisms; the analytical workflow supplies the appellate and treaty-body mechanisms; the bench card supplies the in-court mechanism. Each instrument can be adopted independently and produces independent prospective benefits.

PART IV — REACH BEYOND FAMILY ADJUDICATION AND BEYOND THE UNITED STATES

Chapter 17 — Application to CPS, Foster Care, and ICWA Cases

Coercive parent–child separation administered through Child Protective Services agencies and through the foster-care system engages the integrated framework on the same terms as separation administered through family courts. The institutional vehicle does not alter the analysis. The CPS worker who issues a removal recommendation, the agency administrator who approves the placement, the dependency court judge who enters the formal order, and the foster-care professional who supervises the placement are each public officials in official capacity for purposes of UNCAT Article 1, CRC Article 9, and CRPD Article 13. The analytical workflow (Chapter 11) applies in full.

Cases involving Indian children engage UNDRIP Articles 7, 10, and 22 in addition to the standard convergence, and may engage the Indian Child Welfare Act (ICWA) as a domestic statutory framework that already encodes elements of the integrated standard (active-efforts requirement, qualified-expert-witness requirement, evidentiary thresholds). For ICWA-eligible cases, the Framework treats ICWA’s existing requirements as a partial template for the Auditable Orders, Epistemic Boundary, and Non-Delegation holdings. For non-ICWA cases involving indigenous parents and children, UNDRIP supplies an independent treaty framework that reaches conduct outside ICWA’s coverage. The Salazar case in the IAJ archive (D.14) is the paradigm case: an indigenous mother subjected to permanent parental separation by a non-ICWA state court, with concurrent jurisdiction in the CAT Committee, the CRC Committee, the CRPD Committee, the CERD Committee, the CEDAW Committee (gender-bias dimension), and EMRIP.

Chapter 18 — State-Level Constitutional Adoption: The Texas Case Study

The Framework’s audience-specific implementation guidance (Chapter 16) addresses state legislatures generically. This chapter examines the most advanced state-level constitutional adoption to date: the 2025 Texas Parental Rights Amendment (Texas Constitution Article I, Section 37) and the IAJ’s deployment of the integrated framework before the Supreme Court of Texas in *In re K.N., K.L., K.L., and K.L.*, No. 24-0881 (the Texas Amicus). The Texas case is the worked example of how the Framework operates in active appellate litigation under a state-level constitutional foundation that already incorporates portions of the constitutional architecture.

18.1 — Texas Constitution Article I, Section 37

In November 2025, Texas voters adopted Texas Constitution Article I, Section 37 (the Parental Rights Amendment), establishing parental rights as fundamental in the Texas Constitution. The

Amendment's text and operative effect support strict-scrutiny review of state action affecting the parent–child bond. The IAJ recognises the Amendment as a partial state-constitutional adoption of the Framework's constitutional architecture, broadly consistent with Holdings 1 (Fit Parent Presumption) and 2 (Strict Scrutiny Floor). The IAJ's position is that the Amendment establishes the constitutional floor; the implementation work — auditable orders, non-delegation, the Epistemic Boundary, and the procedural reliability standards developed in Chapter 13 — is now before the Texas courts as a matter of doctrinal application. Texas is therefore the first U.S. state to have adopted a state-constitutional foundation that aligns substantially with the prospective domestic floor established by the Framework's constitutional layer; other states with parental-rights amendments under consideration may follow.

18.2 — In re K.N. and the IAJ Amicus Filing

In re K.N., K.L., K.L., and K.L. is a parental-rights termination case before the Supreme Court of Texas on petition for review from the Seventh Court of Appeals at Amarillo (Cause No. 07-24-00146-CV). The case involves termination of both parents' rights to four children, with one parent (Father R.L.) terminated based on the mother's discipline of one child to whom Father R.L. had no biological connection. The appeal raises issues encompassing the strict-scrutiny standard under Article I, Section 37, the reliability of child statements under Texas Family Code § 104.006, the attorney-only access framework, and the proportionality of the state's response to the underlying conduct. The IAJ filed an amicus curiae brief in In re K.N. on February 17, 2026 (IAJ Reference IAJ-AMI-20260217-001-LEG). Counsel of record for the IAJ is Robert M. O'Boyle (Tex. Bar No. 15165425). The brief is the most extensive deployment of the integrated framework to date in active appellate litigation. The brief's analytical structure reproduces the Framework's structure: the deposited-instrument doctrine (Chapter 11 of this Framework), the multi-treaty operation (Chapter 7), the Reliability Floor (Chapter 13), the attorney-only access critique (Chapter 13.7), the strict-scrutiny / UNCAT-proportionality equivalence (Holdings 2, 5, 7 + Move 3), and the Article 14 effective-remedy requirement (Chapter 11.5).

18.3 — Doctrinal Significance of the IAJ's Texas Deployment

Three doctrinal contributions of the Texas Amicus deserve emphasis. First, the deposited-instrument doctrine is presented to a state supreme court as the controlling framework for Article VI treaty-supremacy analysis. The Court's reception of that framework will inform the doctrine's reception in other state courts. Second, the strict-scrutiny / UNCAT-proportionality equivalence is presented as an interpretive principle the Court can adopt without invoking direct treaty enforcement: the Charming Betsy canon supplies the doctrinal vehicle, and the equivalence promise supplies the substantive content. Third, the Reliability Floor is presented as the procedural-safeguard predicate for any meaningful strict-scrutiny analysis, with the model orders in Appendices A and B demonstrating that the Floor is operationally implementable. The Texas

case is therefore both an act of advocacy for the specific litigants and a test deployment of the Framework’s machinery in an active state-court setting. The outcome will inform the IAJ’s deployment strategy in other states that adopt parallel constitutional amendments or that confront analogous parent–child separation cases under existing constitutional or statutory frameworks.

18.4 — The Salazar Investigation as Empirical Foundation

The Texas Amicus references the IAJ’s prior independent Istanbul Protocol investigation in Salazar (Cause No. 84755L1, Randall County, Texas, 2024–2025), an unrelated Texas case in which an indigenous mother was permanently separated from her children through proceedings the IAJ characterised as systematic UNCAT violations. The Salazar investigation supplies the empirical foundation for the IAJ’s claim that radical non-equivalence between the equivalence promise and Texas state-court practice has been documented. Salazar findings include forced removal without constitutionally adequate emergency justification (six vehicles deployed for what the agency itself initially treated as a non-emergency); administrative escalation generating overwhelming demands while withholding case information; legal entrapment through denial of attorney-substitution requests during attorney–client conflict; medical continuance denied during a documented health crisis; and procedural exclusion through a permanency hearing conducted in the mother’s absence with the absence used as “non-verbal testimony” against her. The Salazar investigation is published in the IAJ case archive as case D.14 of the IAJ Synthesis Memorandum (UNCAT and Jus Cogens, 2026 Edition, Appendix D). It supplies the multi-treaty operational record (UNCAT, ICCPR, CRPD, CERD, CEDAW, and UNDRIP — Salazar is indigenous) that supports concurrent jurisdiction findings before five treaty bodies plus the Expert Mechanism on the Rights of Indigenous Peoples. The Salazar record is incorporated by reference into the *In re K.N.* amicus and into this Framework.

18.5 — Generalising the Texas Deployment to Other States

The Framework’s deployment in Texas is replicable in any U.S. state. The four operational components are jurisdiction-portable: the deposited-instrument doctrine applies under Article VI in every state; the Charming Betsy canon applies in every U.S. court; the Reliability Floor applies under any state’s due-process guarantee; the Model Standing Order and Protective Order Template (Appendices A and B) are drafted in jurisdiction-neutral form and can be adapted to local procedural rules. Where a state has adopted a parental-rights constitutional amendment, the Framework’s state-level deployment runs through that amendment’s strict-scrutiny standard; where no such amendment exists, the deployment runs through the Federal Due Process Clause under *Santosky* and through the existing state due-process and equal-protection guarantees. The IAJ welcomes inquiries from advocacy organisations, public-defender offices, parent-representation programs, and academic institutions concerning replication of the Texas deployment in other jurisdictions.

Chapter 19 — Application Beyond Family Law

The IAJ Synthesis Memorandum (UNCAT and Jus Cogens, 2026 Edition) extends the Six-Move framework to non-family-law settings of non-custodial institutional torture: criminal proceedings, immigration proceedings, administrative-agency coercion, mate-crime exploitation under jurisdictional control, and law-enforcement conduct facilitated by judicial process. The Troxel II constitutional architecture is silent on these settings; this Framework adopts the IAJ Synthesis's extension as the operative doctrine for them.

The structural correspondence between the Troxel II family-court architecture and the IAJ extension to other settings supports the inference that the constitutional architecture would extend coextensively to those settings if it were drafted to do so. This is a research and reform agenda for the next phase of the integrated framework: a Troxel II–style domestic-constitutional architecture for non-custodial institutional torture in non-family-law settings. The agenda is identifiable, the doctrinal foundations exist (Lugar, Shelley, Tennessee v. Lane, Farmer v. Brennan, the Rochin / Lewis substantive-due-process line, the deliberate-indifference standard), and the case archive supplies the empirical record. The work has not yet been done.

Until the constitutional extension is drafted, the IAJ Synthesis is the operative authority for those settings. Practitioners should apply the Six-Move framework, the multi-treaty convergence, the three-category taxonomy, and the analytical workflow directly to non-family-law cases. The Framework recognises this as an interim posture and identifies the constitutional extension as the next priority.

Chapter 20 — The Pre-Adoption Cohort: Retrospective Accountability

Every victim of parent–child separation administered before the integrated framework is adopted in any given jurisdiction exists in the period before any prospective domestic floor is in place. The IAJ case archive — including but not limited to the Hazari, Minkowski, Salazar, and Danilak records — documents the pre-adoption cohort. For these victims, the prospective remedies that Troxel II would establish are unavailable as a matter of timing.

The Move 5 jus cogens analysis is the retrospective accountability mechanism that closes the gap. Under VCLT Articles 53 and 64, the jus cogens prohibition on torture and CIDT operates above domestic immunities. The Move 5 pathway is not contingent on adoption of any constitutional reform; it operates on the international plane regardless of what the United States does at the domestic-constitutional layer. The pre-adoption cohort's accountability path therefore runs through international submissions (CAT, HRC, CRC, CRPD, CERD, CEDAW, CED, EMRIP, regional bodies), through domestic criminal referrals where Category C conduct has been documented, and through the public-record function of the IAJ case archive itself.

Chapter 21 — Global Reach: How This Framework Operates Outside the United States

Although the Framework is principally addressed to the United States, the analytical structure is designed for global operation. The constitutional architecture (Troxel II) is U.S.-specific, but the institutional pathology it diagnoses is identifiable in family-adjudication systems in every common-law jurisdiction and in many civil-law jurisdictions. The international architecture (IAJ multi-treaty synthesis) is universally applicable: every state party to the relevant instruments — and for jus cogens norms, every state regardless of ratification — is on notice of the analysis the Framework articulates.

For practitioners in jurisdictions outside the United States, the Framework supplies: (1) a diagnostic instrument applicable to local family-adjudication systems through the institutional-pathology analysis in Part I; (2) the Six-Move framework, multi-treaty convergence, three-category taxonomy, and unified discriminatory-purpose architecture in Part II, all of which apply directly under the relevant universal and regional instruments; (3) the analytical workflow, Kinship Continuity module, and bench card in Part III, adaptable to local procedural law; (4) the case-archive record supporting Article 20–style systematic-practice findings, supplemented by local case-archives where developed.

For state parties to the European Convention on Human Rights, ECHR Article 8 (right to respect for family life) supplies a particularly developed body of jurisprudence applying the proportionality and least-restrictive-means standards that this Framework articulates. The European Court of Human Rights has issued extensive case law on parent–child separation under Article 8, including on the requirement that procedural decisions affecting family life satisfy fairness and reasoned-decision standards, and on the substantive requirement that interferences with family life be necessary in a democratic society. Practitioners in Council of Europe member states should treat ECHR Article 8 jurisprudence as the operative regional layer of the Framework.

For state parties to the American Convention on Human Rights, the Inter-American Court has developed jurisprudence on family rights under Articles 5, 17, and 19, with the Inter-American Commission having addressed parent–child separation in multiple country reports and individual petitions. For state parties to the African Charter on Human and Peoples’ Rights, the African Court has begun developing jurisprudence on family rights under ACHPR Articles 5 and 18 and on children’s rights under the ACRWC. For ASEAN member states, the ASEAN Human Rights Declaration provides a foundational framework even where it lacks binding-treaty force.

The IAJ publishes this Framework as an authority for global use. Where local advocacy organisations adopt the Framework or adapt it to local conditions, the IAJ requests citation of this publication and welcomes collaboration on the development of jurisdiction-specific extensions,

particularly extensions of the constitutional architecture (Troxel II) to legal systems outside the United States.

IAJ Finding IV

Reach Beyond Family Adjudication and the Pre-Adoption Cohort

Part IV of this Framework extends the integrated standard beyond its primary subject matter through four mechanisms: application to CPS, foster care, and ICWA cases on the same terms as family-court proceedings, with UNDRIP supplying the treaty foundation for non-ICWA cases involving indigenous parents; application beyond family law to non-custodial institutional torture in criminal, immigration, administrative, and law-enforcement settings, with the IAJ Synthesis Memorandum as the operative authority pending a Troxel II–style constitutional extension; retrospective accountability for the pre-adoption cohort through the Move 5 jus cogens override of domestic immunities, operative on the international plane regardless of domestic constitutional reform; and global reach to every state party to the universal and regional instruments analysed in Chapter 7, with regional jurisprudence (notably ECHR Article 8) supplying the operative regional layer. The Framework is therefore complete on its own terms: prospective domestic remedies through the constitutional layer; retrospective international accountability through the jus cogens layer; categorical reach across vehicles through the multi-treaty convergence; and global application through the universality of the dignity foundation.

APPENDICES — Operational Instruments

The following appendices reproduce, in jurisdiction-neutral form, the operational instruments developed in the Texas Amicus (IAJ Reference IAJ-AMI-20260217-001-LEG, In re K.N., No. 24-0881 (Tex.), filed Feb. 17, 2026) and compile the Dignity Alignment Tests applied throughout this Framework. Bracketed statutory references should be conformed to local citation form.

APPENDIX A — Model Standing Order: Reliability and Access Safeguards in Parental-Rights Termination Proceedings

This Model Standing Order is reproduced from the Texas Amicus (IAJ Reference IAJ-AMI-20260217-001-LEG, Appendix A) for use by trial courts in parental-rights termination proceedings. It is designed for adoption as a local rule, a court-wide standing order, or a case-specific scheduling order. Adoption produces immediate prospective benefits and conforms trial-court practice to the Reliability Floor (Chapter 13 of this Framework). The Model Order is jurisdiction-neutral; specific statutory references in brackets should be conformed to local statutory citations.

Section 1 — Reliability Floor for Child Statements

No child hearsay statement shall be admitted as substantive evidence — and no child statement shall carry dispositive weight on any contested issue — unless the proponent establishes by a preponderance of evidence: (a) continuous audio/video recording of the entire forensic interview from which the statement is derived; (b) interviewer use of a validated non-leading forensic protocol (NICHD, CornerHouse RATAC, ChildFirst, or substantially equivalent); (c) documented chain of custody for all recordings and derivative documents; and (d) timely pretrial disclosure of all recordings, notes, drafts, and edits to all parties.

Section 2 — Forensic Interview Recording

All forensic interviews of children offered as the basis for child hearsay statements shall be recorded continuously by audio/video means. Recording shall begin before the child enters the interview room and continue until after the child exits. Any break, sidebar, or off-camera interaction shall be documented on the recording. Failure to record continuously precludes use of the resulting statement as substantive evidence. Where the recording is missing or incomplete, the child statement may be admitted only for non-substantive purposes and shall not carry dispositive weight.

Section 3 — Interview Protocol Compliance

Forensic interviewers shall employ a validated non-leading protocol (NICHD, CornerHouse RATAC, ChildFirst, or substantially equivalent). The proponent of any child statement shall identify the protocol used; document interviewer training and certification in the identified protocol;

and produce the interview recording for evaluation of protocol compliance. Protocol violations shall be considered in the trustworthiness analysis under [the local equivalent of Texas Family Code § 104.006] and may render the resulting statement inadmissible or non-dispositive.

Section 4 — Reliability Findings Required

Before any child hearsay statement is used as substantive or dispositive evidence, the court shall make written, on-the-record findings addressing: (a) the time, content, and circumstances of the statement; (b) the child's age, maturity, and relationship to the persons involved; (c) the presence or absence of corroborating evidence; (d) whether the statement was obtained through leading or suggestive questioning; (e) the qualifications and protocol compliance of the interviewer; (f) whether continuous audio/video recording exists; and (g) whether the parent received timely disclosure of all recordings and materials. Without these findings, the statement shall not be considered as substantive or dispositive evidence.

Section 5 — Fundamental-Rights Disclosure Protocol

At first contact with any parent in any investigation or proceeding that may result in restriction of parental rights, the agency or its agents shall provide written and oral notice of: (a) the parent's right to refuse warrantless searches and entry; (b) the parent's right to refuse self-incriminating statements and evaluations absent court order; (c) the parent's right to consult counsel before responding to agency requests; (d) the consequences for the parent of refusal and of consent; and (e) the contact information for parent-representation programs and legal aid. The notice shall be documented on the record. Failure to comply with this Section is a procedural defect that the court shall consider in evaluating the reliability of all evidence subsequently obtained.

Section 6 — Parent Access to Evidence

All forensic interview recordings, agency investigation records, agency reports, and other evidence offered or to be offered against a parent in proceedings affecting parental rights shall be made available for review by the parent personally, in addition to the parent's counsel, under a Protective Order conforming to Appendix B of this Framework. Access shall be provided no later than thirty (30) days before the contested hearing on the merits. Attorney-only access frameworks that exclude the parent from review are inconsistent with this Order.

Section 7 — Continuance for Late Disclosure

Where the agency or any party produces evidence, recordings, witness disclosures, or expert opinions within fourteen (14) days of the contested hearing on the merits, the responding parent shall be entitled to a continuance of the hearing as of right, for a period sufficient to permit meaningful response, retention of experts, and confrontation preparation. The continuance shall not be conditioned on a showing of prejudice, which the late disclosure itself establishes.

Section 8 — Remedies for Non-Compliance

Where the court finds non-compliance with any Section of this Order, the court shall consider the following remedies, alone or in combination: (a) exclusion of the affected evidence; (b) preclusion of the affected witness or affected hearsay statement from carrying dispositive weight; (c) continuance of the proceedings; (d) adverse inference instructions; and (e) such other relief as the court deems necessary to ensure that proceedings affecting fundamental parental rights are conducted on a record that satisfies the Reliability Floor.

Section 9 — Applicability

This Order applies to all proceedings affecting parental rights or the parent–child bond, including but not limited to: parental-rights termination proceedings; conservatorship determinations affecting custody; protective orders affecting contact between parent and child; emergency removal orders; and any other proceeding in which the state, an agency, or a private party seeks an order with the effect of separating a parent from a child or materially impairing the maintenance of the parent–child bond.

APPENDIX B — Protective Order Template: Parent Access to Confidential Records in Termination Proceedings

This Protective Order Template is reproduced from the Texas Amicus (IAJ Reference IAJ-AMI-20260217-001-LEG, Appendix B) for use in proceedings affecting parental rights where the parent requires direct access to confidential records — including agency investigation records, forensic interview recordings, and supporting documentation — that may otherwise be subject to attorney-only access. The template is designed to enable meaningful parental participation while preserving legitimate confidentiality interests of children, agencies, and other affected parties.

Section 1 — Scope of Access

Subject to the conditions of this Order, the parent named below shall have personal access, in addition to access by counsel, to: (a) all forensic interview recordings of children whose statements are offered or may be offered as evidence in this proceeding; (b) the complete agency investigation file pertaining to this matter, including but not limited to intake records, investigation reports, supplemental reports, photographic and video evidence, and contact logs; (c) all permanency progress reports and supporting documentation; and (d) all expert reports, evaluations, and supporting documentation prepared by or for the agency. Access shall not extend to records protected by privilege independent of the agency confidentiality interest, except as the court may further order.

Section 2 — Confidentiality Obligations

The parent receiving access under this Order shall: (a) not disclose, copy, transmit, or publish the protected materials to any person other than counsel of record and retained experts who are themselves bound by this Order; (b) not post, share, or describe the protected materials on social media or any public forum; (c) maintain the protected materials in a secure manner; and (d) return or destroy the protected materials at the conclusion of these proceedings. Violation of this Section is a procedural sanction matter and may be a contempt of court.

Section 3 — Method of Access

Access shall be provided through one or more of the following mechanisms, as the court directs: (a) supervised review at a designated location during designated hours; (b) production of redacted or watermarked copies for parent-and-counsel review; (c) viewing through secure electronic platforms with audit logging; or (d) such other method as the court deems necessary to balance access against confidentiality. Mere refusal to provide any direct access to the parent (the “attorney-only” regime) shall not satisfy this Order.

Section 4 — Timeline

Access shall be provided no later than thirty (30) days before any contested hearing on the merits. Where new materials are produced thereafter, access shall be provided as soon as practicable, with the continuance-as-of-right provision of Appendix A, Section 7 governing late disclosures within fourteen (14) days of trial.

Section 5 — Redactions

Redactions to protected materials shall be narrowly tailored to legitimate confidentiality interests of third parties. The agency shall maintain a redaction log identifying the basis for each redaction. Disputes regarding redactions shall be resolved by in-camera judicial review on motion of any party. A categorical refusal to disclose, without identification of the specific confidentiality interest at stake, shall not satisfy this Section.

Section 6 — Violations

Violation of this Order by the parent or counsel shall be subject to contempt sanctions and such other relief as the court deems necessary to protect confidentiality interests. Violation of this Order by the agency — including failure to provide timely access, over-redaction, or refusal to comply with court-ordered access mechanisms — shall be subject to (a) continuance of the proceedings; (b) preclusion of the affected evidence; (c) adverse inference instructions; and (d) such other remedies as the court deems necessary to ensure that the parent has had meaningful access to the evidentiary record.

Section 7 — Duration

This Order shall remain in effect through the conclusion of these proceedings, including any appeal. Upon final conclusion of all proceedings (including any post-judgment review), the parent shall return or destroy all protected materials in the parent's possession, with such return or destruction documented to the court and to opposing counsel.

APPENDIX C — Dignity Alignment Tests Compiled

The six Dignity Alignment Tests applied throughout this Framework are compiled below as a standalone sequence, following the practice of the IAJ Synthesis Memorandum (UNCAT and Jus Cogens, 2026 Edition). They may be read sequentially as a quality-control review of the Framework: every proposition advanced should survive each Test that bears on it. Where a proposition fails a Test, the proposition is not part of the Framework. The Tests are visually marked in the body of the Framework at the chapters where they bear; the compilation here permits standalone reference.

Three of the six Tests are adapted from the IAJ Synthesis Memorandum: Setting Coverage (cf. § III.B); Functional Custody (cf. § VII.I); and Jus Cogens Override (cf. § V). Three are new to this Framework: Equal Protection Between Fit Parents; the Equivalence Promise; and Parent-Level Access. The two Synthesis Memorandum Tests not separately reproduced (the Lawful Sanctions Carve-Out Test and the Article 20 Systematic Practice Test) are fully incorporated into the holding-to-Move mapping (Chapter 6) and the multi-treaty convergence (Chapter 7); their dignity-derived conclusions support those chapters and may be consulted in the source Memorandum.

DIGNITY ALIGNMENT TEST — Setting Coverage

The protection travels with the person, not with the institutional setting (PCS Framework Chapter 5; cf. IAJ Synthesis Memorandum § III.B)

Thesis position. Parent–child separation administered through family courts and CPS proceedings engages constitutional strict scrutiny and UNCAT Article 1/16 protection — and the parallel protections of CRC, CRPD, ICCPR, CERD, CEDAW, and every regional instrument — on the same terms as any other coercive state action; the institutional vehicle does not narrow the dignitarian protection.

Adversarial counter. Family adjudication is benign regulatory civil process administered in a therapeutic and child-protective frame, not the kind of state coercion that triggers fundamental-rights or torture analysis; treating family courts as analogous to detention settings would destabilise routine family adjudication and expose every adverse ruling to constitutional and treaty challenge.

Dignity derivation. The parent–child bond is a property of persons, not of institutions. Dignity does not suspend at the family-court door any more than at the prison cell door, the immigration-detention door, or the psychiatric-institution door. UNCAT’s own Preamble states that the right to be free from torture is derived from the inherent dignity of the human person; UDHR Article 1 declares that all human beings are born free and equal in dignity. State action that severs or materially burdens the parent–child bond engages dignity at full force regardless of the institutional vehicle through which the action is administered. The adversarial position protects the institutional category (civil process, therapeutic frame) at the expense of the substantive question (whether dignity has been violated). Substance

prevails over form. The thesis position is consistent with the foundation; the adversarial position would make dignity contingent on institutional taxonomy.

DIGNITY ALIGNMENT TEST — Functional Custody / Coercive Architecture

Liberty must be meaningful, not merely formal (PCS Framework Chapters 3, 5; cf. IAJ Synthesis Memorandum § VII.I)

Thesis position. A parent subject to coercive family proceedings, and a child placed in state-supervised custody pending those proceedings, are functionally deprived of liberty for purposes of OPCAT Article 4(2), ICCPR Article 9, CRPD Article 14, and CRC Article 37 — because the catastrophic exit costs (permanent termination of parental rights; the child's inability to leave state-supervised placement) make exit without irreversible harm impossible.

Adversarial counter. Civil litigation is voluntary by definition; family-court parties are not detained, not confined, and not under physical restraint; the formal characteristics of detention are absent. Treating family proceedings as functional custody collapses meaningful legal categories.

Dignity derivation. The dignity principle requires not formal freedom but meaningful freedom — the actual capacity to determine one's own course without facing choices that no person of inherent dignity should be forced to make. UDHR Article 3 guarantees the right to liberty and security of person. A parent who must choose between continued participation in proceedings producing documented severe harm and withdrawal that produces permanent loss of the parent-child bond is not exercising liberty; the parent is trapped between two forms of institutional harm. The child placed in foster care or supervised settings, who cannot consent and cannot leave, is in the position the OPCAT 4(2) functional definition was designed to reach. The adversarial position protects the form of liberty (no physical restraint) while ignoring its substance (meaningful capacity for self-determination). Dignity requires substance. The thesis position — functional custody tested by whether exit without catastrophic consequence is possible — is the only formulation consistent with dignity as a substantive guarantee.

DIGNITY ALIGNMENT TEST — Equal Protection Between Fit Parents

When does the symmetry presumption itself become a dignity violation? (PCS Framework Chapter 4, Holding 3)

Thesis position. Both fit parents stand as constitutional equals under Holding 3, with strict scrutiny and clear-and-convincing evidence required for any state-administered preference between them. The symmetry presumption is the default and remains so in the overwhelming majority of cases. However, where one parent has documented use of proceedings as the instrument of coercive harm against the other parent or the child — measured by the same epistemic standards that govern any other claim of

harm — the continued application of strict symmetry would itself become a dignity violation against the harmed parent and child.

Adversarial counter. Strict symmetry between fit parents must be absolute. Any qualification creates a backdoor for the gender-bias and protective-parent / suspect-parent coding patterns that Holding 3 was specifically designed to prevent. Allowing the symmetry presumption to yield reintroduces precisely the judicial discretion the rule was meant to constrain, and risks reproducing — under a new label — the same pattern Holding 3 sought to abolish.

Dignity derivation. Both positions protect dignity, but in different respects, and the principled resolution is not to choose one over the other but to identify when each operates. Strict symmetry protects the dignity of both parents equally against state-administered asymmetry, and is the correct rule in the cases where state-administered asymmetry is the threat. The coercive-harm exception protects the dignity of the parent and child being harmed by procedural weaponisation, and is the correct rule in cases where procedural weaponisation is the threat. The two situations are empirically distinguishable on the same evidentiary record that governs every other harm finding in the Framework: the question is not whether one parent is more sympathetic, but whether documented coercive harm has been established by clear and convincing evidence under the Epistemic Boundary. Where it has, continued application of strict symmetry would deny dignity to the parent and child being harmed. Where it has not, the symmetry presumption controls. The thesis position is dignity-derived in both directions. The adversarial position would protect the rule at the expense of the dignity the rule was designed to protect.

DIGNITY ALIGNMENT TEST — The Equivalence Promise

Whether the U.S. equivalence representation creates an enforceable interpretive standard (PCS Framework Chapter 11)

Thesis position. The equivalence promise made by Congress to the international community in ratifying UNCAT — that domestic mechanisms provide protection equivalent to the Convention’s requirements — creates an enforceable interpretive standard for U.S. courts. Where domestic interpretation produces less than equivalent protection, the promise is unfulfilled; the Charming Betsy canon and the deposited-instrument doctrine require domestic interpretation to be adjusted to fulfill the commitment Congress made. The IAJ’s documented “radical non-equivalence” between the promise and Texas state-court practice (Salazar, D.14) establishes that the gap is not theoretical.

Adversarial counter. The equivalence promise was advisory and political, made to secure ratification; it does not bind courts and does not authorise judicial adjustment of domestic interpretation to fulfil executive-branch international representations. Treating the promise as enforceable would inappropriately convert political representations into judicial obligations and would invite courts to second-guess executive treaty interpretation.

Dignity derivation. A state cannot publicly commit to providing equivalent protection of dignitarian rights and then implement domestic law that produces less than equivalent protection without violating the dignitarian foundation on which the commitment rests. The commitment is the state's own; the rights protected are dignitarian; the failure to honour the commitment is itself a dignity violation independent of the underlying treaty obligation. The state that makes a public dignitarian commitment binds itself to its own commitment as a matter of dignity, regardless of whether the commitment is characterised as legally enforceable or as political. The adversarial position would make dignitarian rights contingent on whether Congress chose to characterise its own commitment as enforceable — a result that subordinates dignity to procedural taxonomy. The thesis position is consistent with the foundation: the state that promises equivalent protection of dignity owes equivalent protection of dignity.

DIGNITY ALIGNMENT TEST — Parent-Level Access to Evidence

Whether the attorney-only access framework can be reconciled with dignity (PCS Framework Chapter 13)

Thesis position. Parents must have meaningful access to the evidence used against them in proceedings affecting parental rights — including forensic interview recordings, agency investigation files, and supporting documentation — through parent-level review under tailored protective orders. Attorney-only access frameworks fail strict scrutiny, fail UNCAT Article 16 proportionality under the deposited-instrument Reservation I(1) constitutional linkage, and fail the equivalence promise.

Adversarial counter. Confidentiality interests of children and agencies require evidence restrictions; attorney-only access is the appropriate balance, with counsel serving as the parent's gatekeeper and screen against unauthorised disclosure. Direct parental access risks inappropriate disclosure that could harm children, retraumatise victims, or compromise ongoing investigations.

Dignity derivation. A parent excluded from review of the evidence that determines whether they will continue to be a parent cannot exercise their dignitarian claim to defend their parental status. The exclusion treats the parent as an object of adjudication rather than as a participant in it — a status incompatible with the dignity foundation of every instrument the Framework integrates. Confidentiality concerns are real but addressable: protective orders can preserve confidentiality through targeted redactions, supervised review, prohibitions on redistribution, and in-camera dispute resolution while still enabling meaningful parental review. The adversarial position protects confidentiality at the cost of dignity; the thesis position protects both through tailored procedural design (Appendix B Protective Order Template). The thesis position is consistent with the foundation; the adversarial position would make dignity contingent on the parent's ability to retain counsel sophisticated enough to communicate the evidence to the parent in a manner that compensates for direct exclusion — a wealth-based contingency that *M.L.B. v. S.L.J.* forecloses on independent constitutional grounds.

DIGNITY ALIGNMENT TEST — Jus Cogens Override of Domestic Immunities

Whether absolute judicial immunity can shield documented torture or CIDT (PCS Framework Chapters 5, 11; cf. IAJ Synthesis Memorandum § V)

Thesis position. Judicial actors satisfy the Article 1 public-official element, and absolute judicial immunity, litigation privilege, and qualified immunity cannot insulate documented torture or CIDT from international accountability. The immunities are instrumental values — conferred to serve the administration of justice — that cannot override the foundational value (dignity) they were conferred to protect. Where the elements of Category C conduct are met (Chapter 9), Move 5 (jus cogens) closes any residual gap left by domestic immunity doctrines.

Adversarial counter. Absolute judicial immunity is structurally necessary for independent courts; subjecting judges to torture accountability would chill lawful decision-making, compromise judicial independence, and produce a flood of post-hoc challenges to ordinary adverse rulings. The doctrine of judicial immunity is itself dignitarian, protecting the institution through which dignitarian rights are vindicated.

Dignity derivation. Judicial independence is an instrumental value: it serves the administration of justice. Human dignity is a foundational value: it constitutes the basis from which all rights — including the right to an independent judiciary — derive their authority. The UDHR Preamble reaffirms faith in fundamental human rights, in the dignity and worth of the human person. An immunity that operates to insulate documented violation of human dignity has inverted its own purpose: the independence conferred to protect justice is being deployed to protect its violation. No instrument grounded in dignity creates a dignity-exception for persons who hold judicial title. The thesis position is consistent with the foundation; the adversarial position would make dignity contingent on the perpetrator's professional category — a result the foundational principle forecloses. Move 5 retains its independent retrospective-accountability function precisely because dignity does not yield to institutional role. The IAJ position, articulated in Chapter 11.7 of this Framework, names six concurrent pathways through which judicial officers participating in or acquiescing in Category C conduct incur personal accountability: UNCAT Article 1 acquiescence under Understanding II(1)(d); jus cogens override of absolute civil immunity (Move 5); 18 U.S.C. § 242 willful deprivation of rights under colour of law; 18 U.S.C. § 1519 obstruction; 42 U.S.C. § 1985(3) civil-rights conspiracy; and judicial-conduct discipline. Absolute civil immunity, the doctrine routinely invoked to foreclose judicial accountability, does not foreclose any of the six pathways: it is a civil doctrine and does not reach criminal prosecution, international accountability, or disciplinary processes. The dignity-derived conclusion is the IAJ's named position.

EPILOGUE — One Architecture, Two Doctrinal Layers, Universal Application

The Methodological Observation

Two reform projects, working at different doctrinal layers and from foundations sharing no authorities, audience, or author, have arrived at structurally identical answers to the same institutional pathology in U.S. family adjudication. The convergence supports an inference that neither project alone could establish: that the institutional pathology is real, that the remedies are well-calibrated, and that the architecture identified by both projects is not an artifact of either project's particular foundations. The convergence is, in the methodological vocabulary of the IAJ Synthesis, an Article 20–style finding at the level of reform proposals: when independent observers, applying different instruments, identify the same systematic pattern, the pattern is established beyond what any single observer's evidence could establish. The multi-treaty convergence operating in parallel at the international layer reinforces this finding from a third independent direction: a pattern identified at the domestic-constitutional layer, the UNCAT layer, and the multi-treaty layer simultaneously is established with a redundancy that no single layer could supply.

When This Framework Should Be Revisited

The Framework should be revisited if any of the following occurs: (1) the U.S. Supreme Court adopts any of the eight Troxel II holdings, requiring the Holding-to-Move mapping to be updated to reflect actual doctrinal content; (2) the United States ratifies CRC, CRPD, ICESCR, CEDAW, ICRMW, CED, or any related Optional Protocol, materially altering the international framework available within the United States; (3) any treaty body issues a finding that materially alters the international layer; (4) the IAJ Synthesis Memorandum is updated past v65, or the underlying Troxel II project is updated past v1.41, in ways that materially alter their respective frameworks; (5) a Troxel II–style domestic-constitutional architecture is drafted for non-family-law settings or for jurisdictions outside the United States; (6) the empirical record materially changes; (7) a new categorical objection is raised that the present Framework does not address.

Citation and Authority

This Framework may be cited as: Institute for the Advancement of Justice & Human Rights, Parent–Child Separation in the United States: A Unified Constitutional and Human-Rights Framework — Integrating the Constitutional Architecture of Troxel II with the IAJ Multi-Treaty Synthesis, IAJ Reference IAJ-STD-20260505-001-PUB, Fifth Edition (May 2026). Short form: IAJ, PCS Unified Framework (2026). The constitutional architecture set out in Part II is the work of Daniel J. Sturtevant, Ph.D. (Constitutionalizing Family Law: The Madisonian Project in Troxel II, draft v1.41, Feb. 3, 2026; DOI 10.17605/OSF.IO/VJHZR; SSRN abstract 5450854) and is

incorporated by reference with attribution. The international architecture, the multi-treaty convergence, the three-category taxonomy, the unified discriminatory-purpose architecture, and the case archive are the work of the IAJ. Both source works retain independent authority and citation form. Where the Framework adopts a position not shared by either source work, the position is identified as the IAJ's own.

Final Statement

Parent–child separation administered through coercive judicial and administrative process in the United States, where it produces severe documented harm to vulnerable parents and children, engages two distinct but converging doctrinal architectures: an eight-holding constitutional architecture under *Troxel II*, and a multi-treaty international architecture grounded in UNCAT, CRC, CRPD, ICCPR, ICESCR, ICERD, CEDAW, ICRMW, CED, UNDRIP, and the regional human-rights instruments where applicable, together with the underlying *jus cogens* prohibition on torture and CIDT. The two architectures operate at different thresholds, address different audiences, and produce different remedial outputs. They reinforce one another but neither eliminates the case-specific elements the other requires. Adoption of the constitutional architecture is necessary; the eight *Troxel II* holdings supply prospective domestic protections that the U.S. constitutional order presently does not provide. Adoption is not sufficient. As the equivalence-gap analysis at Chapter 11.8 establishes, even fully adopted *Troxel II* would not satisfy the U.S.'s existing UNCAT, CRC, CRPD, ICCPR, ICESCR, ICERD, and CEDAW obligations on the five protection dimensions of prevention, protection, relief, remedy, and punishment. The international architecture supplies what the constitutional architecture, by its institutional limits, cannot supply, and supplies it whether or not *Troxel II* is ever adopted and whether or not any individual domestic proceeding has terminated. The no-finality principle articulated at Chapter 11.9 — grounded in CAT General Comment No. 3, the Inter-American jurisprudence in *Barrios Altos*, the Pinochet line, and the ILC Draft Conclusions on *Jus Cogens*, with the institutional framing supplied by the 2023 *Reimagining Justice* report of the Special Rapporteur on the Independence of Judges and Lawyers — establishes that domestic finality does not foreclose international accountability for the categories of violations the Framework reaches. The convergence between *Troxel II* and the IAJ multi-treaty synthesis is therefore not an analytical complementarity that subsumes both architectures into a single compliance pathway. It is the dignity foundation's signature: both architectures derive from the inherent dignity of the human person, articulated through different doctrinal vocabularies, and both arrive at the same diagnosis because the diagnosis is the one consistent with the foundation. Where the constitutional architecture cannot reach, the international architecture reaches. Where the international architecture would not exist, the constitutional architecture would still operate. Where both operate, they operate concurrently and not as substitutes. The IAJ publishes this Framework as the unified analytical authority that follows from these positions, for the use of any practitioner,

court, agency, legislator, treaty body, or scholar who requires such an authority — and for the children and parents whose protection is its purpose.

On Judicial Liability

The IAJ's published institutional position on judicial liability, set out in Chapter 11.7 of this Framework, names the six concurrent pathways through which judicial officers participating in or acquiescing in Category C conduct may be held personally accountable: UNCAT Article 1 acquiescence under Understanding II(1)(d) of the deposited instrument; jus cogens override of absolute civil immunity (Move 5); 18 U.S.C. § 242 willful deprivation of rights under colour of law; 18 U.S.C. § 1519 obstruction through falsification of records; 42 U.S.C. § 1985(3) civil-rights conspiracy; and judicial-conduct discipline. Absolute judicial immunity, as articulated in *Stump v. Sparkman* and *Mireles v. Waco*, is a civil-immunity doctrine. It does not foreclose criminal prosecution. It does not foreclose international accountability under jus cogens. It does not foreclose disciplinary processes. The pathways are doctrinally available, prudentially appropriate where elements are met, and historically precedented — Operation Greylord and the Cash for Kids prosecutions are the leading public examples in the United States, and additional prosecutions have proceeded where the elements were met. The Framework's ten-step analytical workflow (Chapter 12), three-category taxonomy (Chapter 9), unified discriminatory-purpose architecture (Chapter 10), and Reliability Floor (Chapter 13) supply the standards against which Category C conduct is identified. The IAJ refers prosecutorial authorities, treaty bodies, and disciplinary commissions to the IAJ case archive (Salazar D.14; Hazari record; Texas Amicus record; Shadow Report 24 Factors; IAJ Synthesis Memorandum Appendix D) for documented Category C conduct. The IAJ's institutional restraint — naming the doctrinal position rather than naming particular officers — does not soften the position. The doctrinal position is named here, and the position is the IAJ's.

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