

INTERNATIONAL FAMILY LAW SYMPOSIUM IAFL WITH EALS AND CLA 2 September 2025

Session Resources Pack Session 4: Hague Conventions in Africa: Adoption, Abduction and Child Support Conventions

*Tuesday 2 September 2025
11:15 - 13:00*

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MARIA MBENEKA

**Mbeneka LLP
Nairobi
Kenya**

**Email: Maria@mbenekalaw.com
Website: www.mbenekalaw.com**



Managing Partner at Mbeneka Advocates LLP Maria Mbeneka has extensive experience in Family Law, Tech Law, Conveyancing, Intellectual Property Law and Litigation.

She has served as a member of the Cooperative Tribunal well as the Industrial Property Tribunal.

She was elected Vice President of the East Africa Law Society (EALS) (2016 -2018) and, (2018-2020) a council member at the Law Society of Kenya (LSK) Treasurer & General Member Representative; Convener of the ICT/IP Committee.

She currently serves as the Hon Treasurer, Council member for Kenya and Co-Convenor at the Commonwealth Lawyers Association (CLA). She has served on several boards of organisations some of which include the Loisaba Conservancy, Ecocapp Capital Ltd, Lawyers Hub among others.

She is the Chair of the board of Ghetto Radio Limited and served as the Chairperson of the County First Ladies Association (Kenya) from 2020 -2022; an organisation of spouses of Governors of the 47 Counties in Kenya.

**THE HON. MADAM JUSTICE BARATANG
CONSTANCE MOCUMIE**

**The Supreme Court of Appeal of South of Africa
Bloemfontein
Free State
South Africa**

Email: CMocumie@gmail.com

Website: www.supremecourtofappeal.org.za



Justice of the Supreme Court of Appeal since 2016 with thirty-seven years of legal experience as magistrate; prosecutor, advocate and judge of various divisions in the high courts of South Africa. She is the South African Primary Liaison Judge of The Hague Conference on Private International Law (the HCCH) and a member of the HCC International Network of Judges (HCCHINJ).

Legal qualifications: (B. Juris) (LLB) (LLM) specialising in Family Law

Presented on Parental Responsibility under the 1996 Child Protection Convention commemorating the 25th Anniversary of the HCCH 1996 Child Protection Convention and the Convention on International Child Abduction. Presented to the International Family Lawyers Association (IAFL) and the University of Western Cape on the work of the Hague Conference on Private International Law. Presented on the Convention on International Child Abduction to the Pan African Bar Association of South Africa (PABASA), the International Bar Association (IBA) and International Federation of Library Associations and Institutions.

LADY JUSTICE JOYCE ALUOCH

Independent Mediator

Nairobi

Kenya



Lady Justice Joyce Aluoch, CBS,EBS, Trailblazer, Former Judge and First Vice-President, International Criminal Court (ICC), The Hague.

Certified International Mediator (IM), Accredited Mediator, Certified Advanced Mediator, Chartered Mediator. Member, Chartered Institute of Arbitrators-London(global), and the Kenya Branch.

A former Judge of the Court of Appeal and High Court in Kenya, and Magistrate, she served on the bench for 44 years, 35 in Kenya and 9 at the ICC.

In 2022, she was appointed Vice-Chair of judicial Reform Committee under the Revitalized (power sharing) Agreement on the Resolution of the Conflict in the Republic of South Sudan, to conduct public consultations in South Sudan to establish the judiciary reforms the people wanted.

In 2024, she was appointed member of the Jury of the Simplicemente Donna International Award and to the Global Advisory Council of G100 Networking.

PHILIPPE LORTIE

**Permanent Bureau,
Hague Conference on Private International Law
The Hague
The Netherlands**

Email: secretariat@hcch.net

Website: www.hcch.net



Philippe Lortie joined the Permanent Bureau of the Hague Conference on Private International Law (HCCH) in September 2001 as First Secretary. He is co-responsible for the International Family & Child Protection Law Division which includes the 1980 Child Abduction, 1996 Child Protection, 2000 Protection of Adults and 2007 Child Support Conventions and the 2007 Protocol on the Law Applicable to Maintenance Obligations. He is also responsible for the International Hague Network of Judges, the Judges' Newsletter and e-Justice tools supporting HCCH Conventions such as e-Country Profiles, INCADAT and iSupport.

Before joining the HCCH, from 1991 to 2001 Philippe Lortie was Legal Counsel at the Department of Justice of Canada. In that capacity, he acted as Head of Canadian delegations to the HCCH, Unidroit and UNCITRAL. Philippe Lortie is a member of the Québec Bar since 1991 and holds degrees in Civil Law (LL.L.) and Common Law (LL.B.). He also holds an LL.M. in international law.

Adelaide Benneh Prempeh

B & P ASSOCIATES

Labone

Accra

Ghana

Email: adelaide@bpaghana.com

Website: www.bpaghana.com



Adelaide Benneh Prempeh is a dual-qualified Barrister and Solicitor of Ghana, and England & Wales. With a legal career that extends over two decades in both jurisdictions, Adelaide has a wealth of experience in International Child Adoption, Surrogacy, Matrimonial Finance, Enforcement, Finance, and Public Law proceedings. Adelaide now practices predominantly in Ghana where she maintains a substantive Child and Family practice, often involving cross-border child law proceedings. She is often engaged as a Ghanaian Expert in the context of English Court proceedings. Her affiliations include the International Academy of Family Lawyers, the Commonwealth Lawyers Association, and the International Bar Association.

LEAH KIGUATHA

**Kiguatha & Company Advocates
Nairobi
Kenya**

Email: leahkiguatha@kiguathalegal.com

Website: www.kiguathalegal.com



Leah is an alumna of the Georgetown University Leadership and Advocacy for Women in Africa (LAWA) Fellowship Program and an Advocate of the High Court of Kenya with over twenty years' experience and expertise in domestic and international aspects of child and family law. She is also a trained Mediator and an adjunct Lecturer at Kenya School of Law.

Currently, Leah works as the Lead Counsel at Kiguatha & Company Advocates, a Nairobi Law Firm specializing in child and family law and real estate law.

**THE HON. ASSOCIATE CHIEF JUSTICE
GWEN B. HATCH**

**Manitoba Court of King's Bench
Winnipeg, Manitoba
Canada**

**Email: Gwen.Hatch@judicloud.ca
Website: www.manitobacourts.mb.ca/court-of-queens-bench**



Associate Chief Justice Gwen Hatch was appointed to the Manitoba Court of King's Bench (Family Division) in June 2013, and was appointed Associate Chief Justice of the Family Division in May 2020. She is Chair of the Child Protection Oversight and Implementation Committee and the Triage Implementation Committee of the Family Division. Associate Chief Justice Hatch is Chair of the Judicial Committee on Inter-jurisdictional Child Protection of the Canadian Judicial Council. She also serves on the Judicial Independence Committee of the Canadian Judicial Council.

JOËLLE SCHICKEL-KÜNG

**Deputy Head of Private Law Division
Co-Head of Private International Law Unit
Federal Office of Justice
Bern
Switzerland**

**Email: joelle.schickel@bj.admin.ch
Website: www.bj.admin.ch**



Joëlle Schickel-Küng is Deputy Head of the Private Law Division and Co-Head of the Private International Law Unit (PIL Unit), Federal Office of Justice of Switzerland. She is a trained lawyer and has been working for over 15 years in the Swiss government on issues of cross-border child protection. As Co-Head of the PIL Unit she is in charge of the child protection and family law area which includes the Central Authority function under the Hague Conventions of 1993 (intercountry adoptions), 1996 (international child protection) and 1980 (international child abduction). She served as Chair of the Experts' group on the Parentage/ Surrogacy Project of the HCCH (2016-2022).



IAFL Symposium - Nairobi 2 September 2025
Hague Conventions in Africa: Adoption, Abduction and Child Support Conventions
Presented by the Honorable Justice B.C Mocumie,
Supreme Court of Appeal, South Africa.

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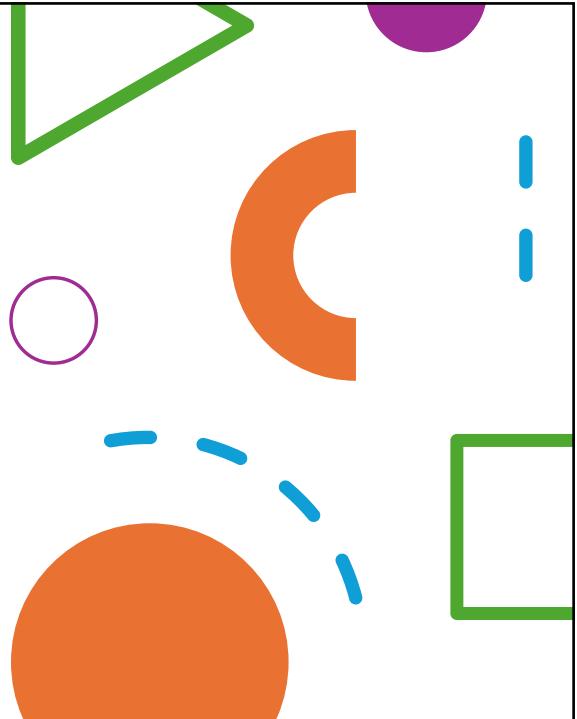
INTRODUCTION

- The Hague Conventions in Africa: adoption, abduction, and child support. These conventions together create a global framework which protects children and families in cross-border situations.
- Africa as a whole is the least connected to the HCCH. Out of the 90 members, only eight (8) are in Africa. Even in the 8, not all have ratified all the Conventions under discussion. Some have simply acceded and not ratified. Others have ratified two (2) out of four (4). What I will address hereafter applies to all African states which are not members of the HCCH, with my focus on South Africa. In the process, I will attempt to show why South Africa ought to ratify the 1996 Hague Child Protection Convention.



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- It is important to situate the 1996 Convention within the wider family of Hague Conventions: the global framework which protects children and families in cross-border situations.
- South Africa is already a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction (the Child Abduction Convention), since 1 October 1997, and the 1993 Hague Convention on Intercountry Adoption (the 1993 Adoption Convention) since 2003. Both have proved significant in our jurisprudence.
- South Africa is, however, not yet a party to the 1996 Hague Convention on Jurisdiction, Applicable law, Recognition, Enforcement, and Co-operation in respect of parental responsibility and child protection measures (the Child Protection Convention), which is at the centre of this presentation, nor the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (the Child Support Convention).



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- The 1980 Hague Abduction Convention has received more attention from our courts than any other Convention, likewise across the world and in countries which have ratified it. It is the most successful compared to the other Conventions according to the Hague Conference on Private International Law (the HCCH). In its Preamble, it states its object clearly as follows:
- Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access..."
- Chapter 17, section 275, of the Children's Act incorporates and gives effect to the 1980 Hague Child Abduction Convention in South Africa.



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- South African courts have enforced the 1980 Hague Child Abduction Convention in groundbreaking precedents, including the latest of the Constitutional Court in ***Ad Hoc Central Authority for the Republic of South Africa and Another v Koch N.O and Another*** [2023] ZACC 37;2024 (2) BCLR 147 (CC), building on its previous decision of ***Sonderup v Tondelli*** [2000] ZACC 26;2001 (1) SA 1171 (CC); citing with approval judgments of the Supreme Court of Appeal: ***Smith v Smith*** 2001(3) SA 845 (SCA), ***Pennello v Pennello and Another*** [2003] ZASCA 147;2004 (3) 117 (SCA), ***KG v CB and Others*** (748/11) [2012] ZASCA 17;2012(4) SA 136 (SCA)[2012]2 All SA 366 (SCA)and ***N M v Central Authority for the Republic of South Africa and Another*** [2024] ZASCA 178 (19 December 2024). Yet difficulties remain:

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(a) Legal representation of all litigants remains an area where South Africa, through the Legal Aid Board, assists litigants, and in more complicated matters, private counsel must inevitably be appointed. This has a strain on the limited budget of the Family Advocate under the Department of Justice. Resource limitations hinder effectiveness.

(b) The issue of delays in finalising these applications remains a sore point for courts, with each country defining the prescribed six weeks under Article 11 differently and making room for delays to creep in for different reasons, which still causes delay and is not in compliance with the Hague Convention and South Africa's national legislation.

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- (c) Mediation was introduced to fast-track these applications. Legal representatives in private practice who specialise in this area have accumulated extensive skills and experience to mediate. The Family Advocate's dual role as Central Authority and protector of children's rights is of concern to legal practitioners in this area of specialty. In their view, this conflicts with their primary responsibility. Whether mediation should be voluntary or mandatory, as the Law Review Commission of South Africa is currently discussing, remains contentious.

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- (d) Family advocates, as "litigants," despite having all the skills and experience, do not argue these cases in court once they have instructed or briefed counsel. However, their presence in court is important. It is to continue to guide and give proper instructions to counsel when necessary, and as and when the court requires more from counsel, which is beyond their knowledge.
- For these reasons, the Convention risks falling short of its objectives.

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The 1993 Hague Adoption Convention

- The 1993 Hague Adoption Convention was a turning point in South African law. Following the Minister of Welfare and Population Development v Fitzpatrick (CCT08/00)[2000]ZACC 6;2000(7) BCLR 713;2000(3) SA 422 (CC(31 May 2000), the Constitutional Court held that the prohibition on adoption of South African children by non-citizens was unconstitutional. This opened the door to intercountry adoption, but also revealed the dangers of operating without a clear legislative framework. AD and Another v DW and Others (CCT 48/07 [2007] ZACC27;2008(3) SA 183 (CC;2008 (4)BCLR 359 (CC)(7 December 2007)highlighted these shortcomings:



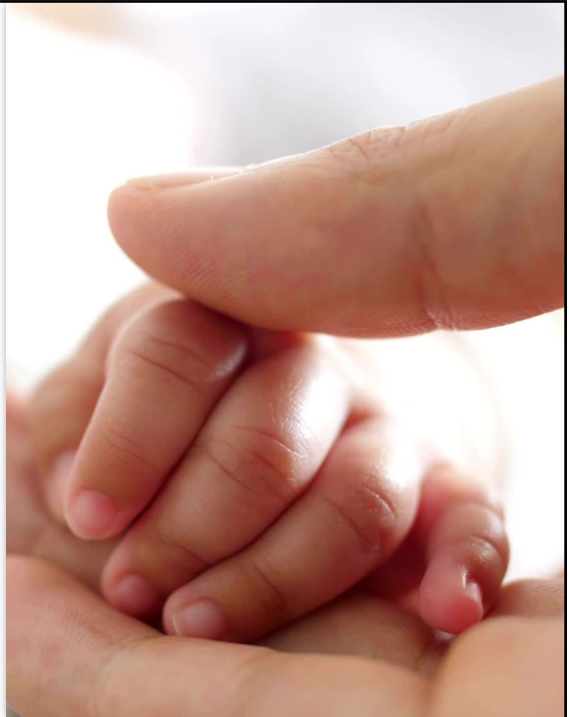
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- (a) The use of guardianship to bypass proper adoption safeguards,
- (b) The weak application of the subsidiarity principle and the limited powers of the Department of Social Development, acting without statutory authority.
- Like the 1980 Hague Child Abduction Convention, the 1993 Adoption Convention is incorporated under Chapter 18 of the Children's Act 38 of 2005. The Children's Act extends its application and standards even to adoptions involving non-Convention states. In this respect, South Africa has been progressive, setting an example by applying Convention-level protections universally.

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The 2007 Hague Child Support Convention

- The 2007 Hague Child Support Convention is equally important. It seeks to simplify and strengthen the cross-border recovery of child maintenance, a recurring problem when parents live in different states. For South Africa, not ratifying this Convention leaves custodial parents exposed to lengthy, costly proceedings with little guarantee of enforcement. Ratification would provide clarity, certainty, and justice in these transnational maintenance disputes.



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- This brings me to the 1996 Hague Child Protection Convention. This Convention is the missing piece. It covers jurisdiction, applicable law, recognition, enforcement, and co-operation in respect of parental responsibility and child protection measures. It is broader than the earlier conventions, particularly the 1980 Convention on the Civil Aspects of International Child Abduction. It extends to custody, guardianship, foster placement, protective orders, and even the management of children's property. In short, it provides a comprehensive framework for the recognition and enforcement of all protective measures affecting children across borders. Most importantly, it complements the 1980 Convention, or (as Phillipe Lortie, First Secretary General of the HCCH) puts it, "it can be used independently to either resolve child abduction

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cases (Art 50) or to assist with the implementation of cross-border contact/access rights such as international family relocation arrangements.”

This means, while the return of the child to their State of habitual residence is being considered, it will be possible to order urgent measures of protection to accompany the child and the taking parent, allowing some level of post-return monitoring. (Art 32).

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- From word-of-mouth research, there is no indication why South Africa has not ratified this Convention, except the confusion about which Department should be responsible, the Department of Justice and Constitutional Development (DoJ & CJ) or Department of Social Development (DoSD), despite the Children’s Act using the language of this Convention under section 18, which outlines the statutory parental responsibilities and rights

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- Within the broader African continent, this Convention was birthed around a very hectic yet exciting period for Africa; when the African Charter on Human and Peoples' Rights (the Banjul Charter) was adopted in 1981, effective from 1986, followed by the African Charter on the Rights and Welfare of the Child in July 1990, which came into force in 1999. Thereafter, the United Nations Convention on the Rights of the Child (UNCRC), which all African States have ratified, was adopted in 1989, but came into operation in September 1990. Scholars and family lawyers alike believe that the great interest in an African-centred/focused context may have caused this silence on Africa



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- The other reason, which some renowned experts and scholars, including Prof Ann Skelton of the former professor of the University of Pretoria and Chairperson of the UN Committee on the Rights of the Child and professor of Law at Leiden University, Prof Sloth Nielson (former professor at the University of Western Cape and Chairperson of the Children's Rights in the Developing World; Child Law Department, University of Leiden, Netherlands), and specialist family law practitioners such as Ms Zenobia Du Toit of M& D Attorneys, Cape Town, the SA Department of International Relations former legal advisor Adv Stemmet, amongst others, believe that the membership fees to join the HCCH may also contribute to Africa's absence. The HCCH, first Secretary Phillipe Lortie, in one of his many presentations addressing this absence of Africa, is adamant that the lack of knowledge about the Conventions by the leadership in Africa has contributed to what I regard as apathy. As I close my presentation, I will come back to this.

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- Recent jurisprudence in South Africa, in particular, shows why South Africa must ratify the 1996 Child Protection Convention.
 - C.A.L.S v S, is an extradition case in which a USA citizen was arrested in South Africa after fleeing his country, having committed some crimes. He travelled to South Africa with his two children without the consent of their mother. One a minor. He was arrested and brought before a regional magistrates' court, Upington, in South Africa, Northern Cape. The application for his extradition was successful. The finding of the magistrates' court was confirmed by the full bench of the Northern Cape High Court.

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- The judgment refers to the children being “kidnapped” as child abduction is commonly referred to. There is not much said about the children; their whereabouts and well-being during his arrest, pending his extradition. There is no order as to their return and or safety pending the finalisation of the proceedings against their father, who had abducted them contrary to and against an existing custody order in favour of their mother in their country of habitual residence. The Central Authority is not cited or involved at all.
 - Without any criticism on any of the courts there are three lessons we must take from this case:

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- (i) This judgment shows courts (particularly with no concentrated family court jurisdiction as South Africa), cannot know about other aspects which are directly linked to the cases before them, such as the 1980 and 1996 Hague Conventions, and what measures can be put in place in any given situation to safeguard the best interests of the “abducted children”/foreign children who are left abandoned when their parents are arrested.



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- (ii) It shows how different laws (the Extradition Act and the Criminal Procedure Act) can be applied with no reference to the children’s rights and well-being, pending a protracted application for the extradition of their father, who had abducted them.
 - (iii) It demonstrates how courts are forced to deal with criminal matters in the absence of a mechanism to recognise and enforce foreign custody orders. It illustrates how children are left vulnerable by gaps in our current framework, gaps that the 1996 Convention is specifically designed to fill.

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- Ratifying the 1996 Convention would bring multiple benefits.
 - (i) It would align South African law with the constitutional commitment to “the best interests of the child.”
 - (ii) It would prevent conflicting judgments and forum shopping.
 - (iii) It would provide certainty and efficiency by making South African custody and guardianship orders enforceable abroad, and vice versa.
 - (iv) It would strengthen cooperation between Central Authorities, South Africa, and those of other states, making communications swift to protect children in similar situations, even in countries which are non-signatories.

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- Colleagues, the time has come for South Africa to complete the circle: It is a party to the 1980 and 1993 Conventions. But without the 1996 and 2007 Conventions, the protective framework for children is incomplete. This is not only a matter of aligning with international standards, but of ensuring that every child, wherever they find themselves, can rely on the protection of our law.

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- African states which have not ratified any of these Conventions, it is important to do so. The absence of Africa means children abducted from Africa will not get the same protection or speedy resolution of their matters as those in countries which have ratified the Conventions. It means, concepts, African systems unique to Africa, can never be incorporated into any of the Conventions. It is not as if the HCCH is aloof to adopting African systems. It has incorporated an African system, kafala, into the 1996 Convention, taking into account cultural and religious and family bonds, which ordinarily are not taken into account.
 - Kafala is a system similar but not the same as adoption /guardianship, providing for children's rights to access family allowance pending a resolution of any dispute between the parents. It is applicable in Muslim/Islamic African member states such as Morocco



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- Engagements such as these, the IAFL conference, with lawyers from all walks of life: legal practitioners, judges, academics and students (lawyers in the making) encourage and motivate us as a continent to mobilise ourselves, to speak with one voice, to join the Round Table of the HCCH and engage in discussions and decisions made about our children, and children across the globe, of which they are a part. Have access to resources within the HCCH to strengthen our capacity in “judging” these matters as expeditiously as justice for children demands.

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- In conclusion, the HCCH has undertaken four interventions in Africa between 2010 to date, and every year through the Family Lawyers Conferences under the IAFL umbrella in Cape Town, South Africa, during which it urged African states to ratify/adopt the Child Protection Conventions between 2010 and 2024, specifically in South Africa. In 2010 (Pretoria, Justice College), 2019 (Cape Town), 2023 (Pretoria, University of Pretoria), and 2024 (the Forum, Sandton, Johannesburg). The fifth intervention, breakthrough, was the establishment and opening of the first HCCH Regional office in Morocco in 2024.

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- In 2010 and 2023, in South Africa, Kenya, and Malawi were in attendance during the HCCH interventions. Every year, Kenya and Malawi are in attendance at the M & D Family Lawyers Conference. The HCCH cannot do more than it has already done for us. It now rests upon us as Africans to do something for ourselves.

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- Let us come together today to form a “Network of Judges in Hague Child Protection Conventions.” That way, we will mobilise our respective countries to accede to and ratify these Conventions; to encourage our governments to engage the HCCH to begin the process of designating a Judge(s) and a Central Authority to represent our countries on the HCCH through the existing diplomatic process.

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THANK YOU

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Policy to Practice: Ghana's Journey of Adopting the Hague Convention



OVERVIEW

- ▶ GENERAL DEFINITION OF ADOPTION
- ▶ GHANA: CONTEXT & BACKGROUND
- ▶ WHERE WE WERE
- ▶ WHERE WE ARE
- ▶ WHERE WE ARE GOING: FUTURE OF ADOPTION IN GHANA

I. GENERAL DEFINITION OF ADOPTION

Process whereby a person legally assumes the parenting of another, usually a child, from that person's biological or **legal** parent or parents.

- ▶ Legal parent-child relationship
- ▶ Parental Responsibility of Adoptive Parents
- ▶ Termination of pre-existing legal rights with natural family

II. GHANA: CONTEXT AND BACKGROUND

Informal 'Kinship' care:

- ▶ In the Ghanaian context a child is defined in relation to the family and concept of childhood. The child is largely dependent on an adult for basic necessities.
- ▶ Community structures often in the rural settings, refers to family and social structures that recognize traditional authorities such as family heads, chiefs, queen mothers and elders
- ▶ Extended family/ foster placement/ 'open' adoption of relatives in need.



- ▶ Benefits: Children are allowed to remain in a familiar environment, still connected with their natural family; safety net for children to receive support within family and community.
- ▶ Challenges: Difficulty in regulating "informal" family placements and the lack of willingness by family members to enforce child protection measures, resulting in a rise in corporal punishment, domestic violence, sexual abuse, sexual violence and exploitation.

"Child and Family Welfare Policy 2015, Ghana Ministry of Gender, Children and Social Protection"

Residential facilities:

- ▶ Private residential facilities outnumbered state facilities
- ▶ Unlicensed and unregulated
- ▶ Irregular adoption procedures
- ▶ Increase in number of children placed for adoption
- ▶ Vulnerability to child abuse, sale and trafficking
- ▶ Lack of child protection measures

GHANA: LEGAL FRAMEWORK

- ▶ United Nations Convention on the Rights of the Child 1989
- ▶ The Constitution of the 4th Republic of Ghana 1992
- ▶ The Hague Convention of the Protection and Cooperation in respect of Intercountry Adoption 1993
- ▶ The Children's Act 1998 (Act 560)
- ▶ African Charter on the Rights and Welfare of the Child 2005
- ▶ The Children's Act 2016 (Act 937)
- ▶ Adoption Regulations, 2018 (LI 2360)

III. WHERE WE WERE

a. UN CONVENTION ON RIGHTS OF THE CHILD (UNCRC) 1989

- ▶ Good track record of legislative reform and laws to protect children's rights
- ▶ Ghana first country to ratify the UN Convention on the Rights of the Child in 1990



III. WHERE WE WERE

b. 1992 CONSTITUTION OF THE 4TH REPUBLIC OF GHANA:

- ▶ Establishment of the rights of a child
- ▶ Parliament's mandate to enact child specific Legislation
- ▶ Notable Retention of customary law under the Constitution.
- ▶ Co-existence of customary structures with 'creatures of statute'.



III. WHERE WE WERE

c. CHILDREN ACT 1998 (ACT 560)

- ▶ Introduction of significant changes to the child welfare which included a formal framework for adoption
- ▶ 'Best Interest' principle & Wishes of the Child from the child's perspective if appropriate
- ▶ Parental Consent to Adoption and the child if appropriate
- ▶ Effect of adoption on parental rights
- ▶ Disclosure of Child's heritage

- ▶ Court Jurisdiction – High Court, Circuit Court, Family Court
- ▶ Restrictions on making an adoption order
- ▶ Adoption Children Register
- ▶ Offences related to Adoption
- ▶ Notification of Travel
- ▶ Intercountry adoption in the best interest of the child

III. WHERE WE WERE

c. 2013 International Social Service Report

- ▶ Technical Working group commissioned by MGCSP

Recommendations:

- ▶ Robust child protection framework
- ▶ Strong regulatory and supervisory institutions
- ▶ Licensing and accreditation of agencies
- ▶ Financing of residential facilities
- ▶ Creation of Central Adoption Authority
- ▶ **Child and Family Welfare Policy 2015**

IV. WHERE WE ARE


a. THE HAGUE CONVENTION ON THE PROTECTION & COOPERATION IN RESPECT OF INTERCOUNTRY ADOPTION 1993

- ▶ Accession to The Hague Convention of 1993

Effective 1st January 2017

- ▶ System of 'Co-operation' and Disclosure between Contracting States



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- ▶ Role of Central Authorities
 - ▶ Unified approach between Contracting States
 - ▶ Priority on support of family placements
 - ▶ Appropriate measures to prevent child abduction/ sale/ trafficking
 - ▶ Intercountry adoption in the best interests of the child


IV. WHERE WE ARE




b. CHILDREN ACT 2016 (ACT 937)

Effective 1st January 2017

- ▶ Coherency and Accountability
- ▶ Accreditation of adoption agencies
- ▶ Case management processes to ensure child is adoptable
- ▶ Emphasis on Ghanaian placement/ Ghanaian PAPs
- ▶ Assessment and Matching of Prospective Adoptive Parents (PAPs)

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- ▶ Institutions in charge of Adoption:
 - ▶ Central Adoption Authority (sole mandate for Adoption)
 - ▶ Adoption Secretariat
 - ▶ Adoption Board
 - ▶ Technical Committee
 - ▶ Intercountry adoption fall back rather than starting point
 - ▶ 5 years' post adoption monitoring (6 months for the first 2 years, then annually)

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- ▶ Exclusive jurisdiction of the High Court
 - ▶ Training for Professionals to undertake assessment
 - ▶ Mandatory adoptive birth certificates
 - ▶ Completion of adoption process in Ghana
 - ▶ Discretionary interim orders
 - ▶ Permission to travel by the Central Authority

IV. WHERE WE ARE

c. ADOPTION REGULATIONS, 2018 (LI 2360)

Effective 27th July 2018

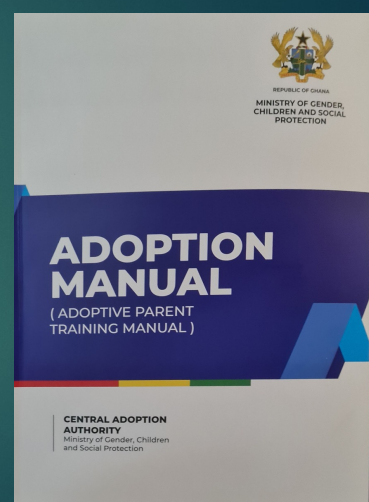
- ▶ Requirement and Process for Accreditation of Adoption Agencies
- ▶ Obligations of Agencies
- ▶ Management of Adoption Records
- ▶ Regulation of Adoption Fees and Charges of Adoption Agencies
- ▶ Training for in-Country Adoption

IV. WHERE WE ARE

ADOPTION MANUAL (ADOPTIVE PARENT TRAINING MANUAL)

Launched 13th July 2023

- ▶ Requirement for Training for in-Country Adoption – L1 2360
- ▶ Four Modules:
 - ▶ Objectives and Structure
 - ▶ Adoption Regulation Framework
 - ▶ Caring for Children in Adoption
 - ▶ Parenting Style and Discipline
- ▶ Issuance of Certificate Post completion



V. WHERE WE ARE GOING: FUTURE OF ADOPTION IN GHANA

- ▶ Adoption is one of many options
- ▶ Informed consent to adoption/ type of adoption
- ▶ Adoptability and Matching
- ▶ Training of Multidisciplinary team
- ▶ Assessment of alternate caregivers



- ▶ Budgets & timelines
- ▶ Registry of both local and foreign PAPs
- ▶ Partnership and Cooperation with community structures
- ▶ Community dialogue and engagement
- ▶ Support for community initiatives & sensitization



THANK YOU FOR LISTENING!

Adelaide Benneh Prempeh

B&P
ASSOCIATES



DIRECT JUDICIAL COMMUNICATIONS IN CHILD ABDUCTION CASES

The Honourable Associate Chief Justice Gwen Hatch

International Family Law Symposium IAFL with EALS and CLA
Nairobi
September 2, 2025

1

- 1980 Hague Convention on the Civil Aspects of International Child Abduction cases
- Inter-jurisdictional and International non-Hague cases

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2

- Role of the International Liason Judge
- Benefits of Direct Judicial Communications

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3

- International child protection cases
- Inter-jurisdictional child-related proceedings:
 - parental abductions
 - custody and access disputes

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- Direct Judicial Communication Safeguards
- Emerging Guidance Regarding the Development of the International Hague Network of Judges: General Principles for Judicial Communication, Hague Conference on Private International Law Permanent Bureau

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Direct Judicial Communications:

- General
- Case Specific

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Request to Initiate Inter-jurisdictional Canadian or International Judicial Communication Form

“Inter-jurisdictional” communication: This form is intended to be sent by the requesting Judge in province/territory A to their jurisdiction’s JCICP Judge, who will then forward same to the JCICP Judge in province/territory B for that judge to respond or provide to the appropriate judge in their jurisdiction.

“International” communication: This form is intended to be sent by the **requesting Judge** to their provincial/territorial JCICP Judge, who will then **forward** it to **one of Canada’s three judges (Chair and Vice-Chairs of JCICP)** on the **International Hague Network of Judges (IHNJ)**, who will **use the information in the form** when preparing their **request letter to the foreign IHNJ Judge**. That request letter will be copied to the requesting JCICP Judge and the requesting judge in the province/territory (if applicable), as will any responsive communications. (p.2)

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Information Required

- **Date**
- **To:** Specify name of the Judicial Committee for Inter-jurisdictional Child Protection (**JCICP**) **member** for your province/territory
- **From:** Specify name of **requesting judge**, with contact details including Court name and Centre and address, along with judge’s telephone number and email address
- **Reference:** Specify **name of court proceeding**, court file number, and court centre

“I wish to **communicate** with a **judge** [or name of specific judge, if applicable] **of** [specify **Court** and province/territory/**country**] respecting the above **proceeding.**” (p. 1)

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- **The proceeding involves:** Specify nature of the proceeding
 - **I am not aware of any pending proceeding in:** Specify Court and/or province /territory/country
- OR**
- I understand there is a pending proceeding in:** Specify Court and location and/or province/territory/country
- **I do not know the** name of the proceeding and/or the court file number
- OR**
- **I understand the proceeding has the following name and court file number:** Specify (p.1)

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Issues for Judicial Communication

I want to have a judicial communication to discuss the following issue(s): Specify issues, which may include:

- Status/scheduling of the pending case in the other jurisdiction;
- Clarification of laws and procedures in the other jurisdiction or country;
- Availability of protective orders or related services for a child or parent;
- Availability of legal aid or legal assistance;
- Impact/recognition of undertakings made to, or return order conditions made by, our Court;
- Mechanisms to enforce orders made by our Court;
- Any impediments in the other jurisdiction to a parent's return or participation in Court proceedings (e.g. immigration issues, criminal charges). (p.2)

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- **Optional: I have attached the following documents relevant to this proceeding:**
Specify
- **I would like the judicial communication to take place via** (specify telephone, videoconference platform, etc, taking any court protocols into account) **on** (specify proposed **dates** or **time period**). **Arrangements may be made by contacting** (specify contact person with contact details).
- **Counsel for the parties, (specify), are aware that I am making this request and will be invited to attend the judicial communication with their clients. (Revise as appropriate if a self-represented party is involved.)**
- I understand that if a **judicial communication** does take place for this proceeding, it should **be recorded**. I also understand that I am to **advise you of the details of same and the outcome**. Specify name of requesting judge. (p.2)

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Request to Initiate Inter-jurisdictional Canadian or International Judicial Communication Form

Request to Initiate Inter-jurisdictional Canadian or International Judicial Communication

This form is to be used to:

- initiate a request for inter-jurisdictional judicial communication respecting a particular pending case in Canadian inter-provincial/territorial situations;
- OR
- initiate a request for international judicial communication respecting a particular pending case, including those related to the *Hague Convention on the Civil Aspects of International Child Abduction* or non-Hague international child custody enforcement legislation.

The process related to both situations is described at the end of this document.

Date: _____

To: _____
(Specify name of the Judicial Committee for Inter-jurisdictional Child Protection (JCICP) number for your province/territory)

From: _____
(Specify name of requesting Judge, with contact details including Court name and Centre and address, along with Judge's telephone number and email address)

Ref: _____
(Specify name of Court proceeding, Court file number, and Court Centre)

I wish to communicate with _____ (specify either "a Judge" or name the specific Judge, if applicable) of _____ (specify Court and province/territory/country) respecting the above proceeding.

The proceeding involves _____ (Specify name of the proceeding)

- I am not aware of any pending proceedings in _____ (Specify Court and/or province/territory/country)
- OR
- I understand there is a pending proceeding in _____ (Specify Court and location and/or province/territory/country)
- I do not know the _____ (Specify name of the proceeding and/or the Court file number)
- OR
- I understand the proceeding has the following name and Court file number (Specify): _____

I want to have a judicial communication to discuss the following issue(s): _____

Optional: I have attached the following documents relevant to this proceeding: _____

I would like the judicial communication to take place via _____ (Specify telephone, videoconference platform, etc., taking any Court protocols into account) on _____ (Specify proposed dates or time period)

Arrangements may be made by contacting _____ (Specify contact person with contact details)

Counsel for the parties, _____ (specify), are aware that I am making this request and will be invited to attend the judicial communication with their clients. (Revise as appropriate if a self-represented party is involved)

I understand that if a judicial communication does take place for this proceeding, it should be recorded. I also understand that I am to advise you of the details of same and the outcome.

(Specify name of requesting Judge)

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"Inter-jurisdictional" communication: This form is intended to be sent by the requesting Judge in province/territory A to their jurisdiction's JCICP Judge, who will then forward same to the JCICP Judge in province/territory B for that Judge to respond or provide to the appropriate judge in their jurisdiction.

"International" communication: This form is intended to be sent by the requesting Judge to their provincial/territorial JCICP Judge, who will then forward it to one of Canada's three judges (Chair and Vice-Chairs of JCICP) on the International Hague Network of Judges (IHJ), who will use the information in the form when preparing their request letter to the foreign IHJ Judge. That request letter will be copied to the requesting JCICP Judge and the requesting judge in the province/territory (if applicable), as well any responsive communications.

Final note: In completing the form, judges should also consider the two applicable judicial communication documents that are contained in the National Judicial Institute's *Hague Conventions (International Child Abduction) Electronic Bench Book*. See Section IV, items C and D, and Section IX, Appendix G – *Recommended Practice for Court to Court Judicial Communication*, and Appendix H – *How to Communicate with a Judge in Another Jurisdiction*.

¹Specify issues, which may include:

- Items outstanding of the pending case in the other jurisdiction;
- Clarification of laws and procedures in the other jurisdiction or country;
- Availability of parties either to attend services for a child or parent;
- Availability of legal aid or legal assistance;
- Appropriate grounds of understanding made to, or on, or under conditions made by, one Court;
- Mechanisms to enforce orders made by one Court;
- Any requirements in the other jurisdiction to a parent's return or participation in Court proceedings (e.g. immigration issues, criminal charges).

²See: Section B.4. of the *Recommended Practice for Court to Court Judicial Communication* or Section IX, Appendix G of the *National Judicial Institute (NJI) Convention: International Child Abduction Electronic Bench Book* identifies a number of possible issues to be discussed in an inter-jurisdictional judicial communication. Also, consider any specific direction or protocols of one Court.

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