



UNIVERSITY of the
WESTERN CAPE



African Regional Conference on the HCCH Children's Conventions

University of the Western Cape (UWC), Cape Town, South Africa, 2-3 April 2019

Conclusions and Recommendations

From 2 to 3 April 2019, 149 senior government officials, judges, legal practitioners, academics, social service practitioners, researchers and other experts from Botswana, Burundi, Cabo Verde, Ethiopia, France, Ghana, Guinea, Israel, Japan, Lesotho, Mauritius, Mozambique, Namibia, Netherlands, New Zealand, Nigeria, South Africa, Tanzania, United Kingdom (England and Scotland), United States of America, Zambia and Zimbabwe, as well as UNICEF, the African Child Policy Forum (ACPF) and the Permanent Bureau of the HCCH met in Cape Town, South Africa, in the context of an African Regional Conference on the HCCH Children's Conventions. The Conference was co-organised by the Faculty of Law of the University of the Western Cape, the International Academy of Family Lawyers, Miller du Toit Cleote inc., and the HCCH.

The aim of the African Regional Conference was to promote the implementation of the HCCH Children's Conventions in Africa, discuss their operation, and invite States in Africa to consider becoming Contracting Parties to the HCCH Children's Conventions as well as becoming a Member of the HCCH. A significant portion of the Conference was devoted to the analysis of case studies, with a view to identifying the advantages of becoming a Contracting Party to the HCCH Children's Conventions, as well as to learn how States in Africa implement the 1980 Child Abduction, 1993 Inter-country Adoption and 1996 Child Protection Conventions, especially in respect of developing good practices and overcoming any challenges that may arise.

To that end, experts discussed their experiences in relation to mechanisms presently in place for the protection of children both within and outside of the HCCH framework, as well as initiatives addressing and assisting with the cross-border protection of children. The experts agreed that, by identifying good practices, possible challenges, and potential lacunae in the current systems, the lack of adequate cross-border co-operation mechanisms can be effectively addressed, especially through the framework of the HCCH Children's Conventions.

The participants,

wishing to protect children across frontiers, especially children who are the victims of sale, trafficking or abduction, children who are the subject of illegal and unethical inter-country adoptions, unaccompanied and separated children, children affected by international parental disputes, children who are the subject of irregular placements abroad, refugee or internationally displaced children;

affirming their commitment to the principles enshrined in the *African Charter on the Rights and Welfare of the Child* (1990) and the *United Nations Convention on the Rights of the Child* (1989);¹

recognising the need for international and regional legal frameworks and closer inter-State co-operation in the protection of children across frontiers;

agree as follows:

1) To encourage States in Africa that have not done so already to examine the possibility of becoming Contracting Parties to the following HCCH Conventions:

- A) the *Convention of 25 October 1980 on the Civil Aspects of International **Child Abduction*** (the [1980 Convention](#));
- B) the *Convention of 29 May 1993 on **Protection of Children and Co-operation in Respect of Intercountry Adoption*** (the [1993 Convention](#));
- C) the *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of **Parental Responsibility and Measures for the Protection of Children*** (the [1996 Convention](#)); and,
- D) the *Convention of 23 November 2007 on the International Recovery of **Child Support and Other Forms of Family Maintenance*** (the [2007 Convention](#)) and the *Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations* (the [2007 Protocol](#)).

2) To encourage States in Africa which are not already Members of the HCCH to explore the possibility of becoming Members of the Organisation, with a view to increase the representation and voice of Africa within the HCCH. Experts also took note of the other advantages of Membership, including, for example, priority access to post-Convention assistance (technical assistance), and a first-chair seat in the drafting and negotiation of the HCCH's normative instruments.

3) To encourage States in Africa to discuss among themselves the desirability, feasibility, and logistical solutions to more actively participate in the work of the HCCH, including the following actions:

- A) Providing interns and / or secondment of State officials to the Permanent Bureau of the HCCH for a term of three- to six-months;
- B) Possibly establishing a regional presence of the HCCH in Africa;
- C) Increasing the active participation of Central Authorities of States already Parties to HCCH Conventions in Special Commission meetings, Working and Experts' Groups and other meetings of the HCCH;
- D) Encouraging experts present at the Conference to more actively and directly advocate for and participate in the area of international family law disputes; and,
- E) Encouraging the increased use of direct judicial communications.

4) Direct judicial communications through the International Hague Network of Judges and cross-border mediation were discussed and recognised as important mechanisms in the resolution of cross-border family disputes, while respecting the independence and impartiality of the judiciary.

5) That the Permanent Bureau of the HCCH ought to further engage in the African region.

¹ For example, Arts 2, 3, 9, 10, 11, 21, 22, 27 and 35.