



SEMINAR ON CROSS-FRONTIER CHILD PROTECTION IN THE SOUTHERN AND EASTERN AFRICAN REGION

THE ROLE OF THE HAGUE CHILDREN'S CONVENTIONS

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OPINION

The African child is the Continent's most precious resource. Many African countries are reforming their national systems of child care and protection. However, because of the increasing movement of families and children across borders, the protection of the child can no longer be secured by national action alone. Concerted action by two or more States, or even on a regional level, may be needed to protect children who are the victims of sale, trafficking or abduction, unaccompanied minors who in large numbers are crossing country borders, children affected by international parental disputes, children who are the subject of unregulated intercountry adoption, Kafalah or similar placements abroad, as well as refugee or internationally displaced children. In all these cases inter-State co-operation is needed to track, find, protect and in some cases repatriate vulnerable children.

This need for inter-State co-operation was addressed by the 65 High Officials, Judges, Academics, and other experts from 13 countries who attended the Pretoria Seminar on Cross-Frontier Child Protection in the Southern and Eastern African Region (organised by the Hague Conference on Private International Law in co-operation with the Government of the Republic of South Africa and with the support of UNICEF). The recent movement of large numbers of unaccompanied minors between Zimbabwe, South Africa and other States in the Region, with the prospect of further movements around the football world cup, underlined the urgency of the situation. There was a call for co-operation Protocols among the States in the Region which will facilitate, through designated authorities, exchange of information, mutual assistance, collaboration, co-ordination of efforts and sharing of expertise. In the longer term it was recognised that the Hague Convention of 19 October 1996 on the Protection of Children has the potential for providing within the Southern and Eastern African Region a general framework for co-operation between judicial and child protection authorities in the different countries.

Africa is becoming the "new frontier" for intercountry adoption with increasing pressures from other parts of the globe on African countries to make children available for adoption abroad. The situation in Ethiopia where many hundreds of children are the subject of inadequately regulated intercountry adoption rings a

warning bell for the rest of the Continent. There is now almost universal recognition that the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption*, which accords with the general principles set out in the *African Charter on the Rights and Welfare of the Child*, as well as the *UN Convention on the Rights of the Child*, provides the appropriate legal, administrative and regulatory framework to guarantee the child's best interests in intercountry adoption. It is a Convention which empowers countries of origin to retain control over the adoption process, as well as the level of intercountry adoption. It also supports the crucial principle of subsidiarity which requires that, before intercountry adoption is contemplated, (in the words chosen by the African experts) "full and proper consideration has been given to national solutions" for the child's care. So far 11 African countries have joined the Convention. Many others are now considering implementing the Convention, but it must be emphasised that many of the States require capacity building, and technical and training assistance to help ensure that the Convention works effectively.

The Seminar also discussed the potential benefits of the Hague Convention of 1980 on the Civil Aspects of International Child Abduction and the Hague Convention of 2007 on the International Recovery of Child Support and recognised their value for the Region.

The Seminar was an important beginning but will need follow-up at the national and regional levels if the spirit of co-operation demonstrated by the participants is to be translated into permanent and workable structures, through the Hague Conventions and by other means, for inter-State co-operation in child protection. Individual States will need assistance in developing central authorities to support co-operation. Technical assistance in implementing the Conventions, and training of the personnel, including Judges, responsible for applying the Conventions will also be essential.

It will be important also to seek support for these developments from regional bodies such as the African Union, the East African Community and the Southern African Development Community. The Hague Conference and UNICEF will work together to give support where it is needed.

Further information about the Hague Conventions and the work of the Hague Conference on Private International Law may be found on the website at: <http://www.hcch.net>. Convention outlines are available under each Convention title under the "Conventions" menu.

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Professor William Duncan
Deputy Secretary General
Hague Conference on Private International Law
6, Scheveningseweg
2517 KT The Hague
The Netherlands
tel.: +31 (70) 363 3303
fax: +31 (70) 360 4867
e-mail (general): secretariat@hcch.net
e-mail (direct): wd@hcch.nl
<http://www.hcch.net>