

Information document 1: 2023 HCCH Special Commission on the Practical Operation of the 1980 Child Abduction Convention and 1996 Child Protection Convention

Introduction

Child Identity Protection (CHIP)¹ is an international NGO based in Geneva working with States and other stakeholders to promote universal birth registration and full knowledge of family relations. CHIP is honoured to have the opportunity to participate as an observer at the Special Commission from 10 to 17 October 2023. This Special Commission provides a unique opportunity to ensure that future laws, policies and practices are fully aligned with international standards, notably the Convention on the Rights of the Child (UNCRC), 1980 Child Abduction Convention and 1996 Child Protection Convention.

Every child has a unique identity, including birth registration, name, nationality and family relations. Without an identity, the child's capacity to access basic rights such as education, health and social security is compromised and there are greater risks of exploitation. The consequences can be dire and long-lasting for the child's harmonious development, their evolving capacities, sense of self-worth and well-being.

Given the very essence of prompt returns and achieving continuity in the child's upbringing, the full application of the **1980 Child Abduction Convention** preserves and restores the child's identity.

This is due to the presumption that the child is primarily connected to family relations, friends and community where he or she is habitually resident. These connections contribute to fundamental elements of identity including family, ethnic, religious, cultural and linguistic. As such, the Convention seeks to protect the child from unilateral decisions to change the child's identity, that can generally be avoided through, relocation proceedings. In the very limited situations where exceptions to the prompt return principle may apply, issues that affect that individual child's identity, may be important factors that should be weighed by the Courts and Authorities. For example, it will be necessary to consider, which identity elements are contributing most to the child's well-being, development and integration. Any final decision of the court should ideally prioritise solutions where the child can most fully benefit from all meaningful relationships with both parents, siblings, extended family, friends and community, and thereby preserving his or her identity.

The **1996 Child Protection Convention** helps to ensure the child's best interests in cross-border child protection matters are respected, given for example the multiple ways, it allows for the child's right to identity to be preserved. It does this by facilitating the recognition and enforcement of child protection measures across borders including in matters related to parental responsibility as well as custody rights and access rights. The Convention further enables children to maintain contact with both parents and assists with their (or extended family's) location, when they may be separated from them. The Convention further provides an agreed framework for alternative cross-border care placements that prioritise continuity in the child's identity including family, ethnic, religious, cultural and linguistic, such as foster care and kafalah. As such, the Convention contributes to the preservation of the child's family identity and other important elements that contribute to his or her identity.

Art. 7 Convention on the Rights of the Child (CRC)

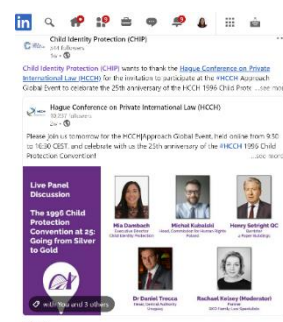
1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Art. 8 CRC

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

The following provides an overview of CHIP's activities related to the promotion of ratification/accession to the 1980 Child Abduction and 1996 Child Protection Conventions as well as effective implementation :

- **Human Rights Treaty Body mainstreaming** – where relevant, CHIP notes the importance of the two Conventions and impact in the over [30 country briefs](#) submitted to the CRC Committee
- **Policy briefs**
 - [Protecting the child's right to identity in parental child abduction matters](#)
 - Future briefs in the pipeline on unaccompanied and separated children
- **Experts CHIP in series**
 - [Video: An introduction to the HCCH 1996 Child Protection Convention by Dr Gerardine Escolar Goh](#)
 - [Video: An introduction to HCCH 1980 Child Abduction Convention by Dr Gerardine Escolar Goh](#)
 - [Video: The HCCH 1980 Child Abduction Convention and the child's right to identity by Dr Gerardine Goh Escolar](#)
 - [Video: The role of the HCCH 1980 Child Abduction Convention in preserving the child's identity in potential parental alienation cases by Dr Gerardine Escolar Goh](#)
 - Future videos in the pipeline by Philippe Lortie and Laura Martinez-Mora to be filmed end of 2023 etc.
- **Webinars and events**
 - [16 May 2023: Online Symposium on Child's Right to Identity in Family Relations](#)
 - [Preserving the child's identity in cross-border family matters – perspectives from HCCH, Philippe Lortie and Laura Martinez-Mora](#)
 - [Identity and child participation rights in family law proceedings - Professor Marilyn Freeman, International Centre for Family Law, Policy and Practice and University of Westminster and Professor Nicola Taylor - University of Otago](#)
 - [Child identity in the context of parental child abduction, Dr Katarina Trimmings - University of Aberdeen](#)
 - [22 November 2022: Virtual Symposium - Child's Right to Identity in Emergency Settings](#)
 - [1 July 2021: Webinar on Child's right to identity in alternative care](#)
- Active participation at the **HCCH's 2022 event on the 1996 Child Protection Convention at 25 : Going from Silver to Gold** in the Live Panel Discussion
- **Support with [FindingHome website](#)** dedicated to Helping children and young people understand international parental child abduction with translations into French and Spanish
- **Dissemination of relevant initiatives, publications, etc. via website and social media** (e.g. : [June 2022, World : CRC Committee landmark decision on child abduction case](#))
- **Provide technical support** that promote the frameworks in the two Conventions. For example, CHIP provided support to the Council of Europe's Committee on Migration, Refugees and Displaced Persons unanimously adopted 2022 report on 'Protection and alternative care for unaccompanied and separated migrant and refugee children' ([Doc. 15548](#)), which includes numerous relevant international and regional standards as well as case-law and provided a high number of examples of promising practices.
- **Signature publication** on [Preserving "family relations": an essential feature of the child's right to identity](#) makes multiple references on the two Conventions including regional versions for Latin America and Asia Pacific (in the pipeline) **Etc.**



ⁱ [Child Identity Protection \(CHIP\)](#) is an international not for profit association according to the Swiss Civil Code established in 2020. CHIP is working with States, international organisations and other stakeholders to uphold the child's right to identity (Arts. 7-8 CRC) and to know their origins as outlined in its vision and mission. Further information: www.child-identity.org info@child-identity.org