



The Protection of Children: The Hague Convention, other Human Rights and Related International Instruments and their application

5-DAY PROGRAMME 11 September – 15 September 2023, Cape Town

Director of JIFA, Vanja Karth (VK); **Faculty**: Dr. Justice Mathilda Twomey-Woods (Academic Head, JIFA, MT); Justice Constance Mokumie (CM), Justice Fiona Mwale (FM), Barrister Alistair Perkins (AP), Law Lecturer, Joelle Barnes-Coetze (JB).

Aims and objectives:

The aims and objectives of the course are:

- To deepen participants' knowledge of the international instruments relating to the protection of children
- To promote a better understanding of the general provisions of the Hague Convention and its Protocols, and their application
- To sensitise the participants to the historical, philosophical and political contexts of The UN Convention against Transnational Organized Crime 2000 and its Protocols Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the "Trafficking Protocol"/ the "Palermo Protocol"); and the Protocol against the Smuggling of Migrants by Land, Sea and Air (the "Smuggling Protocol" and their application to the protection of children

Outcomes

By the end of the course, participants should be able to:

- Understand the philosophy and purpose of the Hague Convention
- Identify the intersection between the Hague Convention and domestic legislation
- Know and use domestic jurisdiction in Hague Convention cases (Articles 1 and 2).
- Identify remedies and make appropriate orders to safeguard children at risk of harm or re-abduction
- Appreciate the importance of promptitude in deciding cases (Article 11)
- Understand the International Legal Framework relating to Child Trafficking
- Identify the intersection between national legislation and the international normative framework relation to trafficking in persons
- Recognise the multifarious forms of child trafficking
- Contextualise Child Trafficking in terms of its political, social, cultural, and economic background and understand the nature of the offence
- Empathise with and commit to a Human Rights Based and Victim-Centred Approach in proceedings involving children
- improve their decision-making while conforming to the intention of the law.

DAY ONE – Introduction to the Hague Convention

Program		Venue	
9:00	Welcome & introductory remarks	(VK and MT)	
9:30	The philosophy and jurisprudence on the 1980 Hague Convention on the Civil Aspect on Child Abduction	(AP)	
10.00	Article 20 of the 1980 Hague Convention on the Civil Aspect on Child Abduction and the interplay with South African domestic law(in particular the Children's Act)	(AP)	
11.00	Dealing with domestic violence allegations when an article 13 (b) "defence" is raised - The view from the Royal Courts of Justice.	AP	
11.20	Coffee Break		
11.40	Break out groups with case studies article 13(b) Prepared by AP and CM		
12.10	Feedback from case studies	AP	
1.00	LUNCH		
2.00	How to ensure that the child's voice is heard in Hague Convention proceedings - the view from the Royal Courts of Justice	AP	
2.30	Child's objections - article 13 (2) (grave risk)	AP	
3:00	Tea Break		
3.30	Break out groups with case studies re article 13 (2) "child's objections" prepared by AP & CM		
4.15	Feedback from the breakout groups	AP	
4:30	Finish		

DAY TWO – The Implementation of the Hague Convention

Program		Venue	
9:00	Jurisprudence on the 1980 Hague Convention on the Civil Aspect of Child Abduction: the SCA and Constitutional Court of RSA: Problem areas in interpreting and implementing the Hague Convention	CM	
9:30	Article 7- practicalities and impact: The Role of the Central Authority: Incoming and Outgoing applications	AP and CM	
10.00	Guide(s) to Good Practice	CM	
10.30	Guide(s) to Good Practice – “A UK perspective from the sharp end”	AP	
11.00	The role of judges: Practice Directives (GP, WC & Kzn),	CM	
11.30	Coffee Break		
11.50	Applications in court, defences beyond Article 13 orders, remedies and ensuring that protective measures are enforceable in the requesting state	AP	
12.15	Break out groups with case studies prepared by AP & CM		
1.00	LUNCH		
2.00	Feedback from case studies	CM & AP	
2.30	The role of the legal representatives for the parties and for the child	AP	
2.30	INCADAT: Case law on International Child Abduction	CM	
3:00	Tea Break		
3.30	Plenary session with Q&A	CM & AP	
4:30	Finish		

DAY THREE - Child Trafficking in International Human Rights Instruments and Domestic Legislation

Program		Venue	
9:00	Setting the Context: Introductory videos on human trafficking	Videos: Selling SA's innocence	
9:30	Talk: Defining Trafficking: The International legal Framework <ul style="list-style-type: none"> • Definitions- Defining child trafficking and differences between trafficking, migration and people smuggling. • Elements of child trafficking ACT⇒EXPLOITATION • Values/Philosophy – Trafficking as a violation of human rights • Political- global consensus building in defining a unique offence. 	FM	
10.30	Q&A	FM	
11.05	Coffee Break		
11.20	National laws on trafficking	FM	
12.00	Discussion: “The Hague Conventions on Abduction and Adoption- How do they help in the fight against child trafficking?”	Panel Discussion FM, CM, AP	
1:00	LUNCH		
2:00	Study period where judges separate into small groups of colleagues from the same country to see how their domestic legislation compares to the international legal framework	Facilitated breakout groups (MT, JB)	
3.00	Tea Break		
3.15	Feedback from group discussions	FM	
4.30	Question time/discussion regarding how to use international law to fill in the gaps in domestic law so as to ensure that children are given maximum protection from trafficking.	FM	
5.00	Finish		

DAY FOUR – Understanding the Social Context of Child Trafficking/Role of Judges

Program		Venue	
9:00	Video Q&A	Dear Sister	
9:30	Talk: Relevance of socio-economic, cultural and political context <ul style="list-style-type: none"> • Key concepts that are at the heart of understanding child trafficking and in particular what puts children at risk. • Types of child trafficking • Indicators of child trafficking 	FM	
11.20	Coffee Break		
11:40	Brainstorming exercises engaging the entire group in brainstorming 12 case scenarios of child trafficking in persons	Facilitated break out groups (MT and JB)	
12.40	PLENARY – Feedback from groups	FM	
1.00	LUNCH		
2.00	Talk: Introduction to the Critical Role of the Judge in TIP Cases. <ul style="list-style-type: none"> • Victim identification • Victim protection • Rulings 	Talk (FM) plus video	
3:15	Tea Break		
3.30	Discussion: Grounding the role of the Judge in domestic laws	(Judges to participate in facilitator led discussion on provisions in their domestic laws that enable them to carry out their roles)	
4:30	Finish		

DAY FIVE – Role of the Judge in Child Trafficking

Program		Venue	
9:00	Group Work - Exercise on ethical considerations surrounding Judges' Role in Identifying victims	Facilitated Breakout Groups (MT and JB)	
9:45	Plenary		
11.20	Coffee Break		
11:40	Talk: Judges' Role in Victim Protection: Understanding Trauma and the Victim-Centred Approach in the Courtroom	FM	
12.40	Talk: <ul style="list-style-type: none"> • Judges Role in Writing Rulings that show a clear and cogent analysis of the evidence, appreciation of evidential challenges and ensuring maximum protection of child rights with reference to international law if there are gaps in national law • Introduction to the UNODC Regional Case Digest which presents a summary of cases illustrating approaches in the region 	FM	
1.00	LUNCH		
2.00	Groups to consider case studies in which judges will be required to write bullet point judgments to demonstrate a synthesis of all skills obtained	Facilitated Breakout Groups (MT and JB)	
3:15	Tea Break		
3.30	Feedback from the breakout groups	FM	
4:30 – 5.00	Concluding Remarks	VK and MT	