The HCCH Parentage / Surrogacy Project

UN Rapporteur on the sale and sexual exploitation of children
Side Event – 37th session of the Human Rights Council
“Surrogacy and the sale of children”

Geneva, 6 march 2018

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In this presentation

1. **International families** and the **HCCH**

2. **What** is HCCH doing in the field of surrogacy?

3. **What** would HCCH like to **achieve**?

4. What is HCCH **NOT** doing?

5. What are the **next steps of HCCH’s work**?
1. International families and the HCCH

- Jurisdiction
- Applicable law
- Recognition
- Co-operation
Explore the FEASIBILITY of developing a multilateral instrument in the area of private international law (PIL) rules regarding LEGAL PARENTAGE in cross-border situations, including ISAs (international surrogacy arrangements).
In other words

- Who is / are a person’s **LEGAL PARENT(s)**? (vs. their genetic / gestational / social parents)

- Cross-border practical problems concerning legal parentage – in which situations are they occurring?
  
  - ISAs;
  
  - **BUT** there are also problems outside the surrogacy context.
Why is legal parentage important?

- **Legal parentage** is the **gateway** through which many of the obligations owed by adults/States to children flow.

- Children **derive many important rights** such as identity, nationality, maintenance, inheritance, etc.

- Legal parentage has to cope with:
  - The very fast evolution of **medical and technology advances**
  - Changes in society:
    - Challenging the “mum/dad/children” model
    - Evolving at different speeds in different countries
  - Current problems but also future developments
ISAs and the HCCH Project

- **ISAs** form an important part of the HCCH work due to
  - the growth in numbers
  - serious problems, including human rights issues, and hence acute need for action

- However, HCCH’s project **IS NOT ONLY** about ISAs
How is the work being done right now?

- Permanent Bureau research and work
- 3 meetings of the Experts’ Group on Parentage / Surrogacy
  - Different legal experts from all around the world
  - Different legal traditions and points of view
What is the Group discussing

- JUDICIAL DECISIONS
- PUBLIC DOCUMENTS
  - Most of the cases
- JUDICIAL DECISIONS + PUBLIC DOCUMENTS

For difficult cases, but not so common
3. What would HCCH like to achieve?

- Ensure the **legal certainty and security of legal status** for children and families in international situations.

- Protect the **rights and welfare of children, parents and other parties** involved with the conception of children in international situations, in line with established global human rights standards.
4. What is HCCH NOT doing?

- Does **not** intend to **promote** or **ban** surrogacy:
  - Is not “pro” surrogacy and is not trying to facilitate ISAs
  - Is not “anti” surrogacy and is not trying to “shut down” ISAs

- The project is **not about substantive law** and does **not intend to unify practices** around surrogacy:
  - HCCH Members take many and varied positions in their internal laws on surrogacy
  - HCCH works to *build bridges* between differing legal systems
  - Ultimate goal of HCCH is to work for a world in which, despite these differences, persons’ rights are upheld and they can enjoy a high degree of legal security in cross-border context
5. Next steps

Proposals for further work of the Expert’s Group – **2 more meetings**:

1. One meeting to discuss further **PIL issues on legal parentage**

2. Another meeting on ISAs specifically to discuss:
   - **the feasibility of the possible application of agreed general PIL rules on legal parentage to ISAs** and
   - **the possible need for additional rules and safeguards for ISAs**

**HCCH Council on General Affairs and Policy** (governing body of the HCCH) will decide next week
For further information see:

Parentage / Surrogacy Project at www.hcch.net