



UNITED NATIONS  
HUMAN RIGHTS  
SPECIAL PROCEDURES

SPECIAL RAPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS



**HCCH**

HAGUE CONFERENCE ON  
PRIVATE INTERNATIONAL LAW  
CONFÉRENCE DE LA HAYE  
DE DROIT INTERNATIONAL PRIVÉ

# 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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Principal Legal Officer

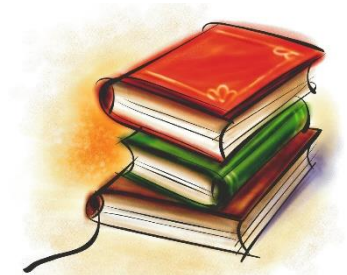
# In this presentation

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



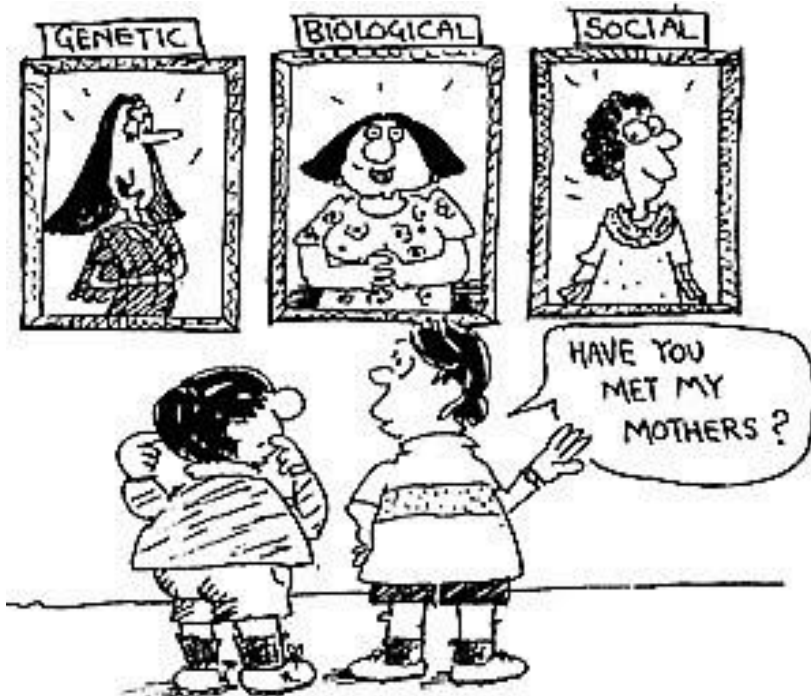
Co-operation

## 2. What is the HCCH doing...

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**

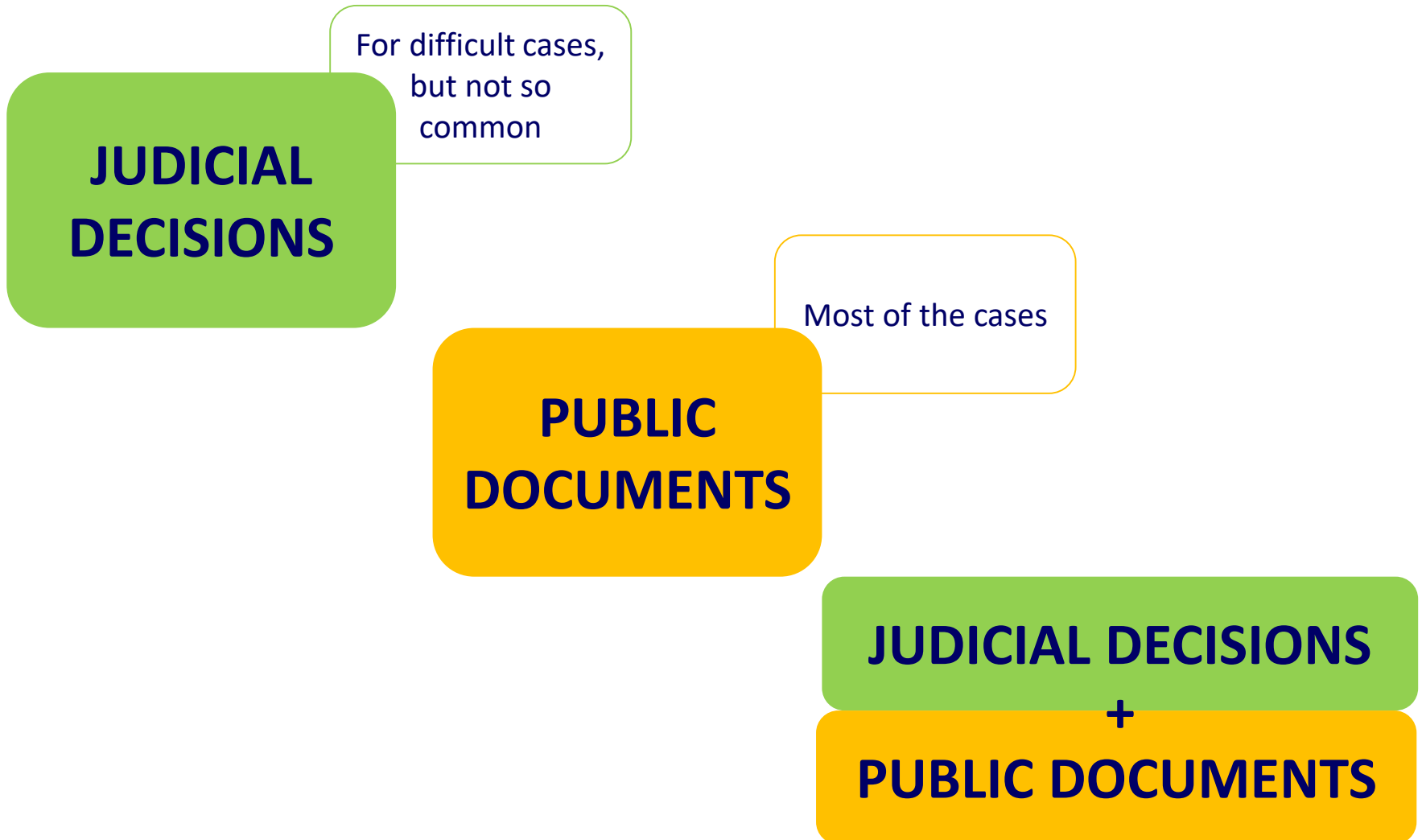
# How is the work being done right now?

- 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



### 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](http://www.hcch.net)



*Thank  
you*

A black fountain pen with a gold nib is positioned at the bottom right of the page, appearing to have just finished writing the words 'Thank you' in a black cursive script.