

MOTION: PROTECTION OF WOMEN AND CHILDREN IN HAGUE CONVENTION MATTERS

Context and Background

Background: The Hague Convention was ratified 40 years ago with the intent of preventing non-custodial fathers from abducting children across international borders. However, the Convention is now being weaponised against primary carers, overwhelmingly mothers, who have returned home to Australia to flee domestic and gender-based violence and abuse.

Key Issues Identified:

1. Unintended Application: In Australia, approximately 80% of Hague cases are now lodged against mothers, most of whom are fleeing violence and abuse, with the hope of protecting themselves and their children.
2. Lack of Safety Assessment: Under current interpretations, Australian authorities are instructed **not** to investigate the "best interests of the child" or the safety of the mother before ordering a return.
3. Taxpayer Inequity: Australian taxpayers automatically fund the uncapped legal costs of the foreign applicant (often the alleged abuser). However, Australian respondent mothers are frequently denied legal aid, and all Australian respondent mothers have been denied the 'equivalent' funding promised in 2023 for their legal defence.
4. Legislative Gaps: The current Government's response has been insufficient, using discretionary language ("may consider") rather than mandatory protections ("must consider") regarding family violence and abuse.

This motion calls for the [Organisation Name] to champion legislative amendments that prioritise the safety of Australian citizens and children over the rigid procedural return mechanisms of an outdated treaty.

Motions:

It is resolved that the [Organisation Name]:

1. Note the following:
 - a. That the Hague Convention is disproportionately and unethically used against Australian mothers fleeing violence, with data indicating that 93% of respondent mothers report that the applications lodged against them contained false information.
 - b. That current Australian judicial practice under the Convention relies on the principle that the requested state is not to conduct their own investigation and evaluation of what will be best for the child, thereby failing to uphold the safety and wellbeing of Australian children who have been Haged.

2. Call upon the Federal Coalition to adopt a policy position requiring that the *Family Law (Child Abduction Convention) Regulations 1986* be retrospectively amended to mandate the "Six Legislative Requests" of Her Hague Story, specifically:
 - a. Exit Trafficking Investigation: Applications to commence the proceedings against the mother, prior to approval, must first be handled with a mandatory investigation by the Australian Federal Police to protect victims of exit trafficking (forced departure/coercion).
 - b. Best Interests: The best interests of the child must be completely assessed and held as the primary and determinative factor throughout all proceedings.
 - c. Grave Risk Definition: Proven violence and abuse against a mother and/or child must be legislated as a "grave risk of harm" and an "intolerable situation" for the child.
 - d. Stop "Protective Measures": Undertakings or "protective measures" must not be used by judges to override a finding of a *grave risk of harm* or an *intolerable situation* for the child.
 - e. Right to Remain: Where violence, abuse, coercive control, and / or exit trafficking is proven, Australian mothers and their children must be able to remain in Australia, their home country, where they have family and community support.
 - f. Right to Return: Where violence, abuse, coercive control, and / or exit trafficking is proven, mothers and their children, ordered into Australia under The Hague Convention, must be able to return to, and remain in their home country, the country where they have citizenship, and where they have family and community support.

3. Urge the Shadow Attorney-General to press the Government to address the funding misuse, and inequity wherein foreign applicants receive automatic and uncapped legal funding from Australian taxpayers, while Australian mothers are denied access to the promised equivalent funding from the \$18.4 million that was specifically allocated to improve the safety of women and children in matters under the Hague Convention.

Disclaimer: This motion, which calls for the Federal Liberal Party to champion legislative amendments to the *Family Law (Child Abduction Convention) Regulations 1986*, was prepared in collaboration with the NSW Liberal Women's Council and Her Hague Story. It is provided solely as a reference tool to support community awareness and advocacy for meaningful legislative change. For further information, please contact Her Hague Story at herhaguestoryHHS@proton.me or the former NSW Liberal Women's Council President, Berenice Walker at walker.berenice@yahoo.com.au.

Special Note: This motion is being provided to Her Hague Story supporters in solidarity because we recognise that failing to assess or uphold the best interests of a child is a human rights issue and we welcome a bipartisan response.