

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)**

B E T W E E N:

F.

Appellant
(Respondent)

- and -

N.

Respondent
(Applicant)

- and -

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PART I – OVERVIEW

1. It has only been 4 years since this Honourable Court was called upon to hear *Office of the Children’s Lawyer v. Balev*,¹ a case involving the return of two children to Germany, a signatory of the Hague *Convention on the Civil Aspects of International Child Abduction* (“Hague Convention”).² Now, this Court is being asked once again to decide the fates of two young Canadian children who have been ordered to return to a foreign jurisdiction. Only this time, they would be returned to the United Arab Emirates (U.A.E.) - a state that is not a party to the Hague Convention.
2. Defence for Children International - Canada (“DCI- Canada”) intervenes on the Appellant’s question regarding the application of the “best interests of the child” principle to sections 23 and 40 of the *Children’s Law Reform Act*³ (“CLRA”) and focuses its submissions on Canada’s obligations under the United Nations *Convention on the Rights of the Child* (“CRC”).⁴ Pursuant to the CRC, and specifically Article 3, paragraph 1, the “best interests” principle must be applied as a primary consideration in all actions concerning children. It is a substantive right that is directly applicable and can be invoked before a court.⁵ The court’s assessment of the best interests of the child is to be a holistic one.⁶ As such, the “best interests” principle must

¹ [Office of the Children’s Lawyer v Balev, 2018 SCC 16 \[Balev\]](#).

² [Convention on the Civil Aspects of International Child Abduction, 25 October 1980, Can TS 1983 No 35 \[Hague Convention\]](#).

³ *Children’s Law Reform Act*, R.S.O. 1990, c. C.12. [CLRA], [s. 23](#) and [s. 40](#)

⁴ [Convention on the Rights of the Child, 20 November 1989, 1577 UNTS 3](#) (entered into force 2 September 1990) [CRC].

⁵ UN Committee on the Rights of the Child (CRC), *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*, 29 May 2013, CRC /C/GC/14, available at: <https://www.refworld.org/docid/51a84b5e4.html> [accessed 23 March 2022] at para. 6 [CRC GC14].

⁶ [S.S. v. R.S., 2021 ONSC 2137](#), at paras. [30-36](#), in referring to Article 3(1) of the CRC; [Ontario \(Children’s Lawyer\) v. Ontario \(Information and Privacy Commissioner\), 2018 ONCA 559 \[OCL v IPC\]](#) at paras. [58-65](#).

properly be applied in return proceedings under ss. 23 and 40 of the CLRA. A failure to do so would be an error of law.

3. Although the CRC is not a binding international instrument, it does inform the contextual approach to the interpretation of domestic legislation within binding Canadian jurisprudence.⁷ Canada has an obligation to respect and implement the international human rights treaties to which it is a party. As a signatory to the CRC, children’s rights and their best interests must have primacy in Canada.⁸
4. DCI-Canada takes no position on the merits or facts of the return application.

PART II – STATEMENT OF ISSUE

5. The issue to be determined by this Honourable Court is whether the “best interests of the child” principle should inform the interpretation and application of ss. 23 and 40 of the CLRA, and if so, to what extent. In effect, does the primacy of the “best interests of the child” require a different analysis and interpretation of ss. 23 and 40 when dealing with return proceedings involving countries that are not signatories to the Hague Convention?

⁷ See for example: [Michel v. Graydon, 2020 SCC 24](#) para. 103; [N.J.K. v. R.W.F. \(2011\) B.C.J. No. 2338, 2011 BCSC 1666](#) at para. 199-202; [A.C. v. Manitoba \(Director of Child and Family Services\), \[2009\] 2 SCR 181, 2009 SCC 30](#) at para. 93; [Baker v. Canada \(Minister of Citizenship and Immigration\), \(1999\) 2 S.C.R. 817](#) at para. 70-72; [A.M.R.I. v. K.E.R., 2011 ONCA 417](#) at para. 111; [Louie v. Lastman, 2001 CanLII 2843 \(ON CA\)](#) at para. 7-10; [Hawthorne v. Canada \(Minister of Citizenship and Immigration\), \[2003\] 2 FC 555, 2002 FCA 475 \(CanLII\)](#) at para. 33 and 48; [L.P. v. Minister of Families and Children, 2019 NBCA 83](#), at para. 12; [Ontario \(Children’s Lawyer\) v. Ontario \(Information and Privacy Commissioner\), 2018 ONCA 559 \[OCL v IPC\]](#), at paras 56, 87-88; [Canadian Doctors for Refugee Care v. Canada \(Attorney General\), 2014 FC 651](#) at paras. 459-462; [Justice for Children and Youth v. J.G., 2020 ONSC 4716](#), at para. 62.

⁸ [CRC GC14, supra](#), at paras. 39-40.

6. DCI-Canada submits that Article 3 paragraph 1 of the CRC requires Canadian courts to apply the “best interests” principle as a primary consideration in all actions concerning children, including returns pursuant to ss. 23 and 40 of the CLRA.
7. Further, given that return proceedings to non-signatory countries do not provide Canadian courts with the same assurances that those countries will put the best interests of children first,⁹ any discretion exercised by a court must be guided by the best interests principle and should be the paramount consideration in those circumstances, above any other interests or rights. In *Balev*, this Court was tasked with determining whether the CRC conflicts with the Hague Convention. For that purpose, this Court found no conflict because both conventions sought to protect the best interests of children.¹⁰ Given that non-signatory countries do not provide that assurance, the analysis must be conducted with a fresh lens. DCI-Canada submits that in those circumstances, Canada’s obligations under the CRC are heightened to avoid potentially irreparable harm to the uniquely vulnerable children who are being returned to non-signatory countries.

PART III – ARGUMENT

A. Article 3 of the Convention on the Rights of the Child

8. Children in Canada must be viewed as full rights bearers. Justice Martin, writing for the majority in the Supreme Court of Canada’s decision *Michel v Graydon*, noted that “[t]he status of children has changed dramatically from the times when children were viewed as

⁹ [Ojeikere v. Ojeikere, 2018 ONCA 372 \(CanLII\)](#) at para. 61 [*Ojeikere*]; [Geliedan v. Rawdah, 2020 ONCA 254 \(CanLII\)](#), at paras. 37-38 [*Geliedan*], leave to appeal refused, [2020] S.C.C.A. No. 193.

¹⁰ [Balev, supra](#) at para. 34.

property...Today, children are viewed as individuals who, as full rights bearers and members of a group made vulnerable by dependency, age, and need, merit society's full protection."¹¹

9. In 1989, the CRC was adopted by the United Nations, becoming one of the most important international human rights treaties on the rights of children. Canada ratified the CRC two years later, in 1991. The CRC is "the most universally accepted human rights instrument in history".¹² It has been ratified by 196 countries. It applies to all children without discrimination.¹³ Although the CRC has not been incorporated into Canadian domestic law, its principles guide the interpretation of the Charter of Rights and Freedoms, legislation, and the common law in Canada.¹⁴
10. Article 3, paragraph 1 of the CRC gives a child the right to have his or her best interests assessed and taken into account as a primary consideration in all actions or decisions that concern him or her, both in the public and private sphere. It is one of the fundamental values of the CRC and was identified by U.N. Committee on the Rights of the Child (the Committee) as one of the four general principles of the CRC for interpreting and implementing all the rights of the child.¹⁵

¹¹ *Michel v. Graydon*, 2020 SCC 24 at para. 77 [*Michel v. Graydon*].

¹² *R. v. Sharpe*, 2001 SCC 2 at paras. 177 -178.

¹³ [United Nations Treaty Collection: Chapter IV Human Rights, 11. Convention on the Rights of the Child, New York, 20 November 1989, Status as at: 13- 03-2022](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en). Retrieved from https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en

¹⁴ *Michel v. Graydon, supra*, at para. 103, citing *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817, at paras. 69-71.

¹⁵ Article 3(1) was identified by the Committee as a core principle, along with articles 2, 6, and 12: [UN Committee on the Rights of the Child \(CRC\), General comment no. 5 \(2003\): General measures of implementation of the Convention on the Rights of the Child, 27 November 2003, CRC/GC/2003/5](https://www.refworld.org/docid/4538834f11.html), available at: <https://www.refworld.org/docid/4538834f11.html> [accessed 22 March 2022] at para. 12.

11. Article 3 paragraph 1 provides that “[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”¹⁶
12. There is a strong legal obligation on States to apply the best interests of a child as a primary consideration. The wording “shall be” in Article 3(1) means that States may not exercise discretion as to whether children’s best interests are considered as the primary consideration.¹⁷
13. In 2013, the Committee published General Comment No. 14 which provides guidance to State parties on the interpretation of Article 3(1) and “the right of the child to have his or her best interests taken as a primary consideration”. The Committee views the best interests of the child as a substantive right, a fundamental interpretive legal principle, and a rule of procedure.¹⁸ As a substantive right, Article 3 “creates an intrinsic obligation for States, is directly applicable and can be invoked before a court.”¹⁹ [emphasis added] As a fundamental interpretative legal principle, if a legal provision could have more than one interpretation, the interpretation which most effectively serves the child’s best interests should be chosen.²⁰ As a rule of procedure, any decision-making process affecting a child must include an evaluation of the impact of that decision of the child and show that the right has been explicitly taken into account.²¹
14. The concept of the child’s best interest is aimed at ensuring both: (a) the full and effective enjoyment of all the rights recognized in the Convention; and (b) the holistic development of the child. The application of the concept of a child’s best interests “requires the development

¹⁶ [CRC, *supra*, article 3\(1\).](#)

¹⁷ [CRC GC14, *supra*, at para. 14.](#)

¹⁸ [CRC GC14, *ibid*, at para. 6.](#)

¹⁹ [Ibid.](#)

²⁰ [Ibid.](#)

²¹ [Ibid.](#)

of a rights-based approach, engaging all actors, to secure the holistic physical, psychological, moral and spiritual integrity of the child and promote his or her human dignity.”²²

15. Given that the best interests of the child is a “primary consideration”, it is not on the same level as other considerations. The Committee noted that in some areas, the “best interests” right is strengthened from a “primary consideration” to “the paramount consideration” (for example, in adoptions pursuant to article 21), and left open the possibility for the “best interests” right to be the paramount consideration in other issues as well.²³ Where the child’s best interests conflict with other rights and interests, the “best interests” right must have “high priority” and is not “just one of several considerations”. In fact, “a larger weight must be attached to what serves the child best”, “in all circumstances, but especially when an action has an undeniable impact on the children concerned”.²⁴ [emphasis]

B. The CRC in Canadian Jurisprudence

16. This Court has consistently held that the principles and values contained within international human rights conventions help to inform the contextual approach to the statutory interpretation of Canadian domestic legislation and informs our understanding of how to interpret the legislation with a focus on the best interests of the child.²⁵
17. Recently in *Michel v. Graydon*, this Court confirmed that the “best interests of the child” approach is mandated not only by Canadian jurisprudence, but also by Canada’s international obligations. Given that Canada is a party to international conventions that affirm the “best

²² [CRC GC14](#), at paras. 4-5.

²³ [CRC GC14](#) at paras. 37-38.

²⁴ [CRC GC14](#) paras. 39-40.

²⁵ [Michel v. Graydon, 2020 SCC 24](#), at para. 103, citing *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, at [paras. 69-70](#).

interests of the child” principle, including not only the CRC but also the *Convention on the Elimination of All Forms of Discrimination against Women*,²⁶ it is presumed that the Legislature takes these conventions into account and that Canadian legislation will conform with customary and conventional international law.²⁷

18. In *Ontario (Children's Lawyer) v. Ontario (Information and Privacy Commissioner)*,²⁸ the Court of Appeal found that the best interests of the child, grounded in the CRC, is an overarching principle not only in family law proceedings, but whenever a child is affected by a court or government process, informing how matters relating to children must be adjudicated.²⁹ Children’s rights under the CRC (including their best interests generally) warrant heightened legal protection and must inform the analysis.³⁰ The Court of Appeal highlighted the psychological toll on children involved in custody and access disputes, resulting in a duty on the courts to recognize, advance and protect the interests of children.³¹
19. In *Baker v Canada (Minister of Citizenship and Immigration)*, the Supreme Court directly incorporated the values of the CRC into the exercise of statutory discretion.³² The Court found that discretion exercised without reference to children’s best interests was unreasonable,³³ and

²⁶ [Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, 1249 UNTS 13, art. 16\(1\)\(d\)](#).

²⁷ *Michel v Graydon, supra*, at para.103, citing *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, at para. 182.

²⁸ [Ontario \(Children's Lawyer\) v. Ontario \(Information and Privacy Commissioner\)](#), 2018 ONCA 559 [OCL v IPC].

²⁹ *OCL v IPC*, at paras 58-61.

³⁰ *OCL v IPC*, at paras 58-61; 73-76.

³¹ *OCL v IPC*, at para 64.

³² *Baker v Canada (Minister of Citizenship and Immigration)*, at paras 65-75.

³³ *Baker*, at para 65.

held that decision-makers must consider the best interests of children as an “important factor, give them substantial weight, and be alert, alive and sensitive to them.”³⁴

20. In *M.M. v United States of America* (following *Baker*), this Court held that in light of Canada’s obligations under the CRC, consideration by the decision-maker of the best interests of the child was a mandatory factor in the exercise of discretion, warranting careful consideration.³⁵
21. Given the requirement to carefully assess children’s best interests in the extradition context where there are competing interests relating to public protection/criminality of the person subject to extradition, the need to consider a child’s best interests is all the more central and unqualified in the custody and access context where the best interests of children has primacy.
22. The CRC has been directly referenced by Canadian courts to ensure consideration of the rights of children and the application of their best interests at the threshold jurisdictional stage in custody and access disputes, both in Hague Convention and non-Hague Convention (CLRA) proceedings.³⁶ In *A.M.R. I. v. K.E.R.*, the Ontario Court of Appeal considered the interplay

³⁴ *Baker*, paras 65-75. This was further reinforced by the Court in *Kanthisamy v Canada (Citizenship and Immigration)*, 2015 SCC 61, at paras 34-41.

³⁵ *MM v United States of America*, 2015 SCC 62, at paras 144-154.

³⁶ *Ojeikere v Ojeikere*, 2018 ONCA 372 at paras 17 and 39 [Ojeikere]; *A.M.R. I. v. K.E.R.* 2011 ONCA 417 at paras 82-83 [AMRI]; *MAA v DEME*, 2020 ONCA 486 at paras 62-72 [MAA]. Of course, the CRC also informs the application of the Hague Convention by common law courts internationally as well. In the United Kingdom, for instance, courts regularly reference the CRC and article 3(1) when considering a child’s best interests rights in a Hague proceeding: *Re M. (Children) (Abduction: Rights of Custody)* [2007] UKHL 55 [2008] 1 AC 1288; *G (A Child: Child Abduction)* [2020] EWCA Civ 1185 (15 September 2020) at para. 29; and *Re A (A Child) (Abduction)* [2011] NIFam 20 (7 December 2011) at para. 17 (where the High Court of Justice in Northern Ireland noted that it was of “cardinal importance” to note that the Hague Convention is designed with the best interests of not only children generally but the individual child concerned as a primary consideration under article 3(1) of the CRC). The CRC is also referred to in refugee proceedings: *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4 (1 February 2011) at para. 23, finding that article 3(1) is “is a binding obligation in international law, and the spirit, if not the precise language, has also been translated into our national law.”

between Canada’s international obligations under the Hague Convention and the protections afforded by the *U.N. Convention Relating to the Status of Refugees*. The Court relied on the CRC to inform the right of a refugee child to be protected against *refoulement* in the context of a Hague application,³⁷ and noted that “in the Hague Convention context, the weight given to the child's best interests in the CRC strongly supports the conclusion that, in determining whether to grant an order of return in respect of a refugee child, the Hague application judge must treat the child's status as a refugee as giving rise to a rebuttable presumption of risk of persecution or other serious harm to be faced by the child if a return order is issued.”³⁸ In *MAA v. DEME*, when similarly addressing a refugee claim but in the context of a return of a child to Kuwait under the CLRA, the Court of Appeal directly referenced the CRC in determining that a section 40(3) return order cannot be made in the face of a pending refugee claim.³⁹

23. Arguably, international disputes raise the stakes for children even higher, particularly when the country involved in the dispute is not a signatory to the Hague Convention. In *Ojeikere v Ojeikere*, the Ontario Court of Appeal noted that a court will not always have the same assurance that a non-signatory country will put the best interests of children first.⁴⁰ A similar concern was raised about a non-signatory country by the Court of Appeal in *Geliedan v Rawdah*, a case involving a s. 40 return to the U.A.E. In that decision, the Court held that “[g]iven the paramountcy of the child’s best interests in custody and access decisions under the CLRA, the warranty that *Hague Convention* signatories also treat the best interests of

³⁷ [AMRI](#), at para. 82.

³⁸ [AMRI](#), at para. 83.

³⁹ [MAA](#), at paras.38- 46, 65.

⁴⁰ [Ojeikere](#), at para. 61.

children as of supreme importance is critical.” However, when it comes to non-signatories of the *Hague Convention*, this could not be presumed to be the case.⁴¹

24. DCI-Canada submits that it is for this reason that courts must give even greater weight to the best interests of the child when the return is to a non-signatory country. Canadian courts considering return orders pursuant to ss. 23 and 40 of the CLRA must give serious consideration and substantial weight to the overarching best interests of the child. Canada’s international obligations under the CRC demand no less. The rights of children codified in international law, including the CRC, represent legal obligations that require Canadian courts to meaningfully consider children’s rights and give them due weight. It would be inconsistent with the CRC and existing Canadian jurisprudence to return children to another country under s. 40 of the CLRA without considering their overarching best interests. The application of this principle should not be narrow - rather, it should be a broad-based application of the best interests of the child as the primary, if not *paramount*, consideration when determining a return application under the CLRA.

PART IV – SUBMISSIONS ON COSTS

25. DCI- Canada does not seek costs and respectfully requests that no costs be ordered against it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 25th day of March, 2022.



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⁴¹ [Geliedan v Rawdah, 2020 ONCA 254](#) at paras. [37 and 38](#), and [para 45](#).

TABLE OF AUTHORITIES

		Paragraph Reference
AUTHORITIES		
1.	<i>A.C. v. Manitoba (Director of Child and Family Services)</i>, [2009] 2 SCR 181, 2009 SCC 30	3
2.	<i>A.M.R.I. v. K.E.R.</i>, 2011 ONCA 417	3, 23, 24
3.	<i>Baker v. Canada (Minister of Citizenship and Immigration)</i>, (1999) 2 S.C.R. 817	3, 8, 18, 21
4.	<i>Canada (Minister of Citizenship and Immigration) v. Vavilov</i>, 2019 SCC 65	19
5.	<i>Canadian Doctors for Refugee Care v. Canada (Attorney General)</i>, 2014 FC 651	28
6.	<i>G (A Child: Child Abduction)</i> [2020] EWCA Civ 1185 (15 September 2020)	21
7.	<i>Geliedan v. Rawdah</i>, 2020 ONCA 254 (CanLII)	6, 27
8.	<i>Hawthorne v. Canada (Minister of Citizenship and Immigration)</i>, [2003] 2 FC 555, 2002 FCA 475 (CanLII)	3
9.	<i>Justice for Children and Youth v. J.G.</i>, 2020 ONSC 4716	28
10.	<i>Kanhasamy v Canada (Citizenship and Immigration)</i>, 2015 SCC 61	21
11.	<i>L.P. v. Minister of Families and Children</i>, 2019 NBCA 83	3
12.	<i>Louie v. Lastman</i>, 2001 CanLII 2843 (ON CA)	3
13.	<i>MM v United States of America</i>, 2015 SCC 62	22
14.	<i>MAA v DEME</i>, 2020 ONCA 486	23, 24
15.	<i>Michel v. Graydon</i>, 2020 SCC 24	3, 7, 8, 18, 19
16.	<i>N.J.K. v. R.W.F.</i>, 2011 BCSC 1666	3
17.	<i>Office of the Children’s Lawyer v. Balev</i>, 2018 SCC 16	1
18.	<i>Ojeikere v. Ojeikere</i>, 2018 ONCA 372 (CanLII)	6, 23, 26
19.	<i>Ontario (Children’s Lawyer) v. Ontario (Information and Privacy Commissioner)</i>, 2018 ONCA 559	20, 28
20.	<i>R. v. Sharpe</i>, 2001 SCC 2	8

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21.	Re A (A Child) (Abduction) [2011] NIFam 20 (7 December 2011)	21
22.	Re M. (Children) (Abduction: Rights of Custody) [2007] UKHL 55 [2008] 1 AC 1288	21
23.	S.S. v. R.S., 2021 ONSC 2137	2
24.	ZH (Tanzania) v Secretary of State for the Home Department [2011] UKSC 4 (1 February 2011)	21

SECONDARY SOURCES		
1.	Convention on the Civil Aspects of International Child Abduction, 25 October 1980, Can TS 1983 No 35 [Hague Convention].	1
2.	Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, 1249 UNTS 13, art. 16(1)(d).	19
3.	Convention on the Rights of the Child (CRC), 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990)	2
4.	Article 3(1) identified, along with Articles 2, 6, and 12: UN Committee on the Rights of the Child (CRC), General comment No. 5 (2003): General measures of implementation of the Convention on the Rights of the Child, 27 November 2003, CRC/GC/2003/5, [accessed 22 March 2022]	9, 10, 28
5.	UN Committee on the Rights of the Child (CRC), General Comment No. 6 (2005): Treatment Of Unaccompanied And Separated Children Outside Their Country Of Origin, 1 September 2005, CRC/GC/2005/6	28
6.	UN Committee on the Rights of the Child (CRC), General Comment No. 7 (2005), Implementing child rights in early childhood, 20 September 2006, CRC/C/GC/7/Rev.1	28
7.	UN Committee on the Rights of the Child (CRC), General Comment No. 12 (2009): The right of the child to be heard, 20 July 2009, CRC/C/GC/12;	28
8.	UN Committee on the Rights of the Child (CRC), General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC /C/GC/14 [accessed 23 March 2022]	2, 11 – 17, 28
9.	United Nations Treaty Collection: Chapter IV Human Rights, 11. Convention on the Rights of the Child, New York, 20 November 1989. Status as at 13-03-2022.	8

STATUTES & REGULATIONS		
1.	<u>Children's Law Reform Act, RSO 1990, c C.12, s. 23</u>	2
2.	<u>Children's Law Reform Act, RSO 1990, c C 12, s. 40</u>	2