

Decisions and Views of the Committee on the Rights of the Child

Forced Return to Another Country and Children's Rights

The case of:
W.M.C. (on behalf of X.C., L.G.
and W.G.) vs. Denmark



Universiteit
Leiden

The original version of this work has been prepared by Maria Polland, Tianle Ye, Kaeko Yoshimoto and Ilhan Yücel as part of their studies in the Master of Laws: Advanced Studies in International Children's Rights of Leiden University, Academic Year 2022/2023. The published version concerns an edited version published by the Leiden Children's Rights Observatory.

W.M.C v. Denmark

(CRC/c/85/d/31/2017)

This is a case about the best interests of three children, their right to life, survival and development, and their right to identity.



Story

W.M.C. escaped China and applied for asylum in Denmark in 2012. She gave birth to three children in Denmark. The Danish authorities rejected her application in 2015 and her appeal in 2017. W.M.C. brought the case to the Committee on the rights of the child.



Decision

The Committee said that Denmark did not respect:

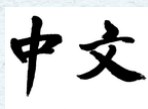
- The best interests of the children.
- Children's right to life, survival and development.
- Children's right to preserve their identity.



Remedy & Recommendation

The Committee said that Denmark shall not send W.M.C. and her children back to China. Denmark is under an obligation to take all necessary measures to prevent similar situations from happening again.

Other languages
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1. The story of W.M.C and her children

W.M.C is a Chinese woman who was not married. She left China and applied for [asylum](#) in Denmark in 2012 because she was afraid to return home. She said that, in China, the authorities forced her to have an [abortion](#). She also said that her father was killed during an incident with authorities, and that her mother died shortly after.

W.M.C gave birth to three children in Denmark: X.C. in 2014, L.G. in 2015 and W.G. in 2018. She was scared that she might be treated badly for being unmarried and having children if Denmark sent her back to China. She was worried that her children would not be allowed to register in the [Hukou system](#) and they were at risk of being separated from her. Hukou was important because it was necessary for the children to access to health care, education and social services.

The Danish authorities rejected W.M.C's asylum application in 2015 and her appeal in 2017. They said that it would be difficult to register her children in the Hukou system in China, but this problem was not serious enough to let the family stay in Denmark.

W.M.C, on behalf of her children, presented the complaint to the [Committee on the Rights of the Child](#).

W.M.C said these rights were affected by the Danish authorities:



2. The Committee's Decision

Can the complaint be accepted and studied by the Committee?



When the Committee receives a complaint, it must first check if some rules were followed to allow the Committee to accept the complaint and study if there was a violation or not. This stage is called the "admissibility".



Merits

After the Committee decides to accept the complaint, it will go on to check whether there is a violation. This stage is called "merits".



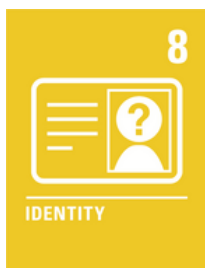
Article 3: Best interests of the child

- Denmark did not carefully check what would happen to the children if they were sent to China. For example, would they be able to go to school? Would they be able to see a doctor?
- The Committee said that Denmark did not think about what was best for the children when they decided to send them back to China.



Article 6: Life, survival and development

- The *Hukou* system in China is like a registration system that helps children access important things like healthcare, education, and social services. Children with single or unmarried parents face many difficulties in getting *Hukou*.
- The Committee said that sending the children back to China would go against their rights to be safe and grow up healthy and happy.



Article 8: Identity

- In China, *Hukou* is used to prove that someone is registered as a citizen of China at birth. Children with single or unmarried parents face many difficulties in getting *Hukou*.
- The Committee said that sending the children back to China would go against their rights to have an identity.

*The Committee did not examine Articles 2 and 7 in detail because it decided that these claims were not strong enough to review.

3. Fixing the situation



The Committee told the government to help the children in the case. This is called **remedy**. The Committee also made **recommendations** to ensure this doesn't happen to other children.

- **To help the children in the case**

Denmark shall not send the children and their mother back to China.

- **To ensure that the same thing does not happen to other children in Denmark.**

Denmark should take all steps necessary to prevent similar situations from happening in the future. With regard to this step, the Committee further asked Denmark to:

- Submit a report about the steps Denmark has taken as soon as possible, and within 180 days.
- Include information about any new steps periodically when Denmark reports to the Committee.
- Share the Committee's decision on this case.

Key terms & Links



Key terms

Abortion – the removal of a fetus (a baby before the birth) from the uterus (a part of a mother's body where her baby grows up before the birth) in order to end a pregnancy.

Asylum – Protection given by a government to people who have gone away from their own countries for their safety. Such people can ask for protection in another country where they arrive, and the government will make a decision on whether they should protect them or not.

Best interest of the child – When adults are making decisions about you, they must consider what is the best for you.

CRC (The Convention on the Rights of the Child) – The Convention is an agreement by countries that have promised to protect your rights. This agreement explains who children are, all your rights, and the responsibilities of governments.

CRC Committee – The group of experts that monitor and check how countries protect your rights based on the CRC. Making decisions about complaints such as this case is a part of their work.

Health care services – services that help people to stay healthy. Many countries have created a system (health insurance) to help pay for hospitals and medicines in the event of illness. They also provide injections (vaccinations) that are given to children to prevent them from getting a particular sick. Together, these services that help people stay healthy are called health care services. The content and structure of health care services vary from country to country.

Human rights – these are rights all people have. They make sure that everyone is treated the same and with respect.

Hukou – Chinese registration system. Each country has a different birth registration system. In the case of China, each citizen must be registered at birth. The registry, which is the hukou itself, contains each individual's basic information. The hukou determines where you have access to social services like hospitals and schools.

Key terms & Links



Identity – Identity is used in a broad sense to refer to matters that can identify a person, and things that show who a person is. In the CRC, Governments must respect every child's right to a name, a nationality and family ties. No one should take this away from them.

Life, survival, and development – Every child has the right to life, survival and development. A government must do all it can to make sure that children survive and develop to their full potential.

Non-discrimination – your rights must be respected without discrimination of any kind. It does not matter your gender; if you are rich or poor; what your religion, ethnicity, or language is; or whether you have special needs.



Remedy – a remedy is what must be done to fix a problem or make things better after someone's rights were not respected.

Recommendation – a recommendation is advice about what someone should do next.

Violation – when the government does not respect your rights.

Links

[Convention on the Rights of the Child \(Child-friendly version\)](#)



[The original file of this case \(W.M.C v. Denmark\)](#)

[The CRC Committee's page on information for child](#)

[Child Rights Connect' \(a network of child rights organizations around the world\)_page on OPIC](#)



中国公民W.M.C诉丹麦 (CRC/c/85/d/31/2017)

这是一个有关儿童最大利益，生命、生存和发展权利以及身份权利的案件。

案件

中国公民W.M.C.逃离中国，于2012年11月在丹麦申请了庇护。2014年、2015年和2018年，她在丹麦生下了三个孩子X.C.、L.G.和W.G.。2015年，丹麦移民局拒绝了庇护申请。W.M.C.就该决定向丹麦难民上诉委员会提出上诉，但该委员会于2017年3月拒绝了W.M.C的申请。W.M.C.在律师的帮助下将此案提交给儿童权利委员会。

决定

委员会说，丹麦没有尊重：

- 儿童的利益、
- 儿童的生命权、生存权和发展权、
- 儿童的身份权利

救济和建议

委员会说，丹麦不得将W.M.C.和她的孩子驱逐到中国。丹麦还有义务采取一切必要措施，防止今后再发生类似的行为。

Other languages
click here



中文



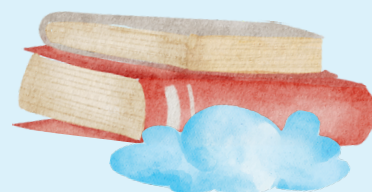
Committee on the Rights of the Child



Human Rights Treaties Division (HRTD)
Office of the United Nations High Commissioner for Human Rights (OHCHR)



Mailing address
UNOG-OHCHR
CH-1211 Geneva 10 (Switzerland)
Tel.: +41 22 917 91 41
Fax: +41 22 917 90 08
Email: ohchr-crc@un.org



This child-friendly version was developed using the model outlined in Child Rights Connect's template, "[How to Draft a Child-Friendly Version of an OPIC Case](#)."

This is an edited version of the original student work, for which the Leiden Children's Rights Observatory assumes full editorial responsibility. This version does not reflect the views of the UN Committee on the Rights of the Child or any of its members, nor does it represent the views of Leiden University or any other entities with which the Leiden Children's Rights Observatory is currently or has previously been affiliated.

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