

Help rescue Benny and Lucia Clarke abducted in Colombia



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MEDIA RELEASE: AUSTRALIA - EMBARGOED: FRIDAY 24 JANUARY 2020 - MIDNIGHT AEDT +1100UTC:

Australian father launches international campaign to bring his abducted children home.

TODAY, in a desperate bid to rescue his two small children after a family holiday turned to disaster with the abduction and illegal retention of his children in Colombia; Australian father of two, Robert Clarke, has launched an Australia Day international appeal for help from authorities and the public to help bring his two precious little Australians home.

Grave fears are held for Mr Clarke's son Benjamin (Benny) Clarke (4) and his baby daughter, Lucia (now 16 months) who were abducted and are being illegally retained by their Colombian mother Maria Nelly Yopez Oviedo and her family in Ipiales on the border of Colombia and Ecuador where corruption, violence and criminal activity are rife with travel warnings issued by the Australian Department of Foreign Affairs and Trade for the region.

"I'm hoping the authorities and people from all corners of the globe will join me in my appeal for help from the President of the Republic of Colombia, Iván Duque Márquez and sign our petition calling on the President to honour the Colombian Government's international responsibilities under *The Hague Convention* and expedite the immediate return of my two precious children to their habitual residence in the country of their birth, Australia," Mr Clarke said.

Robert Clarke, who hasn't seen his children since February 2019 when he was forced to leave Colombia under threat to his personal safety, holds desperate fears for the well-being and safety of his two young children Benny and Lucia who have been the subject of an international legal battle to return them to Australia.

Immediately following their abduction by their mother, Mr Clarke applied for the return of his children to Australia under the *1980 Hague Convention on the Civil Aspects of International Child Abduction* and the *Australian Family Law (Child Abduction Convention) Regulations 1986*.

In the first *Hague Convention* case of Australian children being abducted and unlawfully retained in Colombia; to date the Colombian Government has failed to honour their agreement under *The Hague Convention* causing serious harm to young Benny and little Lucia as a result of their non-compliance placing their personal safety at risk while living in an environment where kidnapping, extortion and violence are an everyday occurrence.

"When two countries are both Contracting States to the 1980 Hague Convention as both Australia and Colombia are, the procedure for the return of children to their home country is designed to be simple and swift to minimise the harm caused to children by their illegal retention by the offending parent," said Mr Clarke.

"However, what should have been a straight-forward legal process under *The Hague Convention* to return Benny and Lucia to Australia, the Colombian authorities (including the Colombian Central Authority) and the Colombian Judge Hernan Rodriguez Reina knowingly delayed proceedings in what appears to be an attempt to justify the illegal abduction and retention of Benny and Lucia by their mother in Colombia," he said.

After unprecedented delays, on 29 November 2019 the first hearing took place in Ipiales 9 months and 9 days (282 days) after the children's unlawful abduction on 20 February 2019, and 8 months and 15 days after Robert, their father, filed his formal Application for the Return of The Children with the Australian Central Authority.

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On 5 December 2019, Colombian Judge Hernan Rodriguez Reina handed down his ruling and although he agreed that the children had been illegally retained by their mother (according to *The Hague Convention*), he failed to order their immediate return to the country of their birth and habitual residence asserting that “the children are now settled and should stay in Colombia as it would be harmful to the children for them to return them to Australia”.

In February 2020, Robert Clarke and his Australian family have just one opportunity to appeal this decision.

The lawyer for Mr Clarke said this deliberate delay of proceedings showed a complete lack of vigilance and failure in the execution of the six-week limit to order the return of the children to the country of their birth which is in direct contravention of the fundamental principles of *The Hague Convention*.

“The children’s retention is wrongful and the Colombian Government has an international obligation to preserve the safety and well-being of these two little Australians and expedite their immediate return to the country of their birth and habitual residence in Australia,” said Fernando J Herrera Ramirez.

The ruling by Judge Hernan Rodriguez Reina is a direct breach of the principles of *The Hague Convention* that clearly maintains: “Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.”

“My children are living with their mother in the home of Mrs. Oviedo Heurtas (the maternal grandmother) who is a convicted criminal serving four (4) years home detention for crimes committed in Colombia and who shows little respect for the law and authority in a community where crime and violence are accepted as a part of everyday life.

“The longer Benny and Lucia remain in Colombia, the more they are being emotionally and mentally harmed as a result of their illegal retention, while the risks to their safety increases daily in a country ranked 5th in the world for violent deaths by the World Health Organisation (WHO),” Mr Clarke said.

With statistics released in 2017 showing that **Colombia had 23,530 violent deaths** (the second leading cause of death in Colombia) compared to Australia’s 224, Mr Clarke and his Australian family are living in constant fear for the safety of their two precious little Australians.

“Every day Benny and Lucia remain in Colombia, I fear for their safety and well-being. I worry about the values and dangers they are exposed to. I worry about the emotional harm being inflicted on them. I worry that every day they are there, their Australian culture, their birthright, is being erased and that soon I will come to mean nothing to my beautiful children. I worry that the laughs, hugs, lessons and values I shared with them will be erased by a narrative being told to them that is untrue – that I abandoned them. I can already feel this happening.

“The longer this goes on, the greater the harm caused to my precious children who have the right to live and grow up happy and safe in the country of their birth with all the privileges that being an Australian citizen affords.

“I hope people will add their voices to my pleas to the President of the Republic of Colombia, Iván Duque Márquez and sign the petition to help bring my children home.” Mr Clarke said.

To learn more about Robert Clarke’s plea to President Iván Duque Márquez to help bring his children home and how you can help, sign and share our petition, please visit: HelpBringMyChildrenHome.com or Follow us on Facebook.

#HelpBringMyChildrenHome #HagueConvention #BennyandLuciaClarke #SignPetition

-ENDS-

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HELP BRING MY CHILDREN HOME CAMPAIGN - JOURNALIST NOTES

The aim of Robert Clarke and his Australian family's campaign is to attract global media attention on the illegal abduction and retention of Benny and Lucia Clarke under *The Hague Convention* on the Civil Aspects of International Child Abduction. A key focus of the campaign is to draw international attention to the failure on the part of the Colombian Government to honour their agreement under *The Hague Convention* and publically reveal the harm being caused to young Benny and Lucia as a result of Colombia's non-compliance.

How can people help? People are invited to sign and share our petition across social media channels, write to President of the Republic of Colombia, Iván Duque Márquez the Australian Prime Minister and other high ranking officials asking for their support to bring Benny and Lucia home and print posters from our website to increase awareness of Benny and Lucia's plight.

For more details on how you can help please visit our website here: HelpBringMyChildrenHome.com

THE ABDUCTION AND ILLEGAL RETENTION OF AUSTRALIAN CHILDREN, BENNY & LUCIA CLARKE IN COLOMBIA

- **Robert Clarke** is the father of two Australian born children, Benny (4 years) and Lucia (16 months) Clarke.
 - Their Colombian mother Maria Yopez Oviedo, has lived in Australia since 2013 and is a permanent resident.
 - Both children were born in Melbourne, Australia: Benny April 3rd 2015 and Lucia September 18th 2018.
 - Benny and Lucia are both Australian citizens and hold Australian passports.
 - Both children had resided in Australia from birth prior to being abducted and unlawfully retained in Colombia.
 - **On 20 February 2019**, while on a family holiday, Benny and Lucia were illegally retained in Colombia by Maria and her family. Robert has not seen his children since.
 - **On 12 March 2019**, Robert commenced legal proceedings under *The Hague Convention* to have his children returned to the country of their birth.
 - **On 20 December 2019**, the Colombian judge ruled the Clarke Children had been illegally retained in Colombia but failed to rule that they be returned home to Australia.
 - This ruling by Judge Hernan Rodriguez Reina in Ipiales Colombia, is in breach of *The Hague Convention* on the Civil Aspects of International Child Abduction.
 - **In February 2020**, Robert Clarke and his Australian family have just one opportunity to appeal this decision.
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COLOMBIAN GOVERNMENT FAILS TO MEET OBLIGATIONS OF THE HAGUE CONVENTION

1. *The Hague Convention* exists for the purpose of protecting children from the harmful effects of cross-border abductions (and wrongful retentions) by providing a procedure designed to bring about the prompt return of such children to the State of their habitual residence.
2. Benny and Lucia Clarke are the first *Hague Convention* case of Australian children being abducted and wrongfully retained in Colombia.
3. With many Colombian citizens living in Australia, this case will set a precedent for others that may follow so it is vital that the Colombian Government fulfil their obligations under *The Hague Convention*.
4. Robert Clarke, his family with the support of the Australian Central Authority have consistently and rigorously undertaken every legal avenue possible to have his Australian born children returned to the country of their birth under the Hague Convention. However, contrary to the principles of *The Hague Convention* "to expedite the process", the Colombian Government has failed to meet its obligations as an Admitted State to *The Hague Agreement*.
5. The Colombian Central Authority (ICBF) and the Colombian Judge Hernan Rodriguez Reina deliberately delayed proceedings showing a complete lack of vigilance and failure in the execution of the six-week limit as

determined by *The Hague Convention* to order the return of the children to the country of their birth. This delay obstructed compliance with *The Hague Convention*; the effects and consequences of which are both human and international in nature and in direct contravention of the principles of *The Hague Convention*.

KEY FACTS - BENNY AND LUCIA CLARKE'S ABDUCTION & ILLEGAL RETENTION IN COLOMBIA

1. **Benjamin (Benny) Murray Clarke (4 years) and Lucia Marie Clarke (16 months) were both born in Melbourne, Victoria, Australia. Both are Australian citizens and hold Australian passports.**
2. **On 20 February 2019** (the family's scheduled return date to Australia following a holiday in Colombia), Maria Nelly Yopez Oviedo (the children's Colombian mother) abducted Benny and Lucia and illegally retained them in Ipiales, Nariño in the home of Maria's mother, Mrs Irma Oviedo who is serving a 4-year home detention sentence for crimes she committed in Colombia.
3. **There was no agreement** on the part of Robert Murray Clarke, the Australian father of Benny and Lucia Clarke, for his children to remain in, or relocate to Colombia.
4. **The children's retention is wrongful** under *The Hague Convention* and the *Australian Family Law (Child Abduction Convention) Regulations 1986*.
5. **Australia and Colombia** are both Contracting States to the *1980 Hague Convention on the Civil Aspects of International Child Abduction*.
6. **On 12 March 2019** (20 days after the children were wrongfully abducted and retained in Colombia by their mother), Robert commenced legal proceedings through the Australian Central Authority (ACA) and filed an *Application for the Return of Children in accordance with the Hague Convention on the Civil Aspects of International Children Abduction for the Return of Children Wrongfully Removed from or Retained outside Australia*.
7. **This is the first Hague Convention case** of Australian children being abducted and unlawfully retained in Colombia.
8. **On 16 April 2019**, the ICBF in Bogota received Australia's fully translated complete Hague application (less than 2 months after the illegal retention).
9. **On 31 May 2019**, the ICBF Ipiales completed its investigations and Maria (the mother) refused the voluntary return of the Australian born and raised children, Benny and Lucia Clarke.
10. **The ICBF has consistently been extremely slow** and frequently unresponsive to the ACA's requests and inquiries, with the ACA required to ask to the Australian Embassy to intervene to achieve any responses from the ICBF regarding court orders.
11. **The ICBF delayed sending Colombian court orders** to ACA despite knowing that these orders had to be translated by the ACA before they could be understood and acted on. The ICBF should have been liaising with the Colombian Court to facilitate judicial proceedings.
12. **The ICBF failed to provide** a complete copy of the court order.
13. **Despite repeated requests** to have access to a copy of the mother's statement to the court (Maria's affidavit – Doc ID - E301201 Dated 31/5/19) this document has not been supplied providing the children's father with no opportunity to see the mother's statement to enable a detailed and accurate account of the matter to be submitted to court.
14. **The sudden refusal** of all the dates originally proposed by Judge Hernan Rodriguez Reina for hearings in October came just 1-2 days after successful video linkup testing occurred raising unanswered questions.
15. **No court hearing was held until 29 November 2019. A six month delay.**
16. **Concerns for the children's welfare and safety are paramount.** Benny and Lucia are the only known Australians currently residing in Ipiales - A Spanish speaking town on the border of Colombia and Ecuador where the children are at risk of serious harm as a result of their abduction and unlawful retention in Colombia.
17. **The children's father, Robert** and their extended Australian family (Grandparents, Aunts and Uncles) fear for the children's safety and for the loss of the children's Australian identity, culture and heritage.
18. **Studies on the harm caused to children** who are illegally abducted and retained by a parent in another country show long-lasting and very significant harm in terms of their mental health, and that these effects are ongoing into adulthood continuing for many years after their abduction.

19. **The children are also at risk of physical harm** due to the culture of the community where they have been illegally retained.
20. **The Colombian Central Authority** (ICBF) the Colombian Court and Judge Hernan Rodriguez Reina have deliberately and knowingly delayed court proceedings in an attempt to justify the illegal abduction and retention of Benny and Lucia Clarke by their mother in Colombia.
21. **To date, the Colombian Government has failed** to honour their agreement under *The Hague Convention* which has caused grave harm to young Benny and little Lucia as a result of their non-compliance.
22. **The unlawful retention of Benny and Lucia** and the Colombian authorities' failure to return the children to the place of their birth and habitual residence in Australia, is in serious breach of *The Hague Convention* created for the purpose of child protection.
23. **According to *The Hague Convention***, Benny and Lucia Clarke must be immediately returned to the country of their birth, Australia to preserve their safety and well-being.
24. **It is hoped that the Colombian authorities will honour their commitment to the principles of *The Hague Convention* and immediately return the children to their habitual residence in Australia.**

THE PENALTY FOR COLOMBIA'S FAILURE TO ADHERE TO THE PRINCIPLES OF THE HAGUE CONVENTION

Australia and Colombia are both Contracting States to the *1980 Hague Convention on the Civil Aspects of International Child Abduction*. Given the serious nature of Colombia's non-compliance to the principles of *The Hague Convention* in the case of Benjamin and Lucia Clarke; should the Colombian Government fail to rectify their non-compliance and act promptly to correct this breach by ordering the immediate return of the children to their home State of Australia, there will be calls for their removal as a Contracting State to *The Hague Convention*.

BENNY & LUCIA ARE AT GRAVE RISK OF SERIOUS HARM BY REMAINING IN COLOMBIA

EVIDENCE OF HARM BEING CAUSED TO BENNY AND LUCIA CLARKE

Court documents put before Judge Hernan Rodriguez Reina on 24 May 2019 demonstrate the psychological harm being caused to Benny and Lucia as a result of their abduction and wrongful retention by their mother in Colombia.

Having a child returned to the parent left behind can be relatively straightforward when the other country is a signatory to the Hague Convention. However, when a country breaches the principles of *The Hague Convention* as Colombia has done in this case, serious long-term harm is known to be caused to the victims of wrongful retention – the children.

Since Benny and Lucia were abducted and retained in Colombia by Maria (their mother) and her family, the harm already perpetrated on these precious two little Australians, Benny and Lucia, has been extensive.

Benny and Lucia have been deprived of:

1. Access to their father who has parental responsibility and rights.
2. Meaningful parenting by their father who has played a loving and attentive role in their lives.
3. Their Australian culture and language.
4. The comforts of their home and neighbourhood where they were born and raised.
5. Significant loving relationships with grandparents, aunts and uncle etc., their beloved cousin Samantha and their little friends, their toys, Benny's dog Nacho and their loving Australian family.
6. Access to their Australian family through phone and video contact to eradicate their memories of home.
7. Significantly, they have been deprived of their Australian way of life, their heritage, their birthright and all the opportunities Australia has to offer them.

STUDIES ON HARM TO CHILDREN ILLEGALLY ABDUCTED & RETAINED BY A PARENT

Of the studies conducted into the extent of psychological harm caused to children when abducted and illegally retained by a parent, the most comprehensive study into the long-term effects of international child abduction found more than 70 per cent of the children involved reported suffering significant effects on their mental health.

Overall, the studies and reports refer to child abduction by a parent as ‘child abuse’.

1. DR MARILYN FREEMAN - PARENTAL CHILD ABDUCTION: THE LONG TERM EFFECTS - 2014

British researcher and family law specialist Dr Marilyn Freeman conducted the study which determined that children who had been abducted spoke repeatedly about their confusion, feelings of shame, self-hate, loneliness and insecurity. The study found that a high proportion of the participants reported suffering very significant effects from their abductions in terms of their mental health, and that these effects were ongoing into their adult lives very many years after the abduction.

The study concluded more must be done to protect children from parental abduction and its effects.

Freeman, M. (2014) Parental Child Abduction: The Long Term Effects. International Centre for Family Law, Policy, and Practice. http://childcentre.info/public/PROTECT/Research_report_web_1.12.14_R.pdf

Additional studies that demonstrate the harm perpetrated on children abducted by a parent include:

2. DR LENORE C TERR - CHILD SNATCHING: A NEW EPIDEMIC OF AN ANCIENT MALADY - 1983

Terr, L. (1983) Child Snatching: A new epidemic of an ancient malady. Journal of Paediatrics. 103(1). 151-156
[https://scholar.google.com.au/scholar?q=Terr,+L.+\(1983\)+Child+Snatching:+A+new+epidemic+of+an+ancient+malady.+Journal+of+Paediatrics.&hl=en&as_sdt=0&as_vis=1&oi=scholart](https://scholar.google.com.au/scholar?q=Terr,+L.+(1983)+Child+Snatching:+A+new+epidemic+of+an+ancient+malady.+Journal+of+Paediatrics.&hl=en&as_sdt=0&as_vis=1&oi=scholart)

3. DR NANCY FAULKNER PhD – PARENTAL ABDUCTION IS CHILD ABUSE - 1999

https://canadiancrc.com/Nancy_Faulkner_Parental_abduction_is_child_abuse_1999.aspx

4. Dr Dorothy S. Huntington PhD - PARENTAL KIDNAPPING: A NEW FORM OF CHILD ABUSE - 1982

Huntington, DS (1984) Parental Kidnapping: A New Form of Child Abuse
http://takeroot.org/ee/pdf_files/library/Huntington_1982.pdf

BENNY AND LUCIA – THEIR PERSONAL SAFETY IS AT RISK IN COLOMBIA

The reporting by the international media of the ongoing violence, corruption and illegal activity; and, the high number of road deaths in Colombia has emphasised the terrible risks to Benny and Lucia’s personal safety which is of grave concern to their father, their family and to Australia as a whole.

The statistics published by the World Health Organisation (WHO) relating to road deaths and deaths by violence provide clear evidence that both Benny and Lucia Clarke’s safety is at risk in Colombia and that they should be immediately returned home to the country of their birth, Australia.

ROAD DEATHS IN COLOMBIA COMPARED TO AUSTRALIA

Maria and her family in Ipiales do not own or use child car safety restraints. Maria and her Mother, Irma Oviedo Heurtas both hold baby Lucia in their arms when being driven. Adult seat belts are seldom used even if available.

According to figures released in 2017 by the WHO :

- Colombia had 605% more road fatalities (9133) compared to Australia (1295) with a **328% increase in 'risk of death'** by road accident.
- Colombian road fatalities accounted for 4.28% of total deaths or 18.82 deaths per 100,000 head of population) compared to Australia which had road fatalities accounting for 1% of total deaths or 4.94 deaths per 100,000 head of population.
- Death caused by Road Traffic Accidents is the 7th leading cause of death in Colombia compared to Australia which is ranked 18th.

NOTE: Although Mrs. Oviedo Heurtas is a convicted criminal sentenced to 4 years home detention, prior to receiving any work permission, she has openly left her house and travelled with Maria and the children demonstrating her lack of respect for the legal process. Evidence of this breach has been provided to Fernando Montenegro at INPEC Ipiales. To date nothing has been done.

VIOLENCE IN COLOMBIA COMPARED TO AUSTRALIA

According to figures released in 2017 by the WHO :

- **Colombia had 23,530 violent deaths** compared to Australia's 224; equating to 10,405% more deaths due to violence in Colombia Vs Australia
- Violence is the second highest cause of death in Colombia with 47.07 people per 100,000 head of population dying violently. Compared to Australia where death by violence is ranked 41 with 0.92 people per 100,000 head of population dying violently.
- Globally, Colombia is Ranked 5th for Violent Death compared to Australia who ranks 166.

THE HIGH RATE OF CRIME & VIOLENCE IN COLOMBIA

Overall, Ipiales has a high crime rate making it an unsafe place for Benny and Lucia to live compared to their home in Australia. In Ipiales robberies are common place. Mobile phones are not used on the street and cars are never left on the street overnight. Houses have security bars and suburbs pay for their own security guards, etc. There has been both paramilitary and FARC presence in this community.

The Australian Department of Foreign Affairs and Trade (DFAT) have issued a travel warning for Australian's travelling to Colombia advising "to exercise a high degree of caution".

This travel warning was taken seriously by representatives of the Australian government who felt it was unsafe to travel to Ipiales for the hearings into the abduction and illegal retention of Benny and Lucia Clarke.

SEE LINK TO DFAT - <https://www.smartraveller.gov.au/destinations/americas/colombia>

THE RISKS OF PERSONAL DANGER TO BENNY & LUCIA ARE EXTREMELY CLOSE

The children's maternal grandfather, Jairo Miguel Yepez Ponce, a business man in Ipiales has been a victim of extortion and a bombing attack that destroyed the entry to his home. Mr Yepez Ponce used a friend in the Police to investigate and found that the man behind the attack was one of Mr Yepez Ponce ex business partners.

Benny and Lucia spend significant time at Mr Yepez Ponce home increasing the risks to their personal safety.

KIDNAPPING & EXTORTION IN COLOMBIA – GRAVE FEARS ARE HELD FOR BENNY & LUCIA'S SAFETY

There are profound fears that Benny and Lucia (the only Australian children living in Ipiales) will become targets for kidnap and extortion.

Kidnapping and extortion is a grave risk in Colombia. On New Year's Eve (2015/16) Carlos Julio Bravo (a friend of Maria's) was travelling between Ipiales and Pupiales (about 10 kilometres away) when he was kidnapped and held for

ransom. The local kidnappers tried to extort \$900KAUD (approximately) from the young man's wealthy father. When the police launched a rescue operation, Carlos Julio Bravo was killed.

Articles relating to the kidnapping and death of Carlos Julio Bravo include:

1. <https://diariodelsur.com.co/noticias/judicial/alias-troilo-fue-detenido-por-el-secuestro-de-carlos-julio-b-404944>
2. <https://www.radioipiales.co/2016/02/en-frustrado-operativo-de-rescate-murio-carlos-julio-bravo/>
3. <https://noticias.canalrcn.com/nacional-regiones-pacifico/comerciante-secuestrado-narino-murio-durante-operativo-rescate>

COLOMBIAN MOTHER ALIENATES BENNY & LUCIA FROM AUSTRALIAN FATHER, THEIR FAMILY, CULTURE & THE LAND OF THEIR BIRTH

Maria Yepez Oviedo, mother of the children and her family have taken significant steps to alienate the children from their father, their Australian heritage and their large Australian family who have loved and cared for them from the moment they were born.

Maria has consistently denied Benny and Lucia contact with their loving Australian family and failed to provide photographs of the children (for six months) to Benny and Lucia's grandparents.

There is a great deal of evidence that substantiates Robert's assertions that Maria and her family are actively alienating Benny and Lucia from their Australian father, their family, their culture and heritage.

DR ALISON CLARKE (BENNY & LUCIA'S PATERNAL GRANDMOTHER) WAS DENIED ACCESS TO THE CHILDREN

For seven-and-a-half months (7.5), Dr Alison Clarke (Benny and Lucia's Australian grandmother) has consistently tried to speak with her beloved grandchildren making 52 voice phone calls to Maria. These calls were unanswered or declined. 4 calls were answered – 3 calls in March (9, 14 and 21 of March 2019) and 1 call on 2 November 2019.

SAM CLARKE (BENNY & LUCIA'S UNCLE) WAS DENIED ACCESS TO THE CHILDREN

Benny and Lucia's paternal Australian uncle Sam, and the father of Benny's much loved cousin Samantha has made seven (7) video calls to Maria in the hope of speaking with Benny and Lucia and so little Samantha can speak with her best little mate, Benny. Maria has never answered or returned those calls. Sam also sent two messages via WhatsApp pleading with Maria to allow them to speak with Benny and Lucia. Maria did not respond.

DR EMILY CLARKE (BENNY & LUCIA'S AUNT) WAS DENIED ACCESS TO THE CHILDREN

Benny and Lucia's paternal Australian aunt, Dr Emily Clarke has made 23 calls to Maria in the hope of speaking with Benny and Lucia. Of these, Maria ignored or missed 19 calls, answered 4 calls, and returned Emily's calls 4 times.

ROBER CLARKE – FATHER'S ONLY CONTACT WITH HIS CHILDREN – LONG DISTANCE PHONE CALLS

Between 22 February 2019 (the date Robert was forced to return to Australia) and 18 August 2019, Robert has spoken with his children Benny and Lucia 110 times. The average length of Robert's phone calls was 35 minutes, with the longest being 1.04 hours. During these calls, Benny showed distress that he was being retained in Colombia away from his father and Australian family. He desperately wanted his "Daddy".

1. When the court hearing commenced, Robert's contact with his beloved children was thwarted when Maria stopped taking Roberts calls, cutting off all access and communication between father and son.
2. The last time Maria allowed Robert to speak with his children was 3 January 2020
3. Daily, Robert continued to try and speak with his son but he'd been blocked by Maria and her family.

4. Maria and her parents also blocked the children's Australian family (Emily, Murray, Alison and Sam) on WhatsApp and other social media applications – effectively blocking their ability to communicate with Benny and Lucia and alienating the children even further from their homeland.
5. After Robert's many appeals to Maria to be allowed to speak with Benny, Maria told Robert that she would only permit him to speak with Benny if he sent her a phone and a sim card with pre-paid data.
6. Robert is arranging for a phone and sim card in the hope that Maria will allow him to speak with Benny. However, based on Maria's previous actions it is believed that she will continue to deny father and son to maintain their close-knit bond.

MOTHER REPORTS FALSE & MISLEADING INFORMATION TO THE COURT

As part of the court process, the court ordered two reports be prepared: Psychological Assessment Report, Social Worker Report.

These two poorly researched and written reports were presented as evidence to Judge Hernan Rodriguez Reina (Reports dated 20 May 2019 and 24 May 2019). However, the people involved in preparing these reports failed to conduct adequate research to verify the facts including interviewing Robert, (the father).

This incompetent reporting resulted with conclusions based solely on the view of Maria (the mother) which contained many untruths with the reports strongly biasing the opinion of the Judge to rule in favour of the mother.

THE REPORTS SHOULD BE DISCREDITED & INADMISSIBLE TO THE COURT!

The information provided in those reports appears to be 'tailored' and provides a large number of false accounts and accusations made by Maria including:

1. In regard to the social conditions in which Benny and Lucia are being wrongfully retained.
2. The report fails to include mention that the Australian children are living with a convicted criminal (the maternal grandmother) who is serving four (4) years home detention for crimes committed in Colombia. This woman is not financially well resourced having limited capacity to provide an appropriate environment for the children, now or in the future.
<https://www.fiscalia.gov.co/colombia/noticias/fiscalia-imputo-cargos-por-peculado-a-extesorera-del-municipio-de-ipiales-narino/>
3. The psychological assessment and conclusions in the report are drawn on the basis of minimal examination during a single visit for a limited period of time.
4. This report is based primarily on the view of the mother reporting an extensive number of untruths and ignoring substantiated evidence. This includes failing to acknowledge the loving and caring relationship shared between Robert and his children from the moment of their birth in Australia
5. The report also fails to acknowledge that the care and raising of the children was shared equally by their father from birth until the mother wrongfully abducted and illegally retained Benny and Lucia in Colombia.
6. The report is based on untruths and false assertions throughout including Maria's claim that Robert abandoned her when he travelled to Cali in preparation for his brother's wedding. This is easily proven to be untrue. The airline tickets purchased by Robert for Maria and the children to fly to meet him for the wedding verify this fact. Maria unilaterally chose to remain in Ipiales with the children (as per evidence given by Irma Lucy Oviedo Huertas in court) to action her premediated plan to illegally abduct and retain the children in Colombia.
7. By providing misinformation Maria is perpetrating untruths to the court to substantiate her wrongfully retention of Benny and Lucia in Colombia which is causing serious and long-term psychological harm to the children.
8. The psychologist who prepared the report has failed in his duty of care to undertake appropriate investigations assuming that everything Maria has told him is true and correct and failed to take an appropriate clinical perspective and conduct an interview with Robert. It appears that the psychologist has not considered the case

appropriately having failed to investigate if the claims made by Maria (included in his report) are truthful; and significantly, has failed to consider possible alternate reasons behind these claims including Narcissistic Personality Disorder.

9. Narcissistic Personality Disorder is the working diagnosis of Maria's psychologist in Melbourne, on the basis of repeated consultations (as per Point 16 of Rob's Reply Affidavit dated 13 August 2019). Narcissistic Personality Disorder is characterised by lying, manipulation, a lack of empathy, sense of entitlement, lack of guilt and relationship difficulties.

THE CHILDREN'S MOTHER'S FURTHER MISREPRESENTATION OF TRUTH

Under instructions from his client, Maria's lawyer stated in court that Dr Alison Clarke (the Australian grandmother) was unable to help Maria care for the children because she needed to care for her invalid husband. This is untrue. Dr Murray Clarke is fit and well. Dr Murray Clarke continues to undertake numerous physical activities including extensive hiking and bike riding. Maria is aware that both paternal grandparents enjoy an active retirement. In January 2019, Murray and Alison completed a 4 day hike to Ciudad Perdida in Sierra Nevada de Santa Marta, Colombia and a 9 day hike in Patagonia, Chile.

Medical reports of the health and fitness of the paternal grandparents have not been requested by Judge Hernan Rodriguez Reina. Medical reports can be provided to the court to refute this assertion made by Maria in an attempt to support her illegal retention of the children in Colombia.

SOCIAL WORKER REPORT – EDIT MARIELA CARDENAS ROSAS

In the psychological assessment report submitted to Judge Hernan Rodriguez Reina on 24 May 2019, it states:

1. Page 17: Under Conclusions and Recommendations, "Taking the foregoing into we recommend this for the figures of authority and affection: Encourage the parties to carry out the voluntary return of the children in order not to produce major trauma"
2. Page 10: "We are told by the person in charge of the Goticas de Colores kindergarten that he (Benny) has been losing his identity as, initially, he would speak English and would show different cultural manifestations." And, "At the beginning there were difficulties with the changes in the different environments, but because of the boy's age there were no major difficulties".
3. It is evident that on his return to Australia, Benny will experience few difficulties in becoming happily settled in the environment in which he was born and raised and where he shares loving relationships with his father, his cousin Samantha (of the same age), his grandparents, aunts, uncles and friends, and where he was to attended pre-school with a number of his little Australian friends.

THE DESTRUCTION OF BENNY AND LUCIA'S AUSTRALIAN IDENTITY, CULTURE & HERITAGE

While growing up in Australia, Robert and his family consistently encouraged the children's family connection to the Colombian culture. However, while they continue to be illegally retained in Colombia, Maria and her family are actively discouraging the children's connection to Australia, their family and their heritage.

In accordance with the principles of *The Hague Convention*, Benny and Lucia Clarke must be returned to Australia. While they remain in Colombia, the continuing harm caused to the children is extensive and includes their loss of identity as Australian citizens – the loss of their birthright.

1. Benjamin (Benny) Clarke was born in April 2015. Lucia Clarke was born in September 2018. Both were born in Melbourne, Victoria, Australia.
2. Both Benny and Lucia are Australian citizens by birth and hold Australian passports.
3. Robert encouraged the children's Colombian heritage and Benny would communicate with his relatives in Colombia via skype or WhatsApp daily.
4. Robert and his Australian family learned to speak Spanish to encourage the children's Latino culture.

5. Annually, the family would travel to Colombia for lengthy periods to nurture the children's relationship with Maria's family and their Colombian heritage.
6. Australia has been the habitual residence of both children prior to being abducted and unlawfully retained in Colombia by their mother, Maria and her family.

Where the children are being illegally held in Ipiales, there is zero Australian culture. Apart from Benny and Lucia, Robert believes not another single Australian lives there. In Ipiales there is zero connection to the culture of their birth in Australia; while a life in Melbourne allows connection to their Colombian culture.

On their return to Australia, Benny and Lucia will have the opportunity to maintain their Australian culture while enjoying the culture of Colombia.

1. Melbourne has routinely been rated as the World's most liveable city providing the children with a beautiful, peaceful and safe community where they can freely play, grow and be educated.
2. In Melbourne there are approximately 10,000 expat Colombians and many more thousands of Latinos from other South American countries. Melbourne features 4 Colombian restaurants, Colombian/Latino night clubs and a South American grocery store that stocks Colombian items. There are regular Colombian social events and Colombian entertainers have toured Melbourne.

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