

WestminsterResearch

<http://www.westminster.ac.uk/westminsterresearch>

International Child Abduction

Freeman, M. and Taylor, N.

This is a draft chapter. The final version is available in Research Handbook on Family Justice Systems edited by, published in [YEAR], Edward Elgar Publishing Ltd

<http://dx.doi.org/...>

The material cannot be used for any other purpose without further permission of the publisher, and is for private use only.

The WestminsterResearch online digital archive at the University of Westminster aims to make the research output of the University available to a wider audience. Copyright and Moral Rights remain with the authors and/or copyright owners.

International Child Abduction

Nicola Taylor* and Marilyn Freeman**

*Professor of Family Law; Director, Children's Issues Centre, Faculty of Law,
University of Otago, New Zealand

**Co-Director, International Centre for Family Law, Policy and Practice (ICFLPP); Principal
Research Fellow, Westminster Law School, University of Westminster, London, UK.

Introduction

International child abduction is a global phenomenon that mostly has a detrimental impact on children's wellbeing, and the nature and quality of their intrafamilial relationships, often with long-term effect. The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (hereafter the Convention) was implemented to provide for co-operation between its Contracting Parties (currently 101) to ensure that a child wrongfully removed or retained from their state of habitual residence in breach of rights of custody is returned forthwith. Unlike most other family law matters, the focus is on deciding the jurisdiction, not the child's welfare, unless one of the limited Convention exceptions to return applies and, even then, the court still retains a discretion to order the child's return anyway. The Convention thus incorporated several novel features that marked out its distinctive approach to cross-border family dispute resolution in the international family law context. As noted by Bryant (2020, p. 182):

'There was novelty in many aspects of the draft which bear remembering when considering the efficacy of the Convention today. Traditional private international law remedies were eschewed in favour of an untried procedural mechanism which would attempt to restore the *status quo ante*.'

While the Convention provides an internationally agreed mechanism between Contracting State Parties for dealing with child abduction, its interpretation and implementation is a matter for each individual Contracting Party since there is no supra-national body controlling its application. The Permanent Bureau of the Hague Conference on Private International Law and Contracting Parties have, however, been instrumental in supporting the Convention through Special Commissions and various networks, conferences, meetings, working parties, guides and online tools that have undoubtedly assisted with the laudable aims of consistent interpretation and increasing international reach. The Convention's novel contribution in the international family justice field is further evident through the development of various regional and jurisdictional initiatives, some of which have been fostered by the Permanent Bureau while others have emerged in response to regional/local need or demand.

This chapter commences by reviewing key steps in the development of the Convention, and then discusses the novel purpose and distinctive features that highlight its differences with the aims and objectives of most other types of family law proceedings. We consider the Convention's evolving nature and remarkable global success across its 42-year history, as well as discussing some of its contemporary

and emerging challenges, in the context of future-proofing its operation in practice for further decades to come.

Development of the 1980 Hague Convention

Historical Background

By the mid-1970s it was evident that international mobility, cross-border marriages and divorce rates were escalating and that, at an international level, the issue of child abduction was becoming of immense social importance. Anton (1981) remarked on the increasing need for action:

‘The risk of harm to the child and the certainty of distress to the parent from whom the child had been taken both suggest that lawyers, and indeed Governments, cannot remain entirely aloof.’ (p. 537)

The law’s inability to provide satisfactory remedies in these cases, together with the absence of mutual enforcement mechanisms between States, was beginning to capture the attention of lawmakers, politicians and the public. Locating the abducted child and bringing an application for custody in a foreign country was complicated and expensive, sometimes requiring diplomatic efforts. There was also concern that the courts, laws and values of the two countries involved were being pitted against one another (Bala & Maur, 2014; Lowe & Nicholls, 2016).

A meeting of a Special Commission of the Hague Conference on Private International Law (hereafter the HCCH), held in January 1976, heralded the origins of what was to become the Convention. At that meeting, the Canadian Expert proposed that the HCCH initiate an international treaty dealing with the ‘legal kidnapping’ of children by one of their parents. An international analysis of the legal and social aspects of the issue by the Permanent Bureau’s then First Secretary, Adair Dyer, quickly ensued (Schuz, 2013). The 1978 Dyer Report adopted the term ‘child abduction’ and highlighted cases in Australia (10), Belgium (15), Denmark (8) and France (75), as well as concerns that the United Kingdom Home Office had been asked to take precautions in airports and ports in 691 cases involving 69 different countries over a 12 month period (Anton, 1981). While these numbers were relatively small, abduction cases were anticipated to increase globally and their harmful impact on children, and the distress caused to parents, prompted governments to start taking notice.

A subsequent Special Commission convened by the HCCH considered international child abduction and possible solutions in March 1979. Eight months later, in November 1979, a further meeting of the Special Commission resulted in the 28 State representatives preparing a preliminary draft Convention on the Civil Aspects of International Child Abduction (Goh Escolar, 2020). Some of its novel elements were not without controversy (Bryant, 2020). Early debates centred on such issues as recognition and enforcement, rights of custody, summary return, harmonisation of jurisdictional rules and administrative co-operation (Beaumont & McEleavy, 1999), and later focused on the exceptions to automatic return, leading to the addition of the child’s objection exception (Article 13(2)) and the rewording of Article 13(1)(b) to introduce the phrase ‘or otherwise place the child in an intolerable situation’.

The draft Convention formed the basis for discussion at the 14th Session of the HCCH (6-25 October 1980) where, following some expansion and a more defined structure, the Convention was adopted by a unanimous vote on 24 October 1980. The Convention was immediately made available for signature by States, and was first signed the following day (25 October 1980) by Canada, France, Greece and Switzerland. It entered into force on 1 December 1983 after its ratification by Canada, France and Portugal (Goh Escolar, 2020).

Signing the Convention means that a State expresses, in principle, its intention to become a Party to the Convention. However, this signature does not oblige a State to take further action towards ratification. Ratification involves the legal obligation for the ratifying State to apply the Convention and is, in general, reserved exclusively for Member States of the HCCH, of which there are currently 89 (88 States and 1 Regional Economic Integration Organisation (the EU)). Others States wishing to become a Party to the Convention can accede once the Convention has entered into force and the States that are already Parties to the Convention expressly accept this accession (Article 38(4)). Choosing a system based on express acceptance of accessions 'sought to maintain the requisite balance between a desire for universality and the belief that a system based on co-operation could work only if there existed amongst the Contracting Parties a sufficient degree of mutual confidence' (Pérez-Vera, 1980, para 41).

By the time of its 40th anniversary in 2020, the Convention had attracted 101 Contracting Parties from all continents, highlighting its widespread acceptance and global reach. The Convention is the third most ratified instrument of the HCCH and also the most ratified HCCH Convention among its Member States (Goh Escolar, 2020). Guyana and Barbados are the most recent States to accede to the Convention (in 2019) and the HCCH continues in its efforts to engage others.

Aims and Purpose of the 1980 Hague Convention

As an international treaty the Convention aims to establish procedures to ensure that abducted children are promptly returned to the State of their habitual residence, as well as to secure protection for rights of access. 'In practice the first objective is the dominant objective and the second is subsidiary thereto' (Schuz, 2013, p. 10).

The Convention applies when a child has been wrongfully taken to, or retained in, another Contracting State in breach of rights of custody under the law of the State in which the child was habitually resident, and those rights were actually being exercised (either jointly or alone) at the time, or would have been but for the removal or retention (Article 3). The left-behind parent can apply to the Central Authority in either the Contracting State where the child is now situated, or the State of habitual residence, to actively assist in locating and securing the child's return. The Central Authority must attempt to discover the abducted child's whereabouts, seek their voluntary return, or commence proceedings with the intention of securing the prompt return of the child to the applicant (Article 7). It is assumed that a court in the child's country of habitual residence is then best suited to decide the substantive or welfare issues (such as custody, contact or relocation) needing to be resolved, as this is where there is the closest connection to the child.

This approach is in sharp contrast to other family law disputes between parents (for example, over children's post-separation care arrangements), as the focus of each Convention case is on the jurisdiction which should make decisions on substantive points of welfare and possible relocation, and not directly on the welfare and best interests of the individual child. To achieve this, the Convention emphasises the need for a 'prompt return' to the child's state of habitual residence to minimise the disruption they experience (Preamble; Articles 1 and 7). This necessitates a quick, summary procedure rather than a full welfare enquiry.

Whether the Convention's processes will apply in an individual case depends on the Contracting Party status of the two countries involved. If the country to which the child has been taken to, or retained in, is not a party to the Convention (for example, India, Malaysia, Egypt, Jordan, Lebanon, Qatar, Senegal etc) then the left-behind parent cannot invoke the Convention's international remedies. Instead, they usually need to hire lawyers in their own country, and the country where the child now is, to apply to the court there to have the child returned. This can be a difficult, lengthy and expensive process, with no certainty of outcome. It illustrates why the addition of new Contracting States to extend the Convention's global reach is so crucial.

Children's Welfare and Best Interests

The opening statement of the Convention's Preamble states the signatories' conviction that 'the interests of children are of paramount importance in matters relating to their custody' and goes on to proclaim their desire 'to protect children internationally from the harmful effects of their wrongful removal or retention.' Caldwell (1998) notes the Preamble's wording 'really serves to emphasise that the Convention is mostly concerned with the interests of children *generally*, rather than the interests of the particular child before the Court' (p. 250). This was articulated even more profoundly by Waite J:

'It is implicit in the whole operation of the Convention that the objective of stability for the mass of children may have to be achieved at the price of tears in some individual cases.' (*W v W (Child Abduction)* [1993] 2 FLR 211, at 220)

The eschewing of traditional private law remedies in favour of a new, untried, mechanism of automatic expedited return of abducted children, subject to a limited number of narrow exceptions (Bryant, 2020), is thus particularly evident in the Convention's professed objective of deterring abductions for children *as a class* rather than affording paramountcy to the *individual* child's welfare and best interests.

The Convention is nevertheless thought to promote the interests of the child through two key general assumptions - firstly, its fundamental premise that the courts in the state of habitual residence are best placed to decide on any welfare issues relating to an abducted child and, secondly, by the Convention's presumption in favour of a speedy return which is thought to help reduce any emotional confusion and conflict for the child. Beyond these general assumptions, the welfare of the individual child does assume some importance through the exceptions to the otherwise mandatory order of return in Article 13 (discussed in more detail below). These exceptions were designed to ensure that, in narrow circumstances, the child's welfare and views have some bearing on the outcome of the proceedings.

'Whilst in Hague Convention proceedings the welfare of the child is far from being the first and paramount consideration, it is equally far from being an entirely irrelevant one.' (Caldwell, 1998, p. 257)

Exceptions to Return

Return of the child may not always be the right outcome and so Articles 12, 13 and 20 contain conditions for, and exceptions to, the obligation on the courts to make an order for return. The courts have discretion to refuse to order a return in circumstances where:

- more than one year has elapsed since the wrongful removal or retention (Article 12);
- the applicant was not exercising their rights of custody at the time of the wrongful removal or retention, or consented to or subsequently acquiesced (Article 13(1)(a));
- there is a grave risk of physical or psychological harm to the child or they would be placed in an intolerable situation if returned (Article 13(1)(b));
- the child is found to object to return and is of an appropriate age and degree of maturity to have their views taken into account (Article 13(2));
- a return would not be permitted by the fundamental principles of the requested state relating to the protection of human rights and fundamental freedoms (Article 20).

These provisions do not, however, limit the power of a judicial or administrative authority to order the return of the child at any time (Article 18).

Operation of the Convention

A range of mechanisms and tools are utilised in support of the Convention globally. These include the Permanent Bureau and its two Regional Offices, Special Commissions, Guides to Good Practice, direct judicial communication, the International Hague Network of Judges (IHNJ), the Judges' Newsletter, the International Child Abduction Database (INCADAT), the International Child Abduction Statistics (INCASTAT), the Malta Process, the Brussels II bis Regulation and Recast, the Inter-American Convention on the International Return of Children, and jurisdiction-specific initiatives relating to mediation, child participation and domestic violence.

Permanent Bureau

Under the direction of the Council on General Affairs and Policy, the Permanent Bureau acts as a secretariat and is also charged with the preparation and organisation of the Sessions of the HCCH and the meetings of the Council and Special Commissions (Article 6, Statute of the Hague Conference on Private International Law 1955). The Permanent Bureau is based in The Hague and staffed by a Secretary-General and four Secretaries with legal expertise and diversity of geographical representation (Article 5, Statute of the Hague Conference on Private International Law 1955). Regional Offices have been established for Latin America and the Caribbean (ROLAC) and Asia and the Pacific (ROAP).

Special Commissions

In the absence of an international adjudicative body empowered to regulate the Convention, meetings of the Special Commission have become important in promoting consistent interpretation across all Contracting Parties. Seven Special Commission meetings have been convened (1989-2017) to monitor the practical operation of the Convention. These bring together representatives of the Member States, including Central Authorities, Judges and Observers. The next meeting of the Special Commission is planned for 2023 where possible topics include hearing the child, relocation, rights of contact and access, interaction with other international treaties and non-parental abduction (Goh Escolar, 2020).

Guides to Good Practice

Guides to Good Practice are published by the HCCH as practical guidance on operational issues to help Contracting States, particularly new ones, implement the Convention. Six have been published on Central Authority Practice (2003); Implementation of Measures (2003); Preventive Measures (2005); Enforcement (2010); Mediation (2012); and the 'Grave Risk' Exception in Article 13(1)(b) (2020). Guides to Good Practice are a novel way of dealing with the cross-cultural and cross-jurisdictional issues affecting the application and implementation of the Convention. They enable 'different jurisdictions to adopt common practices, to the extent permissible in that jurisdiction, without offending national laws or judicial processes by trying to impose strict rules which likely would not find universal endorsement' (Bryant, 2020, p. 186).

Direct Judicial Communication and The International Hague Network of Judges (IHNJ)

As the number of States adopting the Convention grew it became increasingly evident 'that the successful operation of the Convention depended not only on the expertise and commitment of the Central Authorities, but also on an experienced and committed judiciary' (Bryant, 2020, p. 184). The 1998 The De Ruwenberg Conference, convened by the Permanent Bureau and attended by judges from about half of the then 50 Contracting States, provided the impetus for development of The International Hague Network of Judges (IHNJ) (as well as The Judges' Newsletter and INCADAT discussed below). The IHNJ now facilitates direct judicial communications and co-operation between judges from different jurisdictions and legal traditions at the international level. One or two judges are nominated by each Contracting State to act as a liaison point for inquiries from Network judges in other jurisdictions, and as a conduit to the judges within their own jurisdiction. Currently, 86 jurisdictions represented by 137 Judges are part of the IHNJ (Goh Escolar, 2020). The regional European Judicial Network in Civil and Commercial Matters (EJN) operates independently of the IHNJ, but is modelled on it (Thorpe, 2019). The IHNJ's founder, Sir Mathew Thorpe, is proud of the Network's spectacular growth and its:

'... history of harmony since, apart from the earliest days, there has been no real dissent and there is not a single case in which miscarriage of justice has resulted from an abuse of the general principles governing direct judicial communication. So we have seen the specialist family judges of the world united in their more or less passionate support for direct judicial collaboration.' (Thorpe, 2019, pp. 10-11)

The Judges' Newsletter on International Child Protection

The Judges' Newsletter on International Child Protection is a biannual publication that was first published in 1999 to enable the HCCH to guarantee circulation of information relating to judicial co-operation, and global initiatives, regarding the various Children's Conventions. The collection, distributed electronically by the Permanent Bureau, currently comprises 24 bilingual English / French volumes and one bilingual special edition. Some editions are also published in Spanish, and others are available in Arabic on an ad hoc basis. Each one addresses a specific topic, as well as current events and news, to foster and inform the IHNJ. For example, in 2018, Volume XXII had a Special Focus on *The Child's Voice – 16 Years Later*. This incorporated articles based on presentations made at workshops convened in Auckland, Genoa and London on Article 13(2) of the Convention as part of our research project funded by the British Academy on the child's objection exception (Taylor & Freeman, 2018a).

INCADAT: The International Child Abduction Database

The suggestion that short summaries of international child abductions cases be sent by Central Authorities to the Permanent Bureau was first raised at the 1993 Special Commission (Bryant, 2020). In 1999, the HCCH established INCADAT as the leading legal database on international child abduction law. Significant cases, case summaries and legal analyses of the application of the Convention help to facilitate consistent interpretation and scholarly research. INCADAT is regularly updated and available in three languages (English, French and Spanish).

INCASTAT: The International Child Abduction Statistics

The electronic statistical database, INCASTAT, was launched by the HCCH in 2007. It generates the Annual Statistical Forms concerning return and access applications relating to the Convention and produces statistical charts for Central Authorities.

The Malta Process

The Permanent Bureau initiated the first Malta Conference on Cross-Frontier Family Law in 2004 to encourage dialogue between Contracting Parties and non-Contracting Parties whose legal systems are based on, or influenced, by Islamic law (Sharia). Five conferences have been held and the Malta Process has played a key role in promoting ratification of the 1980 and 1996 (Child Protection) Conventions, in bridging differences between legal systems to solve cross-border family disputes, and in addressing the problems posed by the approach of different legal systems to parental abductions between the States concerned. The accession of Pakistan to the Convention in 2016 is attributed to the Malta Process (Goh Escolar, 2020).

A recommendation from the Third Malta Conference (2009) led to the establishment of a *Working Party on Mediation in the Context of the Malta Process* and the 2010 publication of an explanatory memorandum setting out the principles for the establishment of mediation structures. Co-chaired by Canada and Jordan, the 17-member Working Party promotes the development of mediation structures to help resolve cross-border family disputes concerning custody of, or contact with, abducted children, where the Convention does not apply.

Brussels II bis Regulation 2201/2003 and Recast 2019/1111

The Brussels II bis Regulation 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility has been in force in all EU Member States, except Denmark, since March 2005. For abduction cases within the EU (except Denmark), the Regulation takes precedence over the 1980 Convention (Article 59, Brussels II bis) and the 1996 Convention (Article 62(1), Brussels II bis). In abduction cases it provides, in Article 10, for the continuing jurisdiction of the state of former habitual residence of the child and regulates the conditions for an eventual shift of jurisdiction to the new state where the child is now present. As Bryant (2020, p. 190) explains:

‘Article 11 establishes some procedural common denominators for the handling of Hague return applications in the courts of EU Member States. If a court rejects a Hague return application on the grounds of Article 13 the court of the country in which the child was habitually resident can examine the question of custody of the child if the parents file applications with regard to custody.’

The Brussels II bis Regulation and Council Regulation (EU) 2019/1111 (Recast of the Brussels IIa Regulation) takes effect on 1 August 2022. It includes a specific article (Article 20) on hearing the child (including in child abduction proceedings, Article 24), phrased in line with Article 12 of the UNCRC and Article 24 of the EU Charter of Fundamental Rights, so that a child capable of forming his or her own views has to be provided with a genuine and effective opportunity to express his or her views in cross border matters covered by the Regulation, due weight being given to those views in accordance with his or her age and maturity. The modalities of how the child should be heard are left to national law and procedure. There is also an explicit reference, in child abduction contexts, to invite parties to mediate (Article 23a) unless this is against the best interests of the child, is not appropriate in the particular case, or would unduly delay the proceedings.

Inter-American Convention on the International Return of Children

This multilateral treaty of the Organization of American States was adopted in Uruguay in 1989 and entered into force in 1994. While half of its 35 Member States are also party to the 1980 Hague Convention, the Inter-American Convention takes priority over the latter unless otherwise agreed upon between the States individually (Article 34).

Jurisdiction-specific Initiatives

Individual jurisdictions have implemented initiatives to endeavour to improve the Convention’s role domestically or to better accommodate cultural attitudes and practices. While there are many examples of this internationally, we highlight just three from Japan, England and Wales, and the Netherlands that address domestic violence, mediation and child participation.

Japan: Article 28 of Japan’s 2014 Act for Implementation of the Convention provides for a child not to be returned (i.e., mandatory, not discretionary) where a grave risk of physical or psychological harm exists on return to the state of habitual residence, or where the child would otherwise be placed in an intolerable situation. Unusually, the Act then lists the circumstances that courts must consider in determining whether the grave risk/intolerable situation ground exists, including a risk (not grave risk) of violence by the petitioner to the respondent, and circumstances that make it difficult

for the petitioner or respondent to provide care for the child in the state of habitual residence. These direct references to violence (which are not included in the Convention text) are a novel form of implementation of the Convention.

England and Wales: A Practice Direction on *Case Management and Mediation of International Child Abduction Proceedings*, issued in 2018 by the President of the Family Division of the High Court of England and Wales, introduced the Child Abduction Mediation Scheme to operate in parallel with, but independent from, court proceedings. This voluntary scheme is run with the assistance of the reunite International Child Abduction Centre.

The Netherlands: An application for return of a child with The Hague District Court Family Law Division activates the Dutch 'pressure cooker model' enabling the decision on the child's return to be given swiftly by the court within a strict six week timeframe (Olland, 2018). Convention-specialist Judges explore the possibility of mediation at the pre-trial review, which takes place within two weeks of the return application being filed. The mediation is then conducted by two specialised cross-border mediators (usually a lawyer and psychologist) through the Dutch Child Abduction Centre, an independent NGO that has established a specialised Mediation Bureau. The child is interviewed by a specialist children's psychologist on the first day of the mediation and their views read to the parents (via a written report) at the start of the mediation session. If mediation fails, a full Court hearing is held within two weeks and the decision on the return application is given within a further two weeks. Two weeks are allowed to lodge an appeal and that hearing takes place two weeks later. No further appeal is possible.

If the parents cannot come to a mutual agreement, the Court, since 2017, has appointed a Guardian Ad Litem (GAL) to each child over the age of three in an international child abduction case. The GAL meets with the child twice and submits their written report of these interviews and extended questions to the Court, parties and legal counsel at least two days before the full Court hearing. From the age of six years, children are also invited to an interview with the Judge in a special room. The GAL informs the child of the expected questions and accompanies them to the interview, which occurs just before the full Court hearing. The Judge hears the child and takes the child's views into account. The GAL is then present at the hearing and informs the child about the decision, and the possibility and consequence of appeal if appropriate.

Research

Research on the operation of the Convention globally and on the dynamics, effect and impact of international child abduction has been undertaken by a range of researchers, scholars and practitioners. Numerous books, caselaw analyses and legal/judicial commentaries have been published, while empirical studies include statistical surveys into the operation of the Convention, clinical case studies, case file analyses, parental questionnaires, telephone surveys, and interviews with family members and professionals regarding their experience of international child abduction and, where relevant, Hague Convention proceedings (Taylor & Freeman, 2018b).

Statistical Surveys

The way in which international child abductions are approached, and how they are resolved, can differ in practice between States. 'Thus, the effectiveness of the Convention is left in the hands of the respective Central Authorities and the national courts that implement and interpret the Convention' (Silberman, 2006, p. 9). To track trends over time, and to provide reliable data to inform discussions at the four most recent meetings of the Special Commission in 2001, 2006, 2011 and 2017, surveys have been undertaken of all the applications received by Central Authorities in 1999 (Lowe, Armstrong & Mathias, 2001), 2003 (Lowe, 2008), 2008 (Lowe & Stephens, 2011) and 2015 (Lowe & Stephens, 2017). The statistical trends over this 16-year period provide a longitudinal, comparative, perspective on the general operation of the Convention, the profile of abducting family characteristics, and global insight into the statistical trends apparent in the workings of Central Authorities and the courts in Convention proceedings.

The number of incoming applications and the number of Member States have steadily increased over the period this statistical data has been collected, with some consistent trends evident. To highlight one important example, the 1978 Dyer Report envisaged 'the typical abduction situation as one in which the non-custodial parent abducted the child, either in order to pre-empt a non-favourable custody determination or out of frustration caused by the reduction in contact with the child as a result of losing custody' (Schuz, 2013, p. 8). However, the typical demographics and circumstances of an abduction have shifted over time, as Lowe and Stephens (2017) found that, in 2015, 73% of taking persons were the mothers of the children involved in the return application; an increase on the 69% recorded in 1999 and 2008. Fathers accounted for 24% of the taking persons in 2015; a slight decrease from the previous two surveys. The growth in joint parenting emerged as one of the stand-out trends in 2015 with 20% of the taking persons being the child's primary carer, 63% a joint primary carer and 16% a non-primary carer. Overall, 83% of taking persons in 2015 were the primary or joint-primary carer of the children involved (compared with 72% in 2008 and 68% in 2003). The trend towards a majority of taking persons 'going home' to the State in which they were brought up, or in which they had family ties, was confirmed again in 2015 in 58% of applications, compared with 60% in 2008, 55% in 2003 and 52% in 1999.

Empirical Studies

Empirical research on child abduction commenced in the US during the 1980s and aimed to provide evidence of its effects on children. These early studies were small-scale in nature and drew on case reports or case file analyses from clinical, therapeutic and criminal justice contexts (Taylor & Freeman, 2018b). Longitudinal data on parents' perspectives of their children's wellbeing began to be collected in a 1989 study with 371 survey participants who were later followed up in subsequent studies (Greif, 1998; Hegar & Greif, 1991, 1993).

Using small-scale qualitative research methods, Freeman (2003, 2006) investigated the outcomes and effects of international child abduction. Left-behind and abducting parents reported the effects were on-going several years after the abduction and return; 72% believed their children had been adversely affected by the abduction experience (Freeman, 2006). Parents also spoke of the effects of the abduction on themselves – particularly depression, lack of security, absence of trust, and

unavailability of post-return support. Interviews with ten abducted children revealed the vividness of the abduction event and the dislocation and stress they endured (Freeman, 2006). A further study into the long-term effects of abduction provided insight into the experiences of previously abducted children, both at the time of their abduction and on into their adult lives (Freeman, 2014). Very significant mental health effects were reported by 74%, including blanking out, isolation, and a lack of trust pervading their ability to form and maintain satisfying friendships and intimate relationships. The challenges of return/reintegration into the left-behind family, at whatever stage that might occur, were often major obstacles for all members of the abducted child's family, and the psychological barriers created by the abduction were sometimes impossible to repair. The tensions experienced, and often handled on their own, while trying to understand the way they actually felt, as opposed to the way they thought they were supposed to feel, led on many occasions to mental health issues requiring treatment in adult life. Those not returned experienced difficulties that included an enhanced sense of unworthiness linked to a feeling of not being good enough to be found by the left-behind parent, by whom they felt abandoned and unprotected.

Other, more recent, empirical research has mostly emanated from Europe and includes:

- an analysis of 667 files, open during 2007 and 2008, primarily involving children abducted from, or to, Belgium (Kruger, 2017);
- *EWELL: Ensuring the wellbeing of children in judicial cooperation in cases of international child abduction* (Van Hoorde et al, 2017);
- *The voice of the child in international child abduction proceedings in Europe* which examined 2005-2017 case law concerning the 'best interests' concept and hearing the child in judicial return proceedings following a wrongful removal or retention from 17 countries, the European Court on Human Rights and the Court of Justice of the European Union (Carpaneto, Kruger & Vandenhole, 2019);
- *POAM: Protection of abducting mothers in return proceedings: Intersection between domestic violence and parental child abduction* (Trimming & Momoh, 2021); and
- *AMICABLE*, an EU co-funded project on recognition and enforcement of mediated family agreements and development of a Best Practice Tool and Model for incorporating mediation into Convention proceedings (MiKK, 2021).

While research on international child abduction has been helpful in raising awareness of the intra-familial dynamics and effects, and the operation of the Convention generally, the methodological and sample recruitment challenges of conducting research in this field go some way towards explaining the limitations and gaps in the existing evidence base. Strong calls have been made for further rigorous research to be undertaken to improve the outcomes for abducted children (HCCH, 2017, recommendation 81; Taylor & Freeman, 2018b).

Challenges Faced By the Convention

The Convention has never been more relevant given growth in the cross-border movement of people, global expatriate dual citizenship, and international migration

(Goh Escolar, 2020). The number of return and access applications are also continuing to increase annually (Lowe & Stephens, 2017). Improving compliance with the Convention by Contracting States, building further bridges (like the Malta Process) between different legal traditions, and attracting new ratifications and accessions will be important. It is highly unlikely the Convention will be amended to address the challenges it faces, so its continuing relevance and further global expansion has to occur through the international, regional and domestic mechanisms and initiatives set out in this chapter. Particular challenges have arisen due to the change in the profile of the abducting parent, the growth of shared parenting, and evolving interpretations of key Convention concepts like habitual residence. Other compelling issues that need to be addressed include domestic/family violence (Freeman & Taylor, 2020); reducing delay in the resolution of Hague proceedings; enforcement of Convention orders in the state of habitual residence since there is little point having an order for return which is not enforced; post-abduction (including post-return) support for the child and family members; and post-return legal proceedings in the state of habitual residence regarding residence, access or relocation. McElevay (2015, pp. 369-370) also points out that:

‘... return rates vary quite significantly, delays are frequent even in advanced first world members of the network, and almost every key provision of the instrument has given rise to inordinate amounts of litigation, sometimes with divergent interpretations emerging as between or even within Contracting States.’

The shift in recognition of the rights and status of children presents a further challenge regarding the Convention's compatibility with Article 12 of the UNCRC, children's right to participate in Convention proceedings (beyond the expression of an objection to return) and children's accessibility to child-friendly resources on the Convention (Freeman & Taylor, 2020). More generally, the Convention's fit with other international human rights and family law instruments like the UNCRC, European Convention on Human Rights and Brussels Regulations) is critical as the world becomes increasingly interconnected. Recently, the Covid-19 pandemic tested the Convention's relevance in the context of a global crisis marked by lockdowns, travel restrictions and closed borders. Swift responses by the Permanent Bureau, Central Authorities and courts, including a Toolkit (HCCH, 2020), remote hearings and rights of remote access helped to preserve the integrity and effective case-by-case application of the Convention. The future need for such versatility must be anticipated.

An Uneven Playing Field

The uneven playing field internationally is the main challenge we now address more fully as the effect of the inconsistencies previously identified in this regard (Freeman, 2002) still endure two decades later and continue to require attention. Tribunals within the same jurisdiction sometimes adopt very different approaches to issues contained within the Convention. With 101 different Contracting Parties, it is unsurprising that variations in the operation of the Convention are even more marked across such a broad spectrum of legal systems, cultures and domestic influences. However admirable the search for international consistency may be in the interpretation and application of the Convention's provisions within its Contracting Parties, this has been very difficult to achieve in practice. Such consistency would, of

course, offer both greater certainty about outcomes, as well as a strong disincentive to engage in forum shopping but, even with a Convention so closely concerned with the lives of children, the search for such consistency has been elusive. Some suggest this may be the price that has to be paid for having a fairly loose international convention which binds wholly independent jurisdictions (Lowe, Setright & Bentley, 2013).

Major contributory factors to the unevenness of the Convention's playing field, and consequent lack of consistency, are the (un)availability of legal aid/public funding, concentration of jurisdiction, and judicial training.

Legal Aid/Public Funding: Some Contracting Parties are extremely generous in their provision of legal aid/public funding for legal advice and representation, and other ancillary expenses, in Convention proceedings. Others, however, fail to provide funding of any kind to facilitate the pursuit of proceedings and return of the abducted child. This occurs because a Contracting State can make a reservation (in accordance with Article 42) to Article 26 of the Convention which states that each Central Authority shall bear its own costs in applying the Convention, and that Contracting States are not permitted to require any payment from the applicants towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. The reservation is a declaration that the Contracting State is not bound to assume any costs relating to legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice. No definitions of legal aid or advice are provided as the aim is not to harmonise the internal laws of Contracting States on legal aid, but rather to abolish any discrimination against those persons covered by the Article as to the benefits of legal aid by reason of their foreign nationality or lack of residence in the Contracting State where legal aid is sought (Freeman, 2002; Moller, 1980). So, an applicant entitled to legal aid as a national of that Contracting State, will be similarly entitled to legal aid as a non-national. This equalises the position of nationals and non-nationals but, if a Contracting State does not have a legal aid system, there is then no legal aid provision for parents whose children have been abducted into that country.

From early times this legal aid reservation has caused severe problems for applicants in obtaining affordable legal representation, particularly in the USA which lacks a comprehensive national legal aid system:

'There have been cases where the applicant could not afford to hire an attorney and significant delay was experienced in locating a competent attorney who would undertake the handling of the case on a pro bono basis. ... The geographic scope and population of the United States accentuate the problem.' (Dyer, 1993, p. 286)

Such applicants must rely on the Central Authority to secure pro bono counsel since Article 7 requires Central Authorities to co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objectives of the Convention. In particular, either directly or through any intermediary, they have to take all appropriate measures to initiate or facilitate the institution of judicial or administrative

proceedings with a view to obtaining the return of the child or the effective exercise of rights of access (Article 7f) and, where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers (Article 7g). However, this is not an easy task, as noted in relation to the USA:

‘Although Herculean efforts have been made to recruit pro bono lawyers ... there is a feeling that the ability and experience of these are mixed and there are parts of the country where they will be very inexperienced. Coupled with the amazingly high number of judges that can hear cases there must in effect be some cases of the blind leading the blind, with neither judge, nor attorney having an experienced background in Hague applications.’ (Lowe, 2000, p. 6)

Lowe (2000) considered it imperative to address this issue, despite the difficulty for the system of judges and legal aid being changed because of the division of power between the Federation and State. This stumbling block was also recognised by several of the Special Commissions which have reviewed the Convention’s operation. For example, the Fifth Special Commission Report (HCCH, 2006) noted:

‘Some experts also highlighted the importance of ensuring that lawyers appointed to represent applicants had sufficient experience. This was acknowledged to be a particular problem in relation to pro bono lawyers.’ (para 46)

As well, there was recognition of the costs beyond legal representation that can be necessary for meaningful access to justice:

‘Some experts also referred to additional costs, other than representation itself, which could be incurred; thus even when a lawyer was acting on a pro bono basis, the application was not completely cost free. While the cost of interpreters and experts was covered by legal aid in some countries, in other countries those costs were not provided.’ (para 47)

The Chair summed up the discussion (in para 48) by acknowledging the concerns expressed about pro bono lawyers and stated that the aim was to work towards an effective legal aid system for all involved.

The Sixth Special Commission (HCCH, 2011) continued to focus on this issue by emphasising how the difficulty in obtaining legal aid at first instance or on appeal, or of finding an experienced lawyer for the parties, could result in delays and produce adverse effects for the child and the parties. Central Authorities were regarded as playing an important role in helping an applicant to obtain legal aid quickly or to find experienced legal representatives (para 33).

Despite these deliberations over many years, the difficulties persist today. Even if experienced pro bono legal advice and representation can be obtained, expenses to pursue these cases have increased in ways that make it impossible for lawyers to cover them (for example, filing costs, experts’ costs). Parents and children are therefore being seriously disadvantaged by the lack of funding available to them in particular jurisdictions.

In contrast, applicants seeking the return of an abducted child from Australia, where no reservation to Article 26 was made, will not incur any legal costs if the Central Authority conducts the legal proceedings on behalf of the applicant. No eligibility requirements need to be met by the applicant. However, the applicant is not directly represented by the Central Authority lawyers who conduct the case, nor do they take instructions directly from the applicant, although the applicant's views and wishes will be taken into account. When children have been removed from Australia, financial means-tested assistance is offered by the Australian government to cover the cost of legal representation in other countries, the travel costs for a child who is returned to Australia by a requested court, and travel costs for a left-behind parent to travel to a requested State to collect their child and bring them back to Australia.

England and Wales did enter a reservation to Article 26, but the eligibility requirements for legal aid are waived for applications from abroad for return of an abducted child that are submitted to the Central Authority for England and Wales and on whose behalf the Authority instructs a solicitor to act. In these cases, legal aid is automatically granted to an applicant (i.e., no means-testing and regardless of financial resources) and the applicant cannot be required to make any contribution. The centralised system which operates in England and Wales relies on a panel of experienced lawyers to represent both applicants and defendants in Convention cases. However, legal aid is not extended on the same basis to defendants who will have to satisfy a means and merits test before legal aid is granted. Thus, an uneven playing field exists in abduction matters within this jurisdiction on this basis alone.

The wide variations in the provision of legal aid evident in the above examples mean that there is no uniform application of the Convention for this critical aspect. Without such uniformity, is the Convention able to achieve its desired aim, set out in its Preamble, of protecting children internationally from the harmful effects of their wrongful removal or retention? Schuz (2018) suggests that the true test of success is implementation of the Convention in a way that promotes its objectives which, she states, requires uniform interpretation and application of the Convention. When legal aid/public funding is not available for a parent seeking the return of their abducted child, they are both at the mercy of not only the abductor, but also the internal arrangements of the jurisdiction to which the child has been taken. This can place a financial burden on applicants which they, literally, cannot bear, and which will be experienced during a period of profound emotional stress when the raising of large, unexpected, sums of money may be even less likely to succeed than at other times. Abducted children, and their welfare, should not depend on such serendipity.

Concentration of jurisdiction: In most Contracting States, Convention cases will be decided by the judicial, rather than administrative, authorities referred to in Article 7f. However, nothing in the Convention itself directs which court, or level of court, should hear these cases. Thus, in some Contracting States, only a single court or a small number of courts will hear Convention cases while, in others, a very high number of courts will hear them. Clearly, the level of specialism applied in Convention cases is likely to vary according to the familiarity of the tribunal dealing with the matter.

'Generally speaking, the Convention has tended to work better where jurisdiction has been concentrated in a relatively small number of judges who

are able to develop a degree of expertise with Convention cases.’ (Duncan, 2000, p. 107)

This issue, too, has been discussed at the Special Commissions. The Fourth Special Commission (HCCH, 2001) called upon ‘Contracting States to bear in mind the considerable advantages to be gained by a concentration of jurisdiction to deal with Hague Convention cases within a limited number of courts’ (para 3.1). It was also recognised that ‘where a concentration of jurisdiction is not possible, it is particularly important that judges concerned in proceedings be offered appropriate training or briefing’ (para 3.2).

As with many of the issues regarding the interpretation and implementation of the Convention, Contracting States have taken very different approaches to the concentration of jurisdiction and judicial training. Only one court can hear Convention cases at first instance in each of the UK jurisdictions. In England and Wales, this is the Family Division of the High Court situated in London, where only 19 judges are currently able to hear these cases at first instance. In Scotland, first instance applications are heard in the Court of Session in Edinburgh and, in Northern Ireland, in the Family Division of the High Court in Belfast. In contrast, there is no centralised court to hear Convention cases in the USA. Over 30,800 judges are entitled to hear Convention cases in numerous Federal and State courts across the country, 2000 of whom can hear appeal cases (Lowe & Armstrong, 2002).

It is important to acknowledge that it is not possible for the same approach to be taken in all Contracting States. The concentration of jurisdiction model used in England and Wales, which works well in a relatively small geographic area, does not lend itself to larger geographical areas and Federal States (Lowe & Armstrong, 2002). Nonetheless, while it is not always easy to concentrate jurisdiction, it can be achieved to some extent in all Contracting States either by legislative reform or by practice. Lowe and Armstrong (2002) suggest that where the Convention is operating at a Federal level across a large State Party, jurisdiction should be limited to a small number of courts to allow expertise to develop.

The concentration of jurisdiction issue, as part of the uneven playing field internationally, means that a Convention case may be heard by a judge who is a specialist, or at least experienced, in Convention proceedings or by an inexperienced ‘first-timer’. Lowe’s (2000) comment above about ‘the blind leading the blind’ becomes even more magnified when judicial inexperience is coupled with the uncertainty of legal aid and legal representation by an inexperienced pro bono, possibly first-time, lawyer too.

Judicial training: Judges need to understand the Convention well, since this area of family law is so different from the welfare and best interests hearings with which they are likely more familiar. However, judicial training must be considered in tandem with the concentration of jurisdiction issue discussed above. The Fourth Special Commission (2001) specifically highlighted the importance of training where concentration of jurisdiction is not possible. Judges making decisions in such cases particularly need training to support their lack of experience in the international child abduction field.

Training occurs in a variety of ways. Judges participate in judicial conferences, for example, 100 judges and other experts at the 2012 International Family Justice Judicial Conference in Hong Kong specifically discussed the role of judges in resolving cross-border family disputes and, in particular, involving children (HCCH, 2013). At the Fifth Special Commission (HCCH, 2006), States were encouraged to include judges as part of their delegations to Meetings of the Special Commission. The Special Commissions have also encouraged the development of a network of liaison judges and the use of direct judicial communications. Nonetheless, there is reticence in certain Contracting States to the idea of direct judicial communication, which perhaps reinforces the unevenness of the Convention playing field by demonstrating that what some Contracting States consider to be good practice is not necessarily regarded so admiringly by others. Direct judicial communication 'is a concept alien to many jurisdictions', but if it 'can help to enable the child to return safely to the State of habitual residence, or can speed up cases which are experiencing delay, then it is to be welcomed' (Lowe & Armstrong, 2002, p. 29).

Training systems exist for judges in some Contracting States. For example, The Judicial College is the official body responsible for the training of judicial office holders in England and Wales and some tribunals around the UK. The training of judges is therefore under judicial control and direction in this jurisdiction.

Regional networks can also play a key role. For example, the European Judicial Training Network (EJTN):

'... is the principal platform and promoter for the development, training and exchange of knowledge and competence of the European Union judiciary. Founded in 2000, EJTN develops training standards and curriculum, co-ordinates judicial training exchanges and programmes and fosters co-operation between European Union national training bodies. Since 2012, the EJTN has added the area of civil justice co-operation to its activities.' (HCCH, 2013, p. 26)

The EJTN's first seminar on civil justice co-operation, 'Family Law and Child Abduction', was held in Prague in 2012 and attended by 54 judges representing all the then 27 Member States of the European Union (HCCH, 2013).

The Central American Judicial Council (CJC) is composed of the Presidencies of the Supreme Courts of Costa Rica, El Salvador, the Dominican Republic, Guatemala, Honduras, and Nicaragua. It runs a Judicial Training Centre for Central America and the Caribbean, and has shown interest in the HCCH's work (HCCH, 2013).

A study undertaken at the request of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs recommended judicial training and the development of specialised courts as ways of improving the current approach to cross-border parental child abduction in the European Union:

'The elaboration of strategies preventing family litigation shall include specific training to lawyers and judges assisting transnational judicial proceedings arising in the context of family dissolutions, in order to prevent aggressive judicial litigation. In this respect, those Member States that do not yet have specialised courts for the implementation of the Hague Convention on Child

Abduction should be encouraged to centralise litigation in a few specialised courts. The training of judges sitting in such Courts shall include: the development of appropriate language skills favouring the communication between them and foreign judges specialised in child cases; the ability to cooperate with each other without national and gender prejudices (intercultural communication skills); the capacity to deal expeditiously with child abduction cases and with cases of illegal transfers of a child's residence; the ability to cooperate with recognised mediation centres.' (Directorate-General for Internal Policies, 2015, p. 22)

This recommendation, and the judicial training topics identified, have applicability beyond Europe and could help to address the uneven Convention playing field. All training avenues need to be explored so judges can be well acquainted with the Convention, its jurisprudence and developments across the 101 Contracting States.

The (un)availability of legal aid/public funding, concentration of jurisdiction, and judicial training are key contributors to the unevenness of the playing field internationally on which the future lives of abducted children are played out under the Convention. This can be unfortunate for some whose futures are decided under it, but may be unavoidable due to the Convention's broad global membership and the lack of a supervising court to ensure conformity with its provisions.

Conclusion

The Convention performs a unique and much-needed role in the international family justice field, utilising the novel mechanisms introduced at its inception together with the strategies and tools that have evolved across its four-decade history, to future-proof its operation and relevance in practice. Parents with exceptionally varied circumstances successfully use the Convention to secure the return of (or access to) a child overseas. The Convention thus remains the principal source of relief for parents seeking the return of an abducted child from a Contracting Party. While it faces challenges, including the implications of an uneven playing field internationally, these are well understood by a private law community committed to finding solutions to protect abducted children from further harm.

References

- Anton, A.E. (1981) The Hague Convention on International Child Abduction. *International and Comparative Law Quarterly*, 30 (3), 537-567.
- Bala, N. & Maur, M.J. (2014) The Hague Convention on Child Abduction: A Canadian primer. *Canadian Family Law Quarterly*, 33, 267-316.
- Beaumont, P. & McEleavy, P.E. (1999) *The Hague Convention on International Child Abduction*. Oxford, England, Oxford University Press.
- Bryant, D. (2020) The 1980 Child Abduction Convention – The status quo and future challenges. In: John, T., Gulati, R. & Köhler, B. (eds.) *The Elgar Companion to the Hague Conference on Private International Law*. Cheltenham, UK, Edward Elgar Publishing, pp. 181-195.

Caldwell, J. (1998) The Hague Convention and child welfare defences. *Butterworths Family Law Journal*, June, 249-257.

Carpaneto, L, Kruger, T. & Vandenhole, W. (2019) *The Voice of the Child in International Child Abduction Proceedings in Europe – Work Stream Two: Case Law Results*. Universities of Genoa and Antwerp, with the support of the European Union.

Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (Recast).

Directorate-General for Internal Policies. (2015) *Cross-border parental child abduction in the European Union*. Study for the European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE). Policy Department C: Citizens' Rights and Constitutional Affairs.

Duncan, W. (2000) Action in support of the Hague Child Abduction Convention: A view from the Permanent Bureau. *New York University Journal of International Law and Politics*, 33 (1), 103-123.

Dyer, A. (1993) The Hague Convention on the Civil Aspects of International Child Abduction – towards global cooperation. *International Journal of Children's Rights*, 1 (3-4), 273-292.

Freeman, M. (2002) *Occasional Papers on the 1980 Hague Child Abduction Convention, International Child Abduction and Related Issues*. London, reunite International Child Abduction Centre.

Freeman, M. (2003) *The Outcomes for Children Returned Following an Abduction*. Research Report. Leicester, reunite International Child Abduction Centre.

Freeman, M. (2006) *International Child Abduction: The Effects*. Research Report. Leicester, reunite International Child Abduction Centre.

Freeman, M. (2014) *Parental Child Abduction: The Long-term Effects*. London, International Centre for Family Law, Policy and Practice.

Freeman, M. & Taylor, N.J. (2020) Domestic violence and child participation: Contemporary challenges to the 1980 Hague Child Abduction Convention. *Journal of Social Welfare and Family Law*, 42 (2), 154-175.

Goh Escolar, G. (2020, November 16) *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction: Recent Developments, Current Status and Challenges*. Presentation to the Committee on Legal Affairs, European Parliament.

Greif, G.L. (1998) The long-term impact of parental abduction on children: Implications for treatment. *The Journal of Psychiatry and Law*, 26, 45-60.

Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction.

Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

HCCH. (2001) *Fourth Meeting of the Special Commission to Review the Operation of the 1980 Hague Convention (22–28 March 2001): Conclusions and Recommendations*. The Hague, Permanent Bureau of the HCCH.

HCCH. (2006) *Fifth Meeting of the Special Commission to Review the Operation of the 1980 and 1996 Hague Conventions (30 October – 9 November 2006): Conclusions and Recommendations*. The Hague, Permanent Bureau of the HCCH.

HCCH. (2011) *Sixth Meeting of the Special Commission on the Practical Operation of the 1980 and 1996 Hague Conventions (1-10 June 2011): Conclusions and Recommendations Adopted By the Special Commission*. The Hague, Permanent Bureau of the HCCH.

HCCH. (2013) *The Judges' Newsletter on International Child Protection*. XIX, Winter-Spring, Special Focus: The Sixth Meeting of the Special Commission on the Practical Operation of the 1980 Hague Child Abduction Convention and 1996 Hague Child Protection Convention, Part II, 25-31 January 2012.

HCCH. (2017) *Seventh Meeting of the Special Commission on the Practical Operation of the 1980 and 1996 Hague Conventions (10-17 October 2017): Conclusions and Recommendations Adopted By the Special Commission*. The Hague, Permanent Bureau of the HCCH.

HCCH. (2020) Toolkit for the HCCH 1980 Child Abduction Convention in Times of COVID-19. The Hague, HCCH.

Hegar, R.L. & Greif, G.L. (1991) Parental kidnapping across international borders. *International Social Work*, 34, 353-363.

Hegar, R.L. & Greif, G.L. (1993) How parentally abducted children fare: An interim report on families who recover their children. *The Journal of Psychiatry and Law*, 21, 373-384.

Kruger, T. (2011) *International Child Abduction: The Inadequacies of the Law*, Oxford, UK, Hart Publishing.

Lowe, N. (2000) *Best Practice in Handling Hague Abduction Cases*. Interim Report, Second International Forum on Parental Child Abduction, 1-2 November 2000. Alexandria, Virginia, USA, National Center for Missing & Exploited Children.

Lowe, N. (2008) *A Statistical Analysis of Applications Made in 2003 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Adoption (2007 Update)*, The Hague, Permanent Bureau of the HCCH.

Lowe, N. & Armstrong, S. (2002) *Good Practice in Handling Hague Abduction Convention Return Applications*. Alexandria, Virginia, USA, National Center for Missing & Exploited Children.

Lowe, N., Armstrong, S. & Mathias, A. (2001) *A Statistical Analysis of Applications Made in 1999 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*. Project Report. The Hague, Permanent Bureau of the HCCH.

Lowe, N. & Nicholls, M. (2016) *International Movement of Children: Law, Practice and Procedure* (2nd ed). Bristol, Jordan Publishing Ltd.

Lowe, N., Setright, H. & Bentley, D. (2013) 'Abductors keepers': *Is the international law on child abduction working?* International Law Discussion Group Summary. London, Chatham House.

Lowe, N. & Stephens, V. (2011) *A Statistical Analysis of Applications Made in 2008 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Preliminary Document No 8A-C*. The Hague, Permanent Bureau of the HCCH.

Lowe, N. & Stephens, V. (2017) *Part I: A Statistical Analysis of Applications Made in 2015 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction - Global Report*. The Hague, Permanent Bureau of the HCCH.

McEleavy, P. (2015) The European Court of Human Rights and the Hague Child Abduction Convention: Prioritising return or reflection? *Netherlands International Law Review*, 62 (3), 365-405.

MiKK. (2021) *The AMICABLE Project*. Berlin, Germany, MiKK International Mediation Centre for Family Conflict and Child Abduction, with the support of the European Union's Justice Programme (2014-2020).

Moller, G. (1980) *Explanatory Report: Hague Convention of 25th October 1980 on International Access to Justice: Tirage a part des Actes et Documents de la Quatorzieme Session*. Tome IV, Entraide judiciaire.

Olland, A. (2018) The voice of the child in 1980 Hague return procedures in the Netherlands. *The Judges' Newsletter on International Child Protection*, XXII, Summer-Fall, Special Focus: The Child's Voice – 16 Years Later. The Hague, Permanent Bureau of the HCCH, 54-55.

Pérez-Vera, E. (1980) *Explanatory Report on the 1980 HCCH Child Abduction Convention*. The Hague, HCCH.

Schuz, R. (2013) *The Hague Child Abduction Convention: A Critical Analysis*. Oxford, UK, Hart Publishing Ltd.

Schuz, R. (2018) The Hague Child Abduction Convention in a changing world. In: Douglas, G., Murch, M. & Stephens, V. (eds.) *International and National Perspectives on Child and Family Law: Essays in Honour of Nigel Lowe*. Cambridge, UK, Intersentia Ltd, pp. 315-328.

Silberman, L.J. (2006) *Interpreting the Hague Abduction Convention: In Search of a Global Jurisprudence*. New York, USA, New York University ILLJ Working Paper 2005/5 (Global Administrative Law Series).

Taylor, N.J. & Freeman, M. (2018a) Outcomes for objecting children under the 1980 Hague Convention on the civil aspects of international child abduction. *The Judges' Newsletter on International Child Protection*, XXII, Summer-Fall, Special Focus: The Child's Voice – 16 Years Later. The Hague, Permanent Bureau of the HCCH, 8-12.

Taylor, N.J. & Freeman, M. (2018b) Using research to improve outcomes for abducted children. In Douglas, G., Murch, M. & Stephens, V. (eds.) *International and National Perspectives on Child and Family Law: Essays in Honour of Nigel Lowe*. Cambridge, UK, Intersentia Ltd, pp. 329-342.

Thorpe, M. (2019) Judicial activism - The IHNJ & the Judges' Newsletter: A 20 year evolution. *The Judges' Newsletter on International Child Protection*, XXIII, Winter-Spring, Special Focus: The 20th Anniversary of the International Hague Network of Judges. The Hague, Permanent Bureau of the HCCH, 6-11.

Trimmings, K. & Momoh, O. (2021) Intersection between domestic violence and international parental child abduction: Protection of abducting mothers in return proceedings. *International Journal of Law, Policy and the Family*, 35 (1), 1-19.

United Nations Convention on the Rights of the Child 1989.

Van Hoorde, K., Putters, M., Buser, G., Lembrechts, S., Ponnet, K., Kruger, T., Vandenhoele, W., Demarré, H., Broodhaerts, N., Coruz, C., Larcher, A., Moralis, D., Hilpert, C., & Chretiennot, N. (2017) *Bouncing Back: The Wellbeing of Children in International Child Abduction Cases*. EWELL, with the support of the European Union.