

INTERNATIONAL  
FORUM ON  
PARENTAL CHILD  
ABDUCTION

HAGUE CONVENTION ACTION AGENDA



# INTERNATIONAL FORUM ON PARENTAL CHILD ABDUCTION: HAGUE CONVENTION ACTION AGENDA



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## FOREWOOD



The Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention), which was created in 1980, was a giant step forward in dealing with cases of international child abduction in a more uniform, consistent way. We support it and urge every country to apply its principles. Yet, in too many cases, the Hague Convention appears not to be working as originally intended, and too many cases remain unresolved. It is abundantly clear that problems exist.

In September 1998 the National Center for Missing & Exploited Children® (NCMEC) convened a small working group of experts in Hague Convention practice. Our philosophy was that if we could bring together the experts, and harness all of that brain power toward a single purpose, together we could accomplish great things, far greater than any of us independently.

Knowing of her concern about these issues, we contacted Catherine Meyer, a victim parent and wife of the British Ambassador to the United States, and discussed this idea with her. Lady Meyer agreed to Co-Chair this meeting.

The participants in the Forum were of one mind: The Hague Convention is a positive, compelling resource in theory. But, there are troubling problems in practice. The result of these complications is a lack of uniformity from country to country and children who are denied a relationship with their full family.

The report that follows is a “Call to Action,” a challenge to those who truly care about the world’s children to join together to help change those systems and procedures that do not work, and to build greater awareness of the trauma faced by so many children and parents around the world.

This report is just the beginning, not an end unto itself. In 1999 we established the International Centre for Missing & Exploited Children (ICMEC), a global resource for children. ICMEC will build an international network; become a strong, loud voice for the world’s hidden victims, its children; provide training and technical assistance for legal, law enforcement, and child-serving professionals; develop research, data, and “best practices” information for decision-makers; and much more.

We will launch an international campaign, spearheaded by the leading experts and advocates. We are convinced that many of the problems examined in the pages that follow are not widely recognized or understood by policy makers and the general public. Yet, we firmly believe that we can increase global awareness and concern and propose positive recommendations which governments and policy makers will listen to and implement.

Working together as advocates and professionals committed to children, we can accomplish great things.

Ernie Allen  
President and Chief Executive Officer  
National Center for Missing & Exploited Children

## EXECUTIVE SUMMARY



In September 1998, the National Center for Missing & Exploited Children hosted an International Forum composed of an unofficial group of more than 50 concerned experts from 11 different countries. Their task was to discuss international parental child abduction and evaluate the effectiveness of the Hague Convention on the Civil Aspects of International Child Abduction; the main piece of international law designed to address this problem.

This Hague Convention, opened for signature in 1980, was designed to address the fact that because every country has its own judicial system, there should be a uniform piece of legislation which would help recover abducted children, return them promptly to their place of habitual residence, and ensure rights of custody and access are respected between Contracting States. There are now 62 states that are signatories to the Hague Convention. But the responses to these abduction cases have been uneven. Whereas some countries abide by the terms of the Hague Convention, others do not.

Specifically, the Forum participants identified a number of problems with the Hague Convention including

- a lack of systematic data on the operation of the Hague Convention which would allow a country-by-country comparison of case outcomes
- wide variations in outcome point to systemic problems in the Hague Convention's application in different countries
- variations in caseload and experience among countries
- undue delay in reaching resolutions in cases
- difficulty locating children who are the subject of a Hague Application
- lack of adequate support for victim families
- lack of public awareness about the Hague Convention
- varying competence and experience of attorneys and judges
- lack of uniformity in the interpretation of the Hague Convention particularly with the "exceptions" under Article 13
- improper use of narrowly-defined exceptions to return
- lack of enforceability of some return orders
- no obligation on Contracting States to take responsibility for the safety of children returned under the Hague Convention
- lack of enforceability of access (visitation) rights

These problems, identified by the Forum, compose the basis of this proposed Action Agenda.

**1. GLOBAL EDUCATION AND AWARENESS CAMPAIGN**

A well organized and coordinated global education and awareness campaign aimed at government officials and the general public would serve to highlight the problem of international abduction and the role that the Hague Convention on the Civil Aspects of International Child Abduction plays.

**2. CREATING A DATABANK OF HAGUE COURT DECISIONS**

The outcome of Hague Convention applications needs to be tracked on a global basis. Information on the legal systems and legal practice within individual countries should be collected and its impact on Hague Convention cases described. With accurate data there could be “performance ratings” for each Contracting State.

**3. CREATING A TRAINING TEAM AND CORE CURRICULUM FOR JUDGES AND THE LEGAL PROFESSION**

An international training team should be established to create a curriculum adaptable to the systems of different countries. Certain legal principles are basic to the application of the Hague Convention and should therefore be applied in similar ways by member countries. Funding is required for a new series of reports known as “Convention Law Reports” that needs to collect key international court decisions and make them available on the Internet.

**4. ENCOURAGE UNIFORM APPLICATION OF EXCEPTIONS IDENTIFIED IN THE HAGUE CONVENTION**

There is a need for a more common approach to the application of the exceptions provided in the Hague Convention. The use of Article 13b has in some countries, for example, virtually become the rule. This is jeopardizing the Hague Convention’s effectiveness and perverting its original intent. This could be aided by the preparation of a “Best Practice” paper. Further, an international meeting among Contracting States’ senior judges should be convened to discuss how to interpret the Hague Convention.

**5. TRAINING FOR LEGAL PROFESSIONALS**

Governments should mandate training for all judges who may have to deal with abduction. The Forum notes that the Hague Convention seems to work particularly well in countries in which only a limited number of experienced judges have jurisdiction.

**6. CONTRACTING STATES MUST ADOPT A TIGHT SCHEDULE FOR HANDLING HAGUE CASES**

The Forum urges member countries to adopt a tight schedule along the English lines. There the Central Authority sets itself an 80 percent target of forwarding “incoming” cases to an attorney within 24 hours and, where there is an average turnaround time between receiving an application and making an order of 6 weeks and of 15 weeks in the case of applications going to appeal. Pressure to dispose of applications quickly could also be brought to bear by the establishment of an international monitoring system.



## **7. ENCOURAGE CONTRACTING STATES TO CREATE AN EFFECTIVE CIVIL ENFORCEMENT SYSTEM**

Contracting States should put in place an effective enforcement system. Courts need to draft orders in a way that ensures their prompt and effective enforcement. An order to return a child should be enforceable with the aid of an officer of the court empowered to enlist the support of law enforcement where necessary.

## **8. IMPROVE THE ABILITY TO LOCATE CHILDREN**

There needs to be a campaign to persuade countries to empower law enforcement, prosecution services, and other government agencies to seek and find children. There needs to be greater international cooperation between law-enforcement agencies and to clarify the role of INTERPOL in cases of abduction regardless of whether it is an offense in any particular state. An international fund is needed to help victim families finance searches for abducted children.

## **9. SUPPORT FOR VICTIM FAMILIES**

In countries where legal aid is unavailable, a resource bank of low-fee, pro-bono attorneys should be developed. Furthermore, all countries should take steps to establish a travel fund and a counseling and psychological treatment center for victim families. The work of Central Authorities and nongovernmental organizations with regard to helping and supporting victim families needs to be recognized and funded.

## **10. SAFEGUARD THE WELL-BEING OF CHILDREN AFTER RETURN**

Judges and Central Authorities need to work together closely to ensure that any child returned under the Hague Convention, particularly after the rejection of an Article 13b defense, is properly safeguarded and protected.

## **11. IMPROVE ACCESS TO NONCUSTODIAL OR LEFT-BEHIND PARENTS**

Access is fundamental to the parent-child relationship. Practitioners and Central Authorities should use Articles 7, 21, 27, and 29 of the Hague Convention to give priority to requests for access by developing working practices; judicial interventions; and, where necessary, making changes to implementing legislation.

## **12. EXPAND MEMBERSHIP OF THE HAGUE CONVENTION AND IMPROVE RELATIONSHIPS WITH NONCONVENTION COUNTRIES**

Although there is now an impressive number of Contracting States, there are still many countries in large parts of the world that are not yet signatories to the Hague Convention. International pressure needs to be brought to bear to expand membership of the Hague Convention. In addition, countries that are members of the United Nations Convention on the Rights of the Child should be reminded of their obligation to promote accessions.

The following pages further describe these problems and the recommendations of the Forum.

Setting the scene at the Forum, Ernie Allen, President of NCMEC, said

Although many countries are now signatories to the Hague Convention, the responses to these abduction cases have been uneven. Some countries handle them well, but in others legal loopholes result in stonewalling. Our purpose in convening this Forum is to bring together, under one roof, experts on this issue and begin a process by which the Hague Convention can be improved and subsequently reunite more children with their families.

Catherine Meyer, co-chair of the Forum and herself a victim parent who has waged a four-year-long campaign in Europe to gain access to her two sons who were abducted to Germany, similarly commented

Child abduction across frontiers is one of the great outrages of our time. Every year, thousands of children are forcibly separated from a mother or a father by the other parent, and the numbers are growing. The situation cries out for urgent action. The aim of our International Forum is two-fold: to raise public awareness [about the] tragedy of traumatized children and to draw up practical measures which will put a stop to this barbaric practice. A child has a right to both its parents.

To put the Forum's concerns and plan of action into context, we begin this Report with

- a discussion of the nature and scale of international parental child abduction
- an explanation of what the Hague Convention sets out to achieve and the mechanisms by which it seeks to achieve these objectives

## WHAT IS INTERNATIONAL PARENTAL CHILD ABDUCTION?



The shock of returning home to discover that your partner has left you (with or without explanation), and taken the children to another country with the possibility you will never see them again, is barely describable. It is no less shocking to have sent your children abroad for an agreed visit and then receive a call from your former partner indicating that the children will not be returned. But perhaps most harrowing of all is the experience of a French mother who was ambushed in country woods by men acting for her estranged husband, dragged from her car, and watched helplessly as the men drove away with her two terrified children (a boy aged 7 and girl aged 3) screaming in the back of the car. This is what international parental child abduction is about. As this French mother said, "it can happen to anyone. The proof is I'm anyone—and it happened to me."

## THE EFFECTS OF CHILD ABDUCTION



The victim parents are suddenly plunged into a bewildering world where helplessness, despair, and disorientation compete. The emotional trauma is compounded by the daunting practical obstacles to retrieving the children or even to gaining access to them. Simply finding out where to get help can be difficult. Parents often face unfamiliar legal, cultural, and linguistic barriers. Their emotional and financial resources can be stretched to the limit. In the meantime, the abducted children are often led to believe that the victim parent has abandoned them. Then the children, in anger and hurt, assert that they do not want contact with the victim parent. As the years pass, the chances of recovering the children diminish. Many victim parents feel it would be easier to come to terms with the shock of bereavement than with a situation marked by prolonged uncertainty and anxiety.

The effect on children can also be devastating. It is traumatic in the short-term and potentially permanently damaging. Children who are abducted will have already suffered from their parents' separation but, in addition, they will experience the trauma of being suddenly cut off from their familiar environment—a parent, grandparents, school, and friends. This experience is devastating enough, but many children do not understand what is happening or why the abducting parent is hiding from the police or taking precautions against re-abduction. Such a “state of war” between parents catches the children in a horrible cross fire.

## THE MAGNITUDE OF THE PROBLEM



With the explosion of international travel and tourism; the social consequences of a global economy; and the increasing irrelevance of national frontiers, especially in Europe, traditional impediments to transnational marriages have fallen away. But those unions are no less prone to divorce and to quarrels about children. And when a parent decides to take the law into his or her own hands by abducting children to another country, the chances of recovering them can be slim, if not impossible.

In the United States of America (USA) alone, the Department of Justice reported that as many as 354,100 children were abducted by a family member in a one-year period of time.<sup>1</sup> Many of these children were taken abroad.

In the United Kingdom (UK), an average of four children a week are wrongfully taken or kept in other Hague Convention countries. In the last 3 years alone, the UK has seen a 58 percent increase in the number of international parental child abductions.<sup>2</sup>

## THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION



Since every country has its own judicial system, custody orders made in one country are not necessarily recognized in another. Judicial cooperation between states can be highly contentious. Sadly the issue of child abduction is a prime example of the limitations of international cooperation in the judicial area.

The Hague Convention on the Civil Aspects of International Child Abduction was opened for signature in 1980 in a bid to address this problem.

The aims of the Hague Convention are to

- trace abducted children
- secure their prompt return to the country of habitual residence
- organize or secure effective rights of access

To achieve these tasks, each country that is a signatory to the Hague Convention (“Contracting State”) has to set up an administrative body known as the “Central Authority.” These Central Authorities process applications and, where necessary, take appropriate steps to ensure that court proceedings are brought. Action is supposed to be taken quickly. Indeed, if the judicial or administrative authority has not reached a decision within six weeks of the commencement of proceedings, the applicant has the right to ask for the reasons for the delay (Article 11).

The Hague Convention applies to all children younger than the age of 16 who, being a habitual resident in one Contracting State, have been wrongfully removed to or retained in another Contracting State (Article 4). “Wrongful” for these purposes means a removal or retention in breach of rights of custody attributed to a person; an institution; or any other body, either jointly or alone, under the law of the State in which the child was a habitual resident immediately before the removal or retention (Article 3). Wrongful “removal” occurs where a child is taken across an international frontier without permission of those having custody rights, and wrongful retention occurs where a child is kept in another country beyond a period agreed to as, for example, a holiday or access (visitation) period.

Provided the application for return is brought quickly, that is within 12 months of the child’s wrongful removal or retention, the court must order a return “forthwith” unless, according to Article 13, it can be established that

(a) The person seeking the return was not exercising custodial rights at the time of removal or retention; or consented to, or subsequently acquiesced in the removal or retention; or

(b) There is a grave risk that a return would expose the child to physical or psychological harm, or to an intolerable situation; or

(c) The child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of his or her views.

None of these exceptions were intended to be easily established and, even where they are established, the court still has the discretion (under Article 18) to order the child's return. In other words, the general expectation is that any child (younger than the age of 16) wrongfully removed to or retained in another Contracting State will be returned to the country of his or her habitual residence.

Furthermore, under the Hague Convention, courts are forbidden from looking at the merits of the case. That is they should not determine which parent should look after the child, for that is the task of the court of the State in which the child is a habitual resident. In other words, the purpose of the Hague Convention is basically to ensure, except in rare circumstances, that the child should be returned to the Contracting State of habitual residence, where his or her long-term future will be determined.

Since it first came into force in 1983, when there were six Contracting States, the Hague Convention has attracted a spectacular and continuing rise in the number of ratifications and accessions. There were 14 Contracting States in 1989; 28 in 1993; 45 in 1997; and now some 62 nations are Contracting States. A full list of Contracting States can be found on page 21.

Extensive as the number of Contracting States is, it is important to note that many countries are not yet parties to the Hague Convention including large parts of Africa, China (except Hong Kong), India, most Islamic countries, Japan and most other countries in the Far East, Russia and most of the former Soviet Union.

## OTHER INTERNATIONAL INSTRUMENTS IN EXISTENCE TODAY



### UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

The United Nations Convention on the Rights of the Child, in force since 1989, also calls for action on child abduction. Under Article 11, Contracting States must "take measures to combat the illicit transfer and non-return of children abroad" and to that end must "promote the conclusion of bilateral or multilateral agreements or accession to existing agreements." In addition, under Article 35, Contracting States must "take all appropriate national, bilateral[,] and multilateral measures to prevent the abduction, the sale of[,] or traffic in children for any purpose or in any form." Additional relevant obligations are set forth in Article 9 which includes the child's "right to maintain contact with both parents if separated from one or both"; Article 10, the "right of children and their parents to leave any country and to enter their own in order to be reunited or to maintain the child-parent relationship"; and Article 18 which embodies the prin-

ciple that “both parents have joint primary responsibility for bringing up their children and the state should support them in this task.”

#### THE HAGUE CONVENTION ON THE PROTECTION OF CHILDREN

The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, in force since 1996, also contains provisions concerned with child abduction. In particular Article 7 will preserve the jurisdiction of the Contracting State of the child’s habitual residence even if the child is not returned by the Contracting State to which the child has been wrongfully taken or retained. Article 35 will strengthen the Contracting States’ obligation to secure effective rights of access.

#### THE EUROPEAN (OR LUXEMBOURG) CONVENTION ON RECOGNITION AND ENFORCEMENT OF DECISIONS CONCERNING CUSTODY OF CHILDREN

In 1980, at about the same time that the Hague Convention was completed so too was its European counterpart. This European Convention has the same objectives of locating children, securing their prompt return, and enforcing access rights by using the administrative mechanism of Central Authorities. In contrast to the Hague Convention, however, this European Convention is concerned with the recognition and enforcement of court orders. Accordingly, in order to use this European Convention, applicants must either already have or must obtain court orders that support their position.

Member States to the European Convention are drawn from members of the Council of Europe and are therefore confined to that continent. Most of these Member States are also Contracting States to the Hague Convention. In practice, where there is a choice between the two Conventions, commonly, the Hague Convention will be used.

While these additional instruments exist, experience shows that they bring little assistance to resolving child abduction cases. Sadly, although countries sign international treaties, they are not always applied uniformly.

## THE FORUM’S PROCEEDING IN SEPTEMBER 1998



To learn more about the current problems concerning the operation of the Hague Convention, the Forum invited experts to make presentations on their practical and research experience. To this end, following an opening address by United States Congressman Benjamin A. Gilman (R-NY), Chairman of the International Relations Committee of the United States House of Representatives, the Forum heard presentations from

- Ernie Allen, President and Chief Executive Officer of the National Center for Missing & Exploited Children

- Mary Banotti, Member of the European Parliament with special responsibility for transnationally abducted children
- Denise Carter, Director, and Anne-Marie Hutchinson, Chair, REUNITE, National Council for Abducted Children, a UK based charity which provides a service to parents and family members who have lost a child through abduction
- Adair Dyer, former Deputy Secretary General of the Permanent Bureau of the Hague Conference on Private International Law (Permanent Bureau of the Hague), and currently an attorney in the United States of America, who has unrivaled knowledge of and experience with the Hague Convention
- Dr. Linda Girdner of the American Bar Association's Center on Children and the Law, who co-conducted a recent survey about left-behind parents and the practice of Central Authorities under the Hague Convention
- Dr. Geoffrey Greif of the School of Social Work at the University of Maryland who has been conducting ongoing research into the impact of abduction upon left-behind families
- Professor Nigel Lowe, Director of the Centre for International Family Law Studies at Cardiff Law School, University of Wales, who directed research into the German law and practice under the Hague Convention and into the English experience of child abduction

## ACKNOWLEDGMENT OF THE BASIC SOUNDNESS OF THE HAGUE CONVENTION



The Hague Convention has been widely praised by practitioners and academics alike as providing a basically sound workable system for dealing with international child abduction. The wording is reasonably clear, yet flexible enough, to accommodate new legal thinking and developments such as joint custody. Indeed Adair Dyer who is generally regarded as the founding “father” of the Hague Convention, told the Forum that if the Hague Convention were to be re-negotiated today, he doubted that “we could get anything half as good.”

More importantly, the Hague Convention's objectives are simple and easy to understand.

- Children should be returned to their home country as speedily as possible unless there are truly exceptional reasons why they should not be
- Where a return is not being sought or ordered, effective access should be organized or secured

The merits of custody disputes between the parents are not the concern of the Hague Convention. That is a matter for a court within the child's home country.

To meet these objectives, the Hague Convention provides an excellent administrative system through the Central Authorities, which over the years have developed their own expertise (though often in the absence of adequate funding) and have generally established a good rapport with each other.

Nevertheless it is evident from the information presented at this Forum that the Hague Convention is not working uniformly, and while some countries abide by the terms of the Hague Convention, others do not. Different national approaches to implementing the Hague Convention, the slowness of procedures, the lack of legal aid in some countries, and the excessive recourse to the loophole clause has meant that too many cases remain unresolved. Some children are never located. Others are located but simply not returned to their country of origin. Below is a list of the Forum's concerns regarding the implementation of the Hague Convention throughout the world followed by a plan of action to combat those perceived weaknesses.

## AREAS OF CONCERN IDENTIFIED BY THE FORUM



### LACK OF SYSTEMATIC DATA ON THE OPERATION OF THE HAGUE CONVENTION

There is no official monitoring system or collection of data on the operation of the Hague Convention. The exact numbers remain unknown and it is feared that many more children are abducted every year than are reported. The Permanent Bureau of the Hague has tried to arrange a uniform method of keeping statistics and asked the Central Authorities to give the Bureau data on their cases.

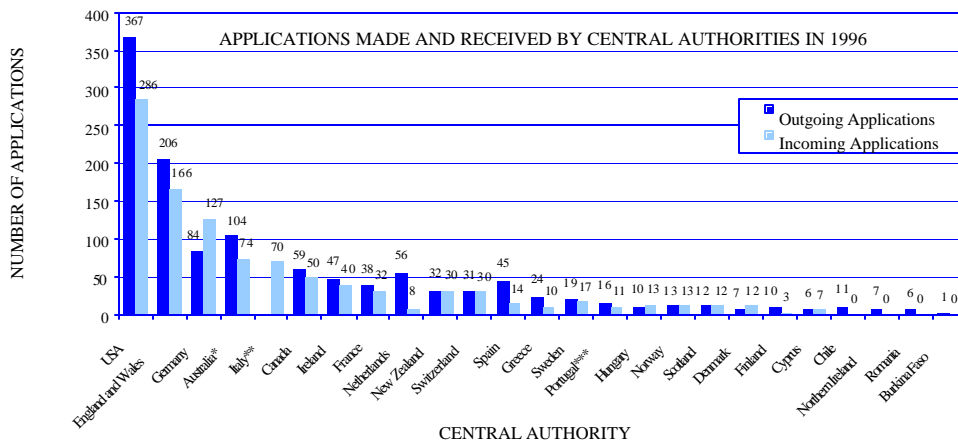
On a global scale, thousands of children are wrongfully abducted from one country to another. Every one represents a family tragedy. An indication of the numbers involved can be gained from studying the chart on the next page.

In the absence of any formal overview, the research studies such as those of Chiancone and Girdner,<sup>3</sup> Greif and Hager,<sup>4</sup> and Lowe and Perry<sup>5</sup> offer an important insight into how the Hague Convention is being implemented.

### WIDE VARIATIONS IN OUTCOME

The Forum heard graphic evidence of the wide variations in outcomes among the various Hague Convention countries. Janet Chiancone and Linda Girdner conducted research for the American Bar Association in 1995 in which they surveyed every Central Authority. Their survey indicates that, on average, just under half (45 percent) of all Hague applications for the return of the child end with a court order for return. Rates for individual countries range from an astonishingly low of 5 percent to a high of 95 percent. More than a fifth (23 percent) of applications end with a judicial refusal, again





The figures provided by the Australian Central Authority cover the period July 1995 to December 1996 (i.e., 6 months more than those of the other countries). No information was provided on applications concerning children taken from Italy. The Portuguese figures do not include applications concerning children taken or brought from France and Luxembourg. These applications are dealt with by means of bilateral agreements between Portugal and those countries.

Reprinted with permission from *International Child Abduction—The English Experience* by Nigel Lowe and Alison Perry. Wales: Cardiff Law School, University of Wales, 1997, Appendix 1.

with wide variation of rates ranging from 6 percent to 75 percent. Even where a return order was made, not all the children were actually returned, and in one country as many as one quarter were not returned.

In addition to court ordered returns, there were on average a further 20 percent returned voluntarily. Again rates varied significantly ranging from 1 percent to 40 percent.

The research conducted by Nigel Lowe and Alison Perry paints a more optimistic picture. They found much lower rates of judicial refusals to return, 8 percent in the case of children abducted into England and Wales (“incoming” cases) and 9 percent in the case of children abducted out of England and Wales (“outgoing” cases). But, they too found wide variations in outcome among individual countries. Overall they found that with regard to “incoming” cases, 48 percent were ordered to be returned, 8 percent were refused, and 8 percent were voluntarily returned as compared to “outgoing cases” with 23 percent orders for return, 9 percent judicial refusals, and 20 percent voluntary returns by foreign courts or agencies. They also found a number of applications withdrawn, 11 percent in the case of incoming cases and 19 percent in outgoing cases.

The Lowe and Perry research indicates that judicial refusals are commonly based upon the child’s objection (Article 13b), but it is unclear why so many applications are withdrawn. This point needs to be researched further.

#### VARIATIONS IN CASELOAD AND EXPERIENCE

Both the Chiancone and Girdner and Lowe and Perry studies highlighted the enormous variation in caseload and experience of Central Authorities and of judges. Chiancone and Girdner found that in 1994 “outgoing cases” (i.e., applications made by a Central Authority to recover a child wrongfully removed to or retained in another country) ranged from 1 to 380, while according to Lowe and Perry in 1996 the numbers ranged from 0 to 367. There were similar wide variations in incoming cases. The two most experienced jurisdictions by far are the USA and England/Wales. In other countries, more than 70 percent of Central Authorities handled less than 5 incoming and outgoing cases annually.

Chiancone and Girdner reported that more than a third of Central Authorities were established within the last five years. Most authorities were small (having about three staff members) and generally spent less than half of their time on Hague Convention cases. Commonly, Central Authorities are located in justice departments or in ministries of justice and had at least one attorney on staff.

#### UNDUE DELAY IN DETERMINING APPLICATIONS

The Forum believes that a key factor in the successful application of the Hague Convention is the speedy disposal of applications. In that respect it notes the obligation under Article 11 for both the judicial and administrative authorities of Contracting States to “act expeditiously in proceedings for the return of children,” and in particular the Article’s implicit obligation to reach a decision within six weeks. It is evident from the Lowe and Perry research that in many states, applications can take many months to resolve. Some cases, due to appeals or other complications, are known to have dragged on one year. In addition, for many parents, efforts to achieve access continue well beyond the initial application.

The Lowe and Perry research highlighted variations in the time taken to determine Hague Convention applications. In this regard England and Wales appear to have the most expeditious system for dealing with Hague Convention cases. It is again evident that there are wide variations in disposal times with some countries being noticeably slow. For example in their analysis of Anglo-German abduction cases, Lowe and Perry found that while on average it took 7½ weeks to dispose of cases in England and 25½ weeks to do so in Germany. In their wider research they found evidence of relatively slow rates in Spain and the USA.

#### LOCATION OF CHILDREN

The Hague Convention can only be brought into action once the child has been located. It is evident that discovering the whereabouts of abducted children can be a major problem. Both the Chiancone and Girdner and Lowe and Perry research studies found that a significant number of Hague applications fail because the child could not be located. Chiancone and Girdner reported that in five countries the exact location of the child was said to be unknown in more than half of their incoming cases.

#### LACK OF ADEQUATE SUPPORT FOR VICTIM FAMILIES

It is useless to have in place an excellent system for dealing with child abduction if victim families cannot afford to use it. Although Chiancone and Girdner found that 17 Central Authorities reported that Hague Convention applications may be eligible for free legal assistance and representation, the Forum identified the lack of availability of legal aid as being a serious problem in many countries, not least the USA, notwithstanding the strenuous efforts to improve the situation in that country. Adequate and affordable legal representation is a clear necessity for the Hague Convention to work adequately. The Forum particularly commends the system of several countries that grant Hague Convention applicants free legal aid in every case.

Another important issue is travel costs both to locate and recover children.

## LACK OF PUBLIC AWARENESS ABOUT THE HAGUE CONVENTION

The Forum is concerned with the general lack of awareness about the Hague Convention among both the public at large and politicians.

Public ignorance can mean that victim parents do not know about their rights and do not seek legal advice or delay in seeking it. There are some reported instances of left-behind parents only seeking legal action after reading about the Hague Convention in a magazine.

Lack of political awareness means that the operation of the Hague Convention is low on any action agenda. Consequently, it is difficult to argue for further financial resources to support the invaluable work done by Central Authorities or by the Permanent Bureau of the Hague and nearly impossible to persuade governments to finance any further commitments under the Hague Convention such as taking on the responsibility of looking after children returned from abroad (see “No Obligation on Contracting States to Take Responsibility for the Safety of Children Returned Under the Hague Convention” on page 13 and “Safeguard the Well-Being of Children After Return” on page 17). It also impedes the political pressure being put on other countries to join the Hague Convention.

## VARYING COMPETENCE AND EXPERIENCE OF ATTORNEYS AND JUDGES

It is clearly vital to the operation of the Hague Convention that both judges and attorneys be familiar with its provisions. Ignorance by attorneys can lead to bad advice being given to victim families, and there are a number of reported cases where erroneous legal advice has been given.

Ignorance or lack of familiarity with the Hague Convention on the part of judges can lead to judgments being given which clearly flout its provisions. Too much attention can, for instance, be given to the merits of the custody dispute or to the individual child’s best interests when that should properly be for the court of the child’s home country to adjudicate.

The Lowe and Perry research of Anglo-German cases highlighted the vast discrepancy between the knowledge and experience of the judiciary handling abduction cases. Whereas in England and Wales, only experienced High Court Judges (totaling 17 in all) can hear Hague cases. In Germany cases come before the lowest court (the Amtsgerichte) and there are about 300 judges in that court system. Perhaps, not surprisingly, no single Amtsgericht heard more than one Hague Convention application in the period 1995-1996. Even the appeal courts (the Oberlandesgerichte) rarely had adjudicated more than one Hague Convention case. Germany has recently taken steps to limit the number of courts able to hear Hague Convention cases.

The German experience is by no means unique. Indeed, it seems inevitable that wherever jurisdiction is vested in a potentially large number of local courts (as in Spain, Sweden, Switzerland, the USA, and many other countries) such courts are similarly likely to be inexperienced in dealing with Hague Convention applications.

## LACK OF UNIFORMITY IN INTERPRETATION OF THE HAGUE CONVENTION

Although it is important to acknowledge that a judicial refusal to return a child does not necessarily mean that the Hague Convention has failed, the Forum is nevertheless concerned about the high number of refusals by some Contracting States and evident difference in interpretation particularly of the Article 13 exceptions. (See “Legal Loopholes” on the next page.) The Forum agrees with the conclusion of the Chiancone and Girdner research, that the lack of uniformity in the application of the Hague Convention across countries, “has the potential of eroding the spirit of reciprocity upon which the treaty is based and raises serious concerns about the Hague Convention’s efficacy as a multinational treaty.”

## LEGAL LOOPHOLES

The lack of uniformity in the rate of return is essentially caused by the interpretations of a “habitual residence” in Article 4 and the “exceptions” under Article 13. The concern of the Forum is not to campaign for the removal of any exception to the obligation to return a child, for it recognizes that there are some **exceptional** cases where a refusal is justifiable, but rather to ensure that the exceptions are not regularly used to disguise a policy of non-return. The Forum also promotes the employment of a common approach among Contracting States as to how these Articles should be interpreted.

## “HABITUAL RESIDENCE”

Article 4 of the Hague Convention applies to any child who is younger than the age of 16, a habitual resident in one Contracting State, and has been wrongfully removed or retained in another Contracting State. If, therefore, the child has ceased to be a habitual resident in his or her original Contracting State at the time of the removal or retention (most likely the latter), the application under the Hague Convention will fail.

Although “habitual residence” has become the standard international connecting factor, it is a difficult concept to pin down and it is not defined in the Hague Convention. Although, in essence, it refers to the place where the child has his or her “home,” on occasion it can be exceptionally difficult to say at what point a child starts or ceases to have his or her home in a particular place. There is no common agreement among Contracting States as to how long a period of residence must be before it can be said to be “habitual.” Adair Dyer told the Forum that the shortest period he knew of was two weeks in a case of a nomadic family but in less extreme circumstances many Contracting States would say that was far too short a period of time.

Another major problem is in relation to some joint custody agreements or “shuttle agreements,” as they are sometimes known. These agreements, sometimes lasting for the whole of the child’s minority, determine the periods of time when the child should live with each parent. The question in regard to these agreements is whether or not they can determine the question of habitual residence. The preferred view, as stated in the *Report of the Third Special Commission*, is that they cannot unless they “match” the child’s “physical” habitual residence.<sup>6</sup>

## THE ARTICLE 13 DEFENSES

- *Child's Objections*

The Forum is concerned that Article 13 is not always being interpreted as applying only in truly exceptional circumstances. In particular, it is concerned that courts too frequently base their decisions on the child's objection to return. In this respect, Article 13 provides that, **"The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views."** (Emphasis added by author.)

The Forum noted Lowe and Perry found that in Germany between 1990 and 1996 in every case where the child's objections were raised as a defense, either alone or in combination with some other defense under Article 13, a return was refused. It was alarmed to learn that one refusal was based on the objections of a 4 year old.

While the Forum recognizes the importance of taking the children's wishes into account in appropriate cases, the Hague Convention itself contains a presumption that children should be returned to their habitual residence and the matter decided without delay. It also seeks to remind Contracting States that the inquiry should distinguish between a child's objection to being returned to his or her habitual residence and a return to the other parent. Courts need also to consider any undue parental influence on the child, either through deliberate indoctrination by the abducting parent or simply by the natural inclination of many children to support a present parent against an absent parent. The Forum notes that the Hague Convention's application process only applies to children who are younger than 16 years of age and believes that "maturity" should be gauged with this age in mind. Accordingly, it believes that young children are unlikely to have sufficient maturity to voice admissible objections.

- *Grave Risk or Intolerable Situations*

Under Article 13b, a return may also be refused if, **"there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation."** (Emphasis added by author.)

The Forum agrees with the *Report of the Third Special Commission* that this provision forms a sensitive part of the Hague Convention and should be given a restrictive interpretation lest it destroy the effectiveness of the Hague Convention. In this respect the Forum notes and approves the restrictive interpretation by the Australian Family Court in *Murray v Director, Family Services ACT*,<sup>7</sup> the English Court of Appeal in *C v C*,<sup>8</sup> the US District Court and Court of Appeals in *Friedrich v Friedrich*,<sup>9</sup> and the German Constitutional Court (2 B v R 982/95 and 983/95, order of 10 October 1995, 2 B v R, order of 15 February 1996 and 2 B v R 1075, order of 15 August 1996).

Like the *Report of the Third Special Commission*, the Forum is mindful of the dilemma of the need to return children according to the Hague Convention's objectives, yet being sure of their safety and well-being after their return. Nevertheless recalling that the object of the Hague Convention is to secure the prompt return of children to their habitual residence, the Forum recommends that Article 13b be applied only as a very narrow exception, that is, to be invoked only when no other alternative is available.

Where a return order is made despite domestic violence, abuse, and other severe family law matters in the child's habitual place of residence, the Central Authorities should assist in ensuring that these matters are properly forwarded to the appropriate child welfare agencies and the court. (See "No Obligation on Contracting States to Take Responsibility for the Safety of Children Returned Under the Hague Convention" on the next page and "Safeguard the Well-Being of Children After Return" on page 17 regarding extending Contracting States' obligation to taking responsibility for the safety of children under the Hague Convention.)

#### THE LACK OF ENFORCEABILITY OF SOME RETURN ORDERS

The Forum identified the lack of enforcement powers in some Contracting States, as a major obstacle to the operation of the Hague Convention. Indeed it considers that the non-enforcement of court orders gravely undermines the effectiveness of the Hague Convention. It was alarmed to hear that, according to the Chiancone and Girdner research, one Central Authority said that in as many as a quarter of all return orders the child was not in fact returned. This is a particular problem in countries such as those in Scandinavia and many other European countries that do not have a process for holding someone in contempt of court for noncompliance with civil orders.

#### NO OBLIGATION ON CONTRACTING STATES TO TAKE RESPONSIBILITY FOR THE SAFETY OF CHILDREN RETURNED UNDER THE HAGUE CONVENTION

There is a legitimate concern for the safety and well-being of children returned under the Hague Convention and the absence of any Hague Convention obligation in this respect has undoubtedly led to some refusals to return the child under Article 13b. On the other hand, ingenious attempts to build in safeguards to return orders such as through undertakings and so called safe harbor or mirror orders have developed. Undertakings, however, are often problematic. A Hague Convention obligation upon Contracting States to be responsible for the safety and well-being of children returned under the Hague Convention would obviate the perceived need for undertakings.

#### THE LACK OF ENFORCEABILITY OF ACCESS RIGHTS

There is a general agreement that the access provisions under Article 21 lack teeth and consequently can effectively amount to a denial of access rights for left-behind parents. In England, for example, the Court of Appeal has ruled (in *Re G*, 1993<sup>10</sup>) that Article 21 imposes no duty upon judicial authorities, but instead merely imposes duties upon Central Authorities under Article 7f "to make arrangements for organizing or securing the effective exercise of rights of access."

Whether this is a correct interpretation is open to question. Article 29 equates breach of access with breach of custody rights when providing that any person, institution, or body can apply directly to the judicial authorities of a Contracting State, "whether or not under the provisions of this Convention," while Article 21 also provides that Central Authorities can "initiate or assist in the constitution of proceedings with a view to organizing or protecting [access] rights." The Forum also notes the view expressed in the *Report of the Third Special Commission*, in its checklist of issues, prepared by Adair Dyer, and considered at the Third Meeting of the Special Commission that "as provided in Article 7f and the last paragraph of Article 21, the Central Authorities of requested [Contracting] States are required to indicate or facilitate the institution of judicial or

administrative proceedings, in a proper case to make arrangements for organi[z]ing (*i.e.*[,] establishing) or securing (*i.e.*[,] protecting previously determined access rights) the effective exercise of rights of access.”<sup>11</sup>

The Forum also notes that under Article 9(3) of the United Nations Convention on the Rights of the Child, Contracting States are obliged to “respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.”

## ACTION AGENDA PROPOSED BY THE FORUM



### 1. GLOBAL EDUCATION AND AWARENESS CAMPAIGN

- There needs to be a well-organized and coordinated global educational and awareness campaign aimed at both governments and the public in general. The campaign needs to highlight the problem of international child abduction and the role of the Hague Convention in combating the problem.
- One strategy to achieve this objective is the creation and maintenance of an international coalition of groups working on this issue such as Child Focus in Belgium, the Empty Arms Network in Australia, IAF Verband binationaler Familien und Partnerschaften in Germany, the Missing Children’s Society of Canada, NCMEC in the USA, and REUNITE in the UK as well as individuals who can then help to generate high levels of publicity and awareness of the problem. The group could, for example, publish a regular press-released newsletter and organize well-published annual conferences as well as promoting regional conferences. It could also produce an international information guide on the Hague Convention.

### 2. CREATING A DATABANK OF HAGUE COURT DECISIONS

- There is a need for accurate data on the outcome of Hague Convention applications on a global basis. Such data collection could, for example, be coordinated or organized by the Permanent Bureau of the Hague with financing provided by Contracting States. In addition to collecting information on the outcomes of cases, information on the legal systems and legal practice within individual countries should be collected and its impact on Hague Convention cases described. With accurate data there could be “performance ratings” for each Contracting State.

### 3. CREATING A TRAINING TEAM AND CORE CURRICULUM

- An international training team should be established to create a curriculum adaptable to the systems of different countries. Certain legal principles are basic to the application of the Hague Convention and should therefore be applied in similar ways by member countries. A core training curriculum highlighting these legal principles

could then be used within each country by those mandated to conduct the domestic program of training.

- To encourage a more homogeneous approach, steps should be taken to publicize international court rulings highlighting key decisions of the highest courts of the Contracting States. This could be done, for example, by the establishment of a web site on which key decisions could be placed or possibly by means of creating a new series of law reports, which could be known as “Convention Law Reports.” The Forum notes and supports the work already undertaken by the Permanent Bureau of the Hague (with the help of a generous donation by the Norwegian government) to establish an automated database of key decisions.
- Further homogeneity could be aided by international and regional conferences to allow judges to discuss common problems of interpretation. In this respect the Forum notes that an international seminar for judges was held in June 1998 in the Netherlands under the aegis of the EU Grotius program. This needs to be built upon.
- A further aid to homogeneity would be to follow the Franco-German experiment and encourage states to exchange judges. The aim would be to create mixed tribunals particularly at the appellate level when reaching critical decisions on the interpretation of the Hague Convention.
- Another important device to encourage more uniform application of the Hague Convention is to establish an international monitoring system as described in “Creating a Databank of Hague Court Decisions” on page 14.

#### 4. ENCOURAGE UNIFORM APPLICATION OF EXCEPTIONS IDENTIFIED IN THE HAGUE CONVENTION

- The Forum recognizes that given the flexibility of the wording of the Hague Convention there will inevitably be some legitimate divergence of view as to the proper interpretation of its provisions and by no means all refusals to return are contrary to the spirit of the Hague Convention. For example, the use of Article 13b has in some countries virtually become the rule. This is jeopardizing the Hague Convention’s effectiveness and perverting its original intent. Thus, there is a need for a more common approach to the application of the exceptions. This could be aided by the preparation of a “Best Practice” paper. Further, an international meeting among Contracting States’ senior judges could be convened to discuss how to interpret the Hague Convention.

#### 5. TRAINING FOR LEGAL PROFESSIONALS

- Governments should mandate training for all judges who may have to deal with abduction cases. “Mandated” training would guarantee that it took place but such an undertaking clearly becomes expensive if there are large numbers of judges who could hear such cases. The Forum notes that the Hague Convention seems to work particularly well in countries such as Australia, Ireland, and the UK where only a limited number of experienced judges have jurisdiction. The Forum believes that if all Contracting States adopted a similar system, performance under the Hague Convention would substantially improve. In this respect, the Forum enthusiastically



supports the recent measures taken by Germany to reduce the number of courts empowered to hear Hague Convention cases.

#### 6. CONTRACTING STATES MUST ADOPT A TIGHT SCHEDULE FOR HANDLING HAGUE CONVENTION CASES

- The Forum urges Contracting States to adopt a tight schedule following the model set by the Central Authority in the UK and Wales. There the Central Authority, operated by the Child Abduction Unit which is located within the Official Solicitors Department, sets itself an 80 percent target of forwarding “incoming” cases to an attorney within 24 hours and, where there is an average turnaround time between receiving an application and making an order of 6 weeks and of 15 weeks in the case of applications going to appeal. The Forum notes and commends the English practice of limiting the right of parties to give oral evidence at court hearings and a child’s participation in proceedings except in exceptional circumstances. The Forum also notes that undue delay in processing an application could be considered to be in breach of Article 6 of the European Convention on Human Rights and so empowers any affected individual, of whatever nationality, to take action against a Contracting State. Pressure to dispose of applications quickly could also be brought to bear by the establishment of an international monitoring system.

#### 7. ENCOURAGE CONTRACTING STATES TO CREATE AN EFFECTIVE CIVIL ENFORCEMENT SYSTEM

- Contracting States should put in place an effective enforcement system. In the English system there is a specific officer of the High Court (the tipstaff) who is empowered to ensure that the court order is carried out even to the extent of being able to obtain physical custody of the child.
- Courts need to take effective measures that orders are drafted in a way that ensures their prompt and effective enforcement.

#### 8. IMPROVE THE ABILITY TO LOCATE CHILDREN

- There needs to be a campaign to persuade countries to empower the police, prosecution services, and other government agencies to seek and find children. To do this it is not necessary to make abduction a criminal offense. For instance, a simple statutory empowerment for the police to act would be sufficient. Although if it is not, then INTERPOL, the international police organization through which law-enforcement entities in INTERPOL-member countries communicate about cases, and the Federal Bureau of Investigation in the USA, for example, commonly will not help. There needs to be greater international cooperation between law-enforcement agencies and to clarify the role of INTERPOL in cases of abduction regardless of whether it is an offense in any particular Contracting State. In this respect the Forum recognizes the vital role in helping victim families find their children that is played by, for example, NCMEC and REUNITE, both of which have now added an international arm to their service. Consideration should be given to establishing an international fund to help families finance searches for abducted children.
- The overall aim must be to establish, on a global basis, an efficient and low-cost system for locating abducted children. Part of this solution is a system for countries to share images and information about missing children. This is currently being

done on the Internet through NCMEC's web site ([www.missingkids.com](http://www.missingkids.com)) which allows partner countries to upload pictures of children who are missing from their country. These pictures are then viewable worldwide by anyone who has access to the Internet.

#### 9. SUPPORT FOR VICTIM FAMILIES

- More support needs to be given to victim families to help them cope with the traumas of abduction both during and after the proceeding. In countries where legal aid is unavailable, a resource bank of low-fee, pro-bono attorneys needs to be organized. Furthermore, all Contracting States should take steps to establish a travel fund and a counseling and psychological treatment center for victim families. The work of Central Authorities and non-governmental organizations with regard to helping and supporting victim families needs to be recognized and funded.
- Further studies are needed concerning the problems the abductor may face (emotional and future access rights) when a child is returned to the country of origin.

#### 10. SAFEGUARD THE WELL-BEING OF CHILDREN AFTER RETURN

- The Forum urges closer cooperation between judges and Central Authorities to ensure that any child returned under the Hague Convention, particularly after the rejection of an Article 13b defense, is properly safeguarded and protected.
- It further supports the attempts made initially by the Australian delegation at the Third Special Commission Meeting to Review the Operation of the Hague Convention on the Civil Aspects of International Child Abduction held at The Hague March 17-21, 1997, that there should be considered to be an obligation upon Central Authorities of each Contracting State to protect the welfare of children returned to that country under the Hague Convention. The Forum supports the view that Article 7h (under which Central Authorities are obliged to take "appropriate measures...to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child") could be interpreted as imposing such an obligation. Accordingly, there should be a global campaign both for a wide interpretation of Article 7h and for Central Authorities being given sufficient resources to take on such an obligation.

#### 11. IMPROVE ACCESS TO NONCUSTODIAL OR LEFT-BEHIND PARENTS

- Accordingly, and recognizing the importance of access rights, the Forum seeks the cooperation and vigorous attention of Central Authorities and practitioners in asserting these rights on behalf of the applicant. To this end the Forum recommends that the authority of Articles 7, 21, 27, and 29 be used by practitioners and Central Authorities to give priority to these requests by developing working practices; judicial interventions; and, where necessary, making changes to implementing legislation.
- The Forum notes that, under Article 35 of the Hague Convention on the Protection of Children, provision is made to help a disadvantaged parent who has access rights but who is being threatened in another country where the other parent and children live with having those access rights either cut off or severely reduced.
- The Forum notes efforts by the Council of Europe to draft a new international instrument on enforcement of contact.

## 12. EXPAND MEMBERSHIP OF THE HAGUE CONVENTION AND IMPROVE RELATIONSHIPS WITH NONCONVENTION COUNTRIES

Although there is now an impressive number of Contracting States, there are still large parts of the world where countries have not yet ratified the Hague Convention. International pressure needs to be brought to bear on non-Hague Convention countries, at any rate those who treat the child's interests as the paramount consideration and are not therefore disposed to **automatically** favor mothers or fathers in custody disputes, nor which have **rules** forbidding care given and the children from living in another country, to join the Hague Convention. In this respect the Forum notes the obligation under Article 11 of the United Nations Convention on the Rights of the Child, in force since 1989, to promote "accession to existing agreements."

The Forum recognizes that it may not be appropriate to invite all countries to be signatories to the Hague Convention since not all nations share the same family law ideals or values. In particular, it recognizes that it might be difficult to accord automatic membership to Islamic countries if, for example, they are not permitted to return certain children (for example, those who are nationals of the requested state) or could not award custody of a returned child to one parent (for example, the mother in the case of older boys). Nevertheless, notwithstanding such difficulties, the Forum believes that it is vital to establish international links and to foster cooperation and understanding between all nations in respect of abducted children. In this respect the Forum notes and supports the establishment of bilateral agreements between, for example, certain Scandinavian countries and certain North African nations and between France and some North African countries.

- International pressure needs to be exerted to expand membership of the Hague Convention. Contracting States need to be reminded of their international obligation under the United Nations Convention on the Rights of the Child to promote accessions.
- Greater efforts need to be made to forge international links between Hague Convention countries and other nations, particularly Islamic nations, which have different family law ideals and values. Again the Forum notes the obligation under Article 11 of the United Nations Convention on the Rights of the Child for member states to "promote the conclusion of bilateral or multilateral agreements," to "combat the illicit transfer and non-return of children abroad," and under Article 35 to "take all appropriate national, bilateral[,] and multilateral measures to prevent the abduction."
- It urges Hague Convention countries to support an international initiative (orchestrated by the Permanent Bureau of the Hague) designed to bring representatives of Islamic and Hague Convention countries together to discuss issues of child abduction and to identify areas of common interest on which there can be international cooperation.

## CONCLUSION



It is clear that the scale of the problem requires bold and far-reaching solutions. Unless urgent and rapid action is taken, more and more children will be denied their most basic human right—that of having access to both parents.

The Forum has set out its view of what needs to be done. The challenge is now to find commitment at both national and international levels to implement these actions. The Forum believes that the time has come for a worldwide campaign to promote awareness of this devastating problem in order to save the victims of child abduction from unnecessary trauma and grief.

Abducting a child across borders is **never** in the child's best interests. The first task will be to raise public and governmental awareness about this heinous crime that is in reality a human rights issue. We need to advocate changes in the law, assist victim parents, provide training for professionals, seek to improve the efficiency of the Hague Convention, and build a global network.

In the meantime the Hague Convention must be applied uniformly, fairly, and above all swiftly. Only when countries accept that child abduction is not to be tolerated will it become a thing of the past. Family disputes and divorce will never go away. Parental child abduction, however, must be eradicated.



**SIGNATORIES TO THE HAGUE CONVENTION  
ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD  
ABDUCTION AND THE DATE THE CONVENTION  
ENTERED INTO FORCE IN THAT COUNTRY**



|  |                   |
|--|-------------------|
| Argentina  | June 1, 1991u     |
| Australia  | January 1, 1987   |
| Austria  | October 1, 1988   |
| The Bahamas  | January 1, 1994   |
| Belarus  | April 1, 1998     |
| Belgium  | May 1, 1999       |
| Belize   | September 1, 1989 |
| Bosnia and Herzegovina                               | December 1, 1991  |
| Brazil   | January 1, 2000   |
| Burkina Faso   | August 1, 1992    |
| Canada   | December 1, 1983  |
| Chile  | May 1, 1994       |
| China, Hong Kong Special Administrative Region Only  | September 1, 1997 |
| Colombia   | March 1, 1996     |
| Costa Rica   | February 1, 1999  |
| Croatia  | December 1, 1991  |
| Cyprus   | February 1, 1995  |
| Czech Republic                                       | March 1, 1998     |
| Denmark  | July 1, 1991      |
| Ecuador  | April 1, 1992     |
| Fiji   | June 1, 1999      |
| Finland  | August 1, 1994    |
| The Former Yugoslav Republic of Macedonia            | December 1, 1991  |
| France   | December 1, 1983  |
| Georgia  | October 1, 1997   |
| Germany  | December 1, 1990  |
| Greece   | June 1, 1993      |
| Honduras   | March 1, 1994     |
| Hungary  | July 1, 1986      |
| Iceland  | November 1, 1996  |
| Ireland  | October 1, 1991   |
| Israel   | December 1, 1991  |
| Italy  | May 1, 1995       |
| Luxembourg   | January 1, 1987   |
| Malta  | January 1, 2000   |
| Mauritius  | June 1, 1993      |
| Mexico   | September 1, 1991 |
| Moldova  | July 1, 1998      |
| Monaco   | February 1, 1993  |
| Netherlands  | September 1, 1990 |
| New Zealand  | August 1, 1991    |
| Norway   | April 1, 1989     |
| Panama   | May 1, 1994       |
| Paraguay   | August 1, 1998    |
| Poland   | November 1, 1992  |
| Portugal   | December 1, 1983  |
| Romania  | February 1, 1993  |
| Saint Kitts and Nevis                                | August 1, 1994    |
| Slovakia   | February 1, 2001  |
| Slovenia   | June 1, 1994      |
| South Africa   | October 1, 1997   |
| Spain  | September 1, 1987 |
| Sweden   | June 1, 1989      |
| Switzerland  | January 1, 1984   |
| Turkey   | August 1, 2000    |
| Turkmenistan   | March 1, 1998     |
| United Kingdom of Great Britain and Northern Ireland | August 1, 1986    |
| United States of America                             | July 1, 1988      |
| Uruguay  | February 1, 2000  |
| Uzbekistan   | August 1, 1999    |
| Venezuela  | January 1, 1997   |
| Zimbabwe   | July 1, 1995      |



## ENDNOTES



<sup>1</sup>Finkelhor, D., Hotaling, G., and Sedlak, A. *Fact Sheet on Missing Children: National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children*. Washington, DC: United States Department of Justice, 1990, page 1.

<sup>2</sup>REUNITE, National Council for Abducted Children, now REUNITE, International Child Abduction Centre, London, England, 1998.

<sup>3</sup>Chiancone, J. & Gridner, L. *Issues in Resolving Cases of International Child Abduction: Final Report*. Washington, DC: American Bar Association Center on Children and the Law and Office of Juvenile Justice and Delinquency Prevention within the United States Department of Justice, 1998.

<sup>4</sup>Greif, G.L. & Hager, R.L. *When Parents Kidnap*. New York, New York: The Free Press, 1993.

<sup>5</sup>Lowe, N. & Perry A. *International Child Abduction—The English Experience* (1997) 48 ICLQ 127; “The Operation of the Hague and European Conventions on International Child Abduction between England and Germany Parts I and II” [1998] International Family Law 8-16, 52-56, and Die Wirksamkeit des Haager und des Europäischen Übereinkommens zur internationalen Kindesentführung zwischen England and Deutschland, Fam RZ 1998, Heft 17 1073-1078.

<sup>6</sup>*Report of the Third Special Commission Meeting to Review the Operation of the Hague Convention on the Civil Aspects of International Child Abduction*. The Hague, Netherlands, Permanent Bureau of the Hague, 1997, paragraph 16.

<sup>7</sup>*Murray v Director, Family Services Act* (1993) FLC 92.

<sup>8</sup>*C v C (minor; abduction; rights of custody abroad)* [1989] 2 All ER 465.

<sup>9</sup>*Friedrich v Friedrich*, No. C-1-91-651, (S. D. Oh. Jan. 10, 1992); *Friedrich v Friedrich* 983 F.2d 1396, (6th cir. 1993).

<sup>10</sup>*Re G (A Minor) (Enforcement of Access Abroad)* [1993] Fam 216.

<sup>11</sup>Lowe, N. & Perry A. *International Child Abduction—The English Experience* (1997) 48 ICLQ 127, paragraph 143.



