

Habitual Residence and the Hague Convention on the Civil Aspects of Child Abduction

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Abstract : As a result of globalization, it is increasingly common for people to live in different parts of the world. However there is a corresponding rise of international family law issues and competing jurisdictions. The Hague Convention on the Civil Aspects of Child Abduction is a multilateral treaty that provides an expeditious method to return a child to their country of habitual residence when 'internationally abducted' by a parent from one member country to another. Specifically, the Convention provides a protocol for expeditious return of the child to their habitual residence unless there is a valid exception, the most common being that return would result in an intolerable situation or cause grave risk of harm to the child. This paper analyzes case law from various signatory countries including the United States, highlighting the differences in interpretation of key terms under the Convention, as well as case law in non-Hague signatory countries, with a focus on India and the Middle East.

Keywords : best interest of the child, grave risk of harm, habitual residence, well-settled

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