

FAMILY COURTS IN CRISIS

NEWSLETTER

September 2013

Domestic Violence & the Hague Convention on International Child Abduction



Law is the essential foundation of stability and order both within societies and in international relations.

J. William Fulbright

Justice has nothing to do with what goes on in a courtroom; Justice is what comes out of a courtroom.

Clarence Darrow

As long as the world shall last there will be wrongs, and if no man objected and no man rebelled, those wrongs would last forever.

Clarence Darrow

The world is a dangerous place to live; not because of the people who are evil, but because of the people who don't do anything about it.

Albert Einstein

The Hague Convention: the Reality Behind the Rhetoric

The Hague Domestic Violence Project

<http://gspp.berkeley.edu/global/the-hague-domestic-violence-project>



The History of The Hague Domestic Violence Project

Assistant Dean Sudha Shetty and Social Welfare Dean Jeffrey Edleson, two key participants in this Project, worked together years ago on a Hague Convention case where domestic violence was an issue. The myriad issues that arose out of that experience inspired Sudha to create The Hague Domestic Violence Project. First started at Seattle University School of Law's Access to Justice Institute, the project moved to the University of Minnesota in collaboration with colleagues at the University of Washington and now resides at Berkeley's Goldman School of Public Policy. Since 2003, the goal of this project has been to find a way to solidify [domestic violence](#) as an exception to the otherwise required return of a child to his or her country of habitual residence under the [Hague Convention on the Civil Aspects of International Child Abduction](#).

Two Scenarios Concerning International Child Abduction

Imagine this: A child is abducted by his own parent to a different country. The parent left behind is enraged, scared and confused. That parent reacts by contacting the local authorities to assist in retrieving the child. INTERPOL alerts are raised, news agencies pick up the story and the general public cries out for justice under the Hague Convention: the return of the child to the left-behind parent.

Now imagine that the abducting parent is a victim of domestic violence. To save herself and protect her children, she flees with them away from their home country to a place where they will be safe. The left-behind parent — this time an abusive husband — contacts his local authorities and demands assistance in retrieving his family. INTERPOL alerts are sent out, news agencies follow developments and the general public cries out for justice.

Under the Hague Convention, the two scenarios raised above would end with the same result: the return of the child to his country of habitual residence and possibly his left-behind parent. However, in the second scenario, the child is returned to an abuser and separated from a parent who acted to protect him.

At the Hague Domestic Violence Project, we believe that these two scenarios deserve different results. Our goal is to help [mothers](#), [attorneys](#), [judges](#) and [advocates](#) incorporate child exposure to domestic violence as a defense to the otherwise required return of the child to his home country.

The Hague Convention and Domestic Violence

What is Domestic Violence?

Domestic violence is often defined in various ways depending on the jurisdiction in which you live. For the purposes of our research, we use the following definition:

Domestic violence, also known as intimate partner violence, is a pattern of coercive behavior that is used by one person to gain power and control over another. It may include the use of physical and sexual violence, verbal and emotional abuse, stalking and economic abuse. Sexual, emotional and psychological intimidation may also occur.

To learn more about the work our research team has performed, visit our section entitled [Project Reports](#).

The Hague Convention on the Civil Aspects of International Child Abduction

The Hague Convention on the Civil Aspects of International Child Abduction was completed in October 1980 and put into effect in the US through passage in 1988 of the International Child Abduction Remedies Act (ICARA). The Hague Convention establishes international law for handling cases in which children are abducted from one country to another. Member states are expected to help quickly return abducted children to their countries of "habitual residence." It is in the child's country of habitual residence where other issues such as custody are expected to be resolved by local criminal justice system (Hilton, 1997).

Exceptions to the Required Return of the Child

The Hague Convention acknowledges several exceptions to the otherwise mandatory return of the child to his or her country of habitual residence: more than a year has passed since the child had moved from his original habitual residence; the left behind parent acquiesced or consented to the child's removal; a forced return would put the child in grave risk; or the return would go against international standards for protecting human rights and fundamental freedoms. It is the grave risk defense under Article 13(b) of the Hague Convention on which [our team](#) focuses our efforts.

Domestic Violence Is Not Yet Seen as a Grave Risk to the Child

Article 13(b) of the Hague Convention states, "A court need not return a child if the return would pose a grave risk ... that ... return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation." There is significant social science evidence to suggest that violence against the mother will expose a child to the possibility of psychological and/or physical harm (see Edleson, 1999). Domestic civil and criminal law often takes this exposure into account, but in Hague Convention cases there is a general reluctance to acknowledge this as an acceptable reason for not returning a child back to another country.

The Effects of Forcing a Return in Cases Involving Domestic Violence

Current training curricula for [judges](#) and [lawyers](#) on the Hague Convention equate violence against women to "a custody issue," and insist that it should be settled in the child's country of habitual residence (Hoff, 1997 and OJJDP, 2002). Yet, decisions taken under the Hague Convention may effectively determine child custody by requiring children to be returned to the "left behind parent," who may be a perpetrator of violence against the child's mother.

Also, mothers who fled to a safe haven are viewed perpetrators abduction under national and international laws. The forced return of the child often forces the mother to choose to return with her child at her own expense. This may put her and her child back in a violent situation without the support of social and criminal justice services.

What Should You Do if You Are Involved in a Hague Convention Case?

We have compiled a list of attorneys who have experience in Hague Convention cases. Please [contact us](#) to be referred to an attorney near you. If you are an attorney, judge or [advocate](#), use this site as a resource and [contact us](#) if there is information that you think would be helpful for us to add.

Recent News

New Minnesota Bench Guide Available for Judges

A team of Minnesota judges, attorneys, advocates and social scientists have just completed a new [Bench Guide](#) for judges who are hearing Hague Convention cases involving allegations of domestic violence. The case law in the guide is focused on the District of Minnesota but we plan to help other areas of the country adapt it.

Final Report and Presentation Now Available

Our final report to the National Institute of Justice has been approved for release. Our presentation at the National Institute of Justice is also online. Please go to our [Reports page](#) to listen to the presentation and download our report for free.

On-Demand Continuing Education Videos Available

The HagueDV Project offered a live, global webcast on Human Rights Day 2010. Actors from the world renown Guthrie Theater in Minneapolis performed staged readings of battered mothers' stories as told to us in our recently completed NIJ-funded study on Hague Convention cases. These readings were interspersed with commentary by leading scholars in law and social science about how Hague hearings should consider domestic violence. The event was FREE anywhere in the world online thanks to our partnership with West Legal Edcenter and the Guthrie Theatre and with generous support from the law firm of Robins, Kaplan, Miller and Ciresi, LLP and Greater Twin Cities United Way. Over 1,200 people attended. The video broadcast along with another two-hour "Nuts 'N Bolts" session on representing battered mothers who are respondents in Hague cases are now available through the HagueDV Project. Please contact us at info@haguedv.org if you are interested in viewing these videos.

Providing Assistance to Attorneys Representing Respondent Battered Parents and to Judges Hearing Hague Convention Cases in U.S. Courts

The [Hague Domestic Violence Project](#) focuses on providing comprehensive technical assistance to attorneys who are representing battered parents who are respondents to Hague petitions in U.S. courts and to judges who are hearing these cases. Our current funding does not permit us to assist individuals involved in a Hague Convention cases.

Pointed Questions at the US Supreme Court

The US Supreme Court heard arguments in the Abbott v. Abbott Hague Convention case involving the taking of a child from Chile to the United States. Below are two sets of questions from Justice Ginsburg and Chief Justice Roberts from the of the Abbott v. Abbott hearing at the U.S. Supreme Court on January 12, 2010. The subsequent Court ruling issued on May 17, 2010, extended custody rights to a larger group of left-behind parents raising issues of child safety to an even more important level in these cases.

Justice Ginsburg: *"What happens to the woman who, now she has abducted the child to Texas, and she says to the Texas court: If you send me back, I am going to be beaten by this man who has a history of being a batterer? ... You are saying that the court...is helpless, that it's automatic that if there is a custody right the court in the State to which the child has been taken must order that the child be returned?"*

Chief Justice Roberts: *"In other words, in the case that we have been discussing, if the woman would be subject to whatever persecution or domestic violence, but the child -- you know, there is no suggestion of any harm targeted to the child, that would not be a case in which they could grant refuge?... So the woman would be subject to -- if she wanted to remain with the child, there would be no protection. She would have to choose between subjecting herself to violence or being apart from the child?"*

Read the entire [transcript](#), [Abbott decision](#), and [amicus brief by DV-LEAP in the Abbott v. Abbott case](#).

Research Study Supported by the National Institute for Justice

Final Report Now Available

Our 400 page [Final Report](#) to the National Institute of Justice is now available for free download. (The file is over 2MB in PDF format). It is also now available from the U.S. National Criminal Justice Reference Service as [Document Number 232624](#). We have created a separate file containing only the [Executive Summary](#) that is also a free download.

Recent Articles

An article titled [U.S. Judicial Implementation of the Hague Convention in Cases Alleging Domestic Violence](#) was published in the Spring 2011 issue of the *Juvenile & Family Court Journal*. It reports an analysis of 47 published decisions by U.S. courts on Hague Convention cases involving allegations of domestic violence. In addition, the Hague Conference on Private International Law will publish an [article in the Spring 2011 issue](#) of *The Judges' Newsletter*.

Presentation at the National Institute of Justice is online

On October 12, 2010, Profs. Edleson and Lindhorst and Ms. Shetty presented findings from our research project to an audience of policy makers in Washington, D.C., at a *Research in the Real World* event sponsored by the National Institute of Justice. You may watch the slides and listen to the presentation online by going to the National Institute of Justice's [Research in the Real World website](#) and scrolling down to "Past Seminars".

Time Magazine covers HagueDV study

Time Magazine ran a story on our research on the homepage of its website on Human Rights Day 2010. Read the story "[Protecting Kids: Rethinking the Hague Convention](#)" on *Time's* website. The study was also covered in press releases by the [University of Minnesota](#) and the [University of Washington](#).

Our Research Team

[Our researchers](#) have been studying the impact of Hague Convention cases upon the individuals involved. The purpose of this study was to improve our understanding of the situation of women who have come into the United States with their children after leaving an abusive relationship in another country and who then become involved in a legal dispute under the Hague Convention on the Civil Aspects of International Child Abduction.

The study included in-depth 22 interviews with mothers around the world, as well as 15 of their attorneys, eight petitioner fathers' attorneys and five others such as psychologists, guardians ad litem and advocates involved in Hague Convention cases heard in U.S. courts. In addition, we analyzed 47 published judicial decisions in Hague Convention cases in U.S. courts involving allegations of domestic violence.

About This Study

Our study is affiliated with the University of Minnesota and the University of Washington and was funded by the National Institute of Justice. For more information on the study, please [contact us](#).

Family Courts in Crisis Newsletters are prepared by **Quenby Wilcox**, Founder of Global Expats (www.global-xpats.com,) and Safe Child International (www.linkedin.com/groups/Safe-Child-International-3912973.)

Quenby Wilcox, is a career Expat Mom and activist whose work focuses on domestic violence as a human rights violation, the advancement of women/homemaker's rights, and promoting the interests of expatriated citizens around the world. Her research, and lobbying efforts on Capitol Hill and with the US Department of State, as well as her analysis of the issues and challenges involved in cases of international divorce and custody battles are posted on www.worldpulse.com/user/2759/journal. Her blogs are posted on www.quenby.wordpress.com.

She may be contacted at quenby@global-xpats.com, www.linkedin.com/pub/dir/Quenby/Wilcox, or +00.1.202-213-4911 with any questions or requests for interviews.



Free, downloadable copies of *Family in Crisis* (May–September 2013) Newsletters are posted on www.worldpulse.com/user/2759/journal



Corruption in Family Courts | Corrupcion en los juzgados de familia by Global Expats

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Protecting Kids: Rethinking the Hague Convention

by Mirela Iverac

Friday, Dec. 10, 2010



From content.time.com - September 26, 9:34 PM

The Hague Convention was designed to return children abducted by a parent who moved to another country.

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Global Expats's insight:

...the treaty is often used against women seeking safety for themselves — and for their children — from violent husbands...

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Vatican removes deputy bishop in Peru after sex abuse allegations - Reuters

“Me lo dijo la policía: si te quiere matar, te va a matar”



From sociedad.elpais.com - September 23, 2:27 PM

La protagonista del documental La maleta de Marta recibió 16 puñaladas de su exmarido

“

Global Expats's insight:

add your insight... Tampoco ha encontrado empatía en las instituciones cuando ha ido a pedir asistencia. “He visto mucha hipocresía. Te dicen que sí, que te van a ayudar, pero luego nunca llega la ayuda”, asegura. “Me río muchísimo cuando oigo a los políticos hablar sobre todas las cosas que hacen contra la violencia de género. La verdad es que solo hacen algo cuando



From www.reuters.com - September 21, 4:51 PM

Vatican removes deputy bishop in Peru after sex abuse allegations Reuters LIMA (Reuters) - The Vatican, under Pope Francis' "zero-tolerance" policy for pedophile priests, removed an auxiliary bishop from his post in a Peruvian province because of...



12-year-old Torrington girl claims severe sexual abuse by stepfather, mother ... - Torrington Register Citizen



From www.registercitizen.com - September 21, 4:50 PM

12-year-old Torrington girl claims severe sexual abuse by stepfather, mother ...



Australian Law Council concerned over lack of detail around cuts to Family Court - ABC Online

van a salir en la prensa. Un ejemplo: hace años que llamé a la directora general de Violencia de Género de Andalucía y no me hizo ni caso. Ahora, cuando se ha enterado de que salgo en un documental, me ha llamado para saber qué necesito".



Child sexual abuse survivor becomes advocate to protect kids - Fox News



From video.foxnews.com - September 21, 4:51 PM

Child sexual abuse survivor becomes advocate to protect kids
Fox News

Wild sex abuse is an epidemic in this country take a look at these figures where I wouldn't Obama put him up on the screen view this stunned me I want to read this.



Raise awareness about domestic violence - Marietta Times

From www.mariettatimes.com - September 21, 4:43 PM

KUTV 2News
Raise awareness about domestic violence
Marietta Times
October is National Domestic Violence Awareness Month.





From www.abc.net.au - September 21, 4:41 PM

Australian Law Council concerned over lack of detail around cuts to Family Court ABC Online

The Australian Law Council is becoming increasingly worried about the lack of detail surrounding the Federal Government's planned Family Court funding cuts.



The Corruption of Child Protective Services (CPS) (August 15 2013)



From educate-yourself.org - September 21, 4:31 PM

The Corruption of Child Protective Services (CPS) (August 15 2013) <http://t.co/LRjeUpVsAR>



New Study: Bullying Lifelong Effect



From newyork.cbslocal.com - September 21, 4:30 PM

"A new study suggests that both girls and boys report similar levels of abuse — and that those who

NY corruption panel not transparent on spending - Wall Street Journal



From online.wsj.com - September 21, 4:31 PM

New York Daily News
NY corruption panel not transparent on spending
Wall Street Journal
ALBANY, N.Y. — New York's latest anti-corruption commission created by Gov.



Judicial Corruption in Chicago, Illinois how to fix cases

From unlawful1.blogspot.fr - September 21, 4:30 PM

Judicial Corruption in Chicago, Illinois how to fix cases: POLITICAL MACHINE WORSE THAN SYRIA WHERE R THE SOLDIERS...
<http://t.co/xG98m7vgdy>



UN Mothers UNiTE to End Violence Against Mothers And Their Children Campaign



From americanmotherspoliticalparty.org - September 21, 4:28 PM

Parental Alienation Syndrome, used to exacerbate Violence Cohersion and Control when a mother tries to leave an Abusive Relationship with her children.



suffer through it may be more likely to become abusers themselves... "Abuse is an umbrella for emotional abuse, physical abuse, sexual abuse, and each one in its own right is becoming more prominent, and the lack of education is one of the reasons," Gamberg said. "It used to mean just hitting, now, and most teens don't even recognize that they are being abused until it's too late or too dangerous,"

The study found that 41 percent of girls and young women, along with 37 percent of boys and young men are victims of dating abuse. The research also shows that middle school bullies — and those who are victims of bullying — may be more likely to become abusive in teen and adult relationships. "It follows a behavioral pattern, it's a coping mechanism," Dr. Gamberg said. "[Bullies] gain the power, they gain the respect — they think — by bullying. As they get older, they've marked their territory, and this is how they control relationships."

Teens, like adults, sometimes have trouble recognizing that they are in an abusive relationship, experts say. If you or someone you know is experiencing any of these warning signs in relationships, it could be a red flag for abusive behavior:

- Checks your cellphone or e-mail without permission
- Constantly puts you down
- Is extremely jealous or insecure
- Has an explosive temper
- Isolates you from family or friends
- Makes false accusations
- Physically hurts you in any way
- Tells you what to do

www.loveisrespect.org.



Inter American Commission Human Rights Suit Against United States



Organization of American States

From americanmotherspoliticalparty.org - September 21, 4:27 PM

Courts award custody to abusers Petitioners from Kansas, Georgia, California, New York, Arizona, New Jersey, Ohio, Rhode Island, Illinois, Nevada



PBS Documentary : Breaking the Silence Children's Stories



From americanmotherspoliticalparty.org - September 21, 4:27 PM

Dominique Lasseur Failures of the family court system Father's rights movement was quick to react with scathing criticism deluge of viewer complaints.



"Time's Up!": The Broken Custody Court System: Is there Reason for Hope?



From timesupblog.blogspot.com - September 14, 7:33 PM



Magistrate's denial of protection orders alarms domestic violence victims, advocates

5-year-old Yahav Gur and his 4-year-old sister Eden, killed by their father.

From www.israelnationalnews.com - September 21, 4:26 PM



La violencia machista maltrata a unas 600.000 mujeres y ya ha asesinado a 32 en lo que va de año - Ameco Press



From amecopress.net - September 14, 6:48 PM

Madrid, 10 sep. 13. AmecoPress. El Ministerio de Sanidad, Servicios Sociales e Igualdad confirmó este lunes que la muerte de una mujer en León que (...)

Global Expats's insight:

Pero, según el Colegio de Abogados de Madrid, abogados en España disfrutan del "inmunización" por mala práctica bajo "independencia judicial," en la violación de derechos de víctimas de la violencia de género en juzgados de familia - Que hay de malo en esta situación?? Es el mundo de Alicia en el país de las maravillas!!



Who Does A Narcissist Target?



From kdvr.com - September 13, 8:51 PM

DENVER -- Almost half of all murders in Colorado are women killed by their husbands. Many of these women suffer in violent intimate relationships for years, and sometimes they turn to family and fr...



Ariel Winter -- Mother Says Ariel Accused Her of Sexual Abuse - TMZ.com



From www.tMZ.com - September 13, 8:49 PM

Celebrity Dirty Laundry

Ariel Winter -- Mother Says Ariel Accused Her of Sexual Abuse

TMZ.com

Here's the problem ... The "Modern Family" star has never hinted at sexual molestation in her guardianship case.





From ladywithatruck.com - September 13, 8:50 PM

The popular opinion that narcissists target weak, desperate women/men is false. Narcissists are looking to feed their ego, consequently they search for attractive women/men that would be considered...



Mom, dad planned child sex abuse before kids were born - Orlando Sentinel



From www.orlandosentinel.com - September 13, 8:49 PM

Orlando Sentinel Mom, dad planned child sex abuse before kids were born - Jonathan and Sarah Adleta's children were doomed to a life of perverse cruelty before they were even born.



Sisters testify in sex abuse trial of ex-Salvation Army coach - Duluth News Tribune

From www.duluthnewstribune.com - September 13, 8:40 PM

Sisters testify in sex abuse trial of ex-Salvation Army coach Duluth News Tribune On Thursday, two of Greene's alleged victims, who were sisters ages 10 and 8 at the time, took the stand to give emotional testimony of their alleged sexual abuse...



Woman protesting outside County Hall over 'care system corruption'



From www.bucksherald.co.uk - September 13, 8:44 PM

A woman is protesting outside County Hall in Aylesbury against what she claims is corruption in the care system.



Sun news editor charged with corrupt payments



From www.independent.co.uk - September 13, 8:39 PM

Scotland Yard's anti-corruption investigation has announced charges against The Sun's former deputy news editor, Ben O'Driscoll.



