

Domestic Violence & the Hague Abduction Convention Time for Change part 2: co-design workshop

UK Action Plan Priorities

The Hague Convention on the Civil Aspects of Child Abduction be revised to better protect abused women and their children by allowing a stronger defence against return if there is family and domestic violence, incorporating an understanding that a child's return order may compel an abuse survivor to return to violence and harm, and that courts with jurisdiction under the Convention be required to consider family and domestic violence when interpreting and applying its provisions.

UN Special Rapporteur Reem Alsalem
'Custody, Violence against Women, and Violence against Children'

The Question

How do we support and safeguard mothers and their children who are victims of domestic abuse?

- pre flight
- pre court
- through court
- post court

The Answers

Pre-flight

The priority is to raise awareness, particularly among the professionals (individuals and organisations) who are likely to be the first port of call for mothers in abusive relationships.

- Include information about Hague mothers in medical training programmes re domestic abuse.
- Include information about Hague mothers in VAWG commissioning training; Commissioners to follow up with organisations.
- Include information about Hague mothers in new British Psychological Society Guidelines.
- Build a dedicated Hague mothers' page on the Shera website.

- Outreach: Look for opportunities to hold study groups regarding the Hague Abduction Convention and domestic abuse victims e.g. with law students, social workers etc.
- Attend conferences relating to e.g. domestic abuse / health / law / social care etc. Run workshops or stalls. Provide resources.
- Continue to network; include people of influence; use celebrities to raise profile.
- Utilise the power of 'human libraries' – create opportunities for mother's stories to be widely heard.

In addition, the creation of women-only police stations, based on Maria De Penha model in Brazil, would encourage women to report offences; women could feel confident that they would be seen by trauma-informed and women-centred female officers.

Pre-court

The priority is to ensure that 'taking' parents have specialist and well-funded support services available to them. Part of the domestic abuse budget should be ring-fenced for this area of work, with a clear acknowledgement of serious and significant safeguarding issues that underpin these cases. Support services should include:

- Access to free legal advice and representation in every case to include automatic free legal aid. If this is not available, domestic violence victims should have to meet a lower threshold.
- Advocacy and emotional support, support through court, emotional support for children (i.e. play therapy), peer support.
- Teenagers should automatically be allowed legal representation on request.

In addition:

- Replicate the Pathfinder initiative for Hague cases, to protect victims, minimise trauma of court experience, and ensure that children's voices are heard.
- Collaborative international initiative to explain risks, possible solutions, support available, in different countries. ISS could lead on this in the UK.
- Ensure that UK Social Services get a referral for every case to support the family and find out more about their situation through a home visit. Assessment could inform court hearing.
- International Social Services involved at an early stage: to provide information from petitioning country and clarify the wider context from the child's vantage point. Assessment could inform court hearing.

Court

Our priority was to establish 'one stop shops', possibly in collaboration with existing organisations e.g. Support through Court, The Court Said, Reunite. These could be housed in law schools and would provide a range of resources to include:

- legal, specialist domestic violence, mediation and court support advice i.e. process flow charts, information on intermediaries & advocates, special measures
- trauma-informed emotional support for both mothers and children

Once established, hubs would collaborate across borders, with a particular focus on legislative change.

- Draft UK protocol to be created to safeguard domestic abuse victims. Could use the 2022 Australian regulatory changes as a starting point. These included legal aid provision for 'taking' parents with ring-fenced budget, and directive that allegations of domestic violence may be considered by the court even when not proven.

Post-court

The focus was on: support for children, including those separated from their mothers due to a Hague judgment; the need for clear, comprehensive information for a returning mother; and formal and informal support for children.

- Information made available to the taking parent in relation to the country she is returning to e.g. specialist lawyers, legal aid, benefits/welfare provision, visa process, education and healthcare systems etc.
- Information on domestic violence legislation, support, protection, and list of professional organisations in country of habitual residence.
- Each country asked to supply information sheets to the International Child Abduction and Contact Unit (ICACU) or equivalent.
- A peer-support group for children, professionally supported to ensure safeguarding and to provide appropriate input & guidance, including trauma-informed support.
- A mothers' peer-support and information group to include country-specific resources on contact arrangements (and on gaining and maintaining contact in the case of children separated from their mothers); support for mothers after separation from abusive fathers.

Some of these proposals are already being actioned; others will require further advocacy, funding, and collaboration with government and third-sector organisations. All will be part of future discussions with our UK and international team, and will inform the next stage of our campaign to support and safeguard mothers and children.

Time for Change part 1: Policy Briefing

The co-design workshop was the culmination of a two-part research project on the Hague Abduction Convention and Domestic Violence. Part 1 concluded with the production of a Policy Brief: [Protection of Abducting Mothers in Return Proceedings under the 1980 Hague Convention on the Civil Aspects of International Child Abduction](#) authored by Professor Katarina Trimmings (Aberdeen University), Konstantina Kalaitsoglou (Pinsent Masons), and Dr Rima Hussein (Northumbria University). The conclusions of that briefing are as follows:

1. Since the adoption of the 1980 (Hague) Convention, the profile of the parental international child abductor has shifted to represent a majority of mothers (73%) with most cases involving allegations or findings of domestic violence. More consideration

needs to be given to how states and courts can afford better protection to domestic violence victims fleeing internationally for safety.

2. A direct address of the issue involves legislative intervention at the global and domestic level. The most effective but least pragmatic legislative intervention is the potential amendment of the text of the 1980 (Hague) Convention to take account of domestic violence. Alternatively, a Protocol to the Convention could be adopted internationally and provide at least some limited protection. If international legislative action is impossible, states could adopt or amend existing domestic legislation to clarify that domestic violence including the safety of the mother must be a consideration of the court before issuing a return order of the child under the 1980 (Hague) Convention.

3. Following a domestic-violence-sensitive interpretation of the 1980 Hague Convention in courts can lead to added protection to mothers fleeing domestic violence. There are three points under the Convention under which domestic violence allegations should be considered by courts: i. when the 'grave risk of harm' (Art 13(1)(b)) exception is invoked; ii. when the child objects to the return and therefore, the 'child objections' (Art 13(2)) exception is invoked; iii. under the 'human rights and fundamental freedoms' (Art 20) exception.

4. Supplementary means of supporting cases of international child abduction where domestic violence is present would be twofold. Firstly, states to appoint Hague Network Judges who are aware of the pertinent issues and are actively utilising the Network to address domestic violence allegations. Secondly, states to examine from a policy perspective the availability of alternative dispute resolution (ADR) methods and not exclude mediation without case-by-case suitability assessment by an expert.

Links

Hague Mothers website: <https://www.hague-mothers.org.uk>

Time for Change video: <https://youtu.be/uHm-3BA1DJK>

Petition: buff.ly/43bCGTp | <https://www.change.org/p/protecthaguevictims>

***With thanks to all our participants for your time, your knowledge,
your commitment and your passion for justice.***

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Ruth Dineen | Hague Mothers FiLiA Legacy Project

