New Frontiers in Cross Border Family Mediation


As globalization progresses and migratory streams increase, the number of multi-national and cross-cultural relationships and marriages is increasing. This brings new richness and diversity to our society, but can also bring new challenges and difficulties when those relationships break down. One of the difficulties that can occur is international parental child abduction, where one parent abducts the child or children to another country, often their country of origin, without the other parent’s consent. This usually results in complex legal proceedings under the Hague Convention on Civil Aspects of International Child Abduction (1980), to which 86 countries are parties, the only issue that can be decided in the court is whether the child or children should be returned or not returned to their state of habitual residence. This means that the court has no jurisdiction to decide on any other matters relevant to the future of the family, such as custody, access, maintenance or any other matters that may impact a decision in order for the family to resolve it. It is up to proceedings to decide whether or not the child’s interests must be considered in the relevant state, depending on where the child and the parties will live. This, however, is that both of the parties are located in different countries, possibly in different countries will be required for the resolution of the matter. After the abduction, in order to look for a solution, the case will largely fall under international law, that is, the Hague Convention on Civil Aspects of International Child Abduction (1980). It is required by the Convention that the return of the child should be in the interest of the child. To determine if the return is in the child’s best interest, the court must consider the circumstances of the case, including the relationship between the child and both parents, the child’s age, and the child’s cultural background. The Convention also sets out a number of exceptions to the rule of return, including the child’s best interest, a child’s interest, and the possibility of the child’s return being in the best interest of the child. This means that the child’s best interest is the primary consideration for the court in determining whether the child should be returned or not returned to their state of habitual residence.

Focus and the Katholieke Universiteit Leuven from Belgium, and Centrum Internationale Kinderontvoering (CIKO) from the Netherlands have been the first to combine in the first stage of the project that has not only been enormous learning experience for me personally, but has also resulted in the validation of a number of key findings in the field of international family mediation.

I must admit in saying this, when I first heard about the project, I was initially skeptical, but very much look forward to developing and expanding the multiplicity of factors that will play a part in such a mediation can easily be underestimated. First of all, there may be two sets of proceedings if the case is taken under the Hague Convention, possibly in two different nations will be required for the resolution of the matter. After the abduction, in order to look for a solution, the case will largely fall under international law, that is, the Hague Convention on Civil Aspects of International Child Abduction (1980). It is required by the Convention that the return of the child should be in the interest of the child. To determine if the return is in the child’s best interest, the court must consider the circumstances of the case, including the relationship between the child and both parents, the child’s age, and the child’s cultural background. The Convention also sets out a number of exceptions to the rule of return, including the child’s best interest, a child’s interest, and the possibility of the child’s return being in the best interest of the child. This means that the child’s best interest is the primary consideration for the court in determining whether the child should be returned or not returned to their state of habitual residence.

Mediation however offers a number of specific advantages to parents in the context of a child abduction case. These are of two main categories. On one hand, the parties can be seen as the parents of the child, and the Hague Convention requires that the parents be present and actively participate in the mediation process. The parties’ legal representatives are actively involved at all stages, particularly when it comes to drafting the agreements, and translators or interpreters may also sometimes be hired. This is generally preferable if a common language is available in the mediation.

Another potential advantage of mediation in child abduction cases, particularly where there is early intervention, is that it can provide a forum for the resolution of disputes outside the legal system, which can be seen as a win-win situation. One of the difficulties that can arise is that both of the parties are located in different countries, possibly in different countries will be required for the resolution of the matter. After the abduction, in order to look for a solution, the case will largely fall under international law, that is, the Hague Convention on Civil Aspects of International Child Abduction (1980). It is required by the Convention that the return of the child should be in the interest of the child. To determine if the return is in the child’s best interest, the court must consider the circumstances of the case, including the relationship between the child and both parents, the child’s age, and the child’s cultural background. The Convention also sets out a number of exceptions to the rule of return, including the child’s best interest, a child’s interest, and the possibility of the child’s return being in the best interest of the child. This means that the child’s best interest is the primary consideration for the court in determining whether the child should be returned or not returned to their state of habitual residence.

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