



Alert: Challenges and International Mechanisms to Address Cross-Border Child Abduction

Report of the Standing Senate Committee on Human Rights

The Honourable Mobina S.B. Jaffer, Chair

The Honourable Salma Ataullahjan, Deputy Chair

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MEMBERS OF THE COMMITTEE

The Honourable Mobina S. B. Jaffer, Chair

The Honourable Salma Ataullahjan, Deputy Chair

and

The Honourable Senators:

Raynell Andreychuk

Nicole Eaton

Art Eggleton, P.C.

Elizabeth Hubley

Nancy Ruth

Thanh Hai Ngo

Scott Tannas

Ex-officio members of the committee:

The Honourable Claude Carignan, P.C., (or Yonah Martin) and James Cowan
(or Joan Fraser)

Other Senators who have participated from time to time in the study:

The Honourable Senators Boisvenu, Meredith, Munson, Seidman, Smith, P.C. (*Cobourg*) and
Unger

Parliamentary Information and Research Service, Library of Parliament:

Shauna Troniak and Julia Nicol, Analysts

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Other Staff who have assisted the Committee from time to time in the study:

Ceri Au, Communications Officer

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Parliament

ORDER OF REFERENCE

Extract of the *Journals of the Senate*, Thursday, February 27, 2014:

Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Ringuette:

That the Standing Senate Committee on Human Rights be authorized to study international mechanisms toward improving cooperation in the settlement of cross-border family disputes, including Canada's actions to encourage universal adherence to and compliance with the Hague Abductions Convention, and to strengthen cooperation with non-Hague State Parties with the purpose of upholding children's best interests; and

That the committee submit its final report to the Senate no later than December 31, 2014.

After debate,

The question being put on the motion, it was adopted.

Extract of the *Journals of the Senate*, Thursday, December 11, 2014:

The Honourable Senator Jaffer moved, seconded by the Honourable Senator Ringuette:

That, notwithstanding the order of the Senate adopted on Thursday, February 27, 2014, the date for the final report of the Standing Senate Committee on Human Rights in relation to its examination of international mechanisms toward improving cooperation in the settlement of cross-border family disputes, including Canada's actions to encourage universal adherence to and compliance with the Hague Abductions Convention, and to strengthen cooperation with non-Hague State Parties with the purpose of upholding children's best interests be extended from December 31, 2014 to March 31, 2015.

The question being put on the motion, it was adopted.

Gary W. O'Brien

Clerk of the Senate

Extract of the *Journals of the Senate*, Tuesday, March 31, 2015:

The Honourable Senator Jaffer moved, seconded by the Honourable Senator Munson:

That, notwithstanding the order of the Senate adopted on Thursday, February 27, 2014, and Thursday, December 11, 2014, the date for the final report of the Standing Senate Committee on Human Rights in relation to its examination of international mechanisms

toward improving cooperation in the settlement of cross-border family disputes, including Canada's actions to encourage universal adherence to and compliance with the Hague Abductions Convention, and to strengthen cooperation with non-Hague State Parties with the purpose of upholding children's best interests be extended from March 31, 2015, to February 29, 2016.

The question being put on the motion, it was adopted.

Charles Robert

Clerk of the Senate

EXECUTIVE SUMMARY

International child abductions are very difficult situations for both parents and children. For left-behind parents, international child abduction cases invoke a complicated set of legal considerations, in addition to the psychological and emotional issues involved.

The *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (Hague Abduction Convention) was developed by the international community to help prevent and resolve cases involving the abduction of children across international borders. The Hague Abduction Convention currently has 93 states parties, while a complex network of national and international actors – including national and other levels of government, police services, judges and an international secretariat – works to expand the reach of the convention and ensure its proper implementation.

The Hague Abduction Convention is the primary international legal instrument governing state action in cross-border child abduction situations. It is also the primary educational tool for parents and others involved in such situations.

In light of the on-going challenges faced by parents in having their children returned to Canada and enforcing access rights, on 2 December 2013, the Standing Senate Committee on Human Rights agreed to study the issue of international child abductions, and the role of the Hague Abduction Convention and other international mechanisms in resolving these disputes. Accordingly, the Senate passed the following order of reference on 27 February 2014:

That the Standing Senate Committee on Human Rights be authorized to study international mechanisms toward improving cooperation in the settlement of cross-border family disputes, including Canada's actions to encourage universal adherence to and compliance with the Hague Abductions Convention, and to strengthen cooperation with non-Hague State Parties with the purpose of upholding children's best interests.

The Committee held seven meetings on this topic in the spring and fall of 2014. It heard from a variety of stakeholders who spoke about the many dimensions of this complex problem.

The report begins in Chapter 2 by exploring the Hague Abduction Convention, including its key provisions and their interpretation and application by the courts in different jurisdictions. Efforts to increase the number of states parties, in which Canada takes an active role, are also outlined in this chapter.

Chapter 3 discusses other international instruments that address the issue of international child abduction. In particular, the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* may benefit the parents of children that have been abducted, though Canada has not yet ratified this convention. This Chapter also discusses relevant provisions of the United Nations *Convention on the Rights of the Child*, and notes the importance of ensuring that the best interests of the child – a core principle of this convention – remain at the centre of any decision-making in international abduction cases.

Chapter 4 looks at the Malta Process and bilateral agreements with countries that have not ratified the Hague Abduction Convention. As discussed in this chapter, most countries with legal systems based in or influenced by Islamic law (Sharia) have not ratified the Hague Abduction Convention. The Malta Process has been developed to promote dialogue with these countries. Witnesses were cautiously optimistic about the benefits of the Malta Process, though it was acknowledged that it will take time to come to mutual understanding on these complex issues, and the impacts of such dialogue may be seen only in the longer term. A working group on mediation was established as part of the Malta Process and is continuing its work in examining the potential of mediation to address international family disputes involving states that have not ratified the Hague Abduction Convention.

Chapter 5 outlines the available data and what it reveals about the issue of international child abduction. The Committee heard that several sources provide partial statistical information, but none reveal precise and up-to-date figures on the number of children abducted by a parent across international borders, either from Canada or more generally. The Committee also heard that detailed and comprehensive analysis surrounding the circumstances of international child abductions is not currently available. Given these limitations, it is difficult to gain a thorough quantitative or qualitative understanding of the problem within Canada or internationally.

The various efforts of the federal government to address the issue of international child abduction are outlined in Chapter 6. These include consular services, with a Vulnerable Children's Consular Unit recently created, as well as border and passport controls and education and training on the topic for parents and other stakeholders. There are a number of limits on what the government can do to assist parents however, particularly since there are no exit controls in Canada, making it difficult to monitor and prevent children from leaving the country.

Next, Chapter 7 explores what parents can do if they fear their child has been or will be abducted and taken out of the country. This section outlines the various steps a parent can take before and after an abduction occurs, such as putting a child's name on a lookout list with Passport Canada, and provides flow charts outlining the various steps that can be taken by a parent in this situation.

Finally, in Chapter 8, the report makes several recommendations that this Committee hopes will help to deter parents from abducting their children across international borders, and facilitate the return of a child to the state of habitual residence, as well as access rights. These involve increasing awareness of the Hague Abduction Convention, ratifying the Hague Child Protection Convention, improving statistical collection and analysis, continued involvement in the Malta Process including increased parliamentary involvement, improving coordination of assistance to parents by the multiple actors involved and improving border and passport controls.

CHAPTER 1: INTRODUCTION

International child abductions are very difficult situations for both parents and children. For left-behind parents, international child abduction cases invoke a complicated set of legal considerations, in addition to the psychological and emotional issues involved. An abduction can have grave and irrevocable consequences for both the child and the left-behind parent. As the father of an abducted daughter has explained:

The damage from this crime is permanent. The childhood memories that should have been never will be. The bond between [a] girl and her brother, a daughter and a father, can't be reconnected and sent back in time. There is no such thing as restitution in our case. We can't import memories of family rituals, long talks, holidays and firsts of all kinds.¹

The issue of international child abduction, while not new, has grown over the past few decades, along with general increases in international travel, international and cross-cultural relationships, and rates of divorce and legal separation. Such abductions are most often carried out by a family member, usually a parent. They occur when a child is either taken to another country by one parent without the consent of the other parent (or guardian), or kept in another country beyond the period for which consent was given.

International child abductions also pose complex legal problems to authorities in both the state where the child is located, and the state from which the child has been taken. Differences in legal systems between states, as well as the physical distances often involved, create difficulties in locating and returning internationally abducted children.

The *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (Hague Abduction Convention)² was developed by the international community to help prevent and resolve cases involving the abduction of children across international borders. The Hague Abduction Convention currently has 93 states parties, while a complex network of national and international actors – including national and other levels of government, police services, judges and an international secretariat – works to expand the reach of the convention and ensure its proper implementation.

The Hague Abduction Convention is the primary international legal instrument governing state action in cross-border child abduction situations. It is also the primary educational tool for parents and others involved in such situations. In general, the Hague Abduction Convention provides for the return of a child (under 16 years old) who has been abducted to another state that is also a party to the convention. The authorities in the state where the child has been taken are required to return the child to the state of his or her habitual residence subject to certain exceptions. The convention can also assist in attempts to exercise access rights. The Hague Abduction Convention does not provide

¹ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 7 April 2014 (Christy Dzikowicz, Director, Missing Children Services, Canadian Centre for Child Protection). This is a quote from a father that Missing Children Services assisted.

² *Convention on the Civil Aspects of International Child Abduction*, 25 October 1980, entered into force 1 December 1983 [Hague Abduction Convention].

rules for the determination of custody and access, but rather leaves such decisions to the legal system in the state where the child is habitually resident prior to removal.³

In 1998, Canada's House of Commons Standing Committee on Foreign Affairs and International Trade's Sub-Committee on Human Rights and International Development studied the issue of international child abductions. Many of the committee's recommendations are still relevant today. In light of the on-going challenges faced by parents in having their children returned to Canada and enforcing access rights, on 2 December 2013, the Standing Senate Committee on Human Rights agreed to study the issue of international child abductions, and the role of the Hague Abduction Convention and other international mechanisms in resolving these disputes. Accordingly, the Senate passed the following order of reference on 27 February 2014:

That the Standing Senate Committee on Human Rights be authorized to study international mechanisms toward improving cooperation in the settlement of cross-border family disputes, including Canada's actions to encourage universal adherence to and compliance with the Hague Abductions Convention, and to strengthen cooperation with non-Hague State Parties with the purpose of upholding children's best interests.

The Committee held seven meetings on this topic in the spring and fall of 2014. It heard from a variety of stakeholders, including lawyers, a judge, a parent, non-governmental organizations (NGOs), academics, government officials and law enforcement authorities, who spoke about the many dimensions of this complex problem. In canvassing this wide range of perspectives, the Committee aimed to compile a comprehensive view of the issue of cross-border child abduction, and of current national and international responses to this problem.

The abduction of a child is rarely anticipated. While not all child abductions can be prevented, the Committee believes that this report will help to raise awareness of this issue and of current measures that are in place to prevent parents from abducting their children across international borders.

The report begins by explaining the Hague Abduction Convention, as well as complementary international treaties and processes. Statistical information and case trends are discussed next. Later sections outline Canada's response to international child abduction and issues and options for Canadian parents faced with such a situation. Finally, the report makes several recommendations that this Committee hopes will help to deter parents from abducting their children across international borders, and facilitate the return of a child to the state of habitual residence, as well as access rights.

³ The Hague Abduction Convention defines "rights of custody" as including "rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence." "Rights of access" are defined as including "the right to take a child for a limited period of time to a place other than the child's habitual residence" (Article 5).

CHAPTER 2: THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Thirty-five years ago, Canada initiated negotiations for an international treaty to address the growing number of cross-border child abductions. Negotiations were undertaken under the auspices of the Hague Conference on Private International Law (the Hague Conference), a global intergovernmental organization which develops and services multilateral private international law treaties.⁴ The result of these negotiations was the adoption of the Hague Abduction Convention on 25 October 1980, followed by its entry into force on 1 December 1983.

With 93 states parties, the Hague Abduction Convention is today among the most widely ratified of the Hague Conventions.⁵ Canada ratified the convention on 2 June 1983.⁶ Japan, Iraq and Zambia are the three most recent states parties, having become states parties in 2014. Figure 1 provides the list of signatories, as well as the list of countries for which Canada has not accepted accession, which includes Iraq and Zambia. The process of accepting accessions is outlined in the section below entitled “Ratifications and Accessions”.

The Hague Abduction Convention contains 45 articles, including provisions outlining its objectives, the rules governing the return of a child and access rights, and exceptions to such rules. These and other key provisions of the convention, along with issues concerning the interpretation and application of the Hague Abduction Convention by states parties, are summarized in the following section.

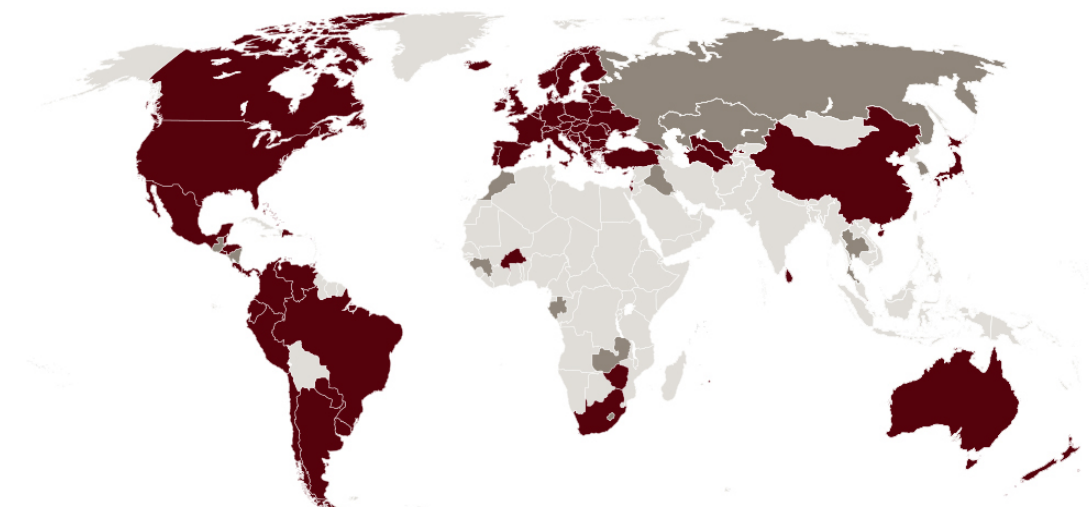
⁴ Private international law is “designed to resolve conflicts between different jurisdictions, the legal systems or rules of different jurisdictions and decisions of courts of different jurisdictions. It consists of legal principles that apply in situations in which more than one court might claim jurisdiction, to which the law of more than one jurisdiction might apply or in which a court must determine whether it will recognize and enforce a foreign judgment or, in Canada, a judgment from another province,” [Club Resorts Ltd. v. Van Breda](#), 2012 SCC 17, para. 15.

⁵ Hague Conference on Private International Law, [Status Table, Convention of 25 October 1980 on the Civil Aspects of International Child Abduction](#). Note that, though Kosovo is not a state party, the United Nations Interim Administration Mission in Kosovo’s [Regulation No. 2004/29 on Protection against International Child Abduction](#) requires actions undertaken under that regulation to be conducted “in accordance with the [1980] Convention.”

⁶ Note that Canada has made reservations and/or declarations in relation to articles 6 (designation of central authorities), 26 (costs), 40 (applicability of the convention in different territorial units within the state) and 42 (permissible reservations).

Figure 1: States Parties to the Hague Abduction Convention

| Countries with reciprocal obligations with Canada under the Hague Abduction Convention | | | |
|---|--------------------|-----------------------|--|
| Albania | Denmark | Luxembourg | Slovakia |
| Andorra | Dominican Republic | Malta | Slovenia |
| Argentina | Ecuador | Mauritius | South Africa |
| Australia | El Salvador | Mexico | Spain |
| Austria | Estonia | Monaco | Sri Lanka |
| Bahamas | Fiji | Montenegro | Sweden |
| Belarus | Finland | Netherlands | Switzerland |
| Belgium | France | New Zealand | The former Yugoslav Republic of Macedonia |
| Belize | Georgia | Norway | Trinidad and Tobago |
| Bosnia and Herzegovina | Germany | Panama | Turkey |
| Brazil | Greece | Paraguay | Turkmenistan |
| Bulgaria | Honduras | Peru | Ukraine |
| Burkina Faso | Hungary | Poland | United Kingdom of Great Britain and Northern Ireland |
| Chile | Iceland | Portugal | United States of America |
| China, People's Republic of | Ireland | Republic of Moldova | Uruguay |
| Colombia | Israel | Romania | Uzbekistan |
| Costa Rica | Italy | Saint Kitts and Nevis | Venezuela |
| Croatia | Japan | San Marino | Zimbabwe |
| Cyprus | Latvia | Serbia | |
| Czech Republic | Lithuania | Singapore | |
| Countries for which Canada has not yet accepted accession | | | |
| Armenia | Iraq | Morocco | Thailand |
| Gabon | Kazakhstan | Nicaragua | Zambia |
| Guatemala | Korea, Republic of | Russian Federation | |
| Guinea | Lesotho | Seychelles | |



A. Key Provisions

1. Objectives

The Committee heard that the overarching objective of the Hague Abduction Convention is to act as a deterrent to international child abduction, by creating a mechanism to order the immediate return of the child in question. As the Honourable Justice Jacques Chamberland of the Quebec Court of Appeal stated, “[t]he idea is that parents will understand that there is no use unilaterally removing a child since the child will be returned.”⁷

The Hague Abduction Convention applies to situations involving the “wrongful removal” or “wrongful retention” of a child in another state in violation of existing custody or access arrangements. As set out in article 1, the stated objectives of the Hague Abduction Convention are:

- to secure the prompt return of children wrongfully removed to, or retained in, any state party (art. 1(a)); and
- to ensure that rights of custody and of access under the law of one state party are effectively respected in the other states parties (art. 1(b)).

Under the convention, the removal or retention of a child under 16 years of age is “wrongful” when it occurs in breach of rights of custody that are recognized under the law of the state where the child habitually resides, and those rights were being exercised by the parent at the time the child was abducted.⁸

2. Central Authorities

The Hague Abduction Convention requires that each state party designate one or more “Central Authorities” to carry out various duties imposed on states under the convention. Central Authorities are under a general obligation to “co-operate with each other and promote co-operation amongst the competent authorities in their respective States”⁹ to achieve the objectives of the convention. The specific duties placed on Central Authorities include taking all appropriate measures to:

- discover the whereabouts of an abducted child;
- secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- share information on the laws in their state in connection with the application of the convention;
- where desirable, to make arrangements to organize or secure the exercise of access rights; and

⁷ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 7 April 2014 (Hon. Jacques Chamberland, Member, International Hague Network of Judges, as an individual).

⁸ Hague Abduction Convention, articles 3 and 4.

⁹ *Ibid.*, article 7.

- initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child.¹⁰

As issues of custody and access are matters under provincial jurisdiction in Canada, there are Central Authorities in all 13 provinces and territories, as well as a federal Central Authority located in the Department of Foreign Affairs, Trade and Development (DFATD).¹¹ The Committee heard that provincial and territorial Central Authorities generally handle day-to-day casework and work directly with their counterparts in other Hague states to fulfil their duties under the convention. The federal Central Authority may become involved when, for example, the left-behind parent requires assistance in locating the child within Canada, or where specific language skills are required to communicate with authorities in another country. Federal authorities may also become involved where there are child welfare concerns about the return to another country requiring follow-up by DFATD consular personnel.¹²

The Committee heard that Canadian Central Authorities also fulfil their obligations under the Hague Abduction Convention through their roles in providing public education and legal information to various stakeholders. For example, they disseminate information about the convention through public speaking engagements and written and web-based materials, provide referrals to relevant information and resources for parents, monitor the compliance of Canadian courts with the requirements of the Hague Abduction Convention, and work with judges to develop guidelines of interpretation.¹³

3. Enforcement of Custody and Access Rights

The convention provides a legal framework for the enforcement of custody and access rights, but leaves the actual adjudication of family disputes to the legal system of the country where the child is returned. In other words, the convention provides for the summary return of a child to the state of habitual residence, but the courts in that state must decide on actual custody and access arrangements in each case. The court in the country where the child is being held is tasked only with determining whether the child should be returned.

It is up to the left-behind parent to initiate proceedings under the Hague Abduction Convention. As William Crosbie, Assistant Deputy Minister, Consular, Security and Legal Branch, Chief Security Officer and Legal Adviser, DFATD, stated:

Fundamentally, international wrongful removals and retentions of children are private legal disputes. International conventions and government services are able to provide the framework for handling

¹⁰ Ibid.

¹¹ Hague Conference on Private International Law, "[Canada – Central Authority](#)," *Authorities*.

¹² Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 5 May 2014 (Shane Foulds, Legal Counsel, Ministry of the Attorney General of Ontario, and Penelope Lipsack, Barrister and Solicitor, Legal Services Branch, Ministry of Justice of British Columbia).

¹³ *Evidence*, 5 May 2014 (Lipsack).

such disputes, but it must be pursued by the parents through the available domestic legal systems of the countries concerned.¹⁴

Custodial parents can apply to a relevant Central Authority for assistance in securing the return of the child to the state of habitual residence (art. 8). The Central Authority of the state where the child is currently located is obligated to take, or cause to be taken, all appropriate measures in order to obtain the voluntary return of the child as long as none of the exceptions contained in the convention (discussed below) apply (art. 10).

If proceedings to secure the return of the child are initiated by the custodial parent within one year of the wrongful removal, the judicial or administrative authority with decision-making power must “order the return of the child forthwith” (art. 12). Once proceedings are initiated, judicial and administrative authorities of states parties, including courts and Central Authorities, are under an obligation to act expeditiously (art. 11).

The Hague Abduction Convention also contains measures to protect non-custodial access rights. Central Authorities have the same obligations of cooperation outlined in article 7 to “promote the peaceful enjoyment of access rights and the fulfilment of any conditions” as well as to “take steps to remove, as far as possible, all obstacles to the exercise of such rights” (art. 21). Parents with rights of access may apply to Central Authorities for assistance in the same manner as custodial parents, though they cannot request the return of the child under the convention’s summary return mechanism. Instead, they may apply to organize or secure the effective exercise of their access rights (art. 21).

4. Exceptions

The Hague Abduction Convention operates on the general presumption that a child should be promptly returned to the state of habitual residence after being wrongfully removed or retained in another state. However, the convention also allows judges in the state party where the child has been taken to refuse the return of the child in some circumstances. Exceptions to this general principle of summary return are set out in articles 12, 13 and 20 of the convention:

- Article 12 provides an exception to return if proceedings are initiated after the one-year period has expired, and “it is demonstrated that the child is now settled in its new environment.”
- Article 13(a) provides an exception to return where the left-behind parent was not exercising his or her custody rights at the time the child was removed or retained.
- Article 13(b) provides an exception to return where returning the child would gravely risk exposing him or her to “physical or psychological harm or otherwise place the child in an intolerable situation.”
- Article 13 also provides for a refusal to return the child if 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.”

¹⁴ Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, 31 March 2014 (William Crosbie, Assistant Deputy Minister, Consular, Security and Legal Branch, Chief Security Officer and Legal Adviser, DFATD).

- Article 20 provides for a refusal to return where it would be inconsistent with a state’s obligations with regard to the “protection of human rights and fundamental freedoms.”

Assessing whether an exception applies in a given case can take time, especially where there are allegations of abuse or child welfare concerns. This often prevents a speedy return, which is a primary purpose of the convention, and thus challenges its utility as a tool for parents. At the same time, taking sufficient time to make the right decision may be crucial to ensuring the safety and well-being of a child.

The exception contained in article 13(b) of the Hague Abduction Convention – which prevents return that would cause physical or psychological harm or otherwise place the child in an intolerable situation – is the exception most commonly invoked in return proceedings. According to Christophe Bernasconi, Secretary General of the Hague Conference on Private International Law, article 13(b) was meant to be “an exceptional exception,” but it has become a “general exception,” being used more than was originally anticipated.¹⁵

Several witnesses indicated that article 13(b) is increasingly invoked in cases involving allegations of domestic violence.¹⁶ However, the prevalence of such abuse appears to be contested¹⁷ and, as Nigel Lowe, Professor of Law at Cardiff University, noted, the reasons why this article is pleaded cannot be verified based on available statistical information:

There is no doubt that a lot of cases start off with one sort or another of violent dispute, but the statistical surveys don't give an answer to that, and I don't think it's universally the reason. I think in a lot of cases if it's the mother who is living in the foreign country, whatever the reason the marriages [*sic*] has broken up, a natural reaction will be to think about going home where they will argue that they have more support and that they understand the system, and often, if they are newly in the new country of marriage, they're going to be lonely.¹⁸

The Committee also heard that article 13(b) is the exception that poses the greatest interpretive challenge to judges deciding whether or not to return the child to the state of habitual residence. In a return proceeding, which is supposed to be a quick process, it can be difficult to ascertain the truth of allegations of domestic abuse. The Committee heard that, in Canada, there have been judicial decisions “that say if there is serious risk of domestic violence to the mother ... that could be presumed to be a serious risk to the child, [and the judge] may choose not to order the child back...”¹⁹

¹⁵ Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, 2 June 2014 (Christophe Bernasconi, Secretary General, Hague Conference on Private International Law).

¹⁶ Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, [31 March 2014](#) (Ernie Allen, President and CEO, International Centre for Missing and Exploited Children) and [25 September 2014](#) (Alison Shalaby, Chief Executive Officer, Reunite International Child Abduction Centre).

¹⁷ For example Carol Bruch, Distinguished Professor Emerita and Research Professor of Law, School of Law, University of California, Davis, testified that abuse is common in such cases, while Ms. Shalaby questioned whether abuse is a significant factor, stating that “what mothers are doing is making a lifestyle choice.”

¹⁸ Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, 6 November 2014 (Nigel Lowe, Emeritus Professor, Cardiff Law School, as an individual).

¹⁹ Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, 7 April 2014 (Max Blitt, Fellow, International Academy of Matrimonial Lawyers, as an individual).

The Committee was informed that in the United Kingdom (U.K.), when allegations are made that could justify the exercise of one of the exceptions, the allegations are generally assumed to be true, and the child is returned if adequate arrangements can be made to secure the protection of the child and accompanying parent.²⁰ While this approach can speed up a return proceeding, some witnesses expressed concern that such conditions for return were often violated by the parents who had agreed to observe them.²¹ The Committee also heard of Hague Abduction Convention decisions that have required a child to be put in foster care upon return or live with their mother in a women’s shelter to mitigate safety concerns, rather than refusing the return application. While this does not appear to be a common concern in Canadian judicial decisions, return subject to conditions has been an issue in other countries.²²

Witnesses did not feel there was a need to amend the Hague Abduction Convention to address such situations, seeing these issues as questions of interpretation and application, and not issues with the convention itself.²³ The Committee was encouraged to hear from government officials that an international working group is developing a guide to good practice with respect to section 13(b) at the urging of Canada and with Canadian judicial and government involvement.²⁴ The Committee welcomes the development of such a guide as a potentially useful tool to clarify the scope of the exception and the appropriate response where section 13(b) applies.

B. Ratifications and Accessions

As noted above, the Hague Abduction Convention is one of the most widely ratified of the Hague conventions. Nonetheless, given that being a state party to the convention has a significant impact on rates of return (discussed further below), increasing the number of states parties to the Hague Abduction Convention is a priority for Canada. To this end, DFATD promotes the Hague Abduction Convention abroad and raises the issue of wrongful removals and retentions in bilateral and multilateral settings when possible. Mr. Crosbie provided the recent example of Japan, where DFATD and the Department of Justice, in collaboration with officials from other countries, worked together “to persuade Japanese authorities that the Hague Abduction Convention is consistent with Japanese cultural practices and consistent with [their] legal regime.”²⁵ Japan ratified the convention in January 2014.

Other witnesses also highlighted Canada’s international efforts to promote greater ratification and accession to the convention. Ernie Allen, President and CEO of the International Centre for Missing and Exploited Children, told the Committee that Canada has been a “world leader in the Hague process” and plays an important role in encouraging countries to be involved in the Malta Process

²⁰ *Evidence*, 7 April 2014 (Chamberland).

²¹ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 7 April 2014 (Carol Bruch, Distinguished Professor Emerita and Research Professor of Law, School of Law, University of California, Davis, as an individual); *Evidence*, 6 November 2014 (Lowe).

²² *Evidence*, 7 April 2014 (Blitt & Bruch).

²³ *Ibid.*

²⁴ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 31 March 2014 (Marie Riendeau, Counsel, International Private Law Section, Justice Canada).

²⁵ *Evidence*, 31 March 2014 (Crosbie).

(discussed below) and to ratify the convention.²⁶ During his testimony, Mr. Bernasconi expressed great appreciation for Canada's advocacy to encourage ratification and accession by non-states parties.²⁷

As will be discussed in further detail below, many states with legal systems based in or influenced by Islamic law have been hesitant to ratify the Hague Abduction Convention. As was explained to the Committee by experts in Islamic law, there are certain rules with respect to family law that are different than those in secular legal systems. For example, custody may be granted to the mother or father based on the age of a child. Also, custody rights can be affected by re-marriage of the mother or her religion and other relatives may have custody rights.²⁸ As stated by Anver Emon, Professor of Law at the University of Toronto and Canada Research Chair in Religion, Pluralism and the Rule of Law, "Left-behind parents who are not Muslim, who are women, who are not of that nationality suffer detriments in domestic legal systems in Muslim majority countries."²⁹ Given these differences, many states with Islamic legal systems appear unwilling to commit themselves to the Convention and to returning children to countries with very different laws.

Nonetheless, the Committee heard about the potential for a growing number of states with such legal systems to become states parties. For example, Morocco ratified in 2010 and Iraq did so in 2014. Mr. Bernasconi noted that Canada is involved in current discussions with Indonesia, and that a joint mission of the Hague Conference and Canada is planned to that country and to the Middle East region, to encourage wider ratification and accession to the convention. Along with other Muslim-majority countries that are already states parties, there could soon be the critical numbers to encourage other countries with Islamic-influenced legal systems to accede to the Hague Abduction Convention, according to Mr. Bernasconi.³⁰ Mr. Crosbie explained Canada's advocacy work in the following terms:

What we're trying to do with these countries that are not members of the Hague is to help them understand how the convention can actually work consistent with their legal systems, norms, cultures and practices. But I would have to say that in many of these countries they are poor and they don't have a well-developed family law system for domestic disputes, so it is going to take time to persuade them to join the convention. Working with our Justice colleagues and with other governments, we're trying to help them understand how they could join the convention in ways that will complement their own systems and help to build up their own family law institutions.³¹

²⁶ *Evidence*, 31 March 2014 (Allen).

²⁷ *Evidence*, 2 June 2014 (Bernasconi).

²⁸ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 28 April 2014 (Ahmed Fekry Ibrahim,, Assistant Professor, Institute of Islamic Studies, McGill University, as an individual).

²⁹ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 28 April 2014 (Anver Emon, Professor and Canada Research Chair in Religion, Pluralism and the Rule of Law, Faculty of Law, University of Toronto, as an individual).

³⁰ *Ibid.*

³¹ *Evidence*, 31 March 2014 (Crosbie).

Mr. Bernasconi agreed with a suggestion from the Chair of the Committee that the involvement of Canadian parliamentarians in the promotion of the convention to fellow parliamentarians overseas would be a positive development. He offered his organization's assistance, noting that there are not currently many "cross-border parliamentary exchanges" on the topic. Such advocacy is particularly important considering that, according to Mr. Bernasconi, some governments are not even aware of the convention's existence.³²

When a state that was not a member of the Hague Conference in 1980 "accedes" to the Hague Abduction Convention (i.e., becomes a state party), existing states parties must decide whether to "accept" the accession and thus be bound by the treaty with respect to the new state. In considering whether to accept accessions to the convention, Canada must consider whether a country is willing and able to fully implement the convention. The purpose of the acceptance requirement is to provide states parties the time to ensure that a new state party has fulfilled the requirements to implement the treaty prior to creating legally binding reciprocal obligations.³³

The Committee heard that DFATD makes decisions on the acceptance of accessions based on the advice of the Minister of Justice, once the Department of Justice has assessed the ability of the other state party to implement the convention. The assessment process includes determining if legislation to give effect to the convention has been passed, if required, and establishing whether there is a functional Central Authority. Sometimes it is difficult to get information about the state of implementation, which can delay acceptance.³⁴

In testimony on 6 November 2014, Department of Justice officials informed the Committee that Canada had recently accepted the accessions of six additional states: Albania, Andorra, Dominican Republic, San Marino, Singapore and Ukraine. The convention is, therefore, in effect between Canada and these states as of 1 January 2015.³⁵ As of 1 December 2014, Canada had yet to accept 14 of the accessions to the Hague Abduction Convention.³⁶

The Committee is pleased to see that Canadian officials proceed cautiously and seek sufficient information about implementation on the ground before engaging Canada in such reciprocal obligations.

C. Implementation of the Hague Abduction Convention

1. Capacity-Building and Training

Even once countries have ratified or acceded to the Hague Abduction Convention and Canada has approved accession, a number of witnesses identified a lack of consistency in interpretation among

³² *Evidence*, 2 June 2014 (Bernasconi)..

³³ *Evidence*, 31 March 2014 (Riendeau).

³⁴ *Ibid.*

³⁵ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 6 November 2014 (Kathryn Sabo, General Counsel and Director, International Private Law Section, Justice Canada).

³⁶ See Hague Conference on Private International Law, [Spreadsheet showing acceptances of accessions to the Child Abduction Convention](#) (as of 11 June 2015). These states are also distinguished in the map of states parties in Figure 1 above.

the judiciary in different states as a key challenge. As Justice Chamberland noted, there is no international Supreme Court that can provide a final word on how to interpret or apply the Hague Abduction Convention.³⁷ Judges in different jurisdictions, often with very different legal systems, are making the final decisions about whether to return a child or recognize access rights. In making their decision on a Hague application, judges may also apply domestic law and consider other international obligations in force in their respective jurisdictions.

Given the importance of an independent judiciary, neither governments nor the Hague Conference can tell judges how they must interpret the Hague Abduction Convention. At the same time, without consistency in the interpretation and application of the Hague Abduction Convention, there can be unpredictability for parents and the reciprocal obligations outlined in the Hague Abduction Convention are not respected if some countries refuse returns where others would not.

The Committee heard that training and capacity building for judges are key to promoting the consistent application of the convention across jurisdictions. Max Blitt, Fellow of the International Academy of Matrimonial Lawyers and a family law lawyer practising in Alberta, noted that the Hague Abduction Convention does not work as well in countries lacking the resources and judicial training to “really put the Hague Abduction Convention into operation” or where a clear understanding of the convention’s operation is lacking. In some states, there is also a bias in favour of the abducting parent if he or she is a national of the country, resulting in unfair outcomes that do not reflect the Hague Abduction Convention’s decision-making framework.³⁸ As one witness explained the challenge of training judges:

[J]udicial training is enormously important around the world, because there are a lot of judges who are saying, “I’m a judge. I’m going to do what a judge does. I don’t care what the convention says. I’m going to listen to the facts and do what’s right.” I understand that, but this convention will work if there is greater uniformity and greater consistency and the judges really know what they’re dealing with.³⁹

The Hague Conference provides training and technical expertise to assist countries in meeting their obligations under Hague conventions. The Committee heard that training in the early stages of implementation of the Hague Abduction Convention within a state party can be particularly beneficial.⁴⁰ However, because of limited resources, priority is given to Hague Conference member countries. This means that countries that accede to the Hague Abduction Convention but are not members are less likely to receive direct assistance from the organization given limited resources.⁴¹

The Hague Conference also publishes technical information on various aspects of the Hague Abduction Convention, including guides to good practice on the topics of Central Authorities, implementation of the convention, prevention of abductions, enforcement of the convention, facilitation of contact with both parents, and mediation. It also maintains a database known as the

³⁷ *Evidence*, 7 April 2014 (Chamberland).

³⁸ *Evidence*, 7 April 2014 (Blitt).

³⁹ *Evidence*, 31 March 2014 (Allen).

⁴⁰ *Evidence*, 7 April 2014 (Blitt).

⁴¹ *Evidence*, 2 June 2014 (Bernasconi).

International Child Abduction Database (INCADAT), which provides access to summaries of decisions from other countries in English, French and Spanish. Unfortunately, the Committee heard that there is a risk that this resource will be eliminated without further funding from members or private sources.⁴²

The Special Commissions of the Hague Conference provide an additional space to share practices and learn from others' successes.⁴³ Special Commissions, which occur every four to six years, help to monitor the practical operation of the Hague Abduction Convention and offer a forum for representatives of all states parties to examine inconsistent decisions together and discuss how to move forward.⁴⁴ The Committee heard that it is a long process, requiring diplomacy and negotiation to try and come to a common understanding despite the varied cultures and legal traditions in the countries involved. Nonetheless, Special Commissions have been helpful in identifying issues with implementation and sending a message to countries that are not respecting the convention that they must improve.⁴⁵ Canadian Central Authorities meet every two to three years to exchange best practices. In 2013, they also met and exchanged information with Central Authorities in the U.S. and Mexico.⁴⁶

Canada plays an important role in capacity-building and the development of resources with respect to implementation of the Hague Abduction Convention. In particular, the Committee heard that Canada assists in the development of training, tools and practical handbooks to ensure consistency in interpretation and improve compliance with the convention's requirements. This work is done domestically, as well as bilaterally, regionally and globally. As one example, Canadian representatives suggested the introduction of a country profile form in 2006, which has been an important resource for information sharing about states parties' legal systems and contact information. Canada chaired the international committee to develop this form.⁴⁷

2. International Hague Network of Judges

The International Hague Network of Judges was first proposed in 1998 to improve communication and cooperation amongst the judiciary specialized in family law matters of states parties to increase the effectiveness of the Hague Abduction Convention.⁴⁸ Members of the network share information of a general nature and act as intermediaries in specific cases with international dimensions.⁴⁹ The network thus provides a wealth of knowledge to assist judges in Hague applications.

⁴² Ibid.

⁴³ *Evidence*, 7 April 2014 (Chamberland).

⁴⁴ Ibid.; *Evidence*, 31 March 2014 (Riendeau).

⁴⁵ *Evidence*, 2 June 2014 (Bernasconi).

⁴⁶ *Evidence*, 5 May 2014 (Lipsack).

⁴⁷ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 31 March 2014 (Laurie Wright, Assistant Deputy Minister, Public Law Sector, Justice Canada).

⁴⁸ Hague Conference on Private International Law, *Emerging Guidance Regarding the Development of the International Hague Network of Judges and General Principles for Judicial Communications, including Commonly Accepted Safeguards for Direct Judicial Communications in Specific Cases, within the Context of the International Hague Network of Judges*, July 2012, p. 7.

⁴⁹ Ibid., pp. 7-9.

Each jurisdiction designates one or more members of the judiciary as a liaison with their Central Authority and between judges within their own jurisdictions and with other states parties. Non-states parties are also encouraged to designate a network judge.

Canada has two Hague network judges: Justice Jacques Chamberland of the Court of Appeal of Quebec, and Justice Robyn Diamond of Manitoba's Court of Queen's Bench (Family Division). Justice Chamberland described the role of the network judge in the following terms:

A network judge ... is essentially a point of contact between his or her colleagues at the domestic level and other members of the network at the international level. [W]e act as a channel for the exchange of communication, either from the Permanent Bureau to the judiciary in Canada, or from the judiciary in Canada. For instance, if an interesting decision is tabled by a court anywhere in Canada, we will try to make sure that it is known in The Hague. So it works in both directions.⁵⁰

Mr. Bernasconi recognized Canada's important contributions to the success of the network when he testified before the Committee.⁵¹ As noted above by Justice Chamberland, judges in the network provide a crucial communication role between the Permanent Bureau and judges across Canada and between judges from different countries, both generally and in relation to specific cases.⁵² They are able to provide information about the Hague Abduction Convention to their counterparts in Canada who are deciding Hague applications, and also share information about Canada's legal system and jurisprudence with judges from other countries.

The Committee believes that the Hague network, in addition to the resources and training mentioned above, is a crucial means of information sharing and fostering dialogue, to develop common understanding and ultimately contribute to greater awareness and consistency in the implementation of the Hague Abduction Convention.

⁵⁰ *Evidence*, 7 April 2014 (Chamberland).

⁵¹ *Evidence*, 2 June 2014 (Bernasconi).

⁵² *Evidence*, 7 April 2014 (Chamberland).

CHAPTER 3: OTHER INTERNATIONAL INSTRUMENTS

A. Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (1996)

Another important and complementary instrument in combatting international child abductions is the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (the Hague Child Protection Convention).⁵³ The Hague Child Protection Convention establishes common rules to determine which state has jurisdiction over matters concerning the care and protection of children when more than one state is involved. The convention complements the Hague Abduction Convention by reaffirming the primary role of the authorities in the child's country of habitual residence.⁵⁴ It may also be of assistance in international abduction cases where there is disagreement about which country's courts have jurisdiction to hear a case, whether a foreign custody judgment should be recognized, or whose laws should apply in such situations.

For example, Marie Riendeau, Counsel, International Private Law Section, Department of Justice, noted the effect of this convention with respect to foreign recognition of custody and access orders:

If both countries were party to this convention ... it would [facilitate] the recognition of [a] Canadian order in the other state ... in the absence of the international framework that a convention can provide, we must recognize that it is quite difficult for a parent to have a Canadian order recognized or to obtain custody in a foreign country.⁵⁵

While Canada has not ratified the Child Protection Convention, the federal government indicates that it is working with the provinces and territories toward this end.⁵⁶ Federal officials told the Committee that while no specific provisions posed problems to ratification, discussions with the provinces and territories were progressing slowly given the very broad range of matters covered by the Child Protection Convention.⁵⁷ The Central Authorities in Ontario and British Columbia indicated to the Committee that the Child Protection Convention was under review in their jurisdictions, but its ratification does not appear to be a priority.⁵⁸

⁵³ [*Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*](#), 19 October 1996, entered into force 1 January 2002.

⁵⁴ Hague Conference on Private International Law, [Outline- Hague Convention on Child Protection](#), September 2008, p. 2.

⁵⁵ Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, 31 March 2014 (Marie Riendeau, Counsel, International Private Law Section, Department of Justice).

⁵⁶ The Child Protection Convention has 41 states parties. [Hague Conference on Private International Law, Status Table: Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children](#). See also *Annual Report - Activities and Priorities of Dept. Justice International Private Law 2008*, 2008 Quebec City QC Annual Meeting, Uniform Law Conference of Canada; Canadian Heritage, *Convention on the Rights of the Child Third and Fourth Reports of Canada*, [Part III- Measures Adopted by the Governments of the Provinces](#), November 2009.

⁵⁷ [Evidence](#), 31 March 2014 (Riendeau).

⁵⁸ [Evidence](#), 5 May 2014 (Foulds & Lipsack).

B. United Nations *Convention on the Rights of the Child* (1989)

Another piece of the international legal framework in which international abduction cases are addressed is the United Nations *Convention on the Rights of the Child* (CRC). The CRC, adopted in 1989 and brought into force in 1990, provides a broad framework for the respect of children's rights in many areas.⁵⁹ As this Committee has remarked in previous studies examining this treaty and its implementation, the CRC recognizes that children are persons with a distinct and comprehensive set of rights in need of protection.⁶⁰ All but three countries in the world have ratified the CRC, making it, as one witness noted, "one of the easiest bridges to begin a dialogue" with other countries with respect to resolving situations of international child abduction.⁶¹

Several provisions of the CRC are relevant to, and may provide guidance in, international child abduction situations:

- Most fundamentally, article 3 of the CRC establishes that the "best interests of the child" must be a primary consideration in all decision-making by state authorities concerning children.
- Article 9(b) requires that states parties "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."
- Article 11 requires states to take measures to address international child abduction and to promote bilateral and multilateral agreements for this purpose.
- Article 12 requires that the child be allowed to express his or her point of view in matters affecting him/her (i.e., a right to participate).

Justice Chamberland highlighted that article 11 of the CRC, which explicitly addresses the problem of international child abduction, was influenced by the existence of the Hague Abduction Convention. He stated:

Article 11 of [the CRC] recognizes the importance of combatting the wrongful removal and retention of children abroad, and to that end, promot[ing], and I quote the convention, "the conclusion of bilateral or multilateral agreements or accession to existing agreements."

There is no doubt in my opinion that the ratifiers of the 1989 convention had the 1980 convention in mind — the importance of which was understood — and that states were urged to adhere to that convention.⁶²

⁵⁹ [Convention on the Rights of the Child](#), GA res. 44/25, annex, 44 UN GAOR Supp. (No. 49) at 167, 20 November 1989 (entered into force 2 September 1990).

⁶⁰ See e.g. Senate, Standing Senate Committee on Human Rights, [Children: The Silenced Citizens: Effective Implementation of Canada's International Obligations with respect to the Rights of Children](#), Seventh Report, June 2007, and [Who's in charge here? Effective Implementation of Canada's International Obligations with Respect to the Rights of Children](#), Interim Report, Nineteenth Report, November 2005.

⁶¹ Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2014 (Laura Arndt, Director of Strategic Development, Office of the Provincial Advocate for Children and Youth (Ontario)).

⁶² [Evidence](#), 7 April 2014 (Chamberland).

The child's right to participate and to be heard is another important principle contained in both the CRC and the Hague Abduction Convention, as noted above. Article 12 of the CRC, emphasizes that young people have a right to actively participate or to be consulted on issues that have an impact on their lives. As noted previously, article 13 of the Hague Abduction Convention also takes into account the views of children implicated in cross-border family disputes, by providing that a decision-maker may refuse to order the return of the child if "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." However, according to Mary Ellen Turpel-Lafond, British Columbia's Representative for Children and Youth, consideration of the views of affected children has not always been done well in practice.⁶³

Although the Hague Abduction Convention pre-dates the CRC by almost a decade, witnesses observed that the two treaties are generally consistent in their approaches to international child abduction cases. Several witnesses reiterated that the best interests of the child, a core principle of the CRC, must always be a primary consideration in international child abduction cases. As Laura Arndt, Director of Strategic Development, Office of the Provincial Advocate for Children and Youth (Ontario), told the Committee:

The reality is not only in bringing children home but also ensuring that, as these matters go forward, the best interests of the child are served, regardless of where the child ends up. That should be central and foremost in the decision making going forward.⁶⁴

Mr. Blitt reminded the Committee that the Hague Abduction Convention only defines a process for summary return of a child to his or her country of habitual residence, where substantive decisions regarding the child's best interests can be made. Rather than make direct determinations as to the best interests of the child, the convention "presume[s] that if children are returned to their habitual residence, that is the appropriate jurisdiction to determine custody and the best interests of the children."⁶⁵ As noted elsewhere in this report, the Hague Abduction Convention process does not result in custody and access decisions. It simply decides whether a child is to be returned, while other proceedings could potentially review custody arrangements depending on the context.

⁶³ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 5 May 2014 (Mary Ellen Turpel-Lafond, Representative for Children and Youth, Office of the Representative for Children and Youth, British Columbia). Also see Irwin Elman, Provincial Advocate, Office of the Provincial Advocate for Children and Youth (Ontario), *Evidence*, 5 May 2014.

⁶⁴ *Evidence*, 5 May 2014 (Arndt).

⁶⁵ *Evidence*, 7 April 2014 (Blitt).

CHAPTER 4: ENGAGEMENT WITH NON-HAGUE ABDUCTION CONVENTION STATES

A. The Malta Process

As highlighted above, most countries with legal systems based in or influenced by Islamic law (Sharia) have not ratified the Hague Abduction Convention. As a result, with Canada taking a lead role, the Malta Process aims to improve international cooperation in order to resolve cross-border family disputes in situations where the Hague Abduction Convention does not apply and specifically focuses on dialogue between Hague Abduction Convention states parties and a number of countries with Islamic legal systems.⁶⁶ The Hague Conference provides administrative and technical support for the process.

Three conferences held in Malta in 2004, 2006 and 2009 have provided the forum for this dialogue. The Committee heard that the Malta Conferences have, to date, provided an opportunity for officials and judges from both Hague and non-Hague countries to share information on the ways in which their respective legal systems deal with family law issues, and to develop common principles and practices on a consensus basis and in a manner that respects the diversity of legal systems. Various regional and non-governmental organizations have also been invited to participate in the Malta Conferences.⁶⁷

The Declarations issued following each of the Malta Conferences cover a number of issues, in particular emphasizing the importance of:

- domestic review of the Hague Abduction Convention and the Hague Child Protection Convention by non-states parties to familiarize themselves with the content of the conventions;
- developing common rules of jurisdiction to allow for mutual recognition of judicial decisions;
- having a Central Authority or equivalent in all countries to facilitate the resolution of cross-border family disputes;
- encouraging direct judicial communication in specific cases;
- developing mediation structures to resolve cross-border family disputes where possible; and
- facilitating visa, travel and access issues.⁶⁸

The Committee heard that the number of participating states, regional organizations and non-governmental organizations in attendance increased at each of the three Malta Conferences. In 2004, 14 states participated, with this number increasing to 19 in 2006 and to 24 in 2009. Canada attended the 2006 and 2009 conferences. The process has included various other smaller events, along with on-going committee work and support from the Permanent Bureau. The Secretary General of the

⁶⁶ Hans Van Loon, “Legal diversity in a flat, crowded world: The role of the Hague Conference,” *International Journal of Legal Information*, 2011, Vol. 39, No. 2, pp. 176, 180–182.

⁶⁷ For a complete list of participants at each conference, see Appendix A.

⁶⁸ *Evidence*, 31 March 2014 (Crosbie).

Hague Conference informed the Committee that he hoped to have a fourth conference “in the not-too-distant future...when...there is really something new to be shared.”⁶⁹

Witnesses generally agreed that both Western secular and Islamic legal traditions prioritize the best interests of the child, providing an important point in common from which to build understanding. The challenge is in the different understandings of these interests.⁷⁰ For the most part, witnesses saw the Malta Process primarily as an opportunity for learning and cultivating diplomatic relations between Hague and non-Hague states. Some witnesses stated that they had hoped the process would provide more practical benefits for parents by this point in time.⁷¹

Noting that virtually all states around the world had signed on to the convention on the Rights of the Child and its general principle to protect the best interests of the child, Mr. Crosbie of DFATD stated:

Through the working party on mediation and through the Malta Process, we have been trying to build up a body of work, working with imams, Muslim academics, officials and judges in Muslim countries to demonstrate that the Hague conventions in fact are consistent with the best interests of the child ... and that all other considerations of a cultural or religious nature can be accommodated, but first of all we're looking at the best interests of the child.⁷²

Witnesses also cautioned that Islamic law is not a monolithic entity, and various schools of thought exist, resulting in a variety of legal systems in different countries. The Committee heard that different approaches will be required in working with different Muslim-majority countries depending on their histories and legal systems. These efforts will need to be made at various levels and in different forums, including the Malta Process.⁷³

Witnesses with expertise in Islamic law told the Committee that Sharia is reconcilable with the Hague Abduction Convention in theory, but that the actual laws in some countries were less so. The Islamic scholars that testified argued that new interpretations based on alternative positions in Islamic law may be used to promote greater consistency with the Hague Abduction Convention. However, Professor Emon noted that, in many countries, the current laws do discriminate based on gender, religion and nationality.⁷⁴ He stated:

[A]s much as there is movement within the Islamic tradition, as much as there are many on the ground trying to push the egalitarian elements, I

⁶⁹ *Evidence*, 2 June 2014 (Bernasconi).

⁷⁰ *Ibid.*; Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 28 April 2014 (Timothy Gianotti, Director of Islamic Studies, American Islamic College, as an individual).

⁷¹ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 25 September 2014 (Anne-Marie Hutchinson, Chair, Reunite International Child Abduction Centre); *Evidence*, 25 September 2014 (Shalaby); *Evidence*, 6 November 2014 (Lowe).

⁷² Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 6 November 2014 (William Crosbie, Assistant Deputy Minister, Consular, Security and Legal Branch, Chief Security Officer and Legal Adviser, DFATD).

⁷³ *Evidence*, 28 April 2014 (Gianotti).

⁷⁴ *Evidence*, 28 April 2014 (Emon).

don't think anyone would presume to think it's an easy win. We all have our work cut out for us.⁷⁵

The Committee was told about research that is exploring approaches to Sharia that would not preclude ratification of the Hague Abduction Convention. Professor Emon noted that this research may be used in the future to convince diplomats, as well as clerics and other stakeholders in Muslim-majority countries that may believe that Islamic law and the Hague Abduction Convention are irreconcilable, to reconsider their understanding of Islamic law. As he stated to the Committee:

I have no delusions that this sort of research will guarantee automatic ratification of the Hague Abduction Convention, but I believe it's the kind of project that, by taking Sharia seriously — intellectually and scholarly speaking — can shift the tenor and tone of future diplomatic conversations on the topic.⁷⁶

Professor Emon also told the Committee that the Malta Process must deal not only with issues of religion and religious-based legal systems. Another issue at play is one of sovereignty and of “states giving up claims on their national children,” and perceptions in many countries that are influenced by the relationship between Western countries and Muslim-majority countries more generally.⁷⁷

Witnesses were cautiously optimistic about the benefits of the Malta Process, though it was acknowledged that it will take time to come to mutual understanding on these complex issues, and the impacts of such dialogue may be seen only in the longer term. Mr. Bernasconi of the Hague Conference saw the dialogue as a crucial means by which the countries involved can learn about each other's systems and cultures, identify possible courses of action and, ultimately, to have more states accede to the Hague Abduction Convention.⁷⁸

Morocco and Iraq – both with mixed legal systems of Islamic and civil law – are the two most recent Muslim-majority countries to have ratified the Hague Abduction Convention. The Committee heard that Morocco's ratification in 2010 was a direct result of the Malta Process, while Iraq's came about outside of this process. Mr. Bernasconi noted, however, that the Malta Process has not progressed to the stage of strongly encouraging further ratifications. He told the Committee that “[i]t is a long process. It is a time-consuming process, but I think this is a process that is very worthwhile to conduct.”⁷⁹

1. Working Party on Mediation

At the third Malta Conference in 2009, Canada proposed the establishment of a working group to “promote the development of mediation structures to help resolve cross-border family disputes concerning custody of or contact with children where the [Hague Abduction Convention] does not apply.”⁸⁰ The Committee heard that the working group was proposed because, though the Malta

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ *Evidence*, 28 April 2014 (Emon & Gianotti).

⁷⁸ *Evidence*, 2 June 2014 (Bernasconi).

⁷⁹ Ibid.

⁸⁰ *Evidence*, 31 March 2014 (Crosbie).

Conferences were improving mutual understanding of the different legal systems, no practical results were coming out of the gatherings that could assist parents. Known as the Working Party on Mediation in the Context of the Malta Process (Working Party), the group is co-chaired by Canada (a state party to the Hague Abduction Convention) and Pakistan (a non-state party).⁸¹

The Working Party was tasked with examining practical mechanisms to allow for fast, fair and affordable mediation of international family disputes as an alternative where states do not want to ratify the Hague Abduction Convention.⁸² The most significant result of this work to date has been the publication, in November 2010, of the *Principles for the Establishment of Mediation Structures in the Context of the Malta Process* (the Principles).⁸³ In 2011, the Hague Conference's Council on General Affairs and Policy⁸⁴ requested that the Working Party continue its work and, specifically, work to facilitate greater acceptance and implementation of the Principles and to further expand upon them.⁸⁵ As noted by Justice Chamberland, the Working Party is making progress but, with a large number of states involved, it is very challenging to coordinate action.⁸⁶

B. Bilateral Agreements

In addition to the Hague Abduction Convention and participation in the Malta Process, countries may also develop bilateral agreements with non-states parties to provide a framework for addressing international child abduction cases and other international family-related issues between two countries.⁸⁷ Though such bilateral agreements all seek to achieve the same objective of resolving cross-border family disputes, they vary considerably in scope and the mechanisms to address the problem. Such agreements may seek to improve cooperation between administrative, judicial and/or consular authorities.⁸⁸

Canada has long-standing consular agreements on child abduction with Egypt and Lebanon. These agreements address the process to be used by diplomats to discuss family disputes involving both

⁸¹ Ibid. The Working Group includes representatives of a mixture of states parties (Australia, Canada, France, Germany, Morocco, U.K. and U.S.A.) and non-states parties (Egypt, India, Jordan, Malaysia and Pakistan), as well as independent experts in mediation. Morocco joined as a non-state party but later ratified the Hague Abduction Convention.

⁸² Ibid.

⁸³ The Principles require a central contact point in each jurisdiction (like the Central Authorities), identify the required characteristics of mediators, outline general principles for mediation such as informed consent and voluntary participation, and emphasize the importance of ensuring that agreements are compatible with the relevant legal systems and that they are binding. See Working Party on Mediation in the Context of the Malta Process, [Principles for the Establishment of Mediation Structures in the Context of the Malta Process](#), Hague Conference on Private International Law, November 2010; Working Party on Mediation in the Context of the Malta Process, [Explanatory Memorandum on the Principles for the Establishment of Mediation Structures in the Context of the Malta Process](#), Hague Conference on Private International Law, November 2010.

⁸⁴ The Council on General Affairs and Policy is made up of all Hague Conference Members and is responsible for the operation of the Hague Conference. Article 4, *Statute of the Hague Conference on Private International Law*.

⁸⁵ Prel. Doc. No. 12 (2011), p. 34.

⁸⁶ *Evidence*, 7 April 2014.

⁸⁷ Hague Conference on Private International Law, [Legal Instruments- Bilateral Arrangements](#).

⁸⁸ Caroline Gosselain, [Child Abduction and Transfrontier Access: Bilateral Conventions and Islamic States- a Research Paper](#), Permanent Bureau of the Hague Conference on Private International Law, Prel. Doc. No. 7, August 2002 (Prel. Doc. No. 7).

countries, but they provide fewer protections than the Hague Abduction Convention for a left-behind parent.⁸⁹

Some witnesses questioned the effectiveness of Canada's bilateral agreements. Mr. Blitt, for example, criticized Canada's agreement with Egypt, noting that bilateral agreements may ultimately be counter-productive in promoting ratifications of the Hague Abduction Convention or engagement through the Malta Process.⁹⁰ Indeed, the committee heard that the federal government is moving away from bilateral agreements in favour of other options for engagement with non-states parties. As Mr. Crosbie of DFATD told the Committee:

I would have to tell you that our experience and the experience of our allies is that [bilateral agreements] have not been effective. One of the reasons why countries joined the Malta Process Working Party on Mediation and support the Malta Process is that they recognize that individually and bilaterally we're not really getting any traction to get other countries to accept the Hague conventions or to deal with the issues of cross-border child abduction.⁹¹

The Committee did hear of positive experiences in bilateral cooperation between the U.K. and Pakistan, which have had a judicial protocol in place since 2003 which was negotiated by judges in both countries. Professor Lowe told the Committee that:

It's described as a signed record of consensus, and it was signed by senior members of the judiciary. Of course, it's not internationally binding in any convention sense, but the idea is that each state will normally be expected to respect each other's custody orders in particular. It was intended to have a strong influence on the way that the judges exercise their discretion in these U.K.–Pakistan cases.⁹²

The Committee believes that, although diplomatic efforts appear to currently be directed elsewhere, bilateral agreements remain a tool to promote the resolution of child abduction cases where appropriate. While such agreements "are far from panaceas," Mr. Allen in particular noted they can be of assistance in gaining greater access for a left-behind parent to an abducted child, even if they do not ultimately result in having the child returned.⁹³ The judicial protocol between the U.K. and Pakistan is, in the view of the Committee, also a potentially useful model that may be used to promote international cooperation between Hague Abduction Convention and non-Hague Abduction Convention states on international child abduction cases.

⁸⁹ See Hague Conference on Private International Law, [*Agreement between the Government of Canada and the Government of the Arab Republic of Egypt Regarding Cooperation on Consular Elements of Family Matters*](#), 23 July 1997; and [*Agreement between the Government of Canada and the Government of the Lebanese Republic regarding Cooperation on Consular Matters of a Humanitarian Nature*](#), 2000.

⁹⁰ *Evidence*, 7 April 2014 (Blitt); *Evidence*, 28 April 2014 (Gianotti).

⁹¹ *Evidence*, 6 November 2014 (Crosbie).

⁹² *Evidence*, 6 November 2014 (Lowe).

⁹³ *Evidence*, 31 March (Allen).

CHAPTER 5: PROFILE OF INTERNATIONAL CHILD ABDUCTIONS

A. Statistical Information

As the Committee discovered, several sources provide partial statistical information, but none reveal precise and up-to-date figures on the number of children abducted by a parent across international borders, either from Canada or more generally. The Committee also heard that detailed and comprehensive analysis surrounding the circumstances of international child abductions is not currently available. Given these limitations, it is difficult to gain a thorough quantitative or qualitative understanding of the problem within Canada or internationally.

Witnesses described the collection and maintenance of complete statistical information as a challenge, and available statistics as dated or incomplete. For example, Mr. Bernasconi of the Hague Conference, stated that his organization does not have “reliable, comprehensive and updated” information on the operation of the Hague Abduction Convention or how many child abductions occur around the world.⁹⁴

1. Hague Conference Statistical Surveys

The Hague Conference has commissioned three statistical surveys to track global trends in applications under the Hague Abduction Convention. The most recent survey from 2011 is based on data from 2008, while the earlier surveys were based on data from 1999 and 2003. It is important to note that these surveys have a number of limitations. They are conducted only periodically and not all states parties provide statistical information to be included. Also, they only provide information about Hague Abduction Convention applications, not all international abduction cases.⁹⁵ Despite these limitations, the surveys are a vital source of data on international child abductions given the limited sources available.

Key findings of the most recent statistical survey include the following:

- There was a marked increase in global applications under the Hague Abduction Convention in 2008 (2,321),⁹⁶ compared to 2003 (1,479) and 1999 (1,151).
- The numbers of applications made to states parties in 2008 varied widely. The highest number of applications (both incoming and outgoing)⁹⁷ was received by the United States (598), England

⁹⁴ Evidence, 2 June 2014 (Bernasconi).

⁹⁵ The most recent survey collected information from 60 of the then 81 states parties to the Hague Abduction Convention. See Nigel Lowe, [A Statistical Analysis of Applications Made in 2008 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part I – Global Report](#), Hague Conference on Private International Law, November 2011 [Global Report]; and Nigel Lowe and Victoria Stevens, “Global Trends in the Operation of the 1980 Hague Abduction Convention,” *Family Law Quarterly*, Vol. 46, No. 1, Spring 2012, pp. 45–85.

⁹⁶ Lowe and Stevens estimate that the reported total count of applications represents 94% of all applications made via Central Authorities in that year. The reported numbers are thus approximate.

⁹⁷ Please note that applications that are received by a state party from other states parties are known as “incoming” applications. Applications made by a state party to other states parties are known as “outgoing” applications.

and Wales (466) and Mexico (272). By contrast, some jurisdictions – including several Canadian provinces and territories⁹⁸ – received no applications.

- The proportion of return applications ending in “voluntary returns” and “judicial returns”⁹⁹ somewhat declined in 2008. In particular:
 - In 2008, 366 applications ended in a voluntary return, representing 19% of global return applications. This was slightly lower than the voluntary return rate in 2003 (267 applications, or 22%) and slightly higher than the rate in 1999 (173 applications, or 18%).
 - In 2008, 508 applications ended in a judicial return (27%), compared to 261 (29%) in 2003 and 304 (32%) in 1999.
- The process to secure the judicial return of a child took longer in 2008 than it had in previous years. The average time for a return to be ordered was 166 days in 2008, compared with 125 days in 2003 and 107 days in 1999.
- Each of the three surveys has shown that the majority (approximately 70%) of abductors were mothers.

Using the same 2008 data, national reports were compiled on states parties, including Canada.¹⁰⁰ The national report for Canada shows that:

- The number of applications for return or access that were received by Canada from other states parties (“incoming” applications) decreased by 7% between 2003 (67 applications) and 2008 (62 applications). However, the number of applications received in 2008 represented a 41% increase over the number received in 1999 (44 applications).
- In 2008, of the 49 return applications received in Canada from other states parties, 29 (59%) were resolved as “judicial returns.” No “voluntary returns” were recorded in Canada in 2008. This return rate was higher than the global average of 46%.
- In 2008, 51 applications for return or access were made by Canadian authorities to other states parties (“outgoing” applications). This represented a 26% decrease from the 69 outgoing applications made by Canada in 2003 and a 14% decrease from the 59 applications made in 1999.
- Quebec received the most return or access applications from other states parties (23 applications), followed by Ontario (18 applications) and British Columbia (15 applications).

Though there are fluctuations from year to year, the Committee heard that the general trend is an increase in applications made under the Hague Abduction Convention.¹⁰¹ As noted above, however, Canada saw a slight decrease in the number of incoming applications between 2003 and 2008.

⁹⁸ These were: New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, and Yukon.

⁹⁹ A “voluntary return” refers to a situation where an agreement between the parties is obtained outside of court; a “judicial return” is a return ordered by a court.

¹⁰⁰ See Nigel Lowe, *A statistical analysis of applications made in 2008 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part III - National Reports* (Hague Conference on Private International Law, May 2011), pp. 38-55.

¹⁰¹ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 31 March 2014 (Sandra Zed Finless, Senior Counsel, DFATD Legal Services, Justice Canada).

The Committee heard that the Hague Conference may soon make available further data on international child abductions. Professor Lowe, the author of the three global statistical surveys completed to date, told the Committee that the process of acquiring funds to complete a fourth survey was under way. In addition, Professor Lowe noted that a system is currently under development by the Hague Conference to allow for the collection of data from states parties on an annual basis.¹⁰² Similarly, Mr. Bernasconi told the Committee that:

It is one of my priorities ... to ensure we have continuing feedback from all contracting states to know how many cases are ongoing under the convention, how long it takes to deal with these cases and what the actual outcomes are. ... We are developing software that we are about to send to all relevant central authorities to facilitate that flow of information as much as possible.”¹⁰³

2. Statistical Collection in Canada

In Canada, the Committee heard that statistics are gathered by various stakeholders, but the information is not combined or analyzed to offer a comprehensive understanding of international child abductions to and from this country. In addition, not all sources collect or publish their findings on a regular basis. Therefore, like the international data, the available statistical information may offer only a partial picture of child abductions involving Canadians.

Data on international child abductions is kept by the Department of Foreign Affairs, Trade and Development, though this data is not published. In recent testimony before the House of Commons Standing Committee on Foreign Affairs and International Development, however, the Hon. Lynne Yelich, Minister of State (Foreign Affairs and Consular), indicated that 71 international child abduction cases were opened by DFATD’s consular services in 2012.¹⁰⁴

The Committee heard that DFATD tracks only cases in which Canadian consular services have been requested. Mr. Crosbie noted that Canadian consular authorities “are seeing an increasing number of requests for assistance, with an increase of nearly 40 per cent in wrongful removals from Canada and custody disputes between 2009 and 2013.” He cautioned, however, that these statistics are:

... indicative of the number of requests for consular assistance that have been received by [DFATD]. I should note that they do not represent a complete picture of all the incidences of wrongful removals and retention, since many are managed domestically and abroad by police and other authorities, or directly through provincial/territorial central authorities [under the Hague Abduction Convention].¹⁰⁵

Other federal departments and law enforcement agencies also track data regarding cases that they have been involved in, but, again, there is no centralized collection of information. Representatives of the Royal Canadian Mounted Police (RCMP) indicated that the entry of child abduction cases into

¹⁰² *Evidence*, 6 November 2014 (Lowe).

¹⁰³ *Evidence*, 2 June 2014 (Bernasconi).

¹⁰⁴ House of Commons, Standing Committee on Foreign Affairs and International Development, *Evidence*, 2nd Session, 41st Parliament, 19 November 2013.

¹⁰⁵ *Evidence*, 31 March 2014 (Crosbie).

the Canadian Police Information Centre (CPIC) database (a central computer system administered by the RCMP and used by law enforcement agencies across the country) is not mandatory and remains the responsibility of each law enforcement agency.¹⁰⁶

NGOs are yet another source of data on international child abductions. For example, Pina Arcamone, Director General of The Missing Children's Network in Quebec, shared statistical information with the Committee on parental abductions that her organization had dealt with from its inception in 1985 to 30 August 2012. She noted that, of 341 abduction cases (involving 478 children), 142 were committed by mothers and 199 by fathers, with the rest being committed by other family members. The data showed that the proportion of boys and girls abducted was similar and there was no significant correlation between the gender of the abducting parent and the child, though this appeared to change in adolescence, a group for which 69% of the abductees were girls and 72% of the time the abductor was the father. Children aged one to five were, nonetheless, the highest risk age group based on the organization's experience.¹⁰⁷

3. Other Statistical Collection

Alison Shalaby, Chief Executive Officer of the U.K.-based Reunite International Child Abduction Centre, noted that, in 2012, the organization dealt with approximately 500 international abduction cases (presumably primarily cases relating to the U.K.). While 82% of these cases were reportedly resolved, either by voluntary return or judicial order, the organization noted "a big gap between Hague cases and non-Hague [cases]." In particular, "[w]ith the Hague cases, around 92 per cent were resolved, but with non-Hague it drops down to 65.5 percent." In contrast to the above data reported by The Missing Children's Network, which indicated that fathers were the abducting parent in the majority of cases, Reunite International found that "in 75 per cent of the cases it's the mother who removes the child."¹⁰⁸

B. Case Trends

Though available statistics are not comprehensive, witnesses did comment about general trends. The Committee heard that, since the convention was drafted 30 years ago, there have been changes with respect to the general profile of the abducting parent, and the granting of custody and access orders by courts in many jurisdictions. Though understanding such trends is important in assessing how the Hague Abduction Convention is applied and the outcomes of cases, the lack of comprehensive statistics and analysis, as well as the conflicting views of experts, make it difficult to ascertain trends with certainty.

One trend that was discussed by several witnesses was the gender of the parent most likely to abduct a child. Several witnesses told the committee that when the Hague Abduction Convention was adopted in 1980, the taking parent was generally the non-custodial father. Return to the custodial mother, in the view of the drafters of the convention, was clearly in the child's best interest. By

¹⁰⁶ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 28 April 2014 (Joe Oliver, Assistant Commissioner, Technical Operations, Royal Canadian Mounted Police).

¹⁰⁷ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 7 April 2014 (Pina Arcamone, Director General, The Missing Children's Network). Ms. Arcamone did not specify how many of the cases were of an international nature.

¹⁰⁸ *Evidence*, 25 September 2014 (Shalaby).

contrast, several witnesses indicated that the taking parent is now more likely to be the child's primary caregiver, who is usually the mother.¹⁰⁹

Professor Lowe found that mothers were the abductor in 70% of cases dating back to his first study of Hague Abduction Convention cases in 1999 and he testified that, as far as he understands, that has always been the case.¹¹⁰ The Missing Children's Network data outlined above seems to say the contrary, with fathers being the majority of cases. However, that is a localized data set from Quebec that includes both Hague and non-Hague states so is not easily comparable with Professor Lowe's data. Professor Carol Bruch, Distinguished Professor Emerita and Research Professor of Law at the University of California, Davis, also spoke of fathers representing the majority of abductors in the past.¹¹¹ Ms. Hutchinson of the Reunite International Child Abduction Centre told the Committee that there are also differences between abductions to Hague countries where mothers tend to be the abductor and non-Hague countries where it tends to be the father.¹¹² Given the limits of the available data, it is difficult for the Committee to make an assessment of the trends.

The Committee also heard about another trend – a much broader use of joint custody orders since the Hague Abduction Convention was adopted. At that time, the idea of “joint custody” was new and the term was generally understood to mean an equal division of time between both parents. Other contact with the child was generally understood to be “access rights.”¹¹³ Now, “joint custody” is generally understood to include even a parent who is allowed minimal time with the child.¹¹⁴ As noted above, parents with custody rights, no matter how minimal, may request the summary return of the child under the Hague Abduction Convention whereas those with access rights cannot.

Professor Bruch, told the Committee that, in the United States, a child may be removed from a primary caregiver's care in a Hague application when a joint custody order is in place, and this can be so even in cases of abuse.¹¹⁵ Mr. Blitt noted that in the Canadian context, removing a child from the care of a primary caregiver in such cases is less common. He stated:

Our judges are not so keen to uproot children from the primary or custodial parent, usually the mom, and send the child back ... [I]f the mom is ordered back to the other country, [the judge will] have the children still remain in her custodial care when she's ordered back.¹¹⁶

Mandeep Gill, a lawyer with International Family Law Group, in London, U.K., did not feel that these changes have had an impact in Hague Abduction Convention cases. She told the Committee:

¹⁰⁹ For example, see Senate, Standing Committee on Human Rights, *Evidence*, 41st Parliament, 2nd Session, 25 September 2014 (Mandeep Gill, Associate, International Family Law Group, LLP, as an individual); *Evidence*, 31 March 2014 (Wright).

¹¹⁰ Global Report, November 2011; *Evidence*, 6 November 2014 (Lowe).

¹¹¹ *Evidence*, 7 April 2014 (Bruch).

¹¹² *Evidence*, 25 September 2014 (Hutchinson).

¹¹³ *Evidence*, 7 April 2014 (Bruch); 31 March 2014 (Wright).

¹¹⁴ *Ibid.* (Bruch).

¹¹⁵ *Ibid.*

¹¹⁶ *Evidence*, 7 April 2014 (Blitt).

[O]thers might disagree, but I'm not entirely sure whether an increase in joint custody or joint care has had much of an impact on the Hague convention [cases] because under Article 3, rights of custody is simply the right to decide where the child resides rather than physical custody.”¹¹⁷

The Committee notes that, though this may be true, joint custody would presumably allow for a request for return where access rights would not. Given the divergent conclusions of various witnesses and the lack of sufficient data and analysis, it is difficult for the Committee to come to any conclusions with respect to trends in cases of international child abduction.

¹¹⁷ *Evidence*, 25 September (Gill).

CHAPTER 6: FEDERAL GOVERNMENT RESPONSES TO INTERNATIONAL CHILD ABDUCTION

The federal government, through various departments, is actively involved in seeking ways to prevent international child abduction and assist parents where an abduction has taken place. In addition to work through the Hague Conference and international agreements as outlined above, the government is involved in various other efforts, which are outlined in further detail below.

A. Consular Services

Consular services in international child abduction cases are provided by DFATD. They are particularly important in cases involving countries that are not parties to the Hague Abduction Convention because parents do not benefit from the assistance of a Central Authority in such cases.

In November 2013, the creation of a Vulnerable Children’s Consular Unit within DFATD was announced. The new unit was created with the aim of better responding to requests for consular assistance in situations involving cross-border family disputes. Mr. Crosbie told the Committee that “[t]hrough the creation of this unit, Canada is taking a leading role in finding new ways to prevent and assist with international child abduction.”¹¹⁸ As of November 2013, the unit had 1200 active cases (though not all were cases of abduction).¹¹⁹

The Committee heard that the new unit builds upon previous capacity within DFATD and increases the number of specialized case officers to assist left-behind parents and parents concerned about how to prevent an abduction. The new unit also increases policy capacity by including dedicated analysts who deal solely with issues relating to children taken abroad. Ms. Maillé indicated that having a separate policy unit allows DFATD to “try to address or tackle some of the root causes of the issue and the challenges domestically and also internationally.”¹²⁰

Departmental officials highlighted that other important functions of the unit include outreach to ensure that the public knows about the services available to families and the development of tools and policies to assist consular offices and case managers. The Committee heard that the unit collaborates with other governments, both provincially/territorially and internationally, and conducts outreach to identify organizations and individuals with relevant expertise. It works internationally along with the Department of Justice to develop the capacity of states parties to fully implement the treaty and to promote understanding of the Hague Abduction Convention by non-states parties.¹²¹

B. Border Controls

In cases where an abducted child is entering Canada, the Canada Border Services Agency (CBSA) is the first point of contact and its officers can refer the child and parent to secondary examination if they have suspicions that the child may have been abducted. In addition, CBSA’s Border Operations

¹¹⁸ *Evidence*, 31 March 2014 (Crosbie).

¹¹⁹ Foreign Affairs, Trade and Development Canada, “[Minister MacKay and Minister of State Yelich Mark 2013 Universal Children’s Day](#),” News Release, 19 November 2013.

¹²⁰ *Evidence*, 31 March 2014 (Maillé).

¹²¹ *Evidence*, 31 March 2014 (Crosbie & Maillé).

Centre is the point of contact for the after-hours operation of the federal government's Our Missing Children Program. The program is made up of several government departments – DFATD, the Department of Justice, Citizenship and Immigration Canada, CBSA and the RCMP – and its mandate includes intercepting and recovering missing and abducted children across international borders.¹²²

The Committee was informed that CBSA monitors only incoming travellers, and does not keep records or have any processes in place for travellers leaving the country. A number of witnesses felt that the introduction of exit controls would be beneficial in preventing abducted children from leaving Canada.¹²³ However, some witnesses noted that such a system may be costly, and that such a measure would not assist in situations where a child has left the country with the permission of the other parent but then is not returned to Canada.¹²⁴ Penelope Lipsack, Legal Services Branch, Ministry of Justice of British Columbia, estimated that cases of “wrongful retention” account for approximately 50% of international child abduction cases.¹²⁵

CBSA officials noted that a form of exit control is currently being introduced as part of the Beyond the Border Action Plan through the Entry/Exit Initiative for “third-country nationals” (i.e., non-citizens of Canada or the United States) going to the United States. Calvin Christiansen, Director General, National Border Operations Centre of the CBSA, described the program as follows:

We have several phases of entry-exit that have been implemented over time. We implemented phase 1 of entry-exit on September 30, 2012, which involves a pilot project where we exchange data on third-country nationals departing from either country ... [As of June 2013], [w]e started that exchange of information at all ... the land border crossings across the country.¹²⁶

CBSA officials noted that later phases of Beyond the Border would allow for the same sharing of information with respect to air departures and possibly marine and rail travel as well.¹²⁷ Biographical information on travellers would be exchanged between the U.S. and Canada. Denis Vinette, Director General of Border Operations at CBSA said that, in the final phase of implementing the plan, CBSA will be able to receive advance notice where police have initiated an alert for a child.¹²⁸

Officials also noted, however, that the initiative is currently under review by the Privacy Commissioner of Canada, which may make recommendations to the CBSA before the next phase is

¹²² Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, 28 April 2014 (Denis Vinette, Director General, Border Operations, CBSA).

¹²³ Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, 7 April 2014 (Stephen Watkins, Executive Director and Founding Member, iCHAPEAU Association, Blitt & Arcamone.); Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2014 (Deputy Chief Murray Stooke, Calgary Police Service & Lipsack).

¹²⁴ *Ibid.* (Blitt & Lipsack).

¹²⁵ *Ibid.* (Lipsack).

¹²⁶ Senate, Standing Committee on Human Rights, [Evidence](#), 2nd Session, 41st Parliament, 6 November 2014 (Calvin Christiansen, Director General, National Border Operations Centre, CBSA).

¹²⁷ Government of Canada, [Action Plan- Beyond the Border: A Shared Vision for Perimeter Security and Economic competitiveness](#), 2011.

¹²⁸ [Evidence](#), 28 April 2014 (Vinette).

begun. In addition, officials noted that implementation of the next phase would require “legislative and regulatory amendments to go with it.”¹²⁹

C. Passport Controls

Passport Canada is tasked with ensuring that a child’s passport application is from someone authorized to apply on behalf of the child, and ascertaining whether the consent or acknowledgement of another person is required. The Committee heard that the current passport application process may go some way toward preventing the international abduction of a child, but will not do so in all cases.

Applications for a passport for children under the age of 16 must be made by a parent or legal guardian. Officials from Passport Canada informed the Committee that either parent with joint custody of a child may apply for a passport for that child. However, officials also noted that Passport Canada prefers to have both parents sign the application form where possible, regardless of the custody situation.¹³⁰ In rare cases where a parent claims to be unable to get the signature of the other parent, officials may request additional documentation to verify that claim.¹³¹

The Committee heard that the passport application process is heavily reliant on information provided by the applicant and disclosure with respect to material information (e.g., court orders). The Committee was informed that, to protect against fraudulent applications, a protocol known as “System Lookout” is used as an “internal flagging tool.” Parents can request that their child’s name be included in the system if they are concerned that the other parent may seek to have a passport issued without their knowledge.¹³²

Passport Canada is involved in a number of initiatives related to the challenge of identifying when to issue a child with a passport. These include starting a task force on children’s issues in 2010 as an internal initiative, reaching out to other organizations, developing a resource document for passport officers about how to speak with parents and standardizing the form for System Lookout files.¹³³

According to government officials, System Lookout flags an application for further examination, but does not necessarily prevent the issuing of a passport, as long as the necessary requirements are satisfied.¹³⁴ Similarly, a parent may wish to contact the embassy where the other parent is a national of a country other than Canada to request that no passport be issued in the child’s name. Again, making such a request does not automatically bar the issuance of a passport.¹³⁵ In addition, children

¹²⁹ *Evidence*, 6 November 2014 (Christiansen).

¹³⁰ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 28 April 2014 (Lu Fernandes, Director General, Passport Program Integrity, Citizenship and Immigration Canada).

¹³¹ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 28 April 2014 (Michelle Lattimore, Director, Integrity Operations Division, Passport Program Integrity Branch, Citizenship and Immigration Canada).

¹³² *Evidence*, 28 April 2014 (Fernandes). System Lookout is used to flag cases for further review and is not limited to children or cases where there is an abduction risk.

¹³³ *Ibid.*

¹³⁴ *Ibid.*

¹³⁵ *Evidence*, 31 March 2014 (Maillé).

under age 16 may travel to the United States by land with only a copy of a birth or citizenship certificate, so a passport would not be required.¹³⁶

The Committee heard that listing in System Lookout does not prevent a child from travelling on a passport that has already been issued. Furthermore, the Committee was told that Passport Canada has no authority to cancel a passport due to fear of an abduction, unless the passport is determined to have been lost or stolen.¹³⁷

In addition, the Committee heard that the information in the System Lookout database is not shared with other agencies such as CBSA or input in CPIC unless the passport is determined to have been lost or stolen. Officials told the Committee that these limitations on the cancellation of passports are in place because of concerns about the accuracy of information in a system that is client reliant, and the fact that the veracity of parents' claims cannot be fully ascertained by passport officials.¹³⁸

Once a passport is issued, a court order is required to restrict the child's mobility and/or require that the passport be turned over to a third party, such as a lawyer. If a child does travel on a cancelled passport, since Canada does not have exit controls, foreign border officials must be relied upon to verify if the passport is valid and to prevent movement.¹³⁹ As one witness noted, "if that information isn't verified at the border, then it doesn't matter. We're very reliant upon the excellent work of border officials around the world to flag those [passports] and identify children when they're moving across borders."¹⁴⁰

D. Education and Training

Until parents or justice system personnel are faced with a parental abduction case, they often know nothing about such cases or how to deal with them. Compounded by complex systems requiring rapid action and decision-making, this lack of knowledge can be an impediment to the return of an abducted child or, at minimum, lead to delays. Education and outreach efforts can be of great assistance in preventing abductions and responding more effectively once they do occur by ensuring that those involved, as parents or as service providers, know what to do. Education, awareness raising and prevention are shared responsibilities of the federal, provincial and territorial governments, and NGOs such as The Missing Children's Network are also involved. This section focuses on domestic efforts, as capacity-building and training for foreign officials was discussed above.

1. Parents

The Committee was informed that the Department of Justice provides funding through the Supporting Families Initiative for family law services that are delivered by the provinces and territories, including public education and mediation for parents. The department also provides tools

¹³⁶ *Evidence*, 28 April 2014 (Fernandes).

¹³⁷ *Ibid.*

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

¹⁴⁰ *Evidence*, 28 April 2014 (Lattimore).

and resources, including a comprehensive publication called *Making Plans*,¹⁴¹ to assist parents that are separating or divorcing to agree with respect to child-related decisions and remind them of the consequences of taking a child without the other parent's permission.¹⁴²

The Committee was also told that people do know more about the Hague Abduction Convention than they did in the 1980s when it was first brought into force.¹⁴³ However, though lawyers and case managers in the Ontario Central Authority are amazed by how much parents know about the Hague Abduction Convention, this knowledge appears to come *after* the abduction.¹⁴⁴

The challenge seems to be in how to share existing resources with people before a child abduction occurs. This is largely because, as witnesses told the Committee, an abduction is not generally expected before it happens.¹⁴⁵ Lianna McDonald, Executive Director of the Canadian Centre for Child Protection, pointed out that it can be challenging to work on prevention prior to the breakdown of the couple, as people do not want to think about the possibility that their partner could take their child. Ms. McDonald expressed concern that far more must be done to educate the public and that such efforts need to be better coordinated.¹⁴⁶

Ms. Arcamone told the Committee about her organization's strategy of educating parents in situations where there may be a greater risk of abduction, even if the parent is unaware of the risk, such as in women's shelters or in interactions with child welfare agencies.¹⁴⁷ This way, the organization is able to increase parents' awareness of the risk prior to an abduction.

2. Justice system actors – law enforcement, judges and lawyers

Educating officials in the justice system is another important part of ensuring an efficient and effective system for preventing abductions and bringing children home following an abduction. Joe Oliver, Assistant Commissioner, Technical Operations, RCMP, recognized that law enforcement's reaction to these cases has not been consistent, but told the Committee that there have been improvements in police responses as training takes place and collaboration with Central Authorities and NGOs occurs. He reassured the Committee that the RCMP's policy is to treat such cases promptly and investigate thoroughly when a child is missing.¹⁴⁸

The Committee heard that the Department of Justice is involved in training police, through the development of videos as well as a workshop examining the intersection of relevant *Criminal Code* offences and the civil aspects of abductions.¹⁴⁹ The RCMP's National Centre for Missing Persons and Unidentified Remains has also developed two online courses related to child abductions which

¹⁴¹ Department of Justice, [*Making Plans: A Guide to Parenting Arrangements After Separation or Divorce*](#), Attorney General of Canada, 2013.

¹⁴² *Evidence*, March 31 2014 (Crosbie & Zed Finless).

¹⁴³ *Evidence*, 7 April 2014 (Chamberland).

¹⁴⁴ *Evidence*, 5 May 2014 (Foulds).

¹⁴⁵ *Evidence*, 7 April 2014 (Dzikowicz).

¹⁴⁶ *Evidence*, 7 April 2014 (McDonald).

¹⁴⁷ *Evidence*, 7 April 2014 (Arcamone).

¹⁴⁸ *Evidence*, 28 April 2014 (Oliver).

¹⁴⁹ *Evidence*, 31 March 2014 (Zed Finless).

have been taken by several hundred police officers. In addition, the RCMP piloted a new advanced investigators course on the topic of missing persons and unidentified remains at the Canadian Police College in March 2012 which refers to the Hague Abduction Convention, and it has published a compendium of best practices for investigations of missing persons and unidentified remains that may be of assistance in abduction cases.¹⁵⁰

Unfortunately, knowledge and usage of the available training does not seem to be universal. Deputy Chief Murray Stooke of the Calgary Police told the Committee that his force had not had recent training on the issue of international child abductions and their current materials date from 1998. He felt that a checklist for officers outlining which agency is responsible for each step in the process would be helpful. He also recommended collaboration with the Canadian Association of Chiefs of Police and associated provincial associations to ensure that officers are educated across the country.¹⁵¹

Judicial training is another important aspect in increasing knowledge about child abductions. Given Canada's federal political system with separate courts in each province or territory, it is difficult to assign such cases to specialized judges, making general training for judges all the more important. Judges may have insufficient knowledge and information regarding the risk of abduction when making custody orders to be able to include appropriate wording to decrease the chance of abduction.¹⁵² Mr. Allen stressed the importance of liaison judges from the International Hague Network of Judges who can provide assistance to judges that are unfamiliar with the topic of international parental abduction and the Hague Abduction Convention.¹⁵³

Training for lawyers is also important as there are few lawyers with experience in such cases, because they are relatively rare. The Department of Justice works with the Canadian Bar Association to ensure regular training.¹⁵⁴

The Committee heard that CBSA officers receive training at their national college when they are hired. A compulsory module which is part of their 18-week course addresses the issue of being alert with respect to children at the border, including questioning techniques and indicators of concern. This training is then put into action when officers receive a tip about someone who is expected to cross the border or when they proactively look into the situation of a child at the border where something seems odd. CBSA officers also rely on information in their internal system, as well as CPIC and local police calls.¹⁵⁵

In addition, passport officers receive training to be able to identify red flags, such as missing information or inconsistent handwriting, when a passport is being requested for a child. These indicators then lead to further questioning and, potentially, secondary review by an officer familiar

¹⁵⁰ *Evidence*, 28 April 2014 (Oliver).

¹⁵¹ *Evidence*, 5 May 2014 (Stooke).

¹⁵² *Evidence*, 7 April 2014 (Arcamone).

¹⁵³ *Evidence*, 31 March 2014 (Allen).

¹⁵⁴ *Evidence*, March 31 2014 (Crosbie & Zed Finless).

¹⁵⁵ *Evidence*, 28 April 2014 (Vinette).

with complicated custody situations. A new training module on security awareness focused on children is being developed to provide clear instructions on how to address such cases.¹⁵⁶

The Committee heard that Minister Yelich has asked DFATD's new Vulnerable Children Consular Unit to improve coordination of prevention measures. An interdepartmental working group has started to look at existing tools and will be providing recommendations to improve the "toolbox" of resources available.¹⁵⁷ The Committee looks forward to learning more about the recommendations once they are developed.

E. Data Collection

Data collection with respect to international child abductions is an area of significant challenge. As noted above, various organizations collect statistics on international child abductions, but none collect comprehensive national data about both Hague and non-Hague cases in Canada. Without reliable data, it is difficult to know how common such abductions are or identify trends in the cases. In addition, some witnesses expressed concerns about the possible under-reporting of abductions. Ms. Turpel-Lafond noted that there may be under-reporting particularly where the left-behind parent is vulnerable for reasons such as domestic violence.¹⁵⁸

Though the federal government does not maintain comprehensive national statistics with respect to the number of Hague Abduction Convention cases, Sandra Zed Finless, Senior Counsel at DFATD Legal Services, told the Committee that the Department of Justice compiles statistics with respect to Hague requests from provincial and territorial Central Authorities in preparation for Special Commissions of the Hague Conference and the associated statistical surveys mentioned above. The next Special Commission on international child abduction is expected to be in late 2015 or early 2016, so more up-to-date data may be available at that time.¹⁵⁹ However, as noted above, such statistics would not provide a full picture as they do not include cases of abduction where no Hague Abduction Convention application was made.

Also noted above, the Committee heard that police information is also incomplete, as it only includes cases where police were involved and police are not required to input data on such cases. CPIC includes information about individuals charged and convicted of crimes and children that have been abducted. Though it is possible to find out the number of abduction cases in CPIC at a given time, information is not retained once a case has been resolved and unresolved cases stay in the system so it is difficult to assess incidents on a yearly basis.¹⁶⁰ Also, while it is an RCMP best practice and they encourage other police forces to do the same, it is not mandatory to enter an international parental abduction in CPIC, which also affects the reliability of the data.¹⁶¹

¹⁵⁶ *Evidence*, 28 April 2014 (Lattimore).

¹⁵⁷ *Evidence*, 31 March 2014 (Maillé).

¹⁵⁸ *Evidence*, 5 May 2014 (Turpel-Lafond).

¹⁵⁹ *Evidence*, 31 March 2014 (Zed Finless).

¹⁶⁰ *Evidence*, 28 April 2014 (Oliver).

¹⁶¹ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 28 April 2014 (Sergeant Jane Boissonneault, National Centre for Missing Persons and Unidentified Remains, Royal Canadian Mounted Police).

F. Coordinated Action

The number of organizations and individuals that may be involved in assisting a parent to seek the return of their child can be overwhelming for parents to navigate while going through the emotions and stress of an abduction. Given the multiple actors involved and the need to react quickly, the Committee heard that collaboration is very important to make navigating the system easier for parents.¹⁶²

Though witnesses found that there was a collective response to international abduction cases from the various actors involved, they felt that it could be made more seamless for the families involved, both in terms of prevention and response once an abduction takes place. There can be confusion about roles and responsibilities.¹⁶³ For example, Ms. Turpel-Lafond told the Committee that:

Canada needs to work more diligently at the federal level to implement the treaty within our own boundaries so that we have clear accountabilities and a clear mechanism to oversee and coordinate policy and practice right down to the public information component, and to ensure that there's appropriate training with our judiciary and state officials, police officials and others, including clearer monitoring of international child welfare situations around the world.¹⁶⁴

Ms. Turpel-Lafond also stressed the need for independent national oversight, possibly by a national children's commissioner or a human rights body which could promote the issue, identify best practices and monitor Canadian compliance with the Hague Abduction Convention. A single, up-to-date website would be beneficial as well. Common standards, rules and procedures and division of responsibilities across the country would also assist in ensuring a smooth response to abduction cases according to Ms. Turpel-Lafond.¹⁶⁵ Ms. Arndt from the Office of the Provincial Advocate for Children and Youth (Ontario) suggested that working with immigrant communities is also important, as such partnerships help build understanding despite differences in culture, language, practices and values.¹⁶⁶

The Committee heard that specialization within organizations may also provide better and faster results, as specialists will be more familiar with the procedures required and can develop a network of contacts to assist in cases. The Calgary police, for example, involve their domestic conflict unit in abduction cases because of their specialized knowledge.¹⁶⁷

¹⁶² Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 31 March 2014 (Dick Chamney, Board President, International Social Service - Canada).

¹⁶³ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 7 April 2014 (Lianna McDonald, Executive Director, Canadian Centre for Child Protection).

¹⁶⁴ *Evidence*, 5 May 2014 (Turpel-Lafond).

¹⁶⁵ *Ibid.*

¹⁶⁶ *Evidence*, 5 May 2014 (Arndt).

¹⁶⁷ *Evidence*, 5 May 2014 (Stooke).

CHAPTER 7: ISSUES AND OPTIONS FOR LEFT-BEHIND PARENTS

This section will briefly outline several issues that a parent will likely have to consider if they are in fear of, or faced with, an international child abduction, including civil and criminal legal processes, consular assistance, and actions involving passports and border controls. The information provided in this section is not intended to be taken as advice in a particular case, or to replace the many excellent resources already available to parents dealing with an abduction situation. Rather, the intent is to understand the problem from a parent's perspective, as opposed to the more institutionally focused section just above and, thus, assist left-behind parents and other stakeholders seeking to address this problem.

A. Prevention

Becoming informed is crucial for a parent fearing abduction or facing one after the fact. Parents have several options and available courses of action to prevent or address international child abduction, some of which have been outlined above (System Lookout, court order, etc.). Legal counsel, NGOs, consular and other government officials, law enforcement agencies and others can help advise parents on appropriate actions to take, depending on the circumstances.¹⁶⁸

Passport Canada officials told the Committee that parents have largely been under the impression that having their child on System Lookout meant that a passport would not be issued or that the child could not travel. It is important for parents to understand that this is not the case. Passport Canada has been working to communicate accurate information to parents through partners such as DFATD, law enforcement and the Our Missing Children program.¹⁶⁹

There are also a number of resources available to inform parents before or after an abduction occurs. For example, the Canadian Centre for Child Protection's "missingkids.ca" website provides information about risk factors to assess the likelihood of abduction. DFATD also publishes two comprehensive and up-to-date guides, entitled *Preventing International Child Abduction: A Guidebook for Parents* and *International Child Abduction: A Guidebook for Left-Behind Parents*.¹⁷⁰

B. Civil Processes

In the best case scenario, a parent facing an international child abduction is quickly referred to the appropriate Central Authority, if relevant, or an NGO and/or lawyer with applicable expertise to assist the parent in the various stages of locating the child and seeking his or her return. NGOs provide a variety of services, including access to experienced investigators, but a lawyer is highly recommended for any legal proceedings either in Canada or another country.

If the child has been taken from Canada to another state party to the Hague Abduction Convention, then the parent may contact the relevant provincial Central Authority. Officials from the Central

¹⁶⁸ See Department of Foreign Affairs, Trade and Development Canada, [International Child Abduction: A Guidebook for Left-Behind Parents](#), Ottawa, 2014; and Department of Foreign Affairs, Trade and Development Canada, [Preventing International Child Abduction: A Guidebook for Parents](#), Ottawa, 2014 (note that both publications are in the same pdf document).

¹⁶⁹ *Evidence*, 28 April 2014 (Lattimore).

¹⁷⁰ *Ibid.*

Authorities in British Columbia and Ontario told the Committee that, once contact is made with a left-behind parent, their offices verify that the case meets the requirements of the Hague Abduction Convention and provide forms to be filled out by the parent. The forms are then forwarded to the Central Authority in the country where the child is located, where legal proceedings will be initiated. The left-behind parent can also request an attempt at a voluntary return or assistance in securing legal counsel and/or legal aid in the other country.¹⁷¹

International Social Service – Canada may also be of assistance to parents. ISS is a network that provides social work services to families in situations of international child abduction and family separation where more than one country is involved. It is active in approximately 140 countries through a network of national branches (including one in Canada) and agreements with service providers. As Dic Chamney, President of ISS – Canada, told the Committee:

[W]e have correspondents who know the culture, they know the law, and they know how to work in it with respect to that culture. They are very non-judgmental in their work. They do fine casework...¹⁷²

Where the child is in a non-Hague country, consular services may be of particular assistance. However, federal officials informed the Committee that limited options are available to parents in situations where a child is taken to a non-state party to the Hague Abduction Convention and the other parent is unwilling to voluntarily return the child. As noted by Leslie Scanlon, Director General, Consular Operations Bureau, DFATD, government interventions on behalf of left-behind parents in such situations focus on the well-being of the child, including “visits with the child ... health, education, medical access, and whether they are being fed properly. Those are the issues we could have some impact on, even if there is no other legal thing we can do.”¹⁷³

Court proceedings to establish or revise custody arrangements may also be required to prove the custody situation of the child to police, Central Authorities and foreign courts. Legal proceedings in the country where the child is located may need to be started. This can involve requesting recognition and enforcement of a Canadian court order, if the other country’s judicial system is open to that, or initiating new proceedings in that country.¹⁷⁴ The Committee was informed that, where legal aid is required to fund such procedures, wait times can be extensive.¹⁷⁵

C. Criminal Processes and Police Involvement

Parental child abduction is a criminal offence under Canadian law.¹⁷⁶ Therefore, consideration may be given to pursuing criminal charges against the other parent in Canada, which is entirely separate from the Hague Abduction Convention application. The Committee heard that some cases in Canada

¹⁷¹ *Evidence*, 5 May 2014 (Foulds). Note that the Committee was told that Central Authorities in some countries represent the parent.

¹⁷² *Evidence*, 31 March 2014 (Chamney).

¹⁷³ Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 31 March 2014 (Leslie Scanlon, Director General, Consular Operations Bureau, Foreign Affairs, Trade and Development Canada).

¹⁷⁴ *Evidence*, 31 March 2014 (Riendeau).

¹⁷⁵ *Evidence*, 7 April 2014 (McDonald).

¹⁷⁶ Sections 282 (custody order) and 283 (whether or not there is a custody order) of the *Criminal Code* criminalize parental child abduction, with a maximum punishment of ten years imprisonment.

involve criminal charges against the taking parent, while others do not.¹⁷⁷ Police involvement may also assist in alerting other officials of the abduction, as they have access to various alert systems. Legal advice should be sought, as there are both possible harms and benefits to this approach.¹⁷⁸

Where a parent does want to proceed with charges, the Committee heard that police in some jurisdictions know what to do in such cases but in others lack understanding of the role of police.¹⁷⁹ Witnesses informed the Committee that this stage can be difficult for left-behind parents, as police sometimes resist involvement, particularly if there is no custody order in place, as parental abduction is seen as a private civil matter.¹⁸⁰ While pursuit of criminal charges is not always appropriate, some witnesses said that police must treat a complaint seriously to assess whether a specific case warrants criminal charges.¹⁸¹ Where police do not recognize that the abduction may justify a criminal investigation and believe that it is only a civil family law dispute that is outside their jurisdiction, precious time can be lost.¹⁸²

Deputy Chief Stooke said that the initial period is difficult for police because the situation is not always clear (e.g., whether a custody order is in place) and it usually takes a few hours to clarify.¹⁸³ For that reason, timely provision of information from the left-behind parent is crucial.

Once police begin a criminal investigation, they work closely with international and foreign police agencies. The RCMP's National Centre for Missing Persons and Unidentified Remains provides specialized services, including coordinating the international investigation. Mr. Oliver told the Committee that:

INTERPOL is a critical component, but we also maintain a network, as does the Canada Border Services Agency, of international liaison officers who work on a daily basis with the policing community and law enforcement partners abroad. We have 35 RCMP officers strategically deployed in 26 countries abroad, and they work on a regular basis with international partners. We have leveraged those relationships in cases of child abductions in order to help us identify and locate the child as well as to bring the abductor to justice.¹⁸⁴

The Committee also heard that the RCMP may work with INTERPOL to seek international assistance from law enforcement through missing child notices, referred to as “Yellow Notices” or, where charges are laid against the parent, a “Red Notice” for the abductor's arrest.¹⁸⁵

¹⁷⁷ *Evidence*, 7 April 2014 (Arcamone).

¹⁷⁸ DFATD, *International Child Abduction: A Guidebook for Left-Behind Parents*, 2014.

¹⁷⁹ *Evidence*, 31 March 2014 (Chamney); Senate, Standing Committee on Human Rights, *Evidence*, 2nd Session, 41st Parliament, 31 March 2014 (Amanda Pick, Executive Director, Missing Children Society of Canada).

¹⁸⁰ *Evidence*, 7 April 2014 (McDonald).

¹⁸¹ *Evidence*, 7 April 2014 (Arcamone & Watkins).

¹⁸² *Evidence*, 31 March 2014 (Pick).

¹⁸³ *Evidence*, 5 May 2014 (Stooke).

¹⁸⁴ *Evidence*, 28 April 2014 (Oliver).

¹⁸⁵ *Ibid.*

D. Travel Documentation

The Committee heard that, where a parent accepts for a child to leave Canada with the other parent, it is important to ensure that all relevant documentation is in place before the child travels. Such documentation may include valid identification, court orders, and a consent letter or form.

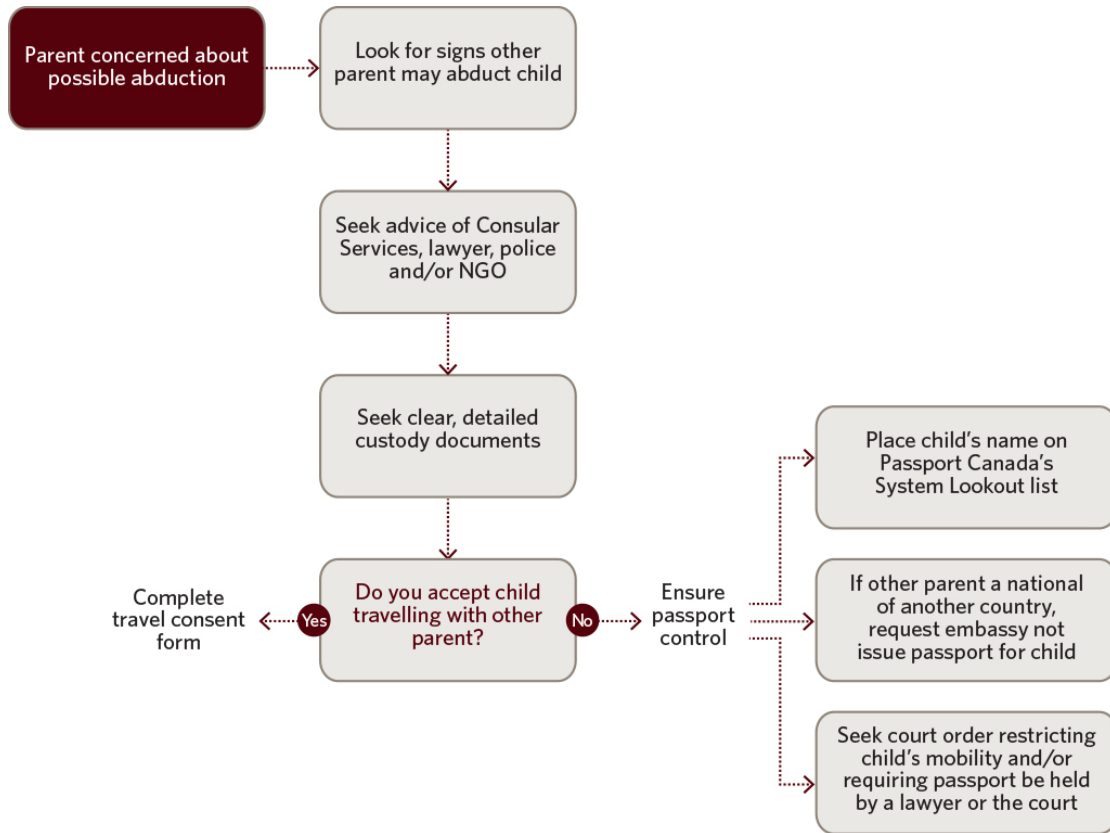
DFATD provides a publication, *Travelling with Children*, that includes a model consent form, which is an authorization by a parent for the child to travel without him or her. Mr. Bernasconi also informed the Committee about a consent form developed by the I CARE Foundation, an organization that works on issues of international child abduction and trafficking. The I CARE form is more detailed and states expected departure and return dates, the child's state of habitual residence, and various affirmations about the parent's intentions, among other information. Mr. Bernasconi reported that, in the 500 cases where the I CARE form was used, all the children came back to their country of habitual residence. In at least three of those cases, parents threatened not to return but did so without a return order needing to be issued. Mr. Bernasconi also saw the form as being of assistance in arguing a case for the return of the child and in limiting the use of article 13(b) since clauses can be included stating when the child is to return and declarations made that no exceptions apply.¹⁸⁶

The Committee heard that the development of obligatory rules or forms for children to be able to travel overseas within the context of the Hague Abduction Convention was discussed at the last Special Commission. The idea was rejected because many countries do not have exit controls and did not want to introduce them, as would be required to monitor the departure of children.¹⁸⁷ Nonetheless, a travel consent form may establish clear expectations between the parents, as well as documentary evidence of the understanding of the left-behind parent when the child left, which can be of assistance in interacting with police and as evidence in court proceedings.

¹⁸⁶ *Evidence*, 2 June 2014 (Bernasconi).

¹⁸⁷ *Evidence*, 7 April 2014 (Bruch).

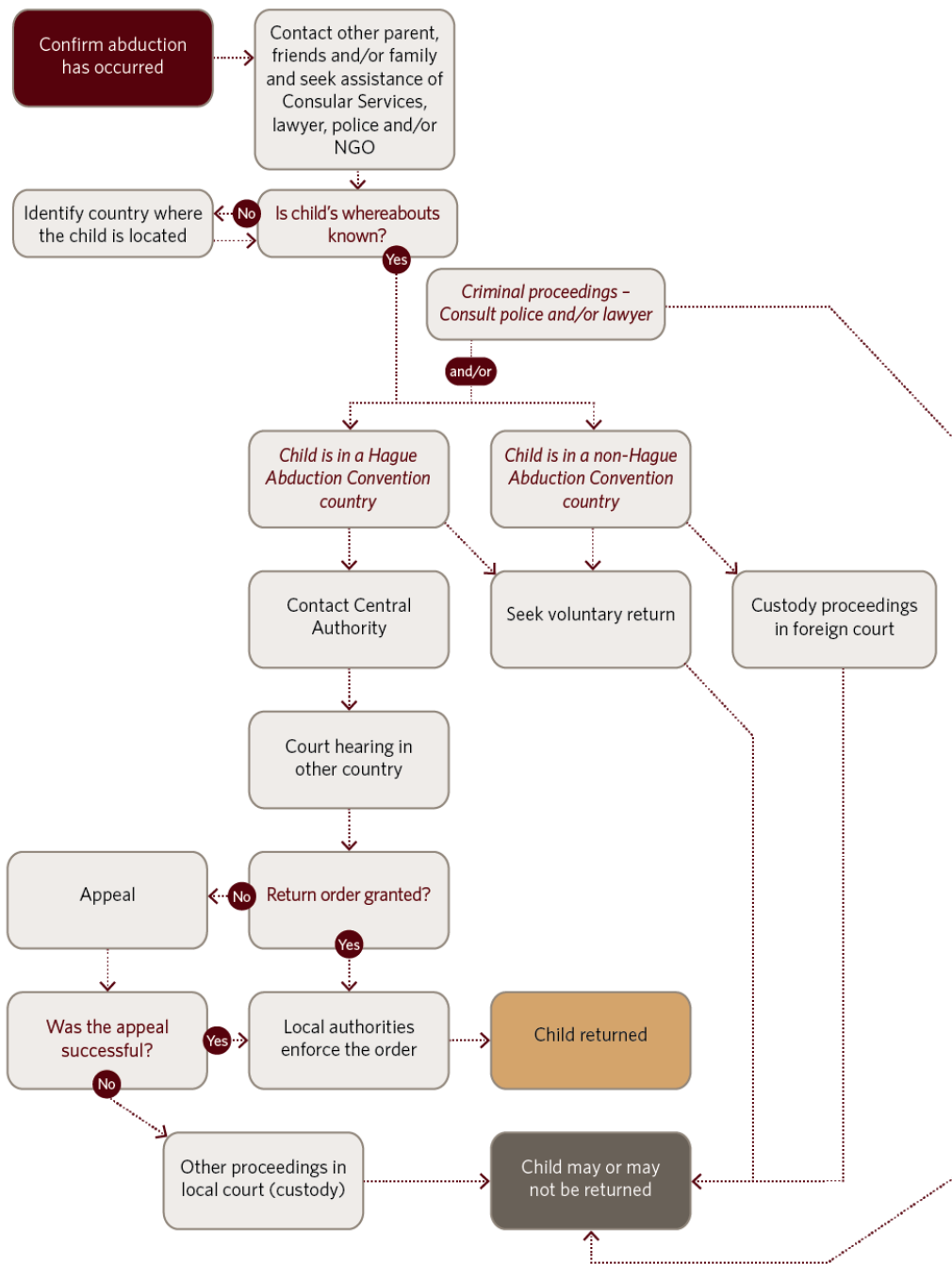
Figure 2: Possible steps to prevent international child abduction



Sources: Department of Foreign Affairs, Trade and Development Canada, *International Child Abduction: A Guidebook for Left-Behind Parents*, Ottawa, 2014; Department of Foreign Affairs, Trade and Development Canada, *Preventing International Child Abduction: A Guidebook for Parents*, Ottawa, 2014; and witness testimony.

Note: Above are some possible steps to consider where an international parental child abduction could or has occurred. Not all steps will be helpful in all cases, and the order in which the steps are taken may vary. Also, these flow charts do not include all possible steps or the various steps different organizations and authorities may take. The advice of an expert should be sought when dealing with a child abduction. For more information and an explanation of the consequences of various courses of action, see the guides mentioned in the sources above.

Figure 3: Possible steps where international child abduction has occurred



Sources: Department of Foreign Affairs, Trade and Development Canada, *International Child Abduction: A Guidebook for Left-Behind Parents*, Ottawa, 2014; Department of Foreign Affairs, Trade and Development Canada, *Preventing International Child Abduction: A Guidebook for Parents*, Ottawa, 2014; and witness testimony.

Note: Above are some possible steps to consider where an international parental child abduction could or has occurred. Not all steps will be helpful in all cases, and the order in which the steps are taken may vary. Also, these flow charts do not include all possible steps or the various steps different organizations and authorities may take. The advice of an expert should be sought when dealing with a child abduction. For more information and an explanation of the consequences of various courses of action, see the guides mentioned in the sources above.

CHAPTER 8: CONCLUSIONS AND RECOMMENDATIONS

This section summarizes the Committee's key findings and conclusions and presents recommendations based on the testimony the Committee heard during its study of Canada's efforts to implement the Hague Abduction Convention and to strengthen cooperation with non-states parties to combat international child abduction.

A. Increasing Knowledge and Awareness of the Hague Abduction Convention

The Committee believes that, while the objectives of the Hague Abduction Convention are not always met in practice, the Convention provides the best framework for addressing the problem of international child abduction currently available. It has proven to be an effective tool, particularly when compared with the situation prior to its existence, and to situations of abduction to countries that are not parties to the Hague Abduction Convention.¹⁸⁸

Though a certain level of inconsistency is inevitable, given the diversity of actors involved and of judges making decisions on Hague applications, there are measures that can be taken, such as the development of guidelines and frameworks for analysis that may be of assistance to judges and others to consistently interpret and apply the Hague Abduction Convention. Training of judges, lawyers and those involved in related social services is key to ensuring a deep understanding of the Hague Abduction Convention and ensuring consistency across jurisdictions. Greater consistency will hopefully provide greater certainty for parents and facilitate the giving of legal advice as parents seek the return of their child or the exercise of access rights.

The Committee heard about the many important efforts federal departments and others are making to ensure accurate and up-to-date information is compiled and disseminated to relevant stakeholders and, particularly to parents. Going forward, the Committee hopes that Canada will continue to play an important role in training and capacity-building among lawyers, the judiciary and others in Canada and other countries. In addition, the Committee hopes that Canada continues its leadership role in the development of interpretation aids, including practice guidelines, training materials and best practice manuals.

Recommendation 1

The Committee recommends that officials from the Department of Foreign Affairs, Trade and Development, the Department of Citizenship and Immigration and the Department of Justice work with provincial and territorial Central Authorities to review current approaches and examine ways to generate greater awareness of the Hague Abduction Convention among parents and other stakeholders (police, judges, lawyers, etc.), including provision of information about the Hague Abduction Convention, a list of countries that are signatories, the risk of abduction and associated penalties whenever a passport is issued. Officials should also promote consistency in the application of the Convention among the judiciary within Canada and other states parties.

B. Ratifying Complementary International Instruments

¹⁸⁸ *Evidence*, 31 March 2014 (Crosbie & Wright).

As noted above, another international convention negotiated under the auspices of the Hague Conference covers a range of issues that may be engaged in an international child abduction situation. The Hague Child Protection Convention can complement the Hague Abduction Convention in a number of important ways, including by reaffirming the primary role of the authorities in the child's country of habitual residence, and facilitating the recognition of Canadian return orders in other jurisdictions.

The Committee heard that federal authorities are working with the provinces and territories in order to ratify the Hague Child Protection Convention. The range of matters covered by the convention was cited by provincial and territorial authorities as the main reason for the delay in ratification, with no specific provision posing a barrier. Notwithstanding the complexity involved in ratifying this instrument, involving multiple issues and jurisdictions, the Committee believes that the Hague Child Protection Convention is an important instrument requiring renewed and concerted efforts toward its ratification.

Recommendation 2

The Committee recommends that the federal government, together with the provinces, expedite the process to bring about the ratification of the Hague Child Protection Convention.

C. Better and More Consistent Data Collection

While there are currently many valuable sources of information on international child abductions, the Committee notes that more consistent and coordinated data collection could contribute to a better understanding of the extent and nature of this global problem.

The Committee observes that comprehensive international and national statistics regarding cross-border child abduction cases are generally lacking. Despite the efforts of many stakeholders – including the Hague Conference, DFATD and the RCMP – to collect information on cases within their own spheres, no sources currently provide a full picture of the problem within Canada or internationally.

Canadian authorities are currently working within Canada and internationally to collect and maintain up-to-date statistical information on abductions to Hague and non-Hague Countries. The Committee believes that Canada has additional opportunities to help enhance and ensure the consistent collection of data on international child abductions and information about such cases, through, for example, supporting a fourth global statistical survey of Hague applications, and contributing to the development and maintenance of the Hague Conference's INCADAT database. In addition, further research into trends in international child abductions and how the Hague Abduction Convention is being interpreted, including study of the prevalence of domestic violence in such cases, would also be beneficial to better understand the situation. The Committee sees the new policy capacity in the Vulnerable Children's Consular Unit as a positive step in ensuring that such work is conducted.

Recommendation 3

The Committee recommends that the Government of Canada continue to work with the Permanent Bureau of the Hague Conference on Private International Law and other stakeholders to ensure that a single internationally-accepted data collection methodology is developed, that consistent and comprehensive collection of statistical information and analysis

of the problem of international child abductions takes place and that the necessary resources to undertake this work are put in place. Such information and analysis should include both Hague and non-Hague states, as well as both domestic and international data.

D. Continued and Enhanced Engagement with Non-Hague Countries

Currently, Canada is actively engaged in dialogue with non-Hague countries through various means, including the Malta Process and its Working Party on Mediation, to promote greater mutual understanding and encourage wider ratification of the Hague Abduction Convention. The Committee supports these efforts and agrees with witnesses that stated that such dialogue must begin from a point of commonality which, in this context, is the best interests of the child.

Perhaps the most important means of encouraging diplomatic contact among stakeholders in Hague and non-Hague states is through the Malta Process. While concrete results of this process may not yet be seen in the form of increased numbers of ratifications or tools for use by parents, the Committee observes that the point of an ongoing diplomatic dialogue is to foster the type of understanding and incremental change that may not be easily tracked or quantified. Diplomatic engagement between Hague and non-Hague states in forums such as the Malta Process and its Working Party on Mediation are valuable opportunities for the judiciary and officials from these states to develop long-term relationships, as well as solutions to this global problem. It may also be beneficial to study the U.K.–Pakistan model of judicial cooperation mentioned above to see if Canada would benefit from a similar arrangement.

In addition to the current diplomatic dialogue among the judiciary and government officials, the Committee believes that parliamentarians and other lawmakers from Hague Convention countries have the potential to play a greater role in engagement with non-Hague Convention countries on these important issues. The development of structured inter-parliamentary dialogues and exchanges may open another avenue for engagement and, given the openness of the Hague Conference to this possibility, may be worthy of further exploration.

Recommendation 4

The Committee recommends that the Government of Canada continue to play an active role in the Malta Process, and work with the Permanent Bureau of the Hague Conference on Private International Law and parliamentarians in Hague Convention and non-Hague Convention countries to increase their involvement in ongoing advocacy efforts and develop opportunities for greater parliamentary diplomacy on these issues.

E. Coordinated Action to Prevent and Respond to Cross-Border Child Abductions

International child abductions are complex cases requiring cooperation across jurisdictions. The RCMP, local police in Canada, CBSA, INTERPOL and police and border authorities in other countries may all be involved. Central Authorities in Canada and abroad may be assisting the parent if the other country is a state party to the Hague Convention, and DFATD, the Department of Justice

and Citizenship and Immigration Canada, including Passport Canada, may be as well.¹⁸⁹ Lawyers and NGOs may also play a role, both within Canada and overseas.

In addition to the multiple actors and levels of government involved, the complex legal framework created by the Hague Abduction Convention and national civil and criminal laws can be overwhelming, especially for those facing the emotional difficulties involved in combatting an international child abduction. The Committee believes that potential exists for greater coordination of information and services for left-behind parents in the hours, days and weeks after an abduction has occurred, when their needs for direction and guidance are most acute. In addition, the Committee believes that public officials – including consular, law enforcement and border officials and central authorities – could benefit from greater efforts to coordinate information-sharing and action on cross-border abduction cases. To this end, the Committee views as a positive development the creation of an interdepartmental working group, headed by the Vulnerable Children’s Consular Unit within DFATD, to improve coordination of prevention measures, and looks forward to seeing the recommendations of this working group. In addition, in the view of this Committee, further coordination in the form of task forces may have the potential to identify best practices to better coordinate action in a number of other areas, including education and training, data collection, and information sharing.

Recommendation 5

The Committee recommends that the Government of Canada, in consultation with provincial and territorial Central Authorities, law enforcement agencies and civil society, establish one or more task forces with a view to improving coordination of programs and services for left-behind parents, and to explore options for greater cooperation in areas including education and training, data collection and analysis, and information sharing on international child abduction cases.

F. Tools for Border Officials and Passport Canada

As noted above, Canada does not impose exit controls, meaning that departures from Canada are not monitored. In the absence of exit controls at Canadian borders, border officials in other countries must be relied upon to detect when a child has been abducted from Canada. Similarly, Canadian border officials are trained to detect the warning signs that a child may be abducted into Canada from another country.

The Committee notes with interest the development of the Entry/Exit Initiative as part of the Beyond the Border Action Plan. The Committee believes this initiative may have potential benefit and application in the prevention of child abductions, or may serve as a model for the development of future information-sharing initiatives between Canada and other countries for this purpose.

Recommendation 6

The Committee recommends that the Canada Border Services Agency, as part of its Beyond the Border Action Plan, review the Entry/Exit Initiative for potential applications in child abduction situations, and/or the potential development of parallel systems for monitoring exits from Canada with a view to preventing international child abductions.

¹⁸⁹ *Evidence*, 28 April 2014 (Oliver).

The Committee also sees revocation of a passport in situations of international child abduction as a potentially useful tool. According to the *Canadian Passport Order* which outlines when a passport may be issued, refused and revoked, a child's passport cannot be revoked because of the risk of an abduction or because a child has been abducted.¹⁹⁰

Recommendation 7

The Committee recommends that the Governor in Council evaluate whether the *Canadian Passport Order* should be amended to allow for revocation of a passport in situations of international child abduction and, if so, determine under which conditions such a revocation could occur.

¹⁹⁰ [Canadian Passport Order](#), SI/81-86.

APPENDIX A – PARTICIPANTS IN THE MALTA PROCESS

| | 2004 Conference | 2006 Conference | 2009 Conference | Working Party on Mediation Members |
|---|---|--|--|--|
| States parties to the Hague Abduction Convention | Belgium France Germany Italy Malta Netherlands Spain Finland Sweden U.K. | Australia Belgium Canada France Germany Malta Netherlands Sweden Turkey U.K. U.S.A. | Australia Belgium Canada France Germany Israel Malta Netherlands Spain Sweden Switzerland Turkey U.K. U.S.A. | Australia Canada France Germany Morocco* U.K. U.S.A. |
| Non-states parties to the Hague Abduction Convention | Algeria Egypt Lebanon Morocco* Tunisia | Algeria Egypt Indonesia Lebanon Libya Malaysia Morocco* Tunisia | Bangladesh Egypt India Jordan Malaysia Morocco* Oman Pakistan Qatar Tunisia | Egypt India Jordan Malaysia Pakistan |
| Non-state participants | Council of EU International Social Service Reunite | Council, Parliament and Commission of EU International Social Service International Centre for Missing and Exploited Children Reunite | European Commission, European Parliament and Council of EU Council, Parliament and Commission The League of Arab States The United Nations Committee on the Rights of the Child International Social Service International Centre for Missing and Exploited Children Reunite | Independent mediation experts |

Note: * Morocco was not a state party to the Hague Abduction Convention until 2010.

Source: Material compiled from the list of participants for each event and the list of states parties to the Hague Abduction Convention.

APPENDIX B - WITNESSES

Monday, March 31, 2014

Justice Canada:

Laurie Wright, Assistant Deputy Minister, Public Law Sector;

Marie Riendeau, Counsel, International Private Law Section;

Sandra Zed Finless, Senior Counsel, Foreign Affairs, Trade and Development Canada, Legal Services.

Foreign Affairs, Trade and Development Canada:

William Crosbie, Assistant Deputy Minister, Consular, Security and Legal Branch, Chief Security Officer and Legal Adviser;

Béatrice Maillé, Director General, Consular Policy Bureau;

Leslie Scanlon, Director General, Consular Operations Bureau.

Missing Children Society of Canada:

Amanda Pick, Executive Director.

International Social Service — Canada:

Dick Chamney, Board President;

Sylvie Lapointe, Director of Services.

International Centre for Missing and Exploited Children:

Ernie Allen, President and CEO (by video conference).

Monday, April 7, 2014

As an individual:

The Honourable Jacques Chamberland, Member, International Hague Network of Judges.

The Missing Children's Network:

Pina Arcamone, Director General (by video conference).

iCHAPEAU Association:

Stephen Watkins, Executive Director and Founding Member.

Canadian Centre for Child Protection:

Lianna McDonald, Executive Director (by video conference);

Christy Dzikowicz, Director, Missing Children Services (by video conference).

As individuals:

Max Blitt, Fellow, International Academy of Matrimonial Lawyers (by video conference);

Carol Bruch, Distinguished Professor Emerita and Research Professor of Law, School of Law, University of California, Davis (by video conference).

Monday, April 28, 2014

Royal Canadian Mounted Police:

A/Commr. Joe Oliver, Technical Operations;

Sgt. Jane Boissonneault, National Centre for Missing Persons and Unidentified Remains.

Canada Border Services Agency:

Denis Vinette, Director General, Border Operations.

Citizenship and Immigration Canada:

Lu Fernandes, Director General, Passport Program Integrity;

Michelle Lattimore, Director, Integrity Operations Division, Passport Program Integrity Branch.

As individuals:

Timothy Gianotti, Director of Islamic Studies, American Islamic College (by video conference);

Anver Emon, Professor, Faculty of Law, University of Toronto (by video conference);

Ahmed Fekry Ibrahim, Assistant Professor, Institute of Islamic Studies, McGill University.

Monday, May 5, 2014

Calgary Police Service:

Deputy Chief Murray Stooke (by video conference).

Office of the Representative for Children and Youth, British Columbia:

Mary Ellen Turpel-Lafond, Representative for Children and Youth (by video conference).

Office of the Provincial Advocate for Children and Youth (Ontario):

Irwin Elman, Provincial Advocate;

Laura Arndt, Director of Strategic Development.

Ministry of Justice of British Columbia:

Penelope Lipsack, Barrister and Solicitor, Legal Services Branch (by video conference).

Ministry of the Attorney General of Ontario:

Shane Foulds, Legal Counsel (by video conference).

Monday, June 2, 2014

Hague Conference on Private International Law:

Christophe Bernasconi, Secretary General.

Thursday, September 25, 2014

As an individual:

Mandeep Gill, Associate, International Family Law Group, LLP (by video conference).

Reunite International Child Abduction Centre:

Alison Shalaby, Chief Executive Officer (by video conference);

Anne-Marie Hutchinson, Chair (by video conference).

International Social Service:

Hervé Boéchat, Deputy Secretary General, and Director, International Reference Centre for Children Deprived of Family (by video conference).

Thursday, November 6, 2014

As an individual:

Nigel Lowe, Emeritus Professor, Cardiff Law School (by video conference).

Foreign Affairs, Trade and Development Canada:

Bill Crosbie, Assistant Deputy Minister and Legal Adviser;

Béatrice Maillé, Director General, Consular Policy;

Leeann McKechnie, Director General, Consular Operations Bureau.

Justice Canada:

Kathryn Sabo, General Counsel and Director, International Private Law Section;

Marie Riendeau, Counsel, International Private Law Section;

Sandra Zed Finless, Office of the Canadian Federal Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, Legal Services Unit at Foreign Affairs, Trade and Development Canada.

Citizenship and Immigration Canada:

Laurie-Anne Kempton, Director of Foreign Operations, Passport Program Integrity Branch;

Robert Stevenson, Operational Coordinator for Perimeter Implementation, Strategic Projects Office.

Canada Border Services Agency:

Calvin Christiansen, Director General, National Border Operations Centre.