



## **International Parental Abduction of Children (A Study in Light of the 1980 Hague Convention on the Civil Aspects of International Child Abduction)**

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### **ABSTRACT:**

One of the most significant issues arising from the divorce between couples of different nationalities is the dispute between parents over child custody rights. Such disputes may escalate to the extent that one parent unlawfully removes or retains the child across international borders, thereby depriving the other parent of custody and visitation rights.

In order to avoid the psychological and social repercussions of cross-border abduction on the child's stability and on his or her relationship and bond with both parents, States have concluded numerous international conventions. Among the most prominent in this field is the Hague Convention on the Civil Aspects of International Child Abduction, concluded on 25 October 1980, which seeks to address and put an end to violations of legally established custody and access rights by ensuring the prompt return of the child to the State of his or her habitual residence through cooperation among the authorities of the Contracting States.

**Keywords:** International child abduction; custody rights; rights of access; Hague Convention on the Civil Aspects of International Child Abduction; State of habitual residence; prompt return of the child.

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### **Introduction:**

The realities of life have, since ancient times, compelled human beings to establish various social relationships, foremost among them those aimed at forming a family, regarded as the fundamental unit of society<sup>1</sup>. The marital relationship has thus been considered one of the most significant social bonds, and the marriage contract a solemn

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<sup>1</sup> See Zakia Hamidou, *The Best Interests of the Child in Maghrebian Legislation*, PhD Thesis, Faculty of Law, University of Tlemcen, 2005, p.5.

and binding covenant<sup>1</sup>, the dissolution of which, though legally permissible, remains deeply disfavored. Married life, however, is not devoid of conflicts and divisions. While some disputes may be resolved and reconciled, others prove irreparable, rendering the dissolution of the marital bond inevitable. In such circumstances, where children have been born of the marriage, the issue of child custody and care inevitably arises, requiring arrangements that ensure the protection of the child's best interests.

With the increasing openness of societies to one another in the modern era—resulting from the growth of human mobility driven by the revolution in international transportation and the gradual erosion of geographical boundaries—private international relations have significantly evolved. Consequently, mixed marriages have become more frequent, and the rate of dissolution of such unions has risen accordingly. These developments have had serious repercussions for children, who often become the primary victims of their parents' separation. Disputes may arise between the parents concerning custody and residence, and when such disagreements intensify, one parent may resort to abducting the child and taking him or her to a distant country. This situation inevitably leads to difficulties in maintaining contact between the child and the other parent<sup>2</sup>.

Given that the child is inherently vulnerable and requires special care and genuine protection, and considering that one of the child's fundamental rights is to live within a family environment that ensures proper care and attention to his or her affairs, the international community has been keen to safeguard children's rights and freedoms. Numerous bilateral and multilateral conventions have been concluded in this field. Article 24 of the International Covenant on Civil and Political Rights provides that every child, without discrimination on any ground such as race, is entitled to such measures of protection as are required by his or her status as a minor, on the part of the family, society, and the State. Likewise, Article 7(b) of the Convention on the Rights of the Child stipulates that no child shall be deprived of his or her liberty unlawfully or arbitrarily.

On 25 October 1980, the Hague Convention on the Civil Aspects of International Child Abduction was concluded<sup>3</sup>. The primary objective of this Convention is to protect

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<sup>1</sup> Allah Almighty says: "And how could you take it while you have committed intimacy with one another and taken a solemn covenant from you?" (Qur'an, Surah An-Nisa, 4:21).

<sup>2</sup> In addition to the problem of depriving a child and one of the parents from each other and the difficulty of communication between them due to long distances, travel costs, and, in some cases, the difficulty of obtaining a visa, the child is often transferred to a country other than their habitual residence. This country inevitably differs in terms of legal system, social, cultural, and linguistic environment, with which the child has no prior connection. It is therefore an unfamiliar environment, and the child will inevitably encounter difficulties in adapting and adjusting. This has a profound impact on the child's psychological well-being, stability, and fundamental right to maintain enduring relationships with their parents. All of this, combined with the generally long distances involved, makes locating internationally abducted children, finding them, and ensuring their return a difficult and complex process.

<sup>3</sup> The final text of the Convention was adopted at the Fourteenth Session of the Hague Conference on 25 October 1980 and entered into force on 1 December 1983 following the first three ratifications by Canada, France, and Portugal, which was subsequently followed by Switzerland's ratification. Tunisia ratified this treaty pursuant to Presidential Decree No. 64 of 2017, dated 20 May 2017, concerning the approval of the accession of the Republic of Tunisia to the Convention on the Civil Aspects

children at the international level from the harmful effects resulting from their wrongful removal or retention, and to address and combat the phenomenon of international child abduction.

The abduction referred to in this context is parental abduction, which constitutes the most common form of child abduction. It involves the unlawful removal of custody by one parent or a relative without mutual consent and in violation of family law provisions. This typically occurs upon the separation of spouses or during the initiation of divorce proceedings, when one parent may remove the child from the other or retain the child unlawfully. A parent may refuse to return the child following the end of a visitation period or may abscond with the child, thereby depriving the other parent of custody, access, or contact. Such acts may take place within the same city, region, or State, or may occur across national borders, in which case the abduction assumes an international character.

The wrongful removal or retention of children across borders by one parent constitutes a complex legal issue. The Hague Convention on the Civil Aspects of International Child Abduction represents the principal international mechanism in this field. Highlighting its provisions is of particular importance, both in addressing a complex phenomenon affecting children and parents, and in confronting the challenges faced by national governments in managing the inevitable cross-border conflicts that arise within family life.

The Convention establishes a set of procedures and measures designed to secure the prompt return of abducted children to their State of habitual residence, thereby ensuring the effective protection of legally recognized custody, access, and contact rights.

Accordingly, this study is structured around a central research question: how can the risks of international child abduction be addressed at the international level under the Hague Convention on the Civil Aspects of International Child Abduction concluded on 25 October 1980?

From this principal question arise several subsidiary inquiries: What is the concept of cross-border international child abduction? What is the relationship between abduction and custody and access rights? What international efforts have been undertaken to confront the phenomenon of international child abduction? And what mechanisms were adopted by the 1980 Hague Convention to address cross-border child abduction?

In order to address these issues, we have structured this study into two main sections as follows:

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of International Child Abduction concluded within the framework of the Hague Conference on Private International Law on 25/10/1980.

It was also ratified by Morocco on 23/03/1993, Gabon on 06/12/2010, Mozambique on 01/03/2010, Sudan on 08/07/1997, and Zimbabwe on 04/04/1995. Iraq ratified this Convention pursuant to Law No. 48 of 2013, which was published in the Official Journal of Iraq, Issue 4305, on 07/01/2014.

- **Section One:** The Concept of International Child Abduction and Its Relationship to Custody and Access Rights
- **Section Two:** International Efforts to Combat the Phenomenon of International Child Abduction

## **Section One: The Concept of International Child Abduction and Its Relationship to Custody and Access Rights**

Shedding light on the phenomenon of international child abduction first requires an examination of its concept, followed by an analysis of its relationship to custody and access rights. This will be addressed through the following two subsections.

### **Subsection One: The Concept of International Child Abduction**

In this subsection, we will first examine the linguistic definition of abduction (Part One), then its terminological definition (Part Two), and subsequently clarify the concept of international child abduction in light of the Hague Convention on the Civil Aspects of International Child Abduction.

#### **Part One: Linguistic Definition of Abduction**

Linguistically, abduction denotes swiftness in taking and moving. The term is derived from the verb “to abduct,” meaning to seize or take swiftly, implying dispossession or snatching away. As expressed in the Qur’anic verse: *“The lightning almost snatches away their sight.”*<sup>1</sup>

Thus, the linguistic determination of the term “abduction” centers on rapid taking or swift seizure. An essential element of this meaning is the speed of the act, which necessarily involves rapid removal and displacement.<sup>2</sup>

In legal doctrine, abduction is defined as the swift taking of a person or object that may constitute the subject matter of the offence, through the use of physical or moral coercion, or by means of deception and enticement, and removing that person from his or her location or diverting the course of movement while exercising full control.<sup>3</sup>

#### **Part Two: Terminological Definition of Abduction**

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<sup>1</sup> Qur’an, Surah Al-Baqarah, 2:20.

<sup>2</sup> Jamal Ali Mohamed, Cross-Border International Child Abduction: A Study in Light of Egyptian Private International Law and the 1980 Hague Convention on the Civil Aspects of International Child Abduction, Legal and Economic Journal, Faculty of Law, Zagazig University, Issue 47, March 2025, pp.536–537; Fatima Mohamed Kessi & Mostafa Salem Abdel, International Child Abduction within the Framework of the Hague Conference on Private International Law, Journal of Legal Sciences, Vol. 37, Part II, February 2023, p. [page number].

<sup>3</sup> See Abdelwahab Abdullah Ahmed Al-Ma’mari, Crimes of Abduction, Modern University Press, Yemen, 2006, p.29.

Sudanese legislation defines the crime of abduction in Article 03, Paragraph 03 of the Penal Code as: “Anyone who compels a person by force or entices them by any form of deception to leave a place is said to have abducted that person.”

Child abduction may be perpetrated by strangers, often for purposes such as ransom, trafficking, sexual exploitation, or unlawful adoption.

It may also be committed by a relative. In cases of separation or divorce, one parent may abduct the child and unlawfully usurp custody rights without mutual consent and in violation of family law provisions.

Child abduction may occur within the same city, region, or State; however, when the child is taken beyond national borders, the act assumes the character of cross-border international abduction.

International child abduction occurs when one parent, a relative, or an acquaintance removes the child from the country in violation of a custody judgment or visitation order. Parents may also deliberately retain the child abroad, for instance by taking the child on a purported holiday outside the country and subsequently refusing to return him or her.

The removal of a child is considered unlawful when one parent relocates with the child to another country without the consent of the other parent or without judicial authorization or approval by a competent authority. Retention is likewise unlawful when a parent fails to return the child to the country of his or her habitual residence.

Accordingly, international child abduction across borders consists in the unlawful removal of a minor who has not attained the age of majority by one of the legal guardians or parents, despite custody having been legally established in favor of the other party.

In this context, child abduction refers to the taking of a minor from the individuals entrusted with his or her custody and care, and the intentional transfer of the child from his or her existing location to another place—even where the child ostensibly consents. It involves one parent removing and relocating the child with the intention of exclusively exercising custody, thereby distancing the child from the other parent who holds a legally recognized custody right, and consequently infringing upon that right.

Therefore, international child abduction may be defined as the unlawful cross-border removal or retention of a minor child by one of the parents or legal guardians, in violation of custody rights established by law in favor of the other party.<sup>1</sup>

### **Part Three: The Concept of International Child Abduction under the Hague Convention of 25 October 1980**

Although the Hague Convention on the Civil Aspects of International Child Abduction does not provide a precise definition of international child abduction, it delineates its scope of application through Articles 3 and 4, establishing three conditions for a removal to be considered an unlawful cross-border international abduction. These conditions are as follows:

#### **First Condition: The Child Must Not Have Reached the Age of Sixteen**

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<sup>1</sup> Jamal Ali Mohamed, Op.Cit., pp. 537-538.

Article 4 of the 1980 Hague Convention provides: *“The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The operation of the Convention ceases when the child attains the age of sixteen.”*

Accordingly, the provisions of this Convention apply to abduction cases involving violations of custody or access rights whenever the child was habitually resident in a Contracting State immediately prior to the abduction, provided that the child is under sixteen years of age. The Convention does not apply to abductions of children over sixteen, and no measures or decisions under the Convention may be applied once the child reaches this age.

This shows that the Hague Convention of 25 October 1980 pertains exclusively to children under sixteen and adopts a narrower definition of “child” than other international conventions<sup>1</sup> or national legislations<sup>2</sup>.

### **Second Condition: Breach of a Custody Right Granted by Law**

Article 3 of the Convention stipulates that the removal or retention of a child is unlawful if it violates a custody right established by the law of the State in which the child was habitually resident immediately before the removal or retention. This applies whether the right was being exercised at the time or would have been exercised had the abduction not occurred<sup>3</sup>.

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<sup>1</sup> The Convention on the Rights of the Child, dated 20/11/1989, defines a child in its Article 1 as: “For the purposes of this Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.”

The term “law applicable to the child” refers to the law of the country to which the child belongs. The Convention allows member states to lower the age of childhood in accordance with their national legislation.

The African Charter on the Rights and Welfare of the Child of 1990, in its Article 2, states: “A child means every human being below the age of eighteen years.”

<sup>2</sup> Article 40 of the Algerian Civil Code provides that: “Every person who has attained the age of majority, enjoying full mental capacity and not placed under guardianship, has full legal capacity to exercise civil rights. The age of majority is nineteen (19) full years.”

The age of criminal responsibility is eighteen years, according to Article 442 of the Code of Criminal Procedure.

Algerian Law No. 15/12, dated 28/05/2015, on the protection of the child, in its Article 2, stipulates: “For the purposes of this law, a child means every person who has not attained the age of eighteen full years.”

Egyptian Law No. 12 of 1996 defines a child in its Article 2 as: “Every human being from birth until attaining the age of eighteen is considered a child and is subject to the provisions of this law.”

The Palestinian legislator defines a child in Article 1 of Law No. 7 of 2004 as: “Every person who has not attained the age of eighteen full years.”

Similarly, the Jordanian Civil Code, Article 43, provides: “The age of majority is eighteen full solar years.”

<sup>3</sup> Article 3 of the Hague Convention of 25 October 1980 states: “The removal or retention of a child is considered wrongful in the following cases:

a/ if it breaches the custody rights granted to a person, institution, or authority, whether jointly or individually, under the law of the state in which the child was habitually resident immediately before the removal or retention;

b/ if such rights were actually exercised at the time of removal or retention, whether jointly or individually, or would have been exercised if the child had not been removed or retained.”

Therefore, cross-border removal of the child is considered unlawful and subject to the Convention's provisions whenever it infringes upon a custody right legally established in the child's State of habitual residence prior to the removal.

### **Third Condition: Removal or Retention from the State of Habitual Residence to Another Contracting State**

For a custodial parent to benefit from the legal mechanisms and procedures established by the 1980 Hague Convention, and to file an application for the prompt return of the child before the courts of the requested State, the child must have been removed or retained unlawfully from the Contracting State of habitual residence to another State that is also a party to the Convention<sup>1</sup>. Thus, the Convention is activated only when both the State of habitual residence and the State to which the child has been taken are Contracting States, regardless of the nationality of the child or the parent<sup>2</sup>.

Determining the child's habitual residence is therefore of critical importance for implementing the prompt return mechanism under the Convention. Habitual residence has long been a key criterion in Hague Conventions, given its close connection to the protection of the child and ensuring the child's stability and adaptation to the mobile realities of contemporary life<sup>3</sup>.

Despite the Convention's emphasis on habitual residence, it does not provide a definition or precise determination of the child's habitual residence in the original State prior to removal or abduction. This omission may have been intentional by the drafters to avoid imposing a rigid definition that might conflict with the legal systems of different States. Consequently, the courts of the Contracting States have discretionary authority to identify the factors determining the child's habitual residence as a factual matter, based on the circumstances of each case. A comprehensive assessment is conducted to establish the child's true habitual residence, reflecting the child's actual living situation in his or her original environment immediately prior to the abduction<sup>4</sup>.

Based on the above, international child abduction under the 1980 Hague Convention can be defined as the unlawful cross-border removal or retention of a minor under sixteen years of age by one parent or guardian, in violation of the custody rights legally established for the other parent under the law of the child's State of habitual residence prior to the removal or retention.

### **Subsection Two: International Child Abduction in Light of the 1980 Hague Convention and Its Relationship to Custody and Access Rights**

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<sup>1</sup> Article 4 of the 1980 Hague Convention provides: "This Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights..."

<sup>2</sup> In a decision by the French Court of Cassation dated 17 January 2019 (Case No. 18-23849), the Court excluded the application of the provisions of the 1980 Hague Convention (Article 4) and Brussels II bis Regulation, on the grounds that the child's habitual residence was in the Democratic Republic of the Congo, a state that is not a party to the Hague Convention and is located outside the European Union. Hassan Ibrahim, previous reference, p.33.

<sup>3</sup> Jamal Ali Mohamed, *Op.Cit.*, pp.542-543.

<sup>4</sup> Fatima Kessi & Mostafa Salem Abdel, *Ibid*, p.704.

In this subsection, we will first examine the concept of custody and access rights under the 1980 Hague Convention (Part One), and then clarify the relationship of international child abduction to these rights (Part Two).

### **Part One: The Concept of Custody and Access Rights under the Hague Convention of 25 October 1980**

Custody, terminologically, has multiple definitions, all converging on a single point: it refers to the responsibility for the child's upbringing and care, including providing food, clothing, hygiene, supervision, and ensuring the child's sleep and general welfare<sup>1</sup>.

Article 62 of the Algerian Family Code defines custody as follows: "*Custody is the care of the child, educating him according to the religion of his father, overseeing his protection, and preserving his health and morals.*"

Accordingly, the custodian bears the responsibility of providing the child's essential needs, including food, clothing, and shelter, while also overseeing education, discipline, and moral development so that the child is prepared to face life's challenges.

The issue of custody arises primarily after the dissolution of the marital relationship; it is a legal consequence of divorce. While the marriage is intact, custody is exercised jointly by both parents<sup>2</sup>.

The Hague Convention of 25 October 1980 addresses custody in Article 5, which provides:

*"For the purposes of this Convention: (a) custody rights include rights relating to the care of the person of the child, and in particular the right to determine the child's place of residence."*

From this provision, it is clear that the Convention emphasizes that the standards for protecting the child are not determined by nationality or family origin, but rather by the child's relationship with his or her habitual residence and the legally established rights of the parents under the law of that State.

The Convention further underscores the importance of determining the child's habitual residence, confirming that international child abduction constitutes a violation of the custodial rights legally held by the other parent under the law of the child's State of habitual residence prior to removal or retention. This applies whether the custody right was being exercised at the time of the removal or would have been exercised had the abduction not occurred.

The Convention also clarifies, in the final paragraph of Article 3, the sources of custody rights that form the basis for evaluating the lawfulness of the child's removal or

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<sup>1</sup> Hassina Cherroun, "The Crime of Refusing to Surrender a Child to the Custodian," *Journal of Judicial Ijtihad*, University of Mohamed Khider, Biskra, Algeria, Issue 7, 01/12/2010, p. 2.

<sup>2</sup> *Ibid.*, p. 3.

retention. These sources include legal statutes, judicial decisions, administrative rulings, or agreements that produce legal effects under the law of the relevant State<sup>1</sup>.

Closely linked to custody is the right of access (visitation), whether it involves the father visiting the child in the mother's care or the mother visiting the child in the father's care. Visitation is a right for both parents, with the primary consideration being the child's best interests.

Article 64 of the Algerian Family Code provides that *"The judge, when awarding custody, must also rule on the right of access."* From this, it is understood that the judge must specify the frequency, timing, and location of visitation when granting custody<sup>2</sup>.

Article 6/02 of the Convention between Algeria and France<sup>3</sup> similarly provides: *"...any judicial decision issued by the competent courts of either Contracting State granting custody of a child shall simultaneously grant the other parent the right of access..."*

The 1980 Hague Convention also addresses the right of access in Article 5(b), stating: *"Rights of access include the right to take the child for a limited period to a place other than his or her habitual residence."*

Thus, under this Convention, the right of access represents the parent's legal entitlement to temporarily take and accompany the child outside of the child's habitual residence.

## **Part Two: The Relationship Between International Child Abduction and Custody and Access Rights under the Hague Convention of 1980**

The removal or retention of a child by one parent or guardian in violation of the custody rights legally held by the other parent under the law of the child's State of habitual residence prior to removal or retention constitutes a form of international child abduction.

The primary objective of the Hague Convention on the Civil Aspects of International Child Abduction is to protect children from the harmful effects of cross-border abduction, while also safeguarding custody and access rights established under the law of the child's State of habitual residence. This is achieved by providing a procedural mechanism designed to ensure the prompt return of abducted children to their State of habitual residence<sup>4</sup>.

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<sup>1</sup> Article 3, in its last paragraph, states: "The custody rights referred to above in paragraph (a) may, in particular, be granted under the law, or pursuant to a judicial or administrative decision, or by an agreement with legal effect under the law of the relevant State."

<sup>2</sup> See Belhaj Al-Arabi, *A Concise Commentary on the Algerian Family Code*, Vol. 1, University Press Office, Algiers, 1999, p. 385.

<sup>3</sup> The Algerian-French Convention on the Status of Children Born of Mixed Marriages between Algerians and French in Case of Separation, signed in Algiers on 26/06/1988, ratified by Decree No. 88-144 dated 26/06/1988, Official Journal No. 30, 1988.

<sup>4</sup> See Hassan Ibrahim, *Civil Aspects of International Child Abduction: A Study within the Framework of Conventional Private International Law in Light of Moroccan and Comparative Judicial Practice*, Doctoral Thesis, Faculty of Legal, Economic and Social Sciences, Fez, Sidi Mohamed Ben Abdellah University, Kingdom of Morocco, 2017/2018, p. 32.

The Convention aims to prevent and address violations of legally established custody and access rights that occur through the abduction or unlawful retention of a child, by ensuring the immediate return of the child to the parent or guardian with lawful custody. In doing so, it guarantees the practical respect of custody and access rights recognized in any Contracting State by the other Contracting States.

Accordingly, the 1980 Hague Convention seeks to restore the child to the situation that existed prior to the abduction, by returning the child immediately to his or her habitual residence. Decisions issued under the Convention regarding the child's return do not constitute determinations of custody; they do not adjudicate or modify substantive custody or access rights<sup>1</sup>. Priority is given to the jurisdiction of the courts in the child's State of habitual residence prior to removal or retention over any decision that might be issued or recognized in the requested State. Therefore, a return order does not affect the legal aspects of custody rights<sup>2</sup>.

Even if a custody decision is issued by the courts of the State to which the child was removed, it does not justify the refusal of a return request submitted to the authorities<sup>3</sup>.

The return of a child who has been unlawfully removed or retained not only restores the previous situation but also enables any custody or access disputes to be addressed within the child's State of habitual residence, which is better positioned to assess the circumstances of the child and family. This approach aligns with the traditional aim of deterring potential abductors and preventing parents from taking children across borders in hopes of gaining an advantage in a jurisdiction where the courts or authorities may be perceived as more sympathetic or lenient. Such actions, if allowed, could illegitimately confer legal effect on an unlawful act<sup>4</sup>.

It should be noted that Article 13 of the 1980 Hague Convention recognizes the non-exercise of custody as a potential reason for a requested State to refuse the child's

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The Convention sets out its objectives in Article 1 as follows: Objectives of this Convention:

- a) To ensure the immediate return of children who have been unlawfully removed to or retained in any Contracting State.
- b) To ensure the effective respect of custody, visitation, and contact rights provided by the law of one Contracting State by the other Contracting States.

<sup>1</sup> This is reflected in Article 19 of the Convention, which states: "A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue."

This is also confirmed by Article 16 of the Convention, which provides: "After receiving notice of a wrongful removal or retention of a child within the meaning of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which he or she has been retained shall not decide on the merits of custody rights until it has been determined that the child is not to be returned under this Convention, or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice."

<sup>2</sup> Fatima Mohamed Kassi, Mustafa Salem Abd, previously cited reference, p. 704.

<sup>3</sup> This is also provided for in Article 17 of the Convention, which states: "The sole fact that a decision relating to custody has been given or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention..."

<sup>4</sup> Fatima Mohamed Kessi, Mostafa Salem Abd, Op.Cit., p. 705.

return<sup>1</sup>. In this context, the actual exercise of custody is considered a condition for the prompt return of a child abducted across borders, as it provides a factual basis for a legal situation deserving protection<sup>2</sup>.

## **Section Two: International Efforts to Combat the Phenomenon of International Child Abduction**

Given the increasing instances of cross-border international child abduction resulting from the erosion of geographical boundaries and the prevalence of mixed-nationality marriages, States have sought to establish rules for joint international cooperation in order to mitigate the negative effects of child abduction across borders. Such abductions threaten the child's life, future, and psychological and social stability. States have addressed this challenge by concluding bilateral and multilateral international conventions aimed primarily at tackling this phenomenon from multiple perspectives and establishing mechanisms to address the problem of international child abduction, which has become a pressing concern for most countries.

There is no doubt that international conventions constitute one of the most effective means of resolving disputes between parties, particularly in the context of family relationships within private international law.

Accordingly, this section will first examine the role of international conventions in addressing the phenomenon of international child abduction (Subsection One), and then highlight the mechanisms adopted to confront this issue under the Hague Convention of 25 October 1980 (Subsection Two).

### **Subsection One: The Role of International Conventions in Addressing Cross-Border Child Abduction**

A number of international conventions have been concluded with the aim of establishing cooperative ties among States to address the phenomenon of international child abduction, seeking to overcome the challenges and difficulties posed by this reality.

These conventions can be categorized into: Specialized conventions, which address the issue of international child abduction in detail. And **General child protection conventions**, which emphasize the need to confront abduction. Additionally, these conventions may take the form of bilateral agreements<sup>3</sup> or multilateral treaties.

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<sup>1</sup> The Article further provides: "Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that: (a) the person, institution or other body having the care of the person of the child was not actually exercising custody rights at the time of removal or retention...."

<sup>2</sup> Jalila El Idrissi, *The Problem of Custody in Mixed Marriage*, Dar Al-Qalam, Morocco, 2010, p. 80.

<sup>3</sup> Among the bilateral international conventions related to family relations and disputes, and addressing the issue of cross-border violations of custody rights, the following may be mentioned:

This subsection focuses on the most significant international conventions that are practically important in combating international child abduction. These include: The 1980 Hague Convention (Part One), The Brussels II bis Regulation (Part Two), The 1989 Convention on the Rights of the Child and its role in addressing the phenomenon (Part Three).

### **Part One: The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction**

The 1980 Hague Convention represents the principal international instrument addressing the phenomenon of cross-border child abduction. It is considered one of the most effective conventions adopted by the Hague Conference on Private International Law. As of 2022, it had 103 Contracting States. The Convention constitutes a general legal framework for addressing international child abduction, aiming primarily to

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- The Egyptian–Saudi Convention on Judicial Cooperation of 1998, which provides for cooperation in the return of abducted children within the framework of family disputes.
  - The Convention on Judicial Cooperation between Morocco and Egypt in the field of personal status and the status of persons for the years 1989 and 1999.
  - The Egyptian–Italian Convention on Judicial Cooperation in Civil and Commercial Matters of 2007, which aims to facilitate procedures for the return of children in cases of cross-border abduction, in addition to cooperation in the enforcement of custody judgments and the protection of children’s rights.
  - The Egyptian–American Convention on Cooperation in the Field of Custody Rights and the Immediate Return of Children to the State of Their Habitual Residence in Cases of Cross-Border Abduction.
  - The Franco–Egyptian Convention concluded on 15/03/1982 concerning judicial cooperation in civil, social, commercial, and administrative matters.
  - The Egyptian–French Convention on Judicial and Legal Cooperation of 2009, which aims to enhance cooperation in facilitating procedures for the return of abducted children to the State of their habitual residence, in addition to the mutual recognition of custody judgments issued by the courts of both countries. Jamal Ali Mohamed, previously cited reference, pp. 575–576.
  - The Moroccan–French Convention of 1981 concerning the status of persons, family matters, and judicial cooperation.
  - The Moroccan–Spanish Convention on judicial cooperation and the recognition and enforcement of judicial decisions in matters of custody, visitation rights, and the return of the child.
  - The Franco–Tunisian Convention concluded on 18/03/1982 concerning judicial cooperation in matters of child custody, visitation rights, and maintenance obligations.
  - The Algerian–French Convention concluded on 21/06/2025 concerning children resulting from the dissolution of mixed marriages between Algerians and French nationals. The Convention aims to:
    - Reduce cases of child abduction or the refusal by the French judiciary to grant visitation rights to the Algerian father.
    - Give primary consideration to the best interests of the child.
    - Enable both parents to exercise visitation rights by maintaining peaceful relations between the child and his or her parents.
    - Strengthen cooperation between the two States in the legal aspects relating to child custody.

The Convention seeks to protect children born of mixed marriages between Algerians and French nationals by defining the modalities for exercising visitation rights, ensuring the preservation of their relationship with both parents, and regulating visitation rights in cases of separation. Abdelhadi Ben Zita, “The Regulation of Visitation Rights in the Convention Concerning Children of Algerian–French Mixed Couples in Case of Separation,” *Annals of the University of Algiers 1, University of Youssef Ben Khedda, Algeria*, Vol. 35, No. 02, 2021, p. 07.

protect children from the harmful effects of cross-border abduction and to ensure the prompt return of the abducted child to their State of habitual residence, while safeguarding the right of access for the other parent. This is achieved through a set of procedural measures designed to enhance cooperation between judicial and administrative authorities in Contracting States to return the child to their habitual residence<sup>1</sup>.

The Convention is based on the presumption that the unlawful removal or retention of a child across international borders is not in the child's best interests, except in exceptional circumstances specified therein. The child's welfare lies in returning to their familiar environment and habitual residence, which preserves their right to maintain contact with both parents, ensures stability and continuity in their life, protects the custodial parent's rights, and guarantees access for the other parent. Furthermore, the Convention allows the most appropriate court to adjudicate custody and access issues, as it is best positioned to evaluate the evidence relevant to the case<sup>2</sup>.

The implementation of the 1980 Hague Convention has been further reinforced by the provisions of the Hague Convention of 19 October 1996, concerning jurisdiction, applicable law, recognition and enforcement, parental responsibility, and child protection measures<sup>3</sup>.

This 1996 Convention specifically empowers the authorities of the child's State of habitual residence to issue necessary protective measures for the child over the long term, while also reinforcing the effectiveness of any temporary or emergency protective measure issued by a court ordering the child's return to the State of habitual residence. Such measures are enforceable in the receiving State until the competent authorities determine the appropriate protective measures.

The 1980 Convention also determines the applicable law, provides for the recognition and enforcement of protective measures in all Contracting States, and establishes a framework for the exchange of information and necessary cooperation among administrative authorities in child protection matters across Contracting States<sup>4</sup>.

## **Part Two: The Brussels II bis Regulation**

In order to enhance cooperation and coordination among European States in family matters, protect children, and ensure their prompt return in cases of unlawful removal or retention during the exercise of access rights, the European Union established Regulation No. 2201/2003 on 27 November 2003, concerning jurisdiction, recognition, and enforcement of judgments in parental responsibility matters, commonly referred to as Brussels II bis. This Regulation replaced Regulation No. 1347/2000 of 29 May 2000.

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<sup>1</sup> Jamal Ali Mohamed, *Op.Cit.*, pp. 563–564.

<sup>2</sup> Hassan Ibrahim, *Op.Cit.*, p. 34.

<sup>3</sup> *Ibid.*, p. 40.

<sup>4</sup> Hassan Ibrahim, *Op.Cit.*, p. 52.

Unlike the 1980 Hague Convention, Brussels II bis addresses the issue of jurisdiction in cases of international child abduction. Article 10 of the Regulation provides specific rules, granting original jurisdiction to the court of the child's habitual residence prior to removal or non-return. The act of abduction does not alter the rules of international jurisdiction regarding custody matters.

The Regulation explicitly requires authorities of the Contracting States to hear the child and to decide return requests without delay, issuing a ruling within six weeks from the date of application at the latest. Decisions issued under this procedure are immediately enforceable, and no appeal suspends their execution.

One of the advantages of this Regulation is the elimination of the need for formal authentication (*exequatur*) of a return order. Instead, the court issues a certificate according to a prescribed model, which the court of the child's habitual residence provides *ex officio*. This certificate confirms that the court considered the views of the child and the relevant parties. The Regulation also addresses the exercise of cross-border access rights, exempting such orders from the requirement of formal authentication<sup>1</sup>.

### **Part Three: The 1989 Convention on the Rights of the Child<sup>2</sup>**

The Convention on the Rights of the Child is an international covenant establishing the civil rights of children, ratified fully or partially by the majority of United Nations member states by 1990.

The Convention aims to protect the rights of the child through several key principles, including non-discrimination among children in rights at all levels, the best interests of the child, the child's right to life and development, care, and protection from all forms of exploitation. It also enshrines the principle of personal development, enabling the child to exercise freedom of expression, give opinions, and take initiatives on matters affecting their life<sup>3</sup>.

Although the Convention does not specifically address international child abduction in detail, it provides an essential framework for protecting children who are victims of cross-border abduction.

Article 11 obliges the States Parties to take the necessary measures to combat the unlawful transfer of children abroad and to prevent their non-return. It also encourages

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<sup>1</sup> Jamal Ali Mohamed, *Op.Cit.*, p. 571; Hassan Ibrahim, *Op.Cit.*, pp. 44–45.

<sup>2</sup> Algeria ratified the 1989 Convention on the Rights of the Child pursuant to Presidential Decree No. 92-461 dated 19 December 1992. This Decree was published in the Official Journal of the People's Democratic Republic of Algeria, No. 87, issued on 23 December 1992.

<sup>3</sup> Bouadi Mustapha, "The 1989 Convention on the Rights of the Child between Positives and Challenges," *Journal of Legal Studies and Research*, Faculty of Law and Political Science, Mohamed Boudiaf University, M'sila, Algeria, Issue 6, 20/09/2017, p. 15.

States to conclude bilateral or multilateral agreements in this regard or to accede to existing conventions<sup>1</sup>.

Similarly, Article 35 requires States Parties to take all appropriate national and international measures to prevent child abduction, sale, or trafficking.

In recognition of the importance of preserving the child's relationship with both parents, Article 9(2) establishes the child's right to maintain regular personal relations and direct contacts with both parents when they live in different States<sup>2</sup>.

## **Subsection Two: Mechanisms Adopted to Address International Child Abduction under the 1980 Hague Convention**

The 1980 Hague Convention establishes the procedural mechanisms necessary to return a child after cross-border abduction. It provides a system based on cooperation among central authorities and swift measures to return the child to their State of habitual residence, while ensuring respect for custody and access rights recognized in any Contracting State by the other Contracting States.

Accordingly, the Convention requires each member State to designate a central authority responsible for implementing its obligations under the Convention. To activate this authority, the concerned party must submit an application to ensure the return of the child or to organize and protect access rights. The Convention also assigns an effective role to both judicial and administrative authorities in the return of internationally abducted children.

This subsection will first examine the role of central authorities in Contracting States in returning internationally abducted children (Part One), and then address the contributions of judicial and administrative authorities in effecting the child's return under the 1980 Hague Convention (Part Two).

### **Part One: The Role of Central Authorities of Contracting States in the Return of Internationally Abducted Children**

Article 6 of the 1980 Hague Convention obliges Contracting States to designate a central authority responsible for implementing the obligations arising from the Convention<sup>3</sup>.

Each State that ratifies the Convention is required to appoint a central authority to ensure the prompt return of internationally abducted children and to guarantee the

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<sup>1</sup> Article 11 of the 1989 Convention on the Rights of the Child provides: "States Parties shall take measures to combat the illicit transfer and non-return of children abroad. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements."

<sup>2</sup> Hassan Ibrahim, *Op.Cit.*, p. 48.

<sup>3</sup> The Article provides as follows: "Each Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention.

Federal States, States with more than one system of law, or States having autonomous territorial organizations may designate more than one Central Authority and shall specify the territorial extent of their powers. A State which makes use of this possibility shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State."

practical respect of custody and access rights recognized under the law of any Contracting State<sup>1</sup>.

Article 7 further provides for cooperation between central authorities, emphasizing the need to strengthen collaboration among competent authorities within the States to achieve the objectives of the Convention<sup>2</sup>.

To secure the return of an abducted child, an application must be submitted to the central authority of the child's State of habitual residence. Article 8 of the Convention specifies that any person or institution claiming that a child has been removed or retained in violation of custody rights may request assistance to ensure the child's return, either from the central authority of the child's habitual residence or from any other central authority of a Contracting State. The application must include:

- Information regarding the identities of the child, the applicant, and the person suspected of removing or retaining the child.
- The child's date of birth, if available.
- The reasons upon which the applicant bases their claim for the child's return.
- Any available information about the child's location and the identity of the person believed to have the child<sup>3</sup>.

The central authority where the child is located must take, or seek to take, all necessary measures to secure the child's voluntary return<sup>4</sup>. If the central authority determines

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<sup>1</sup> Andreas Bucher,; *L'enfant en droit international privé* ; l.g.d.j ; Paris ; 2003, p. 153.

<sup>2</sup> These Central Authorities shall, in particular, take all appropriate measures, either directly or through intermediaries, in order to:

- Discover the whereabouts of a child who has been wrongfully removed or retained.
- Prevent further harm to the child or prejudice to the interested parties by taking or causing to be taken provisional measures.
- Secure the voluntary return of the child or facilitate an amicable resolution of the issues.
- Exchange, where useful, information relating to the social background of the child.
- Provide general information concerning the law of their State in connection with the application of the Convention.
- Initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, where appropriate, to organizing or securing the effective exercise of rights of access.
- Provide or facilitate the provision of legal aid and advice, including the participation of legal counsel where necessary.
- Take the administrative measures required and appropriate to secure the safe return of the child.

Keep each other informed with respect to the operation of the Convention and, as far as possible, eliminate any obstacles to its application.

<sup>3</sup> The application may also be accompanied by or supplemented with:

- An authenticated copy of any relevant decision or agreement.
- A certificate or affidavit emanating from the Central Authority, or from another competent authority of the child's habitual residence, or from a qualified person, concerning the relevant law of that State.
- Any other document that may assist the Central Authority in locating and returning the child.

The Central Authority may also require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant or to designate a representative. Article 28 of the Convention.

<sup>4</sup> Article 10 of the Convention.

that the conditions required by the Convention are not met, or that the request is unfounded, it is not obliged to accept it. In such cases, the authority must immediately inform the applicant, or, if applicable, the central authority that submitted the request, of the reasons for its decision<sup>1</sup>.

If the central authority receiving the request has reason to believe that the child is located in another Contracting State, it must forward the request directly to the central authority of that State and notify the requesting authority or, if applicable, the person who submitted the request<sup>2</sup>.

Article 21 of the Convention allows for applications to the central authority of a Contracting State to organize or protect the practical exercise of access rights.

Under the Convention, central authorities are required to cooperate with each other to ensure that access rights are exercised safely, all necessary conditions are provided for their exercise, and any obstacles are removed.

It should be noted that central authorities must be equipped with sufficient human and material resources to develop and implement effective preventive measures, both to reduce the incidence of child abduction and to respond effectively when it occurs.

## **Part Two: Contributions of Judicial and Administrative Authorities in the Return of Internationally Abducted Children under the 1980 Hague Convention**

The 1980 Hague Convention emphasizes the obligation of judicial and administrative authorities to contribute to the return of internationally abducted children. The Convention mandates that these authorities act urgently to secure the child's return. Article 11 of the Convention states:

*"The judicial and administrative authorities of the Contracting States shall act expeditiously to secure the return of the child."*

The judicial or administrative authority of the Contracting State where the child has been unlawfully removed or retained must order the child's return immediately if the application is submitted within one year from the date of removal or non-return<sup>3</sup>. If the

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<sup>1</sup> Article 27 of the Convention.

<sup>2</sup> Article 9 of the 1980 Hague Convention.

<sup>3</sup> The judicial or administrative authority of the requested State may directly take into account the law and judicial or administrative decisions, whether expressly recognized or not in the State of the child's habitual residence, for the purpose of determining the existence of a wrongful removal or non-return, without the need to resort to special procedures for proving that law or for recognizing foreign decisions that may be applicable. (Article 14 of the Convention)

The judicial or administrative authority of a Contracting State may, before ordering the return of the child, request the applicant for return to establish the wrongful removal or non-return of the child by means of a decision or certificate issued by the authorities of the State of the child's habitual residence, obtained with the assistance of the Central Authority. (Article 15 of the Convention). The judicial or administrative authority of a Contracting State in which the child has been wrongfully removed or retained shall, upon being informed thereof, refrain from deciding on the merits of rights of custody until it has been determined that the conditions set by the 1980 Hague Convention for return are not fulfilled, or until a reasonable period has elapsed without an application for the Convention's implementation

request is submitted after this period, the authority must still order the child's return unless it is established that the child has become integrated into their new environment.

The speed of judicial and administrative procedures is crucial, as delays prolong separation between the child and the parent, potentially causing serious harm to their relationship. Extended removal from the child's original environment may also negatively affect the child's psychological stability and overall well-being.

However, if the judicial or administrative authority responsible for returning the child has reason to believe that the child has been transferred to another State, it may suspend proceedings or refuse the return request.

The authority may also be relieved from the obligation to return the child if the person or institution opposing the return demonstrates that:

1. The person or institution exercising custody was not actively exercising custody at the time of removal or non-return. In such cases, the authority has discretion to determine whether custody was effectively exercised, based on the circumstances of each case. Return may also be denied if the custodial parent consented to the child's removal or unlawful retention, whether in advance or subsequently<sup>1</sup>.
2. There is a significant risk that returning the child would expose them to physical or psychological harm or place them in an intolerable situation. The burden of proof rests on the person, institution, or entity opposing the return to demonstrate the existence of a serious threat to the child, which may relate to physical abuse, or severe security, educational, health, or economic risks in the State of habitual residence. If the competent authority is convinced that returning the child could cause harm, it is not obliged to order the return, leaving the decision to the jurisdiction of the competent court<sup>2</sup>.
3. The authority may refuse return if the child is deemed mature enough for their opinion to be considered, or if the child objects to returning to the custodial parent. The Convention does not specify a minimum age for considering the child's opinion, nor does it provide guidance on assessing the child's maturity or the procedures for obtaining their views.

Judicial and administrative authorities must consider the child's social circumstances when evaluating these factors<sup>3</sup>.

Thus, the Convention establishes the best interests of the child as the primary criterion in determining any request for the return of a child unlawfully removed or retained.

Furthermore, under Article 20 of the Convention, Contracting States may refuse to return a child if such return would be inconsistent with the State's fundamental

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having been made. (Article 16 of the Convention). A decision ordering the return of the child under this Convention shall not affect the merits of the rights of custody. (Article 19 of the Convention)

<sup>1</sup> Fatima Mohammed Kessi; Mostafa Salem Abd, Op.Cit., p. 712.

<sup>2</sup> Ibid., p. 713.

<sup>3</sup> Article 13 of the Convention

principles of human rights and freedoms. For example, return may be denied if the requesting State practices racial, gender, or cultural discrimination that affects family or social life, or if children are subjected to early marriage, which is illegal in many countries and constitutes a violation of fundamental human rights<sup>1</sup>.

### **Part Three: Voluntary Return of the Abducted Child through Mediation Mechanisms**

Amicable dispute resolution mechanisms have acquired significant importance under the 1980 Hague Convention. Article 7(c) of the Convention states:

*"The central authorities shall cooperate with each other and encourage cooperation between the competent authorities within their States to secure the prompt return of children and to achieve the other objects of the Convention. In particular, either directly or through any intermediary, the central authorities shall take appropriate measures to: (c) secure the voluntary return of the child or bring about an amicable resolution of the issues."*

Mediation is one of the most widely used amicable means<sup>2</sup> of resolving family disputes, due to the distinctive characteristics that differentiate it from traditional judicial procedures. These characteristics include speed in resolving disputes, significant flexibility compared to court proceedings, confidentiality, reduction of judicial workload, and lower costs, while also allowing for the continuation of cordial relationships between the parties, unlike formal litigation<sup>3</sup>.

Mediation is especially valuable in cases of international child abduction, as these disputes involve a vulnerable group that requires coordinated efforts to mitigate the psychological impact of being removed from their habitual residence to another State. Mediation provides an environment that is less formal and more conducive to communication between parties, prioritizes the child's best interests, and allows disputing parties to address all aspects of the conflict without resorting to costly, complex judicial procedures<sup>4</sup>.

Family mediation is defined as: *"A structured process in which a neutral mediator enables family members in conflict—generally the parents—to sit together and engage constructively in discussions about their dispute."*<sup>5</sup>

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<sup>1</sup> Fatima Mohammed Kessi; Mostafa Salem Abd, Op.Cit., p. 713.

<sup>2</sup> Mediation is a means of resolving disputes through the intervention of a neutral, impartial, and independent third party who assists in bringing the disputing parties' views closer together and in proposing conciliatory solutions without imposing them upon them.

Aroui Abdelkarim, Alternative Methods for the Resolution of Judicial Disputes: Conciliation and Judicial Mediation, Master's thesis, Faculty of Law, University of Algiers 1, 2012, p. 22.

<sup>3</sup> Wahid Haddaj; Ahmed Chami, Towards the Adoption of Mediation as an Alternative Mechanism for the Resolution of Family Disputes in Algerian Legislation, Journal of Research in Law and Political Science, Faculty of Law and Political Science, Ibn Khaldoun University, Tiaret, Algeria, Vol. 08, No. 01, 2022, pp. 592–594.

<sup>4</sup> Fatima Mohammed Kessi; Mostafa Salem Abd, Op.Cit., p. 709.

<sup>5</sup> Jamal Ali Mohammed, Op.Cit., p. 650.

The goal is to resolve the conflict amicably by exchanging views and reaching solutions suitable for all family members, agreeing on the best ways to raise the children in the future in accordance with their best interests.

Mediation is voluntary, so once the parties consent, a written legal agreement is concluded between the mediator and the parties, specifying the terms and conditions of the mediation. The mediator's role is to assist the parties in negotiating and to facilitate agreements that serve the children's interests<sup>1</sup>.

International family mediation has been reinforced by several international instruments aimed at maintaining cordial relations between children and both parents<sup>2</sup>. Examples include the European Convention on Human Rights (Article 8), the European Charter of Fundamental Rights (Article 24), and the United Nations Convention on the Rights of the Child, which encourages States to pursue amicable means for resolving international family disputes, particularly those involving children.

Due to the special nature of mediation in international child abduction cases, mediators should be family mediation specialists with experience, independence, neutrality, and language skills. They must also be familiar with basic legal information to understand the broader context of the case and conduct the mediation responsibly<sup>3</sup>.

Once an amicable solution is agreed upon by the parents, the mediator assists in drafting the details of the agreement to ensure its legal effect and enforceability within the relevant legal systems. Judicial and administrative authorities of both the requested and requesting States must cooperate to overcome potential obstacles in implementing and enforcing amicable agreements in international child abduction cases. Direct judicial communication channels may be particularly useful in this context<sup>4</sup>.

The success of mediation in international disputes largely depends on the effectiveness of the legal framework underpinning it, including the regulation of mediation, recognition of its role in dispute resolution, and the training of mediators. Some States may lack sufficient experience in international family mediation, which could lead to misuse of mediation and imbalances between the parties. Therefore, the legal system

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<sup>1</sup> Ibid., p. 654.

<sup>2</sup> International and regional instruments have encouraged the adoption of amicable solutions for the settlement of cross-border family disputes through recourse to international family mediation. Practical experience of certain specialized mediation services in several States has demonstrated the effectiveness of this method, even in complex disputes, particularly those relating to the wrongful removal or retention of children.

In this context, specialized mediation services have been established in some countries in coordination with the legal mechanisms provided for under the 1980 Hague Convention. For example, the French Ministry of Justice has created a special mission dedicated to international family mediation, which handles individual cases involving child abduction and disputes over rights of access and contact by encouraging dialogue between parents.

Certain non-governmental organizations have also shown significant interest in mediation as an effective means of addressing cases of international child abduction. Among the most prominent is the organization "Reunite," which seeks to provide support in such cases and has concluded that the mediation system has proven successful in this field.

<sup>3</sup> Jamal Ali Mohammed, *Op.Cit.*, pp. 655–656.

<sup>4</sup> Fatima Mohammed Kessi; Mostafa Salem Abd, *Op.Cit.*, pp. 709–710.

supporting mediation in Contracting States must strengthen and develop mediation rules and procedures to ensure the achievement of its objectives<sup>1</sup>.

## **Conclusion**

The Hague Convention on the Civil Aspects of International Child Abduction, concluded on 25 October 1980, is procedural in nature and provides a swift legal framework for addressing cases of international child abduction by regulating the jurisdiction of authorities and courts responsible for ensuring the prompt return of abducted children.

The Convention functions as a legal mechanism aimed at returning children abducted across borders to their country of habitual residence, emphasizing judicial and administrative cooperation in this area. It also allows for the refusal of return in cases where the exceptions stipulated in the Convention apply, thereby safeguarding the child's best interests. Additionally, the Convention guarantees the effective respect of custody and visitation rights recognized under the law of a Contracting State by all other Contracting States, while preserving the primacy of the jurisdiction of the child's habitual residence in matters concerning custody decisions.

The Convention also highlights the importance of amicable solutions for the voluntary return of abducted children, with mediation being one of the most prominent mechanisms. Mediation facilitates reconciliation between disputing parties and resolves conflicts amicably, efficiently, and cost-effectively.

For mediation to succeed in international child abduction cases, central authorities in both States must cooperate and coordinate closely. Furthermore, international family mediation requires trained mediators who are well-versed in the languages, cultural backgrounds, and legal frameworks of both parties, enabling the mediator to achieve an amicable resolution that prioritizes the child's best interests.

Since Algeria is not currently a party to the 1980 Hague Convention, this negatively affects the protection of children resulting from mixed-nationality marriages against cross-border abductions by one parent. Local laws do not provide sufficient protection in such cases. Therefore, it is recommended that Algeria accede to the 1980 Hague Convention, facilitating the return of abducted children across borders and ensuring the respect and enforcement of custody and visitation rulings issued in Algeria by the courts of Contracting States.

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