



Sequestro Internacional Parental no Direito Comparado

Bibliografia

2012



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Bibliografia
2012

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Sequestro Internacional Parental no Direito Comparado

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80 p.

Contém referências legislativas, bibliográficas e jurisprudenciais do
Brasil, Estados Unidos, Portugal, Canadá, Espanha, México, Argentina
e outros.

1. Filho, sequestro. 2. Criança, sequestro, tratado. 2. Direito internacional privado.

Classificação Decimal de Direito 3. ed. 342.3821635

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Felipe dos Santos Jacinto

Ato/Presi/Asmag 1.846 de 13 de dezembro de 2011.

* Aposentado conforme Decreto de 11/01/2012, publicado no *DOU* n. 9, de 12/01/2012.

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Apresentação

Indagado pela ilustrada Diretora da Divisão da Biblioteca do Tribunal sobre tema de interesse especial da magistratura federal, sugeri que fosse feita uma pesquisa bibliográfica e jurisprudencial sobre a “Convenção sobre Aspectos Civis do Sequestro Internacional de Crianças”, Haia 1980, promulgada no Brasil pelo Decreto n. 3.413/2000, por se tratar de matéria complexa e que envolve questões de alta indagação com necessidade de análise de premissas estranhas aos temas corriqueiros da Justiça Federal, quais seja o bem estar da criança, estudos psicossociais do impacto do sequestro e posterior retorno do menor sobre sua personalidade, questões de conflitos jurisdicionais entre juízos especializados em matéria de Direito de Família, do País de origem e do País para onde levado o filho, uma vez que é comum, o pai ou a mãe de cuja guarda foi ilegalmente retirada a criança, obter no local decisão judicial de outorga de guarda, o mesmo ocorrendo com o(a) autor(a) do sequestro no País para onde levara a criança.

Questões, outrossim, que dizem de perto aos limites da soberania dos respectivos Estados envolvidos.

Não se pode olvidar, outrossim, a importância do direito comparado, no caso, uma vez que apesar da União acolitar o alienígena e pleitear o retorno da criança ao País requisitante, há verdadeiro conflito entre os interesses daquele País e os do(a) requerido(a) que retirara a criança e a trouxera ao Brasil.

Recomendo, portanto, a leitura e o uso diuturno do excelente material coletado pela Dibib, por incursionar pela doutrina, legislação e precedentes jurisprudenciais não só nossos como de diversos outros países.

Antes de encerrar é dever meu reconhecer a dedicação e o desfecho com que atuaram no preparo e divulgação do presente trabalho a Diretora, bibliotecárias e demais auxiliares da Divisão de Biblioteca.

Desembargador Federal Jirair Aram Meguerian

Convenção sobre os Aspectos Cíveis do Sequestro Internacional de Crianças

CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

http://www.hcch.net/index_en.php?act=conventions.text&cid=24

Países Signatários



Argentina Country Profile



Australia Country Profile



Belgium Country Profile



Brazil Country Profile



Bulgaria Country Profile



Burkina Faso Country Profile



Canada Country Profile



Chile Country Profile



China (SAR of Hong Kong) Country Profile



Colombia Country Profile



Costa Rica Country Profile



Cyprus Country Profile

	Czech Republic Country Profile		Mauritius Country Profile
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	Ecuador Country Profile		Peru Country Profile
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	Honduras Country Profile		Sweden Country Profile
	Hungary Country Profile		Switzerland Country Profile
	Ireland Country Profile		Thailand Country Profile
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	Latvia Country Profile		Ukraine Country Profile
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	Malta Country Profile		United States Country Profile
	Mexico Country Profile		Uruguay Country Profile
			Venezuela Country Profile



Brasil

Sequestro internacional parental/interparental
Sequestro internacional de crianças
Subtração internacional de menor

Legislação

BRASIL. **Lei n. 10.406, de 10 de janeiro de 2002.** Institui o Código Civil. Disponível em: <http://www.planalto.gov.br/ccivil_03/leis/2002/L10406.htm>. Acesso em: 14 fev. 2012.

BRASIL. **Decreto n. 3.951, de 4 de outubro de 2001.** Designa a Autoridade Central para dar cumprimento às obrigações impostas pela Convenção sobre os Aspectos Cíveis do Sequestro Internacional de Crianças, cria o Conselho da Autoridade Central Administrativa Federal contra o Sequestro Internacional de Crianças e institui o Programa Nacional para Cooperação no Regresso de Crianças e Adolescentes Brasileiros Sequestrados Internacionalmente. Disponível em: <http://www.planalto.gov.br/ccivil_03/decreto/2001/D3951.htm>. Acesso em: 14 fev. 2012.

BRASIL. **Decreto n. 3.413, de 14 de Abril de 2000.** Promulga a Convenção sobre os Aspectos Cíveis do Sequestro Internacional de Crianças, concluída na cidade de Haia, em 25 de outubro de

1980. Brasil, 2000. Disponível em: <http://www.planalto.gov.br/ccivil_03/decreto/D3413.htm>. Acesso em: 7 fev. 2012.

BRASIL. **Decreto Legislativo n. 79 de 1999**. Aprova o texto da Convenção sobre os Aspectos Cíveis do Sequestro Internacional de Crianças, concluída na cidade de Haia, em 25 de outubro de 1980, com vistas à adesão pelo Governo brasileiro. Brasília, 1999. Disponível em: <<http://www2.camara.gov.br/atividade-legislativa/comissoes/comissoes-permanentes/cdhm/comite-brasileiro-de-direitos-humanos-e-politica-externa/DecretLegisl79.pdf>>. Acesso em: 10 fev. 2012.

BRASIL. **Decreto Legislativo n. 3, de 7 de fevereiro de 1994**. Aprova o texto da convenção interamericana sobre a restituição internacional de menores, celebrada em Montevideu, em 15 de julho de 1989, na quarta conferência especializada interamericana sobre direito internacional privado. Disponível em: <<http://www.lexml.gov.br/urn/urn:lex:br:federal:decreto.legislativo:1994-02-07:3>>. Acesso em: 14 fev. 2012.

Bibliografia

LIVROS

ARAÚJO, Nadia de. **Direito internacional privado: teoria e prática brasileira**. 5. ed. Rio de Janeiro: Renovar, 2011. 660 p.

BRASIL. Advocacia-Geral da União. **Combate à subtração internacional de crianças: a Convenção da Haia sobre os Aspectos Cíveis do Sequestro Internacional de Crianças**. 1. ed. Brasília: Advocacia Geral da União, 2011. 32 p. Disponível em: <http://www.agu.gov.br/sistemas/site/TemplateTexto.aspx?idConteudo=157035&ordenacao=1&id_site=4922>. Acesso em: 8 fev. 2012.

BRASIL. Ministério da Justiça. Secretaria Nacional de Justiça. Departamento de Recuperação de Ativos e Cooperação Jurídica Internacional. **MANUAL de Cooperação Jurídica Internacional e Recuperação de Ativos:** cooperação em matéria civil. 1. ed. Brasília: Ministério da Justiça, 2008. 412 p. Disponível em: <<http://portal.mj.gov.br/services/DocumentManagement/FileDownload.EZTSvc.asp?DocumentID=%7B6BA76900%2DA775%2D4F75%2DA5F0%2D87F864A120F0%7D&ServiceInstUID=%7B16D95E4B%2D3F64%2D417A%2DAD5D%2DBBFFE928ED24%7D>>. Acesso em: 10 fev. 2012.

Resumo: Cartilha produzida pelo Departamento Internacional da Procuradoria-Geral da União da AGU sobre o tema do Combate à Subtração Internacional de Crianças e Adolescentes.

DOLINGER, Jacob. **Direito internacional privado:** (parte especial): direito civil internacional. Rio de Janeiro: Renovar, 2003. v. 1 t. 2, 550 p.

FACHIN, Luiz Edson; MATOS, Ana Carla Harmatiuk. A Convenção de Haia sobre os aspectos civis do sequestro internacional de crianças. In: DIAS, Maria Berenice (Org.). **Direito das famílias:** contributo do IBDFAM em homenagem a Rodrigo da Cunha Pereira. São Paulo: Revista Dos Tribunais, 2010. 669 p.

Resumo: Ao reunir artigos de juristas consagrados, que têm contribuído para a construção do Direito de Família brasileiro contemporâneo, essa obra é uma justa homenagem ao principal responsável pela criação e institucionalização do IBDFAM. Tem como objetivo facilitar o acesso à informação sobre aspectos relacionados à matéria e direitos conexos. Assim, além de rever temas tradicionais da matéria, os artigos abordam questões que se desenvolveram com a modernização. Entre estas se encontram: análise crítica do concubinato e suas consequências patrimoniais.

MESSERE, Fernando L. de L. **Direito da criança:** o Brasil e a convenção sobre os aspectos civis do sequestro internacional de

crianças. 2005. 168 f. Dissertação (Mestrado) – Curso de Direito, Ceub, Brasília, 2005. Disponível em: <<http://www.uniceub.br/Pdf/FernandoMessere-disserta%C3%A7%C3%A3o.pdf>>. Acesso em: 7 fev. 2012.

Resumo: Este trabalho descreve e analisa o regime que se vem formando internacionalmente em torno da Convenção de Haia sobre os Aspectos Cíveis do Sequestro Internacional de Crianças (Convenção sobre Sequestro de Crianças), de 1980, dirigida à solução do problema de deslocamento unilateral e ilícito de crianças com violação do direito à liberdade e à convivência familiar e comunitária decorrentes da violação dos direitos de guarda e visita existentes no Estado de residência habitual da criança.

SILVA, Tiago Eler. A Convenção de Haia sobre sequestro internacional de crianças: boas intenções, muitas falhas. In: BRANT, Leonardo Nemer Caldeira et al. **Direito internacional contemporâneo**. Curitiba: Juruá, 2011. 871 p.

WANDERLEY JUNIOR, Bruno; ROCHA, Dalvo Leal da; PACHECO, Silvestre E. Rocha. Proteção da criança e do adolescente nas relações familiares internacionais: aporte da Conferência de Haia de direito internacional privado. In: BRANT, Leonardo Nemer Caldeira et al. **Direito internacional contemporâneo**. Curitiba: Juruá, 2011. 871 p.



ARTIGOS

BASSO, Maristela. Sequestro internacional de menores: o poder-dever do Juiz brasileiro e a Convenção de Haia. **Consulex**: revista jurídica, v. 15, n. 357, p.34-35, 1º dez. 2011.

Resumo: A professora de Direito Internacional da Faculdade de Direito na Universidade de São Paulo, Maristela Basso, descreve em seu artigo os aspectos da Convenção de Haia, o Sequestro

Internacional de menores e o poder-dever do Juiz brasileiro perante o sofrimento emocional, afetivo e moral pelo qual a criança e a família podem passar.

CLARO, Carolina de Abreu Batista. Até quando. **Consulex**: revista jurídica, v. 12, n. 284, p.30-31, 15 nov. 2008.

Resumo: A professora Carolina Batista Claro elabora um artigo de breves reflexões acerca de um caso concreto referente ao Sequestro Internacional de crianças envolvendo uma brasileira e um americano.

MARQUES, Jorge Antonio. Sequestro internacional de crianças: anotações sobre a convenção de Haia. **Consulex**: revista jurídica, v. 12, n. 284, p.24-29, 15 nov. 2008.

Resumo: Há cerca de um ano, a Ministra Ellen Gracie, então presidente do STF, tornou público o trabalho realizado pelo Grupo Permanente de Estudos da Convenção sobre Aspectos Cíveis do Sequestro Internacional de Crianças, tendo à frente o Juiz Federal Jorge Antonio Maurique, com o fim de esclarecer os operadores do direito acerca dos objetivos da convenção e de sua aplicabilidade. Nesta oportunidade, o magistrado traz anotações importantes e conclusivas sobre o tema.

MÉRIDA, Carolina Helena Lucas. Sequestro interparental: o novo direito das crianças. **Revista Internacional de Direito e Cidadania**, Brasília, n. 9, p.7-16, fev. 2011. Disponível em: <<http://www.reid.org.br/?CONT=0000221>>. Acesso em: 1º fev. 2012.

Resumo: Demonstra a importância da Convenção Sobre os Aspectos Cíveis do Sequestro Interparental de Haia de 1980 nos direitos das crianças, e elucidar qual a definição do princípio da residência habitual utilizada pelos países membros dessa Convenção.

NÓBREGA, Roberta de Albuquerque. **Aspectos civis do sequestro de menores**. 2008. Disponível em: <<http://www.direitonet.com.br/artigos/exibir/4473/Aspectos-civis-do-sequestro-de-menores>>. Acesso em: 7 fev. 2012.

Resumo: Trata da subtração de crianças para países de onde um dos pais é natural, caracterizando o sequestro no âmbito do direito internacional.

SIFUENTES, Mônica. Sequestro interparental: a experiência brasileira na aplicação da convenção da Haia de 1980. **Revista da SJRJ**, Rio de Janeiro, n. 25, p.135-144, 2009. Disponível em: <http://www4.jfrj.jus.br/seer/index.php/revista_sjrz/article/view/9>. Acesso em: 1º fev. 2012.

Resumo: O artigo trata dos problemas decorrentes da aplicação da Convenção da Haia de 1980, sobre os aspectos civis do sequestro (rapto) internacional de menores no Brasil. Aponta as medidas que têm sido tomadas pelas autoridades brasileiras para agilizar o cumprimento da convenção, especialmente a criação do Grupo Permanente de Trabalho, no âmbito do Supremo Tribunal Federal (STF). Esclarece a função dos juízes de enlace para a Convenção de Sequestro, bem como o trabalho que tem sido realizado pelos dois juízes de enlace brasileiros.

TONINELLO, Fernanda. A aplicação dos direitos fundamentais nos casos de sequestro internacional de menores. **Revista Direitos Fundamentais e Democracia**, Curitiba, v. 1, n. 1, jan./jun. 2007. Disponível em: <<http://revistaeletronicardfd.unibrasil.com.br/index.php/rdfd/article/download/39/60>>. Acesso em: 7 fev. 2012.

Resumo: Destina-se à compreensão do sequestro internacional de menores e à análise das convenções internacionais que tratam do referido tema. Para uma maior precisão da pesquisa, iniciou-se uma breve apreciação da proteção dos Direitos da criança e, posteriormente, buscou-se analisar as específicas Convenções internacionais que tratam sobre o sequestro.

ZAMARIOLA JÚNIOR, Ricardo. Filhos da globalização desafiam fronteiras do direito de família. **Consulex**: revista jurídica, v. 14, n. 329, p.6-9, 1º out. 2010.

Resumo: Entrevista ao advogado Ricardo Zamariola Júnior, sócio do primeiro escritório de advocacia a invocar o tratado da Convenção de Haia sobre os Aspectos Cíveis do Sequestro Internacional de Crianças em uma Vara Federal.

JURISPRUDÊNCIA

Processo STF: AI 728785 AgR / RJ

- <http://www.stf.jus.br/portal/jurisprudencia/pesquisarjurisprudencia.asp>

Ação de busca e apreensão – Morte de uma das partes – extinção do processo. Versando a ação busca e apreensão de menor, o falecimento do detentor da guarda implica o prejuízo.

Processo STJ: AgRg na CR 2874 (2007/0256516-7 - 29/10/2009)

- https://ww2.stj.jus.br/revistaeletronica/Abre_Documento.aspx?Link=ATC&sSeq=6211159&sReg=200702565167&sData=20091029&sTipo=91&formato=PDF

O tribunal de 1ª Instância de Limoges, República Francesa, solicitou, mediante esta carta rogatória, a localização de A. A. C. e de seu filho, o menor P. A. P., a fim de remetê-lo às autoridades francesas, conforme a tradução do texto rogatório.

Processo STJ: CC 100345 (2008/0248384-5 - 18/03/2009)

- https://ww2.stj.jus.br/revistaeletronica/Abre_Documento.aspx?Link=ATC&sSeq=4862821&sReg=200802483845&sData=20090318&sTipo=91&formato=PDF

Trata-se de conflito de competência suscitado por D. G. G., apontando como suscitados o Juízo Federal da 16ª Vara Cível da Seção Judiciária do Estado Rio de Janeiro, que processa ação ordinária de busca, apreensão e restituição do menor S. R. G.,

promovida pela União Federal, e com fundamento na Convenção de Haia sobre os Aspectos Cíveis do Sequestro Internacional de Crianças, e o Juízo de Direito da 2ª Vara de Família do Foro Central do Rio de Janeiro/RJ, no qual tramita ação declaratória de paternidade sócio-afetiva, cumulada com posse e guarda e referente à mesma criança, proposta J. P. B. L. L. e S.

Processo STJ: REsp 954877 (2007/0092650-3 - 18/09/2008)

Busca e apreensão. Repatriação. Mãe brasileira. Pai chileno. Crianças trazidas ao Brasil de forma irregular.

- https://ww2.stj.jus.br/revistaeletronica/Abre_Documento.asp?sLink=ATC&sSeq=3948340&sReg=200700926503&sData=20080918&sTipo=91&formato=PDF

Processo STJ: REsp 900262 (2006/0221292-3 - 08/11/2007)

- https://ww2.stj.jus.br/revistaeletronica/Abre_Documento.asp?sLink=ATC&sSeq=2897956&sReg=200602212923&sData=20071108&sTipo=51&formato=PDF

Cautelar de busca e apreensão do menor S. R. G., nascido em 25/5/2000, hoje com sete anos de idade, proposta por seu pai, ora recorrente, em face de B. B. G., sua mãe, ora recorrida, com o objetivo específico de diligenciar o retorno do filho aos Estados Unidos da América, onde reside.

Processo TRF: AG 0058364-48.2010.4.01.0000/MG

- <http://arquivo.trf1.jus.br/default.php?p1=583644820104010000>

Gilvânia Márcia dos Reis interpõe agravo de instrumento de decisão que indeferiu a produção de prova pericial psicológica e exame de DNA, por ela requerida, em ação de procedimento ordinário ajuizada pela UNIÃO, com o fim de proceder à entrega do menor B. A. P. R., de cidadania argentina, ao Governo da Argentina.

Processo TRF: AC 0043806-61.2007.4.01.3400/DF

- <http://arquivo.trf1.jus.br/default.php?p1=438066120074013400>

Apela a União, autora, da sentença do MM. Juízo Federal da 21ª Vara Federal da Seção Judiciária do Distrito Federal, que julgou improcedente a ação ajuizada contra Júlia Gorgas, objetivando a busca e apreensão das crianças W. G e J. G, filhos da ré e de William Gorgas, com fulcro nas normas da Convenção sobre os Aspectos Civis do Sequestro Internacional de Crianças de Haia, promulgada pelo Decreto n. 3.413/2000, para recambiá-los à Austrália, onde nasceram e onde reside o pai.

Processo TRF: AC 2005.43.00.002940-4/TO

- <http://arquivo.trf1.jus.br/default.php?p1=200543000029404>

Em ação de busca e apreensão da menor Giulliana Henrique Lunardi, fundada nos termos da Convenção sobre os Aspectos Civis do Sequestro Internacional de Crianças e proposta pela União Federal à genitora da infante, Rosângela Henrique de Almeida, o Juízo Federal da 1ª Vara da Seção Judiciária do Estado do Tocantins julgou improcedente o pleito deduzido na lide.

Processo TRF: AC 0019286-98.2007.4.01.3800/MG

- <http://arquivo.trf1.jus.br/default.php?p1=192869820074013800>

Trata-se de ação proposta, em 14/06/2007, pela UNIÃO em face de Sílvia Barbosa Gonçalves objetivando busca e apreensão da

menor P. R. G. com vistas à restituição à República Democrática da Argentina.

Processo TRF: AG 0040190-25.2009.4.01.0000/MG

- <http://arquivo.trf1.jus.br/default.php?p1=401902520094010000>

Soraia Iglesias Albuquerque Meireles interpõe agravo de instrumento de decisão (cópia – fls. 11-26) que, em ação de procedimento ordinário ajuizada pela UNIÃO, com base na Convenção da Haia sobre os Aspectos Civis do Sequestro Internacional de Crianças, deferiu a antecipação da tutela e determinou a entrega do menor R. I. A. M. P., de nacionalidade portuguesa, filho da agravante, à Autoridade Central brasileira, com vistas ao seu encaminhamento ao Estado português. Consta dos autos que a agravante contraiu matrimônio com cidadão português e, dessa união, nasceu um filho, em 05.12.2000, sendo que a família morava em território português. Findo o relacionamento, foi estabelecida a guarda compartilhada. Ocorre que, em viagem empreendida ao Brasil, a agravante trouxe consigo o menor e aqui permanece com a criança até os dias atuais, razão pela qual o pai acionou a Autoridade Central Portuguesa, que solicitou providências ao Governo brasileiro, com base nas disposições constantes na Convenção da Haia sobre Aspectos Civis do Sequestro Internacional de Crianças.

Processo TRF: AC 0011498-23.2009.4.01.3813/MG

- <http://arquivo.trf1.jus.br/default.php?p1=114982320094013813>

Mario Matteoni ajuizou Medida Cautelar de Busca e Apreensão de Menor em desfavor de Leonice Maria Costa de Almeida, objetivando obter provimento judicial que determine o retorno de seus filhos Stefano Matteoni, de 12 (doze) anos, e Aleandro Matteoni, de 7 (sete) anos, ao seu convívio, na cidade de

Roma, Itália, nos termos da Convenção sobre Aspectos Cíveis do Sequestro Internacional de Crianças.

Processo TRF: AC 2006.32.00.005813-1/AM

- <http://arquivo.trf1.jus.br/default.php?p1=200632000058131>

Cuida-se de apelação (fls. 250-274) interposta por Robert Martin Pate, cidadão norte-americano, contra sentença que indeferiu a petição inicial de ação cautelar de busca e apreensão de menor, extinguindo o processo sem julgamento de mérito (CPC, art. 267, IV e VI c/c art. 295), ao fundamento de que “a lide gira em torno não somente de Tratado Internacional ratificado pela República Federativa do Brasil, mas de sentença judicial estrangeira”, dependente, pois, de homologação pelo STJ para que aqui possa surtir efeitos (fls. 246-248). Narra, o Apelante, que ajuizou ação cautelar de busca e apreensão de sua filha menor, Nicole Dutra Pate, objetivando seu repatriamento imediato aos Estados Unidos da América, tendo em vista que a mãe da criança, Mônica de Mesquita Dutra, trouxe-a para o Brasil apenas para uma breve visita de poucos dias, não, tendo, contudo, com ela retornado aos Estados Unidos, violando acordo de guarda compartilhada e sobre o local de residência da criança, assinado pelos pais da menina e homologado pela Corte Distrital do Condado de Harris, no Estado do Texas, bem como a autorização que lhe fora concedida pelo ora Apelante para que permanecesse no Brasil somente até 4 de setembro do ano passado.

Processo: Family Appeal 001109/06, G.H. v G.Y.

- <http://www.incatat.com/index.cfm?act=search.detail&cid=984&lng=1&sl=2>

The application related to a child, who was 2 1/2 years old at the time of the alleged wrongful removal and who was born and raised in Israel. During the summer of 2005, the mother took the child to the U.S. informing the father they would return on 2

September 2005. Two days before this date the mother informed the father that their return had been delayed but requested that the father meet them at the airport in Israel when they did so. However mother and child did not return. The father later found out that the mother had taken the child to Brazil. On 31 May 2006 the father filed an urgent ex parte request under Article 15 in the Family Court in Jerusalem for a declaration that the child had been wrongfully removed. The father had equally submitted a request for the child's return with the Israeli Central Authority, but the child had not yet been located in Brazil. The Family Court in Jerusalem ruled that the child was habitually resident in Israel and he had been removed from Israel in breach of the father's custody rights. The mother appealed and claimed that the Family Court had gone beyond its jurisdiction by ruling on the matter, for only the Brazilian Courts had jurisdiction to decide on the applicability of the Hague Convention.

Processo: 5P.3/2007 /bnm; Bundesgericht, II. Zivilabteilung

- <http://www.incadat.com>

The application related to two children, born in Brazil in 1997 and 1999. The parents separated in 2004, but all continued to live in Brazil. In May 2006 the father took the children to Switzerland after the mother had agreed that they could go between 3 May and 3 June. The father did not however return. On 10 October 2006 the local court in Bremgarten ordered the return of the children. On 18 December the court of appeal for Aargau upheld this order. The father then issued a legal challenge both the tribunal federal, the Swiss supreme court.

INSTITUIÇÕES

Advocacia-Geral da União

- <http://www.agu.gov.br/>

Ministério da Justiça

- <http://www.mj.gov.br>

Ministério das Relações Exteriores

- <http://www.itamaraty.gov.br/>

Presidência da República Federativa do Brasil – Secretaria de Direitos Humanos

- <http://www.sedh.gov.br/clientes/sedh/sedh>

Superior Tribunal de Justiça

- <http://www.stj.jus.br>

Supremo Tribunal Federal

- <http://www.stf.jus.br/arquivo/cms/convencaoHaiaConteudoTextual/anexo/textoConvencao.pdf>

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UNITED STATES OF AMERICA. **U.S. Code**: subchapter IV missing children. Disponível em: <<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t41t42+5477+22++%28Subchapter%20IV%20Missing%20children%29%20%20%20%20%20%20%20%20%20%20>>. Acesso em: 23 jan. 2012.

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defense. **University of Miami Inter-American Law Review**, v. 40, 2008. Disponível em: <<http://www.kcba.org/streaming/Documents/INTE-attachment1.pdf>>. Acesso em: 23 jan. 2012.

Abstract: Mediating an international parental kidnapping dispute involving domestic violence allegations is certain to prove precarious, challenging, and controversial. Nonetheless, where the destination state involved in a dispute lacks legal or diplomatic parental kidnapping remedies, is non-compliant with international treaty obligations, or lacks effective domestic violence and child protection institutions, mediation may prove the only available mechanism to ensure an abducted child's safety and well-being, secure the child's return to a state that has effective protections, or facilitate appropriate access to both parents. Elective mediation can compensate for ineffectual remedies by affording system actors and parents an opportunity to build protective terms into a stipulated agreement and craft a safe, appropriate, cooperative co-parenting regime. Mediation may provide a domestic violence victim charged with international parental kidnapping an alternative to facing criminal prosecution, extradition and incarceration. The option to mediate a mutually agreeable solution could prevent a desperate, disenfranchised parent from taking unilateral actions that place the child, the parent and others at risk of grave harm. Denying any parent the choice of whether or not to mediate violates international laws and principles that guarantee all persons dignity, non-discrimination, gender equity, equality in the family, shared parenting rights and responsibilities, access to justice and equality before the law. Treating parental kidnapping as a domestic violence remedy, instead of treating domestic violence as a rebuttable affirmative defense to parental kidnapping, does injustice to left-behind parents, summarily deprives children of their right to access both parents, and undermines the rule of law.

BROWNE, Noah L. Relevance and fairness: protecting the rights of domestic-violence victims and left-behind fathers under the Hague Convention on International Child Abduction. **Duke Law Journal**,

v. 60, n. 5, p. 1193-1238, fev. 2011. Disponível em: <http://heinonline.org/HOL/Page?handle=hein.journals/duklr60&div=34&collection=journals&set_as_cursor=19&men_tab=srchresults&terms=international%7Cparental%7Ckidnapping%7Cunited%7Cstates&type=matchall>. Acesso em: 15 fev. 2012.

Abstract: Thirty years ago, the international community took a hard line against international parental kidnapping. The Hague Convention on the Civil Aspects of International Child Abduction allows parental child abduction only in rare circumstances, such as when returning the child would create a "grave risk" of harm. Recently, mothers who have abducted their children when fleeing domestic violence have successfully pled this grave-risk exception, demonstrating the Convention's relevance to the realities of domestic violence. This Note welcomes that development, but argues that the rights of left-behind parents, who increasingly are fathers, must also be taken into account. Left-behind fathers, whether guilty of domestic violence or not, face significant challenges litigating their cases in the United States, and an overbroad interpretation of the grave-risk exception would only heighten these challenges. To remain fair, the Convention can – and must – consider the rights and realities of left-behind fathers.

BUCKWALTER, Ellen L. **In the best interest of the child.** 2006. Disponível em: <<http://law.bepress.com/cgi/viewcontent.cgi?article=5555&context=expresso>>. Acesso em: 23 jan. 2012.

Abstract: Each year more than 200,000 children in the United States are abducted by family members. When a child is abducted across international borders, the difficulties are compounded. Since the late 1970s, The Department of State's Office of Children's Issues has been contacted in approximately 16,000 cases involving children who were either abducted from the United States or prevented from returning to the U.S. by one of their parents. The Hague Convention on the Civil Aspects of International Child Abduction ("the Convention") adopted on October 24, 1980, reflects a worldwide concern about the harmful effects that parental kidnapping has on children and

a strong desire for an effective deterrent to such conduct. As is the case with many international conventions, however, the Convention avoided defining many of its key terms, resulting in inconsistencies in the application of the Convention both between Contracting States and within courts of Contracting States, such as the United States. The objective of the Convention is to secure the prompt return of the child to their country of habitual residence. This return must not, however, be at the expense of the child's welfare and must more effectively and consistently consider what is "In the Best Interest of the Child," particularly where there is credible evidence of domestic violence and/or child abuse.

CLEMENS, Laura C. International parental child abduction: time for the United States to take a stand. **Syracuse J. Int'l L. & Com.**, v. 151, 2003. Disponível em: <<http://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/sjilc30&type=Text&id=157>>. Acesso em: 8 fev. 2012.

Abstract: There are currently 11,000 American children living abroad as victims of international parental child abduction. 1 An estimated 1,000 new abductions are reported in the United States each year. 2 In 1980, as a response to this growing trend, the member countries of the United Nations General Assembly gathered together and developed the Hague Convention.

HEGAR, Rebecca L; GREIF, Geoffrey L. Parental abduction of children from interracial and cross-cultural marriages. **Journal of Comparative Family Studies**, Spring, v. 25, 1994. Disponível em: <<http://www.questia.com/googleScholar.qst?docId=5000211665>>. Acesso em: 8 fev. 2012.

Abstract: Parental abduction of children is estimated to occur 350,000 times a year. A national survey of 371 parents whose children were abducted by the other parent revealed surprisingly high rates of interracial and cross-cultural or international marriage in the families involved.

LESH, Eric. Jurisdiction friction and the frustration of the Hague convention: why international child abduction cases should be heard exclusively by federal courts. **Family Court Review**, v. 49, p. 170-189, jan. 2011.

Abstract: The Hague Convention on the Civil Aspects of International Child Abduction confronts the growing problem of international parental child abduction by providing for the prompt return of the child to their home country. However, the legislation that implements the Hague Convention in the United States confers concurrent state and federal court jurisdiction for cases brought under the Treaty. This vast jurisdictional grant has contributed to delay in case resolution, inconsistent interpretation, and unresolved cases and has frustrated the original intent of the Hague Convention which seeks to expedite the child's return. At their core, Hague Convention proceedings are choice of forum cases in an international context and the Convention depends on reciprocity and respect for the rule of law among Contracting States. Consolidating Hague Convention proceedings within the federal system would encourage uniform interpretation of Treaty provisions and allow expertise to develop among judges. This will promote the interests of parent and child victims by facilitating the prompt return and eventual resolution of the underlying custody controversy while strengthening the effectiveness of performance under the Hague Convention.

PARRA, Katrina M. The need for exit controls to prevent international child abduction from the United States. **Whittier Law Review**, v. 31, n. 4, p. 817-836, 2010. Disponível em: <http://heinonline.org/HOL/Page?handle=hein.journals/whitlr31&div=33&collection=journals&set_as_cursor=0&men_tab=srchresults&terms=international%7Cparental%7Ckidnapping%7Cunited%7Cstates&type=matchall>. Acesso em: 7 fev. 2012.

Abstract: In August 2009, Noriko Savoie took her two children to Japan and remained there with them. 1 She did so in violation of a United States custody order and without informing her ex-husband,

Christopher Savoie, who had gained sole custody of their children. 2 On September 28, 2009, Christopher Savoie was arrested in Japan for allegedly kidnapping his two children after he took them from their mother as she was walking them to school, in an attempt to get them into an American Consulate. 3 Mr. Savoie has since been released 4 and Japanese authorities have dismissed the case. 5 However, he now faces an uphill battle to have his children returned to him. 6 Japan handles international custody disputes under Japanese domestic law because it has not ratified the Hague Convention on the Civil Aspects of International Child Abduction. 7 Under the Hague Convention, contracting states agree to contracting states agree to secure the prompt return of children wrongfully removed to or retained in their country and to ensure that the rights of custody and access decided in one contracting state are respected within other contracting states.

PANDEY, Abhijit Kumar; SANTHALIA, Roshan. Inter-country abductions and private international law. **NUJS Law Review**. v. 3, n. 2, p. 229-248. abr/jun. 2010. Disponível em: <http://heinonline.org/HOL/Page?handle=hein.journals/nujslr3&div=21&collection=journals&set_as_cursor=3&men_tab=srchresults&terms=international%7Cparental%7Ckidnapping%7Cunited%7Cstates&type=matchall>. Acesso em: 7 fev. 2012.

Abstract: This paper discusses the problem of international child abduction by parents, growing phenomenon owing to several reasons. It discusses the attempts made through the Hague Convention and points out the shortcomings of the Convention in dealing with the problem. It is argued that the ambiguity in and varying interpretations accorded to the treaty provisions, undue delays in enforcement of judgments and the limited acceptance of the Convention largely undermine the effectiveness of the Convention.

PLENGE, Alison; GOFF, Diana. Introductory Note to the Supreme Court of the United States: *Abbott v. Abbott*. **International Legal Materials**, v. 49, n. 4, p. 1097-1117, 2010. Disponível em: <<http://heinonline.org/HOL/Page?handle=hein.journals/intlm49&div=4>>

[4&collection=journals&set_as_cursor=1&men_tab=srchresults>](#).
Acesso em: 7 fev. 2012.

Abstract: In *Abbott v. Abbott*, the U.S. Supreme Court decided its first international family law case. 1 In this decision, the Court interpreted a narrow provision of the Hague Convention on the Civil Aspects of International Child Abduction ("Convention"), settling the question of whether a parent's *ne exeat* right – the authority to consent before the other parent may take the child to another country – amounts to a "right of custody."

RAM, Colin. Regulating intrastate crime: how the federal kidnapping act blurs the distinction between what is truly national and what is truly local. **Washington and Lee Law Review**, v. 65, p. 767-806, 2008. Disponível em: <<http://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=1107&context=wlulr&sei-redir=1&referer=http%3A%2F%2Fwww.google.com.br%2Furl%3Fsa%3Dt%26rct%3Dj%26q%3Dhttp%3A%252F%252Fscholarlycommons.law.wlu.edu%252Fcgi%252Fviewcontent.cgi%253Farticle%253D1107%2526context%253Dwlulr%26source%3Dweb%26cd%3D1%26ved%3D0CCMQFjAA%26url%3Dhttp%253A%252F%252Fscholarlycommons.law.wlu.edu%252Fcgi%252Fviewcontent.cgi%253Farticle%253D1107%2526context%253Dwlulr%26ei%3DIYAxT7qINovkkgf70-GbBQ%26usq%3DAFQjCNGI6oKqm9FDJrrMNez4f3FEiN5KVg#search=%22http%3A%2F%2Fscholarlycommons.law.wlu.edu%2Fcgi%2Fviewcontent.cgi%3Farticle%3D1107%26context%3Dwlulr%22>>. Acesso em: 7 fev. 2012.

Abstract: In the early morning hours of Saturday, March 27, 2004, a white male wearing a black knit stocking cap slipped into the bedroom of Audrey Seiler's apartment, threatened her with a knife, and ordered her to follow him to his waiting car. 1 Once outside, he pushed the twenty-year-old college student into a car, forced her to swallow Nyquil capsules, and bound and gagged her with duct tape. 2 For hours, Seiler's abductor drove them around the city of Madison, Wisconsin before finally stopping near a wooded area on the edge of town.

RUBIN, Melvin. Introduction to the Symposium on Crossborder Family Mediation with an emphasis on the 1980 Hague Convention on the civil aspects of international child abduction. **University of Miami Inter-American Law Review**, v. 40, Fall 2008, p. i-vi. Disponível em: <http://heinonline.org/HOL/Page?handle=hein.journals/unmialr40&div=4&collection=journals&set_as_cursor=0&men_tab=srchresults&terms=Creating%7Cthe%7CLegal%7CSociety%7Cin%7Cthe%7CWestern%7CHemisphere%7Cto%7Csupport%7Cthe%7CHague%7CConvention%7CConvention%7CCivil%7CASpects%7Cof%7CInternational%7CChild%7CAbd>. Acesso em: 7 fev. 2012.

Abstract: In February 2008 the University of Miami School of Law hosted the first U.S. national conference devoted entirely to cross-border family mediation with an emphasis on the 1980 Hague Convention on the Civil Aspects of International Child Abduction. 1 The training was a collaborative effort between the University of Miami School of Law, Mediation Services, Inc. and the National Center for Missing & Exploited Children (NCMEC). In attendance were a wide range of participants – judges, academics, attorneys, experienced mediators, and representatives of the U.S. Department of State's Office of Children's Issues and the Hague Permanent Bureau – who traveled from all over the globe because of their common interest in exploring the use of mediation in international child abduction disputes. Topics covered included: the practical aspects of mediating a case under the Abduction Convention; case intake; consensus building; conflict resolution; drafting and recording of the settlement documents; and enforcement issues. Participants contemplated the various ethical issues that may arise in child abduction mediation, including the ethical and practical issues that arise when domestic violence or child abuse allegations have been raised by one of the parents. Finally, the group explored the various cross-cultural issues inherent in international family mediations.

SHETTY, Sudha; EDLESON Jeffrey L. Adult domestic violence in cases of international parental child abduction. **Violence Against**

Women, v. 11, p. 115-138, jan. 2005. Disponível em: < <http://www.haguev.org/articles/Shetty%20&%20Edleson%20Intl%20Parent%20Abduction%20JVAW%202005.pdf>>. Acesso em: 7 fev. 2012.

Abstract: This article discusses the Hague Convention on the Civil Aspects of International Child Abduction and its impact on battered mothers and their children seeking safety in the United States. We discuss relevant articles of the convention, the extent to which adult domestic violence is present in cases of international parental abduction, and cases in which battered mothers have contested the forced return of their children to an abusive partner. We conclude with recommended steps needed in research, training, and legislation that may increase the likelihood of safe outcomes for battered mothers and their children.

STHOEGER, Eran. International child abduction and children's rights: two means to the same end. **Michigan Journal of International Law**, v. 32, n. 3, p. 511-552, 2011. Disponível em: <<http://students.law.umich.edu/mjil/uploads/articles/v32n3-sthoeger.pdf>>. Acesso em: 8 fev. 2012.

Abstract: An English woman moves from her home in Cyprus back to England, taking her fourteen-year-old daughter from a first marriage, and a six-year-old son from her second (current) marriage with her, without the knowledge of her current husband. The current husband and father of the son then seeks the return of both children back to Cyprus, invoking his rights under the Convention on the Civil Aspects of International Child Abduction (Hague Convention), concluded under the auspices of the Hague Conference on Private International Law.

TYLER, Katharine L. International custody battles: the not so curious case of David Goldman. **Journal of Law and Family Studies**, v. 12, n. 2, p. 533-544, 2010. Disponível em: <http://heinonline.org/HOL/Page?handle=hein.journals/jlfst12&div=27&collection=journals&set_as_cursor=31&men_tab=srchresults&t>

[erms=international%7Cparental%7Ckidnapping%7Cunited%7Cs
tates&type=matchall](#)>. Acesso em: 7 fev. 2012.

Abstract: In 2004, Bruna Bianchi called her husband David Goldman from Brazil and told him that she would not be returning to the United States with their only son, Sean Goldman, and that she wanted a divorce. For the next five years, Goldman attempted to use international and Brazilian law to gain custody of Sean; in December 2009, his son finally returned with him to the United States. 2 Goldman's ordeal is just one example of an international custody battle. Such disputes are becoming increasingly common, resulting in a steady increase of international perspective in family law.

WILLIAMS, Karen Brown. Fleeing domestic violence: a proposal to change the inadequacies of the Hague convention on the civil aspects of international child abduction in domestic violence cases. **John Marshall Law Journal**, v. 4, n. 1, p. 39-84, 2011. Disponível em: <<http://www.johnmarshall.edu/academics/LawJournalPublications/Williams.pdf>>. Acesso em: 7 fev. 2012.

Abstract: Thirty years have passed since members of the Hague Conference on Private International Law created the Hague Convention on the Civil Aspects of International Child Abduction ("Convention"). This multilateral treaty, designed to provide a procedure for the prompt return of children abducted and retained across international boundaries, attempts to protect children from the harmful effects of an international kidnapping. 2 Since its inception, the number of countries participating in the Convention, by way of ratification, acceptance, approval, or accession, continues to increase. The fact remains, however, that the number of children abducted internationally by parents has nearly doubled since 2006. 4 In fact, in 2009, there were 1,135 new requests for assistance for the return of children from other countries (known as "outgoing cases") involving 1,621 children. Of that total, the United States Central Authority ("USCA") received outgoing requests for 828 children abducted and retained in 1. Hague Convention on the Civil

Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11670, S. Treaty Doc. No. 99-11, available at <http://www.unhcr.org/refworld/docid/3ae6b3951c.html> [hereinafter Hague Convention]. The entire text of the Convention can also be found in Duquette v. Tahan, 600 A.2d 472, 563 (1980).

WILLS, Melissa. Interpreting the Hague Convention on International Child Abduction: why american courts need to reconcile the rights of non-custodial parents, the best interest conventions of abducted children, and the underlying objectives of the Hague. **The Review of Litigation**, p. 423-458, Spring 2006. Disponível em: <<http://www.allbusiness.com>>. Acesso em: 15 fev. 2012.

Abstract: The global problem of wrongful removal or retention of a child by a parent was not officially recognized until the late 1970s, when the international community drafted the Hague Convention on the Civil Aspects of International Child Abduction in 1980. The Convention serves as the primary civil judicial remedy for international parental abductions of children under the age of sixteen. The US ratified this treaty and enacted the International Child Abduction Remedies Act of 1988 to bring the Convention into force. Here, Wills argues for a uniform, consistent interpretation and treatment of Hague Convention cases regarding custody rights, access rights, and ne exeat rights.

WINTER, Stephen I. Home is where the heart is: determining habitual residence under the Hague Convention on the Civil Aspects of International Child Abduction. **Washington University Journal of Law & Policy**, v. 13, n. 1, p. 351-386, 2010. Disponível em: <<http://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/wajlp33&type=Text&id=355>>. Acesso em: 7 fev. 2012.

Abstract: We live in an interconnected world. People move, if not freely, then often with relative ease across international borders.

Families, businesses, and national economies are often global in scope. One nation's economic crisis can bankrupt nations an ocean away. The challenges created by widespread migration often require focused international efforts. ² One such challenge, international parental child abduction, posed a mounting problem for the world community in the latter part of the twentieth century.



JURISPRUDÊNCIA

Nicolas v. Pappalardo

The court granted Petitioner's request for an order returning her two children to the United Kingdom. The primary focus of this case was the court's analysis of the age and maturity exception. Among other factors the court emphasized the distinction between a child's wishing to remain in the United States, and his objecting to being returned to the United Kingdom. The Hague Convention recognizes that the objections of a mature child to return to his country of habitual residence may be taken into account, but does not describe the preferences of a child to remain in the new country to be a consideration. The decision also describes the circumstances in which an expert opinion may be relevant in determining the validity of an age and maturity defense, and where it is not, and also partially relies on the US Supreme court case of *Abbot* in determining that the petitioner had custody rights based on the *ne exeat* provision of British law. This decision was upheld in its entirety by the 2nd Circuit Court of Appeals.

Pielage v. McConnell

- <http://ilex.asil.org/details/?file=cde1d4dfda0461054e57febef9ff30a6>

While child custody battles are all too common, it is not often that one of them finds its way into the federal courts. Those that do usually come by way of an action brought under the International Child Abduction Remedies Act, 42U.S.C. §§ 11601–11 (ICARA), which implements the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T. I. A. S. No. 11,670,1343 U. N. T. S. 89. This is one of those cases. Plaintiff Mariette Pielage, a native of the Netherlands, is involved in a child custody battle with James Vincent McConnell, III, a native of this country. That battle is being fought in the Circuit Court of Baldwin County, Alabama, and in the course of it the state court issued a ne exeat order, which forbids Pielage from removing the child from its jurisdiction pending its decision. Pielage filed a complaint in federal district court claiming that the state court’s order constitutes a “wrongful retention” under the Hague Convention on the Civil Aspects of International Child Abduction, as implemented by ICARA. The district court dismissed her complaint and this is Pielage’s appeal.

Furnes v. Reeves

- <http://ilex.asil.org/details/?file=c42007e2445b5fe31e620d976b9da1d0>

Plaintiff Tom A. Furnes filed a petition under the International Child Abduction Remedies Act, 42 U.S.C. §§ 11601-11611 (1988) (“ICARA”), seeking the return of his daughter Jessica to Norway from Georgia, where she now resides with her mother, Defendant Pamela Kay Reeves. Jessica was born in Norway in 1996 and lived there until 2001, when her mother visited the United States and later refused to bring Jessica back to Norway, in violation of Furnes’s rights under Norwegian law and their custody agreement. After an evidentiary hearing, the district court denied Plaintiff Furnes’s ICARA petition. After review and oral argument, we reverse.

Kijowska v. Haines

The mother returned to Poland with her child two months after giving birth in the United States. The American father obtained an ex parte custody order from the Illinois courts which awarded him custody of the child. When the mother returned to the United States 6 months later for what was intended to be a visit exploring the possibility of reconciliation with the father, the father obtained the aid of the police in taking the child from the mother on the basis of the ex parte custody order. The mother subsequently filed a Hague petition in the United States and prevailed after the court found that the child's habitual place of residence had always been Poland. Apparently aware of the unusual argument that the court employed to find that the United States had not been the child's country of habitual residence even though it had lived no place else by the time of its original removal to Poland, when it was two months old, the court offers several alternative constructions. The court also discusses the rules governing the issuance of a stay preventing the return of a child pending an appeal on a district court decision, and how federal Hague Convention considerations supersede the conflicting state rules prohibiting such stays which appear in the Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA).



Instituições

Child Abduction Resource Center

- <http://www.globalmissing.com/>

Committee on the Rights of the Child

- <http://www2.ohchr.org/english/bodies/crc/index.htm>

Federal Bureau of Investigation

- <http://www.fbi.gov/>

Hague Conference on Private International Law

- http://www.hcch.net/index_en.php

Office of Juvenile Justice and Delinquency Prevention

- <http://www.ojjdp.gov/>

The National Center for Missing & Exploited Children

- http://www.missingkids.com/missingkids/servlet/PublicHomeServlet?LanguageCountry=en_US

The Office of Children's Issues

- http://travel.state.gov/abduction/about/how/how_604.html

U.S. Department of Justice

- <http://www.justice.gov/>



Portugal

Rapto Internacional Parental
Subtracção Internacional de menor

Legislação

CONVENTION on Contact concerning Children, Strasbourg, 2003. Disponível em: <<http://conventions.coe.int/Treaty/en/Treaties/Html/192.htm>>. Acesso em: 8 fev. 2012.

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PORTUGAL. **Decreto do Governo n. 33/83 de 11 de Maio**. Convenção sobre os Aspectos Cíveis do Rapto Internacional de Crianças. Disponível em: <<http://www.gddc.pt/cooperacao/materia-civil-comercial/chdip/dg-n-33-83.html>>. Acesso em: 5 fev. 2012.

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GUIA prático sobre a aplicação de Bruxelas II Bis. Comunidades Europeias, 2005. Disponível em: <http://ec.europa.eu/civiljustice/publications/docs/guide_new_brussels_ii_pt.pdf>. Acesso em: 3 fev. 2012.

LAMON, Ruth. Child abduction in Europe Union: recognizing and regulating care and migration. In: BRINDGEMAN, Jo. **Regulating families responsibilities**. Estados Unidos: Ashgate Publishing Company, 2011. Disponível em: <<http://books.google.com.br/books?hl=pt-BR&lr=&id=KhjfmGDMZbcC&oi=fnd&pg=PA171&dq=%22parental+child+abduction%22+canada&ots=zYvaUBQWWS&sig=xybeNIiCrgP6FFMGM4Qu3vjCzXA#v=snippet&q=parental%20child%20abduction&f=false>>. Acesso em: 5 fev. 2012.

Abstract: This collection brings together some of the most eminent and exciting authors researching family responsibilities to examine understandings of the day to day responsibilities which people undertake within families and the role of the law in the construction of those understandings. The authors explore a range of questions fundamental to our understanding of 'responsibility' in family life: to whom, and to what ends, are family members responsible? Is responsibility primarily a matter of care? Can we fulfil our family responsibilities by paying those to whom we owe responsibility? Or by paying others to fulfill our caring obligations for us? In each of these circumstances the chapters in this collection explore what it means to have family responsibilities, what constitutes an adequate performance of such responsibilities and the point at which the state intervenes. At the heart of this collection is an interest in the way in which the changing family affects people's perception and exercise their family responsibilities, and how the law attempts to regulate (and understand) those responsibilities. The essays range across intact and separated or fragmented families, from lone and shared parenting in single homes to caring across households (and even across international boundaries) to reflect on the actual caring responsibilities of family members and on the fulfilment of financial responsibilities in families. This collection seeks to advance our understanding of the attempts of the law, and its limits, in regulating the responsibilities which family members take for each other.

JORGE, Nuno de Lemos. Regulamento (CE) nº 2201/2003, do conselho, de 27 de Novembro de 2003, relativo à competência, ao reconhecimento e à excepção de decisões em matéria matrimonial e em matéria de responsabilidade parental. **Lex Familiae**: Revista Portuguesa de Direito da Família, v. 3, n. 6, p. 157-162, 2006.

RESPONSABILIDADE parental: Portugal. Disponível em: <http://ec.europa.eu/civiljustice/parental_resp/parental_resp_por_pt.htm>. 2006. Acesso em: 3 fev. 2012.

SILVA, Nuno Ascensão. Algumas considerações sobre os trabalhos do conselho da Europa no contexto do movimento de internacionalização do direito de menores: o rapto de crianças e os direitos de guarda e visita nas relações privadas internacionais. **Lex Familiae**: Revista Portuguesa de Direito da Família, v. 2, n. 4, p. 37-91, 2005.

SISTEMA de alerta de rapto de menores. Disponível em: <http://www.dgpi.mj.pt/sections/informacao-e-eventos/2009/sistema-de-alerta-rapto/downloadFile/attachedFile_f0/Protocolo_Sistema_Alerta_de_Rapto_Menores.pdf?nocache=1246357151.87>. Acesso em: 3 fev. 2012.

Resumo: O sistema de alerta de rapto de menores tem por objectivo recolher junto da população, nas horas que se seguem ao rapto de um menor, todos os elementos de informação susceptíveis de ajudar à sua rápida localização e libertação pelas autoridades de investigação criminal.

UNIVERSIDADE CATÓLICA PORTUGUESA (Porto). O crime de subtracção de menor: uma leitura do reformado art. 249º do Código Penal. In: **E foram felizes para sempre...?**: uma análise crítica do novo regime jurídico do divórcio. Coordenação: Maria Clara Sottomayor e Maria Tereza Faria de Almeida. Portugal: Coimbra, 2010.

Processo RP200409160434117

- <http://www.dgsi.pt/jtrp.nsf/c3fb530030ea1c61802568d9005cd5bb/0f7a5470da1c3b7480256f26004c8a9e?OpenDocument>

A deslocação de um menor da Inglaterra para Portugal, promovida por um dos progenitores contra a vontade do outro, é ilícita face ao direito português e face ao direito britânico pelo que a situação descrita integra ambas as alíneas do artigo 3 da Convenção de Haia.

Processo 8395/10.1TBCSC.L1-7

- <http://www.dgsi.pt/jtrl.nsf/33182fc732316039802565fa00497eec/e9c5e8bde55d6b4a8025790c003e2b17?OpenDocument&Highlight=0,Regulamento,2201%2F2003>

I – Pertencendo o exercício das responsabilidades parentais a ambos os progenitores, a remoção do menor de um país para outro, por se tratar de um assunto de particular importância, carece do consentimento de ambos os cônjuges, nos termos do nº 2 do art. 1901º do CC. II – Na falta de tal consentimento, é ilícita a deslocação do menor de Inglaterra para Portugal, por um dos progenitores contra a vontade do outro, nomeadamente para efeitos do art. 3º da Convenção de Haia. III – O Tribunal nunca poderia ter recusado o pedido de regresso formulado pelo tribunal do estado da residência do menor anterior à sua deslocação, sem ouvir a requerente do pedido. (Sumário da Relatora)

Processo 9127/09.2TBCSC.L1-7

- <http://www.dgsi.pt/jtrl.nsf/33182fc732316039802565fa00497eec/5675da2d81509ce98025771f00395dc0?OpenDocument&Highlight=0,Regulamento,2201%2F2003>

I – Nos termos do seu art.1º, a Convenção sobre os Aspectos Cíveis do Rapto Internacional de Crianças concluída em Haia em

25/10/1980, tem por objecto: assegurar o regresso imediato das crianças ilicitamente transferidas para qualquer Estado Contratante ou nele retidas indevidamente (al.a); fazer respeitar de maneira efectiva nos outros Estados Contratantes os direitos de custódia e de visita existentes num Estado Contratante (al.b). II – Segundo o acordo que vigorava entre os pais do menor quando ocorreu a deslocação deste, o direito de custódia, onde se inclui o direito de decidir sobre o lugar da residência da criança, foi atribuído apenas à mãe, que tão só se obrigou a não viajar com o filho para um país estrangeiro até ao dia 31/12/08. III – Deste modo, tendo-se ambos deslocado para Portugal (mãe e filho), no dia 2/5/09, tal facto, só por si, não implica violação nem do acordo estabelecido entre os pais do menor, nem do direito de custódia. IV – Consequentemente, não se está perante uma deslocação ou retenção ilícitas, nos termos do art. 3º da referida Convenção, pelo que, não há que assegurar o regresso imediato da criança à Alemanha. (Sumário do Relator)

Processo 622/07.9TMBRG.G1.S1

- <http://www.dgsi.pt/jstj.nsf/954f0ce6ad9dd8b980256b5f003fa814/8f6a939c85bcb0dd80257758003c477f?OpenDocument&Highlight=0,Regulamento,2201%2F2003>

1. O processo destinado a obter o regresso de uma criança ilicitamente retida num Estado-Membro, previsto no artigo 11º do Regulamento (CE) nº 2201/2003, do Conselho, de 27 de Novembro, não se destina a obter nenhuma decisão sobre a sua guarda, mas a garantir, de forma expedita, a eficácia de uma decisão judicial que decidiu sobre essa guarda. 2. Sendo expressamente qualificado por lei como processo de jurisdição voluntária (artigos 146º e 150º da OTM (Organização Tutelar de Menores, Decreto-Lei nº 314/78, de 27 de Outubro), são-lhe aplicáveis as regras constantes do artigo 1409º e segs. do Código de Processo Civil. 3. A intervenção do Supremo Tribunal da Justiça encontra-se assim limitada à apreciação de decisões de

aplicação da lei estrita, não podendo ser apreciadas “resoluções tomadas segundo critérios de conveniência ou oportunidade”. 2. A ilicitude da deslocação ou da retenção é condição para que seja determinada a entrega imediata da criança. 3. Sendo ilícita, a entrega deve ser ordenada, salvo se ocorrerem as circunstâncias ponderosas que a Convenção da Haia sobre os Aspectos Civis do Rapto Internacional de Crianças, de 25 de Outubro de 1980, aprovada pelo Decreto n.º 22/83 de 11 de Maio e o referido Regulamento consideram aptas a fundamentar uma decisão de recusa.

Processo 1735/06.OTMPRT.S1

- <http://www.dgsi.pt/jstj.nsf/954f0ce6ad9dd8b980256b5f003fa814/c796caea6f0651b48025766600373793?OpenDocument&Highlight=0,Regulamento,2201%2F2003>

1. É em função do superior interesse da criança, que especialmente desaconselha o protelamento de situações de facto conflituantes com decisões judiciais, que a lei expressamente impõe o efeito meramente devolutivo aos recursos de decisões proferidas em processos relativos a regulação das responsabilidades parentais e de questões a elas respeitantes. 2. Não é motivo de nulidade de acórdão proferido num processo de jurisdição voluntária a discordância sobre a forma como são exercidos os poderes de investigação do tribunal. 3. Nos processos de jurisdição voluntária, são aplicáveis as regras relativas aos poderes dos tribunais de recurso, nomeadamente quanto à ampliação e à alteração da decisão da matéria de facto. 4. O processo destinado a obter o regresso de uma criança ilicitamente retida num Estado-Membro, previsto no artigo 11.º do Regulamento (Código das Expropriações) n.º 2201/2003, do Conselho, de 27 de Novembro, não se destina a obter nenhuma decisão sobre a sua guarda, mas a garantir, de forma expedita, a eficácia de uma decisão judicial que decidiu sobre essa guarda. 5. Estando assente a ilicitude da retenção, os tribunais têm de determinar a entrega imediata da

criança, sem que possam discutir a bondade da solução, salvo se ocorrerem as circunstâncias ponderosas que a Convenção da Haia sobre os Aspectos Civis do Rapto Internacional de Crianças, de 25 de Outubro de 1980, aprovada pelo Decreto nº 22/83 de 11 de Maio e o referido Regulamento consideram aptas a fundamentar uma decisão de recusa. 6. Está fora do âmbito possível do recurso de revista o controlo de uma decisão de recusa ou de entrega com fundamento na maior adequação à protecção dos interesses da criança, apenas susceptível de recurso até à Relação.



INSTITUIÇÕES

Associação Portuguesa de Crianças Desaparecidas

- <http://www.ap-cd.pt/>

Ministério Público

- http://www.pgr.pt/grupo_pgr/indice.html

Parlamento Europeu

- <http://www.europarl.europa.eu/parliament/public/staticDisplay.do?id=154&language=PT>

Polícia Judiciária

- <http://www.pj.pt/>

SOS – Criança

- <http://www.soscrianca.pt/>

Supremo Tribunal de Justiça

- <http://www.stj.pt/>



Canadá

International Parental Kidnapping
International Parental Child Abduction
L'enlèvement international parental
L'enlèvement international d'enfants

Legislação

AGREEMENT Between The Government of Canada and the Government of the Arab Republic of Egypt Regarding Cooperation on Consular Elements of Family Matters, July 23, 1997. Disponível em: <http://www.hcch.net/upload/2ca-eg_e.pdf>. Acesso em: 5 fev. 2012.

AGREEMENT Between the Government of Canada and the Government of the Lebanese Republic Regarding Cooperation on Consular Matters of a Humanitarian Nature. Disponível em: <http://www.hcch.net/upload/2ca-leb_e.pdf>. Acesso em: 5 fev. 2012.

CANADA. **Criminal Code:** R.S.C., 1985, c. C-46. Disponível em: <<http://www.canadalegal.com/gosite.asp?s=92>>. Acesso em: 5 fev. 2012.

CANADA. Alberta. **International Child Abduction Act.** Disponível em: <<http://www.qp.alberta.ca/documents/Acts/104.pdf>>. Acesso em: 5 fev. 2012.

CANADA. British Columbia. **Family Relations Act**. Disponível em: <http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96128_01#section1>. Acesso em: 5 fev. 2012.

CANADA. Manitoba. **The Child Custody Enforcement Act**. Disponível em: <<http://web2.gov.mb.ca/laws/statutes/archive/2010-10-16/c360e.php?df=2008-10-09>>. Acesso em: 5 fev. 2012

CANADA. New Brunswick. **International Child Abduction Act**. Disponível em: <<http://canlii.ca/en/nb/laws/stat/snb-1982-c-i-12.1/latest/snb-1982-c-i-12.1.html>>. Acesso em: 5 fev. 2012

CANADA. Newfoundland. **Act Respecting the Law of Children**. Disponível em: <<http://www.assembly.nl.ca/legislation/sr/annualstatutes/RSN1990/C13.c90.htm>>. Acesso em: 5 fev. 2012.

CANADA. Nova Scotia. **An Act to Implement the Hague Convention on the Civil Aspects of International Child Abduction**. Disponível em: <<http://nslegislature.ca/legc/statutes/childabd.htm>>. Acesso em: 5 fev. 2012.

CANADA. Ontario. **Children's Law Reform Act**. Disponível em: <http://www.e-laws.gov.on.ca/html/source/regs/english/2010/elaws_src_regs_r10024_e.htm>. Acesso em: 5 fev. 2012.

CANADA. Prince Edward Island. **Custody Jurisdiction and Enforcement Act**. Disponível em: <<http://www.gov.pe.ca/law/statutes/pdf/c-33.pdf>>. Acesso em: 5 fev. 2012.

CANADA. Saskatchewan. **Act Respecting the Application to Saskatchewan of the Convention on the Civil Aspects of Child Abduction**. Disponível em: <<http://www.publications.gov.sk.ca/deplist.cfm?d=1&c=42>>. Acesso em: 5 fev. 2012.

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FOREIGN AFFAIRS AND INTERNATIONAL TRADE CANADA. International child abductions: a manual for parents. Disponível em: <http://www.voyage.gc.ca/publications/child-abductions_enlevements-enfants-eng>. Acesso em: 5 fev. 2012.



ARTIGOS

CANADA. ENFANT-RETOUR QUEBEC. **Enlevemet parental: conseils aux parents.** Disponível em: <<http://www.enfant-retourquebec.ca/fr/pdf/GuideEnlevementParental07.pdf>>. Acesso em: 5 fev. 2012.

Résumé: Ce document d'information décrit les actions qu'un parent peut entreprendre si son enfant est victime d'un enlèvement parental, les conditions à inclure dans une ordonnance de garde ainsi que les étapes à suivre pour permettre le retour de son enfant. Si vous êtes en instance de divorce, de séparation ou dans toute autre situation pouvant conduire à un risque d'enlèvement parental, vous devriez poser certains mesures concrètes afin d'assurer la sécurité de votre enfant.

DALLEY, Marlene L. **The left behind parents' view of the parental abduction experience: its characteristics and effect on the canadian victims.** Disponível em: <<http://infoweb.rcmp-grc.gc.ca/pubs/omc-ned/leftbe-laisderr-eng.pdf>>. Acesso em: 5 fev. 2012.

Abstract: The purpose of this descriptive study was to determine the characteristics of parental abductions, including the financial

difficulties experienced by the searching parent and the trauma experienced by the abducted child.

DALLEY, Marlene L. **L'enlèvement d'enfants par un étranger au Canada: nature et portée.** Disponível em: <<http://www.rcmp-grc.gc.ca/pubs/omc-ned/abd-rapt-fra.htm>>. Acesso em: 5 fev. 2012.

Résumé: Tous les parents sont soucieux de la sécurité de leur enfant. Cependant, à un moment donné au cours de sa vie, un enfant « disparaît ». Le plus souvent, il reviendra de lui-même, sain et sauf, mais au moment de sa disparition, les parents vivent leurs pires craintes, à savoir la possibilité que leur enfant soit porté disparu. En 2002, aux États-Unis, une série d'enlèvements par un étranger a retenu l'attention du public et a suscité beaucoup d'inquiétude chez les Canadiens. De plus, à la même époque, les enquêteurs de la police étaient consternés de découvrir des corps de jeunes femmes enterrées dans les champs d'une exploitation porcine de la côte Ouest du Canada. Comme on s'y attendait, les préoccupations relatives à la sécurité des personnes les plus vulnérables, soit les enfants et les jeunes, se sont accrues. ... Tragiquement, ces prédateurs qui font du mal aux enfants sont généralement connus de l'enfant enlevé. Par conséquent, les enfants ont du mal à distinguer les gens qui leur feront du mal des autres personnes. Il incombe donc aux parents de trier les personnes qui encadrent leurs enfants et s'en occupent et de montrer à leurs enfants comment rester et jouer en toute sécurité.

KRUZICK, Emile R. **International child abduction and the canadian law.** Disponível em: <http://www.google.com.br/url?sa=t&rct=j&q=kruzick%2C%20emile%20r.%20international%20child%20abduction%20and%20the%20canadian%20law&source=web&cd=2&ved=0CC0QFjAB&url=http%3A%2F%2Fwww.childjustice.org%2Findex.php%3Foption%3Dcom_rubberdoc%26view%3Ddoc%26id%3D24%26format%3Draw%26Itemid%3D88&ei=f-MuT-CbNpOJtweI5Zj3Dw&usg=AFQjCNEVQPPyAwpX09CdvThiDzonqwGC4A>. Acesso em: 5 fev. 2012.

REINGOL, Bryan. **Enfants disparus et enlevés**. Disponível em: <<http://publications.gc.ca/collections/Collection-R/Statcan/85-002-XIF/0029885-002-XIF.pdf>>. Acesso em: 5 fev. 2012.

Résumé: Des enfants canadiens sont portés disparus plus souvent que nous aimerions le croire. Selon les données diffusées par la GRC, environ 56 000 enfants ont été portés disparus en 1996, soit une moyenne de 153 enfants par jour. Un enfant qui ne revient pas de l'école à l'heure normale, un enfant qui s'éloigne sans avertir les parents ou qui ne revient pas après une visite prévue avec un parent ou un membre de la famille – tout enfant qui disparaît est une source d'inquiétude immense pour les parents qui le cherchent et pour la société en général.

UNITED STATES OF AMERICA. Law Library of Congress. **Canada:** Hague Convention on International Child Abduction. 2004. Disponível em: <<http://www.kinder-nach-hause.de/docs/canada.pdf>>. Acesso em: 5 fev. 2012.

Abstract: The problem of international child abduction has received considerable attention in Canada. One reason for this was stated by the Chief Delegate to the 1980 Hague Conference in the following terms: [This problem is] serious for a country like Canada, blessed in many ways by its pluralistic ethnic mix, but in the present context afflicted by the fact that one or both spouses may retain recent and substantial connections with their country of origin. This fact makes it attractive and possible to spirit the children away in the hope of achieving a more friendly familial and judicial climate in which to assert custody rights in their favor when their marriages turn sour. 1 The concern has been demonstrated in Canada's leading role in the encouragement of international legal reform.

JURISPRUDÊNCIA

Thomson v. Thomson

- <http://www.incadat.com>

The child, a boy, was eight months at the date of the alleged wrongful removal. He had lived in Scotland with both of his parents since birth. The parents were separated and had joint rights of custody. On 27 November 1992 the Stranraer Sheriff Court granted interim custody to the mother and interim access to the father. It also ordered that the child remain in Scotland pending a further court order. On 2 December 1992 the mother travelled to Canada with the child. On 3 February 1993 the mother applied for custody in Manitoba. On the same day the father was granted custody by the Scottish court and on 25 February 1993 he applied for the return of the child.

W.(V.) v. S.(D.)

- <http://www.incadat.com>

The child, a girl, was 7 at the date of the alleged wrongful removal. She had lived in the United States all of her life. Her parents were divorced in 1988. The father was awarded custody and the mother supervised access. On 13 February 1990 the father took the child to Quebec. On 8 May 1990 the Maryland Circuit Court found the father guilty of contempt and awarded interim custody to the mother. The Court of Special Appeals affirmed that judgment on 14 May 1991. On 6 May 1991, the father filed a motion in the Superior Court of Quebec for custody. The mother countered by applying for the return of the child under the Convention. On 30 August 1991 the Superior Court granted interim custody to the father's sister following an agreement between the parties. The parties recognised under that agreement that the removal of the child had been wrongful within the meaning of the Convention as implemented in Quebec (R.S.Q. c. A-23.01). On 8 January 1993, the Superior Court of Quebec dismissed the father's petition for custody and ordered the child's return to the United States. The father appealed. On 2 August 1993 the Quebec Court of Appeal dismissed the father's appeal and the mother returned to the United States with the child. The father appealed to the Supreme Court of Canada.

INSTITUIÇÕES

Child Find Canada

- <http://www.childfind.ca/>

Department of Foreign Affairs and International Trade Canada

- <http://www.international.gc.ca/index.aspx>

Enfant-Retour Québec

- <http://www.enfant-retourquebec.ca/>

Missing Children Society of Canada

- <http://www.mcsc.ca/>

Our Missing Children Canada

- <http://www.rcmp-grc.gc.ca/omc-ned/index-accueil-eng.htm>

Royal Canadian Mounted Police

- <http://www.rcmp-grc.gc.ca/about-ausujet/index-eng.htm>

Supreme Court of Canada

- <http://www.scc-csc.gc.ca/home-accueil/index-eng.asp>

Victims of Violence

- http://www.victimsofviolence.on.ca/rev2/index.php?option=com_content&task=view&id=354&Itemid=44



Espanha

Secuestro Internacional de Menores
Sustracción Internacional de menores

Legislação

CONSEJO DE EUROPA. Convenio Europeo de 20 mayo 1980, ratificado por Instrumento de 9 mayo 1984. **Reconocimiento y ejecución de decisiones en materia de custodia de menores y restablecimiento de dicha custodia.** Disponível em: <http://www.childsrights.org/html/site_en/law_download.php?id=354>. Acesso em: 6 fev. 2012.

ESPAÑA. **Ley de Enjuiciamiento Civil**, 3 de febrero de 1881. Disponível em: <http://noticias.juridicas.com/base_datos/Privado/lec.html>. Acesso em: 9 fev. 2012.

ESPAÑA. Poder Judicial. **Ley Orgánica 6/1985**, de 1 de julio de 1985. Disponível em: <<http://www.poderjudicial.es/eversuite/GetRecords?Template=cgpj/cgpj/pjexaminarlegislacion.html&dkey=11&TableName=PJLEGISLACION>>. Acesso em: 6 fev. 2012.

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ESPAÑA. **Ley Orgánica 1/1996**, de 15 de enero, de Protección Jurídica del Menor, de modificación parcial del Código Civil y de la Ley de Enjuiciamiento Civil. (Vigente hasta el 30 de diciembre de 2007). Disponível em: <http://noticias.juridicas.com/base_datos/Anterior/r0-lo1-1996.html>. Acesso em: 6 fev. 2012.

ESPAÑA. **Real Decreto de 24 de julio de 1889**. Código Civil Español. Disponível em: <<http://civil.udg.es/normacivil/estatal/cc/INDEXCC.htm>>. Acesso em: 6 fev. 2012.

EUROPEAN Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children. 1980. Disponível em: <<http://conventions.coe.int/Treaty/EN/Treaties/Html/105.htm>>. Acesso em: 3 fev. 2012.

UNIÓN EUROPEA. Reglamento (CE) No 2201/2003 del consejo de 27 de noviembre de 2003. Relativo a la competencia, el reconocimiento y la ejecución de resoluciones judiciales en materia matrimonial y de responsabilidad parental, por el que se deroga el Reglamento (CE) no 1347/2000. **Diario Oficial de la Unión Europea**, 23 de diciembre de 2003. Disponível em: <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:338:0001:0029:ES:PDF>>. Acesso em: 6 fev. 2012.

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LIVRO

MUÑOZ PÉREZ, Noelia. Aspectos civiles de la sustracción internacional de menores en España. 2007. Trabajo Final de Carrera (Licenciatura en Derecho) – Facultad de Ciencias Sociales, Universidad Abat Oliva CEU, 2007. Disponible em: <<http://www.recercat.net/bitstream/handle/2072/5192/TFC-MU%C3%91OZPE-2007.pdf?sequence=1>>. Acceso em: 6 fev. 2012.

Resumen: En el presente trabajo se estudia el tema relativo a la sustracción internacional de menores por sus padres, analizando los cuerpos legales creados para combatir este problema surgido de la sociedad multicultural en la que vivimos, y para proteger el interés del menor, entendido como el interés superior, que en todo caso deberá de respetarse. En concreto, se analizan los diferentes instrumentos internacionales de los que disponemos en relación a la materia, así como su implementación en la normativa española. Este trabajo está compuesto por cuatro capítulos más un anexo final, donde se pueden encontrar formularios para solicitar la restitución del menor.



ARTIGOS

BORRÁS, Alegria. **Entrada en vigor para España del Convenio de la Haya en materia de protección de niños.** Disponible em: <<http://www.icaoviedo.es/noticias/show/entrada-en-vigor-para-espana-del-convenio-de-la-haya-en-materia-de-proteccion-de-ninos>>. Acceso em: 6 fev. 2012.

Resumen: El 1 de enero de 2011 entró en vigor para España el Convenio de La Haya de 19 de octubre de 1996 relativo a la

competencia, la ley aplicable, el reconocimiento, la ejecución de decisiones y la cooperación en materia de responsabilidad parental y de medidas de protección de los niños. Dicho así, puede resultar una cuestión simple, pero no lo es en realidad, ni desde el punto de vista formal ni desde el punto de vista sustancial.

CAAMIÑA DOMÍNGUEZ, Celia M. El secuestro internacional de menores: soluciones entre España y Marruecos. **Cuadernos de Derecho Transnacional**, n. 1, v. 3, p. 47-62, mar. 2011. Disponible em: <<http://kusan.uc3m.es/CIAN/index.php/CDT/article/view/File/1148/547>>. Acceso em: 9 fev. 2012.

Resumen: El presente trabajo estudia el secuestro internacional de menores en el ámbito del Convenio hispano-marroquí de 1997. El Convenio trata de garantizar la rápida restitución de los menores que han sido ilegalmente desplazados. Como regla general, el Estado requerido debe ordenar el retorno del menor. Sin embargo, tal Estado no está obligado a ordenar tal retorno en cuatro casos, dependiendo del período de tiempo transcurrido desde la fecha del desplazamiento.

CAAMIÑA DOMÍNGUEZ, Celia M. La supresión del exequátur en el R 2201/2003. **Cuadernos de Derecho Transnacional (CDT)**, n. 1, v. 3, 2011. Disponible em: <<http://hosting01.uc3m.es/Erevistas/index.php/CDT/article/view/1067/386>>. Acceso em: 6 fev. 2012.

Resumen: Este estudio se centra en los arts. 11.8 y 42 del Reglamento 2201/2003 que disponen que, aun cuando haya sido dictada una orden de no restitución en virtud del Convenio de La Haya de 1980, un pronunciamiento posterior que implique el retorno del menor debe ser reconocido y tendrá fuerza ejecutiva en los demás Estados miembros sin necesidad de declaración de ejecución, y sin que pueda impugnarse su reconocimiento. El objetivo del presente artículo consiste en determinar las condiciones que debe reunir la resolución de retorno del menor. Palabras clave: Reglamento

2201/2003, Convenio de La Haya de 1980, restitución del menor, derecho de custodia.

FARQUHAR, Keith B. Hague Convention on International Child Abduction Comes to Canada. **Canadian Journal of Family Law**, v. 4, 1983, p. 5. Disponível em: <<http://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/cajfl4&type=Text&id=21>>. Acesso em: 6 fev. 2012.

Abstract: The general effect of the Convention is to give preeminence to the laws and decrees of the state of the child's habitual residence in matters relating to his custody. The Articles of the Convention and their possible implications for Canadian law are analysed in terms of the aim of the Hague Conference: to reduce the number of legal conditions which facilitate the abduction of children by the non-custodial parent. The author explains the scheme of the Central Authority the agency designed to assist in the prompt location and return of abducted children. Deficiencies in the implementing legislation of the Canadian provinces which have adopted the Convention may retard the achievement of its aims.

GARAU SOBRINO, Federico F. Notas sobre la colisión de fuentes de Derecho internacional privado español sobre responsabilidad parental y protección del niño. **Cuadernos de Derecho Transnacional (CDT)**, n. 1, v. 3, 2011. Disponível em: <<http://hosting01.uc3m.es/Erevistas/index.php/CDT/article/view/1080>>. Acesso em: 6 fev. 2012.

Resumen: La ratificación por España del Convenio de La Haya de 1996 sobre protección del niño (la UE autorizó a los Estados miembros su ratificación) plantea problemas de compatibilidad con las normas sobre responsabilidad parental de la UE (Reglamento Bruselas II) y las españolas de origen interno que regulan los diferentes aspectos de Derecho Internacional Privado. Sería aconsejable que la UE replantease su política de incorporar normas que poseen una gran complejidad y que plantean problemas sobre la coherencia de su sistema normativo.

GARCÍA PÉREZ, Octavio. El delito de sustracción de menores y su configuración. **Revista para el Análisis del Derecho**, oct. 2010. Disponível em: <http://www.indret.com/pdf/767_es.pdf>. Acesso em: 6 fev. 2012.

Resumen: En 2002 se introdujo en el Código penal el art. 225bis para castigar la sustracción de menores cometida por parientes más próximos. Desde entonces en la mayoría de las sentencias en las que se ha planteado la aplicación de esta figura los acusados han sido absueltos: son casos en los que alguno de los cónyuges pone fin a la convivencia, llevándose consigo a los hijos sin que todavía haya recaído resolución judicial alguna sobre la custodia de éstos. Tras llegar a la conclusión de que el delito tiene un carácter pluriofensivo, afectando tanto al bienestar personal de los menores como al funcionamiento de la administración, se abordan los diversos aspectos del tipo, especialmente el problema de los sujetos y las dos modalidades de conducta contempladas en el delito. Para el autor, pese a no exigirse en la modalidad activa la previa existencia de una decisión judicial sobre la custodia, es convincente el planteamiento de nuestros tribunales cuando requieren que haya recaído ya una resolución judicial sobre la custodia.

PEÑAFORT LORENTE, Raymunda; ARBULO RUFRANCOS, Begoña. El traslado ilícito de menores en la crisis familiar: aspectos jurídicos e psicológicos. **Psicopatología Clínica, Legal y Forense**, v. 2, n. 3, 2002. Disponível em: <<http://www.masterforense.com/pdf/2002/2002art19.pdf>>. Acesso em: 6 fev. 2012.

Resumen: Ante el fenómeno de las rupturas de pareja surge la preocupación por las consecuencias que para los hijos menores tienen las decisiones de sus progenitores. El incremento de relaciones y matrimonios mixtos, los movimientos migratorios, los avances en las comunicaciones, el desarrollo económico y la liberalización de la institución familiar clásica han ampliado el abanico de patrones familiares, favoreciéndose, la posibilidad de que se produzca la

“sustracción del menor” por uno de los progenitores. La sociedad española venía contemplado la impunidad que, conforme a nuestras leyes, ostentaba el progenitor que, por decisión unilateral, trasladaba a un hijo menor a un país extranjero, separándolo del otro progenitor. Resultando necesario prever una respuesta penal clara, así como prever medidas cautelares en el ámbito civil, la Ley Orgánica 9/2002, del 10 de diciembre, ha tipificado esta conducta como delito contra los derechos y deberes familiares. Considerando las consecuencias en el niño, encontramos suficientes elementos de maltrato hacia el menor. Reseñamos algunas propuestas de actuación como medidas de prevención em intervención en estos casos.

SABIDO RODRÍGUEZ, Mercedes. La sustracción de menores en derecho internacional privado español: algunas novedades que introduce el reglamento 2201/03. **Anuario de la Facultad de Derecho**, n. 22, 2004, p. 307-320. Disponible em: <http://dialnet.unirioja.es/servlet/fichero_articulo?codigo=1103513&orden=62448>. Acceso em: 7 fev. 2012.

Resumen: La lucha frente a los supuestos de sustracción internacional de menores, en el ámbito civil, se ha articulado a través de distintos mecanismos cuyo fin último es la tutela del interés del menor. El nuevo Reglamento comunitario sobre la competencia, reconocimiento y ejecución de resoluciones en materia matrimonial y de responsabilidad parental, con esa misma finalidad protectora, contiene determinados preceptos relativos a la sustracción internacional de menores. Esta nueva regulación, introduciendo algunos cambios en el sistema de Derecho internacional privado español en materia de sustracción internacional de menores, viene a consagrar, en el espacio comunitario, los dos mecanismos que más eficaces han resultado en este ámbito: la acción directa de restitución del menor y el reconocimiento y ejecución de resoluciones relativas al derecho de custodia y visita.



Auto Juzgado de Familia Nº 6 de Zaragoza (España)

- <http://www.incadat.com/index.cfm?act=search.detail&cid=899&lng=1&sl=2>

The boy, an American national, was born in California on 14 July 1993 to an American father and a Spanish mother. Thereafter the parents separated, the mother alleging that the father had committed acts of domestic violence. In an interim hearing the mother was awarded exclusive custody of the child. On 1 March 1995 the mother was ordered to attend a subsequent hearing and prohibited from leaving the country without judicial authorization or the permission of the father. Nevertheless on 4 March the mother took the boy to Spain. The Californian court proceeded to grant both parents physical and legal custody of the child. On 18 October 1995 a return petition was filed in Spain. In decisions dated 3 February 1996 and 31 May 1996 the removal of the child to Spain was considered wrongful and a return order made. The mother refused to comply voluntarily with the order. Enforcement was then prevented when the mother went into hiding with the child. On 5 April 2004, the child was discovered and enforcement sought.

Iglesias Gil y A.U.I.

- <http://www.mujeresjuristasthemis.org/documentos/sentencia.htm>

El origen del caso se halla en un requerimiento (no 56673/00) dirigido contra el Reino de España por dos residentes de dicho Estado, la Sra. María Iglesias Gil y el menor A. U. I. ("los demandantes"), quienes lo interpusieron ante el T. E. D. H. el 22 de diciembre de 1999 en virtud del artículo 34 de la Convención de Salvaguardia de los Derechos Humanos y de las Libertades

Fundamentales ("la Convención"). Los demandantes estaban representados ante el Tribunal Europeo de Derechos Humanos ("T. E. D. H.") por el letrado D. Juan Thomas Mulet, del Ilustre Colegio de Abogados de Palma de Mallorca. El Gobierno español ("el Gobierno") estaba representado por su por el Abogado del Estado, Sr. Javier Borrego Borrego, jefe del Servicio Jurídico de Derechos Humanos del Ministerio de Justicia.



INSTITUIÇÕES

Búsqueda Internacional de Menores Desaparecidos

- http://es.missingkids.com/missingkids/servlet/PublicHomeServlet?LanguageCountry=es_ES&

La Asociación para la Recuperación de Niños Sacados de su País

- <http://www.recuperacion-menores.org/index.htm>

Subdirección General de Cooperación Jurídica Internacional, Ministerio de Justicia

- <http://www.mjusticia.gob.es/cs/Satellite/es/1200666550194/DetalleInicio.html>



México

Secuestro Internacional de Menores
Sustracción Internacional de menores

Legislação

MÉXICO. Código civil para el Distrito Federal. Disponível em: <<http://www.testamentos.gob.mx/Documentos/ccivil/9codciv.pdf>>. Acesso em: 14 fev. 2012.

MÉXICO. Convención sobre los Aspectos Civiles de la Sustracción Internacional de Menores. Diario Oficial de la Federación, el viernes 6 de marzo de 1992. Disponível em: <http://www.cedh-durango.org.mx/cedh_1_0/index.php?option=com_content&view=article&id=391:convencion-sobre-los-aspectos-civiles-de-la-sustraccion-internacional-de-menores-&catid=90:menores&Itemid=73>. Acesso em: 14 fev. 2012.

INTER-AMERICAN Convention on the International Return of Children. Disponível em: <<http://www.oas.org/juridico/english/sigs/b-53.html>>. Acesso em: 14 fev. 2012.

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LIVRO

MATUS CALLEROS, Eileen. **Derecho internacional privado mexicano ante la restitución internacional de menores**. México: Universidad Nacional Autónoma de México, 2009. Disponível em: <<http://biblio.juridicas.unam.mx/libros/libro.htm?l=2723>>. Acesso em: 14 fev. 2012.

Resumen: Esta obra pretende analizar la regulación vigente em México respecto a la protección de menor, específicamente, em torno a la restitución internacional de menores desde la perspectiva del derecho internacional privado.



ARTIGOS

INTERNATIONAL Child abduction: México. Disponível em: <http://travel.state.gov/abduction/country/country_508.html>. Acesso em: 14 fev. 2012.

Resumen: Mexico is a federal republic formed by 31 states and the Federal District. A party to the Hague Convention on the Civil Aspects of International Child Abduction (Hague Abduction Convention) since 1991, Mexico is the destination country of the greatest number of children abducted from the United States by a parent. The Hague Abduction Convention provides a civil legal mechanism for parents to seek access to or the return of children wrongfully removed or retained in Mexico.

LA SUSTRACCIÓN de menores por sus padres va en aumento. Disponível em: <<http://www.divorciosguadalajara.com/la->

[sustraccion-de-menores-por-sus-padres-va-en-aumento/](#)>. Acesso em: 14 fev. 2012.

LOPEZ, Antoinette Sedillo. International law-u.s./Mexico cross-border child abduction – the need for cooperation. Disponível em: <<http://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/nmlr29&type=Text&id=295>>. Acesso em: 14 fev. 2012.

Abstract: Mexico and the United States have always had substantial cultural, social and political ties. The signing of the North American Free Trade Agreement 2 increased the economic ties between Mexico and the United States. Many American and Mexican citizens marry, partially because of the shared cultural heritage between northern Mexico and the southwestern United States, 4 and partially because of proximity. 5 The breakup of these marriages can cause post-divorce conflict. 6 American citizens and Mexican citizens may cross the border in both directions to avoid such legal consequences of divorce as custody orders 7 and liability for child.

LOWE, Nigel; ARMSTRONG, Sarah; MATHIAS, Anest. **Country report:** Mexico. Disponível em: <<http://www.1800victims.org/docuserfiles/file/Missing%20Children/abduction/Country%20Reports%20-%20Mexico%20in%20English.pdf>>. Acesso em: 14 fev. 2012.

MANSILLA Y MEJIA, Maria Elena. **La convencion interamericana sobre tráfico internacional de menores.** Disponível em: <<http://www.juridicas.unam.mx/publica/librev/rev/revdpriv/cont/16/tci/tci6.pdf>>. Acesso em: 14 fev. 2012.

CANALES PÉREZ, Adriana. Protección de menores, restitución de menores. Conferencia para el Instituto de Investigaciones Jurídicas. 2005. Disponível em: <<http://www.juridicas.unam.mx/sisjur/familia/pdf/15-176s.pdf>>. Acesso em: 14 fev. 2012.



Gonzalez v. Gutierrez, 311 F.3d 942 (9th Cir 2002)

- <http://www.incadat.com/index.cfm?act=search.detail&cid=493&lng=1&sl=2>

The children, a girl and a boy, were aged 8 and 4 at the date of the alleged wrongful removal. Until the removal they had spent all of their lives in Mexico. The parents, both Mexican citizens, were divorced. The divorce order, made in August 2000, awarded the mother custody, the father access. However, the mother was not entitled to take the children out of the jurisdiction without obtaining the consent of the father. During the course of the marriage the mother suffered domestic violence at the hands of the father. This continued after the divorce. In early March 2001 the mother took the children to the United States without seeking the father's permission. Upon arriving she applied for asylum for herself and the children on the basis of her status as a victim of domestic violence. On 25 June 2002 the application was granted, but this was appealed by the relevant public body (INS). The appeal was still pending during the course of the Convention proceedings. On 6 December 2001 the United States District Court for the Southern District of California ruled that the children had been wrongfully removed in violation of the father's custody rights and that the mother had failed to establish any of the exceptions. On 31 December the District Court stayed the return order whilst the mother issued appeal proceedings.

Whallon v. Lynn, 230 F.3d 450 (1st Cir. 2000)

- <http://www.incadat.com/index.cfm?act=search.detail&cid=388&lng=1&sl=2>

The child, a girl, was 4 ¼ at the time of the alleged wrongful removal. She had lived all of her life in Mexico. The parents, both

American citizens, were not married and never entered into a formal custody arrangement. Although the mother had physical custody both parents took an active role in the child's life. In September 1999, after learning of the mother's plans to take the child on vacation to the United States, the father filed a petition with a Mexican court for sole custody of the child. However, the petition failed as he did not establish that there was the imminent danger or mistreatment needed to terminate a mother's rights of custody under Mexican law. On 1 October 1999 the mother took the child to the United States. The father petitioned for the child's return. A Massachusetts district court found that the father did have rights of custody and granted the petition. The mother appealed.

INSTITUIÇÕES

Desarrollo Integral de la Familia (DIF)

- <http://dif.sip.gob.mx/>

Fundación Nacional de Investigaciones de Niños Robados y Desaparecidos

- <http://ninosrobados.org.mx/>

Poder Judicial del Estado de México

- <http://www.pjedomex.gob.mx/web2/>

Procuraduría General de la República (PGR)

- <http://www.pgr.gob.mx/>

Secretaría de Relaciones Exteriores

- <http://www.sre.gob.mx/>



Argentina

Secuestro Internacional de Menores
Sustracción Internacional de menores

Legislação

ARGENTINA. **Ley n. 24.270**, noviembre 3 de 1993. Configúrase delito al padre o tercero que impidiere u obstruyere el contacto de menores de edad con sus padres no convivientes. Disponível em: <http://www.iin.oea.org/badaj_v/docs/l24270ar.htm>. Acesso em: 10 fev. 2012.

ARGENTINA. Convenio sobre los Aspectos Civiles de la Sustracción Internacional de Menores. Diario Oficial de la Federación, el viernes 6 de marzo de 1992. Disponível em: <http://www.hcch.net/index_es.php?act=conventions.status&cid=24>. Acesso em: 14 fev. 2012.

CONVENIO Argentino-Uruguayo sobre Protección Internacional de Menores Montevideo, 31 de Julio de 1981. Disponível em: <http://www.menores.gob.ar/documentos/Convenio_Argentino_Uruguayo.pdf>. Acesso em: 14 fev. 2012.

INTER-AMERICAN Convention on the International Return of Children. Disponível em: <<http://www.oas.org/juridico/english/sigs/b-53.html>>. Acesso em: 14 fev. 2012.

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SEBASTIAN DE LA TORRE, Aníbal. **Aspectos civiles de la sustracción internacional de menores**. 2004. Disponível em: <<http://imgbiblio.vaneduc.edu.ar/fulltext/files/TC052015.pdf>>. Acesso em: 10 fev. 2012.



ARTIGOS

ANTONIO ROMANO, Carlos. **Sustracción internacional**: caso Arias Uriburu- Shaban. Disponível em: <http://www.google.com.br/url?sa=t&rct=j&q=sustraccion%20internacional%20de%20ninos%20argentina&source=web&cd=86&ved=0CEwQFjAFOFA&url=http%3A%2F%2Fwww.unr.edu.ar%2Fdescargar.php%3Fid%3D7494&ei=zvU7T9_TDsQRgwfbxYc&usg=AFQjCNEQnsEZG57QetEaHvMqD1Pvw-qmgw>. Acesso em: 10 fev. 2012.

ARGENTINA. Ministerio de las Relaciones Exteriores y Culto de la República Argentina. **Protección internacional de los niños**: estadísticas. Disponível em: <<http://www.menores.gob.ar/index.php?sop=restitucion&ssop=estadisticas>>. Acesso em: 10 fev. 2012.

CONVENCIÓN de la Haya sobre los aspectos civiles de la sustracción internacional menores. Disponível em: <http://www.apadeshi.org.ar/convencion_de_la_haya_retencion.htm>. Acesso em: 10 fev. 2012.

CORIGLIANO, Mario Eduardo. **Delitos de sustracción, retención y ocultación de menores hacia una definición político-criminal.** Disponível em: <<http://new.pensamientopenal.com.ar/sites/default/files/2011/08/37corigliano.pdf>>. Acesso em: 10 fev. 2012.

IN PROCEEDING under Hague Convention on Child Abduction, Third Circuit vacates and remands lower court's order returning child from U.S. to Argentina in light of incomplete fact-finding on key issues.

NIEVE RUBAJA. **Restitución internacional de menores:** una solución enfocada en el procedimiento. 2011.

UNITED STATES OF AMERICA. **Argentina:** Hague Convention on International Child Abduction. 2004. Disponível em: <<http://www.kinder-nach-hause.de/docs/argentina.pdf>>. Acesso em: 10 fev. 2012.



JURISPRUDÊNCIA

5A_385/2010 & 5A_293/2010, II. zivilrechtliche Abteilung, arrêt du TF du 22 juin 2010

- <http://www.incadat.com>

Where an abducting parent does not comply voluntarily the implementation of a return order will require coercive measures to be taken. The introduction of such measures may give rise to legal and practical difficulties for the applicant. Indeed, even where ultimately successful significant delays may result before

the child's future can be adjudicated upon in the State of habitual residence. In some extreme cases the delays encountered may be of such length that it may no longer be appropriate for a return order to be made.

File N°2004-0276-0-2702-JM-FA-01

- <http://www.incadat.com>

The application related to a boy born in February 1997 to an Argentine father and a Peruvian mother. The boy lived in Argentina with his parents until June 2003. The couple then separated and the mother went to Peru in the same month to visit her family. The mother had on-going permission from the father to travel with the child, until the child reached adulthood. After five months in Peru the mother expressed her will to remain there with the boy. On 27 April 2004 the father revoked the open-ended travel permission and filed a return application. On 2 December 2004 the trial judge invited the parents to reach an amicable settlement. The father refused.



INSTITUIÇÕES

Departamento Interpol. Polícia Federal. Polícia Federal Argentina

- <http://www.interpol.gov.ar/>

Found Child

- <http://www.foundchild.org.ar/>

Ministerio de Desarrollo Social

- www.desarrollosocial.gob.ar

Ministerio de Justicia y Derechos Humanos

- <http://www.jus.gob.ar/>

Ministerio de Relaciones Exteriores, Comercio Internacional y Culto
Dirección de Consejería Legal


- www.mrecic.gob.ar

Programa Interamericano para Prevenir y Reparar Casos de
Sustracción Internacional de Niños, Ninas e Adolescentes

- <http://www.iin.oea.org/sim/cd/index.htm>

Restitución Internacional de los Niños

- <http://www.menores.gob.ar/index.php?sop=restitucion>



Países não Signatários

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COSTA, Jenniffer. If Japan signs the Hague convention on the civil aspects of international child abduction: real change or political maneuvering? **Oregon Review of International Law**, v. 12, n. 1, 2010. Disponível em: <http://heinonline.org/HOL/Page?handle=hein.journals/porril12&id=380&type=text&collection=journalshttp://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=hokon_yoo>. Acesso em: 10 fev. 2012.

Abstract: Japan is the only G7 nation that has not signed the Convention. The purpose of the Convention is to secure the return of children who have been wrongfully removed to another contracting country. 5 In short, a removal is wrongful where the removal violates a person's custody rights and that person was exercising his or her custodial rights at the time of removal. 6 Part I of this Article provides the reader with the background information necessary to understand why Japan has not yet joined the Convention. Part II explains why Japan will likely join the Convention by 2012. Lastly, Part III explores and predicts (1) how the Japanese judiciary will interpret

and implement the Convention should Japan accede, (2) whether accession will be followed by Parliamentary action amending Japan's civil law, and (3) the benefits of a bilateral parental child abduction agreement between the United States and Japan.

LARA, Cardin. The Hague convention on the civil aspects of international child abduction as applied to non-signatory nations: getting to square one. **Houston Jornal of International Law**, v. 20, n. 1, 1997. Disponível em: <<http://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/hujil20&type=Text&id=151>>. Acesso em: 10 fev. 2012.

Abstract: Children can't be divided with community property. They're not the good china, the record collection, the cute little etchings on the wall that someone bought on holiday in Scotland. [C]hild abduction is not an act of love. It has never been and never will be. It's the ultimate revenge on the other partner – and the pain never leaves. 2 The problem of international child abduction is not a new one. From 1978-1996, more than 5,500 international child abductions by parents have been reported to the U.S. Department of State. 3 Nor is the problem uniquely American. One activist has noted that child abduction is an international phenomena and is not confined to countries from the west or east, north or south, but wherever there are marital disputes.

LOPEZ, Antoinette Sedillo. International law-u.s./mexico cross-border child abduction-the need for cooperation. **New Mexico Law Review**, 1999. Disponível em: <<http://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/nmlr29&type=Image&id=295>>. Acesso em: 10 fev. 2012.

Abstract: Being the pawn in a contested custody battle between two warring parents is traumatic for a child. The likelihood that the child will suffer some emotional injury increases when the child is forced to endure a second contested custody battle because one parent decides to relocate outside the jurisdiction of the court that

granted the divorce. This paper suggests an approach that minimizes the adverse consequences of relocation. The approach still keeps the best interests of the children paramount by providing courts with discretion when it is needed to protect the child.

SCHNITZER-REESE, Ericka A. International child abduction to non-Hague Convention countries: the need for an international family court. **Northwestern University Journal of International Law**, v. 2, Apr. 2004. Disponível em: <<http://www.law.northwestern.edu/journals/jihr/v2/7/>>. Acesso em: 10 fev. 2012.

Abstract: Part I of this article will briefly examine the history of international parental child abduction, discussing the socio-cultural atmosphere that gave rise to the emergence of the problem. Part II will introduce the current legal mechanism for international parental child abduction — the Hague Convention on Civil Aspects of International Child Abduction of 1980. The Hague Convention is essentially useless in situations where a child is abducted to a country with a substantially Muslim population, as only two such countries, Turkey and Bosnia, 4 are party to the Convention. 5 This section will examine the reasons why North African and Middle Eastern 6 countries utilizing Shari'a-based family law are reluctant to sign on to the convention, discussing issues of religion, culture, and the place of women and children in Islamic societies. Part III will analyze the few options available when a child is abducted from the United States to a non-Hague country, namely: (1) the International Parental Kidnapping Crime Act of 1993 (IPKCA); 7 (2) diplomatic intervention; (3) re-abduction; and (4) utilization of the U.N. Convention on the Rights of the Child, 8 to which many Shari'a-based family law countries are party. Part IV will propose a new, viable alternative option in dealing with international parental child abductions, whether they are to Hague or non-Hague countries: an International Family Court. Comprised of judges representing a wide array of countries, cultures, religions and legal systems, the International Family Court would be an unbiased clearinghouse where multiple views on religion, divorce, and custody would

be respected and considered in adjudicating international child abduction cases, custody cases, even divorce cases.

YOO, Hokon Stephen. **Do not blame non-signatory countries: take your own preventive measures to protect children from international abduction.** 2010. Disponível em: <http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=hokon_yoo>. Acesso em: 10 fev. 2012.

Abstract: This Note recommends a preventive legal measure to protect children from international abduction rather than the existing post-abduction remedies. The Hague Convention of International Child Abduction has limited to help the leftover parent when another spouse wrongfully removes a child because the Convention lacks enforceability. To supplement the Hague Convention's post-abduction remedies, this Note proposes a practical pre-abduction measure, an e-Child database program that judicial, legislative, administrative, and enforcement agencies could share. This Note recommends that each country, regardless of its signatory status to the Convention, set up a child protection package that guides international, domestic, and private measures to prevent abduction in the first place.

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