

Asia Pacific Symposium on the 1980 Hague Child Abduction Convention
Tokyo, Japan

Wednesday 29 to Thursday 30 June 2016

CONCLUSIONS AND RECOMMENDATIONS

On 29-30 June 2016 the Hague Conference on Private International Law (through its Permanent Bureau's Asia Pacific Regional Office), the Ministry of Foreign Affairs of Japan, and Waseda University jointly organised a two-day Symposium at Waseda University, Tokyo.

In attendance were about 210 participants, comprising (among others) sitting judges, government officials, representatives of the Permanent Bureau, legal practitioners, academic and other experts from Asia-Pacific and other countries (including Australia, Cambodia, Canada, China, Fiji, India, Indonesia, Japan, Laos, Malaysia, Myanmar, the Philippines, the Republic of Korea, the Russian Federation, Singapore, Sri Lanka, Thailand, the United Kingdom, the United States of America and Viet Nam).

The following Conclusions and Recommendations were reached at the close of the Symposium:-

1. The participants recognized the great value that the Convention on Civil Aspects of International Child Abduction (hereinafter "the Convention") provides. The participants appreciated the stability that the Convention provides for families in the global community, by offering an effective framework to facilitate the swift return of a child based on the principle of the best interests of the child. The participants welcomed the recent accession by the Philippines to the Convention and reaffirmed the significance of the Convention's further expansion.
2. The participants stressed that the Convention is about the process of ensuring the swift return of the child. It is not about the determination of custody. In essence, the Convention concerns the return of the child to the State of habitual residence, as the proper forum for the determination of custody rights and other issues. In this light, the participants noted that the Convention is compatible with all legal systems.
3. The participants welcomed the format of the Symposium which involved small group sessions discussing hypothetical examples based on real-life situations. The format allowed for

active and dynamic interchange and sharing among all participants. The format also enabled experienced Convention experts to benefit from the discussions.

4. The discussions highlighted critical points for the proper implementation and operation of the Convention, including:-

- (a) Expeditious procedures;
- (b) Possible concentration of jurisdiction;
- (c) Effective case management to ensure the smooth and efficient progress of a case;
- (d) Thorough fact-finding to enable a fair evaluation of the evidence relating to habitual residence;
- (e) Giving appropriate weight to the child's views in light of the circumstances, including the age and maturity of the child;
- (f) Effective enforcement procedures, including the early consideration of measures that might have to be taken to enforce the outcome of a case;
- (g) Encouraging the amicable resolution of a case, including (where appropriate) through specialized mediation for Convention matters, although attempts at amicable resolution should not delay the progress of a case.

5. The participants recognized that the mechanisms for achieving the duties imposed by the Convention on Central Authorities might differ from jurisdiction to jurisdiction. In some jurisdictions, Central Authorities initiate proceedings for the return of the child, while in other jurisdictions Central Authorities do not do so. However, it was emphasized that all Central Authorities should facilitate interim access for the left-behind parent, pending ongoing court proceedings. It was noted that interim access could be ensured by various means, including electronic means. The provision of interim access might facilitate the early resolution of a case and the smooth return of the child. It was further noted that Central Authorities should cooperate with each other in the performance of their duties.

6. The participants stressed that the International Hague Network of Judges was an important component in the efficient operation of the Convention. Accordingly, the participants encouraged Contracting and Non-Contracting States to designate a Network Judge at the earliest opportunity. Insofar as direct judicial communication about specific cases was concerned, participants noted that reference should be made to the guidelines published by the Hague Conference and available on its website.

7. Non-Contracting States are encouraged to become a party to the Convention. It was acknowledged that becoming a party to the Convention would require capacity-building among all stakeholders (including judges, Central Authorities, lawyers, government officers and social workers). In respect of capacity-building, it was noted that some jurisdictions had initiated training or mentoring schemes to assist new Contracting States and Non-Contracting States in setting up procedures and mechanisms for the effective operation of the Convention in accordance with best practice, as exemplified in the guides and handbooks published by the Hague Conference and available on its website. In addition to support from the Permanent Bureau, interested States can also rely on support from Contracting States.

8. Gratitude is extended to Japan and, in particular, to the Ministry of Foreign Affairs of Japan for its generosity in organizing, supporting, and hosting the Symposium. Thanks are also extended to Waseda University for providing facilities conducive to a successful conference.