

# The Hague Convention

*The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* is a multilateral treaty, which seeks to protect children from the harmful effects of abduction and retention across international boundaries by providing a procedure to bring about their prompt return.

## Purpose of the Hague Convention

- To protect children from harm
- To secure prompt return of the children, and to respect custody between Nation States (ideally within six weeks of abduction)
- To re-establish the child's life status quo (normal routine)
- To be easy for the left-behind parent (this ends up working in the abuser's favor)
- To discourage parental abduction

## Abductors

- Nigel Lowe found that 70% of abductors are women.
- A study by "Unite" found that 63% of abductors are women.
- Most abductions are committed by the primary care giver.
- Many say they are fleeing domestic violence.

## 5 Defenses for DV Survivors Charged with International Child Abduction

1. Article 12 "Well Settled Exception." At least one year MUST have elapsed from the time of abduction or the child will be returned, UNLESS the child is considered well settled in their new environment.
2. Article 13A, the abuser is not accessing custody rights or consented to the removal of the child.
3. Article 13B, "Grave harm" (DV could be considered to be grave harm)
4. Article 13 unnumbered, if the child objects and is of appropriate age and maturity.
5. Article 20, the Human Rights Defense

--Source: Seattle University's Access to Justice Institute's Hague Convention Project.  
<http://www.law.seattleu.edu/accesstojustice/hague>, and a presentation by Merle Weiner, Associate Professor of Law at University of Oregon's School of Law, November 19, 2005.

# What DV Survivors Should Know about The Hague Convention and ICARA

## **If you are a survivor of domestic violence and have fled across international borders:**

The abducting parent who is fleeing domestic violence should be aware that the serious consequences under the Hague Convention are only some of the consequences facing individuals who “abduct” or flee with their children across international borders.

The Convention’s intent is to enable the left-behind parent to have legal recourse against the abducting parent. Under the traditional interpretation of the Convention an abducting parent who flees the country for their own survival and the safety of their children can be forced to return their children to the left-behind parent, even if that parent is a perpetrator of violence. The abducting parent may be forced to return to an abusive home.

Do not despair! Contact an attorney if you are a survivor of domestic violence and have fled across international borders with your children. There may be ways to apply the Hague Convention (and its ICARA implementation) along with other laws to help you.

## **If you are the survivor of domestic violence and have had your children abducted:**

If a survivor of domestic violence becomes the left-behind parent to a child taken to a country that is a member of the Convention they can file a **Hague petition application**. If the country where the child is taken is not a party to the Convention, the left-behind parent can still contact the U.S. Department of State for information about that country by contacting one of the State Department’s embassies or consulates abroad. Such assistance can include information on the country’s legal system, family laws, and attorney contacts.

For more information please visit the U.S. Department of State, **International Child Abduction Web site**.

### **Hague petition application:**

<http://www.law.seattleu.edu/accesstojustice/hague/assistanceapplication.pdf>

### **International Child Abduction Web site:**

[http://travel.state.gov/family/abduction/abduction\\_580.html](http://travel.state.gov/family/abduction/abduction_580.html)