

Between Protection and Parental Rights: The Hague Abduction Convention, Domestic Violence Allegations and Article 13(1)(b)

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The Hague Convention on the Civil Aspects of International Child Abduction aims to deter international parental child abduction and ensure the prompt return of wrongfully removed or retained children to their country of habitual residence. However, the Convention's Article 13(1)(b) "grave risk" exception reflects legal complexities when allegations of domestic violence are raised against seeking parents (also referred to as 'left behind' parents) as a defence against the child's return. Variations in judicial interpretations of "grave risk" and inconsistent domestic violence laws across signatory states create disparities in case outcomes, challenging the Convention's goal of uniform application. This paper examines how variation in how courts assess such claims can result in unpredictable rulings that affect both the child's return and also the rights of seeking and taking parents. Through an analysis of case law and international legal instruments, this paper explores the tension between ensuring child welfare and procedural fairness for parents. To address this tension, this paper makes recommendations for expanded and enhanced judicial communications and continued harmonisation of legal approaches to evaluating domestic violence claims under the Convention.

Keywords: *Hague; child; abduction; convention; parents*

Introduction

The 1980 Hague Convention on the Civil Aspects of International Child Abduction (hereinafter "the Hague Abduction Convention" or "the Convention") was established to deter international parental child abduction and to ensure the prompt return of abducted children to their country of habitual residence for adjudication of custody rights.¹ This international treaty outlines a series of articles that guide the return process, establishes the roles of partner states, and specifies exceptions under which return may be denied. Central to the Convention is the presumption that wrongful removal or retention disrupts a child's stability and contravenes their best interests.² However, the Convention also permits narrow exceptions to return, the most invoked of which is Article 13(1)(b).

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¹Hague 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 [hereinafter *Hague Abduction Convention*].

²Pérez-Vera (1982) at 11–13.

This provision allows courts to deny return if doing so would expose the child to a “grave risk” of physical or psychological harm or place the child in an “intolerable situation.”³

In recent years, the invocation of Article 13(1)(b) has become more frequent and more contentious. A 2023 statistical report analysing Hague Convention applications from 2021 found that this exception was cited in nearly 46% of all judicial refusals to return—29% as a sole reason and 17% in combination with others.⁴ Allegations of domestic violence—often raised by the abducting parent against the seeking parent—have been a primary driver of this trend.⁵ In such cases, courts face a difficult task: determining whether return would endanger the child (and potentially the abducting parent), while avoiding unjust outcomes that may undermine the Convention’s purpose.⁶

This evolving legal landscape has generated procedural and normative tensions. While the Convention presumes that custody determinations belong in the child’s habitual residence, allegations of violence often shift the judicial lens toward risk assessment and protective safeguards.⁷ In practice, courts vary widely in how they interpret “grave risk,” assess evidence, and weigh the impact of harm directed at a parent rather than the child.⁸ Seeking parents—those whose children have been abducted—may find themselves at a disadvantage in return proceedings that may resemble summary adjudications of complex abuse claims.⁹ The lack of procedural clarity and cross-jurisdictional coordination contributes to inconsistent outcomes that strain both the Convention’s implementation, its protective function, and the parental rights of those involved.¹⁰

In the absence of consensus around amending the Convention, international legal actors have turned to procedural innovations to address these challenges. One promising mezzo-level solution is the expanded use of direct judicial communications through the International Hague Network of Judges (IHNJ).¹¹ Established in 1998 under the auspices of the Hague Conference on Private International Law (HCCH), the IHNJ is comprised of liaison judges from more than 80 Convention states. The international judicial network facilitates structured communication between courts in cross-border family law cases. Under safeguards articulated in an HCCH Guide to Good Practice on judicial communications, these communications enable judges to clarify legal procedures, coordinate case management logistics, and verify relevant findings—without overstepping into substantive decision-making.¹²

This paper explores how direct judicial communication—particularly via the IHNJ—can serve as a harmonising mechanism to improve consistency, procedural

³Hague Abduction Convention, art. 13(1)(b).

⁴Hague Conference on Private International Law [HCCH], *Special Commission on the Practical Operation of the 1980 and 1996 Conventions: Statistical Analysis 2021*, (Mar. 2023), at 40.

⁵Weiner (2018) at 104–06.

⁶Beaumont and Trimings (2017a) at 141–43.

⁷Ibid.

⁸Silberman (2014) at 225–27.

⁹Schulz (2018) at 13–14.

¹⁰Pérez-Vera (1982) at 228–30.

¹¹HCCH (2022b).

¹²Ibid.

fairness, and child protection in Article 13(1)(b) cases. While the Convention was designed for speed and deterrence, its long-term success also depends on equitable, informed implementation. A structured, ethically sound judicial dialogue between jurisdictions offers one of the most effective tools for reconciling the Convention's procedural demands with its humanitarian aims.

Aims of the 1980 Hague Child Abduction Convention

The 1980 Hague Abduction Convention was created to address the growing problem of international parental abduction and its disruptive effects on children's lives. Article 1 of the Convention articulates its dual objectives: (1) to secure the prompt return of children wrongfully removed to or retained in any contracting state, and (2) to ensure that rights of custody and access under the law of one contracting state are effectively respected in other contracting states.¹³

The Convention is not intended to resolve custody disputes. Rather, it aims to restore *the status quo ante* by returning the child to their habitual residence, where courts are presumed better equipped to assess long-term custody issues.¹⁴ This framework incentivizes parents to resolve custody matters through civil legal channels, rather than through unilateral relocation. Consistent with this aim, the Convention emphasises expedition; courts are urged to reach a decision within six weeks of filing.¹⁵ However, the drafters acknowledged that there may be exceptional circumstances in which automatic return would not serve the child's best interests. Thus, the Convention allows for a limited number of narrowly construed exceptions to return, found in Articles 12, 13, and 20.¹⁶ Of these, the most frequently litigated—and most complex—is Article 13(1)(b).

The Grave Risk Exception in Article 13(1)(b)

Article 13(1)(b) permits a court to refuse return if it establishes that returning the child “would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.”¹⁷ This clause functions as a safety valve of sorts, recognising that in rare cases, the obligation to return must yield to the imperative to protect the child. The standard is high. “Grave risk” does not encompass ordinary inconvenience, upheaval, or even general unhappiness. It demands showing a substantial and imminent danger.¹⁸

An early explanatory report on the Convention clarifies that the “intolerable situation” language was designed to cover serious circumstances that do not fall neatly under physical or psychological harm, such as return to a war zone, famine,

¹³Hague Abduction Convention art. 1.

¹⁴Pérez-Vera (1982) at 11-16.

¹⁵Hague Abduction Convention art. 11.

¹⁶Ibid. at arts. 12–13, 20.

¹⁷Ibid. at art. 13(1)(b).

¹⁸51 Fed. Reg. 10,510 (March 26, 1986) Convention on the Civil Aspects of International Child Abduction; Text and Legal Analysis.

or credible risk of persecution.¹⁹ In most jurisdictions, the parent raising claims of grave risk bears the burden of establishing the Article 13(1)(b) exception. In the United States, the International Child Abduction Remedies Act (ICARA) sets a heightened burden of proof: clear and convincing evidence.²⁰ Other countries typically require proof on a “balance of probabilities,” though the severity of the allegation still demands persuasive, corroborated evidence.²¹ Most courts now apply a two-part test: (1) does return pose a grave risk of harm or intolerable situation?; and (2) if so, are there adequate protective measures (also referred to as undertakings) in the state of habitual residence that can mitigate that risk? If a court substantiates grave risk and still orders a child’s return, protective measures—such as supervised visitation, restraining orders, or financial support—are common tools used to satisfy this inquiry, but their effectiveness varies widely across jurisdictions.²²

Domestic Violence Allegations Under Article 13(1)(b)

One of the more complex areas of Article 13(1)(b) litigation involves a taking parent raising allegations of domestic violence as a defence against returning a child. These cases often involve claims that the abducting parent—typically the mother—was subjected to abuse, and that returning the child would expose both parent and child to renewed harm.²³ While the Convention was not explicitly drafted with domestic violence in mind, its evolving interpretation has expanded to address this concern.

Initially, some courts were hesitant to apply Article 13(1)(b) to cases where the abuse was directed only at the taking parent. However, a growing body of case law and research now supports the view that witnessing domestic violence can cause profound psychological harm to a child and impair the abused parent’s caregiving capacity.²⁴ Courts in common law jurisdictions, particularly the U.K. and U.S., have adopted this broader understanding. For instance, the U.K. Supreme Court in *Re E* emphasised that abuse of the parent can create an intolerable situation for the child, particularly if return would place the primary caregiver in danger or distress.²⁵ Nonetheless, judicial responses remain inconsistent. Some courts insist on direct evidence of harm to the child, while others are more willing to infer grave risk from the surrounding circumstances, particularly where the abuse is severe or persistent.²⁶ This lack of consistency also affects seeking parents, who may be unfairly denied

¹⁹Pérez-Vera (1982) at 29.

²⁰22 U.S.C. § 9003(e)(2)(A) (2018), International Child Abduction Remedies Act (ICARA).

²¹Beaumont & Trimmings (2017a) at 137, 145-146.

²²Silberman (2014) at 221, 227-29.

²³HCCH, *Special Commission on the Practical Operation of the 1980 and 1996 Conventions: Statistical Analysis 2021* (2023) at 39-40.

²⁴Weiner (2018) at 126-128.

²⁵See *Re E (Children) (Abduction: Custody Appeal)* [2011] UKSC 27, [2012] 1 A.C. 144, ¶ 34 (U.K.) (noting that abuse directed toward the taking parent may, in certain circumstances, create an intolerable situation for the child and justify non-return under Article 13(1)(b)).

²⁶See *Blondin v Dubois*, 238 F.3d 153, 162-164 (2d Cir. 2001) (noting that grave risk may be inferred from the environment to which the child would be returned, particularly where the taking parent has suffered serious and sustained abuse).

the child's return when courts accept generalised or unsubstantiated claims of domestic violence as sufficient to establish grave risk—despite the absence of direct harm to the child.²⁷ As this paper explores in subsequent sections, harmonisation of judicial interpretation and greater reliance on direct judicial communications—particularly through mechanisms like the IHNJ—may offer a path toward more consistent, fair, and child-cantered outcomes.

Challenges in the Application of Article 13(1)(b)

The grave risk exception in Article 13(1)(b) has proven difficult to apply uniformly, giving rise to several systemic challenges. These include divergent judicial interpretations across jurisdictions, inconsistent evidentiary standards, procedural constraints inherent in the Convention's summary return mechanism, and structural barriers to cross-border judicial understanding.²⁸

Divergent Interpretations across Jurisdictions

Despite the Convention's text, courts in different Contracting States have interpreted "grave risk" with varying degrees of strictness. Some judiciaries historically adopted a narrow view—requiring proof of harm directed specifically at the child—whereas others have embraced a broader understanding that serious harm to the caregiving parent (e.g., domestic violence) can, in appropriate circumstances, equate to a grave risk to the child upon return.²⁹ This lack of interpretive uniformity means that the outcome of a 13(1)(b) defence may depend heavily on the forum. For example, until recently, some courts were reluctant to find that spousal abuse alone satisfied Article 13(1)(b) absent direct child abuse, while courts elsewhere (and an evolving consensus of experts) recognise that exposure to domestic violence or other contextual dangers may indeed place a child in an "intolerable situation."³⁰ A 2020 HCCH Guide to Good Practice expressly acknowledges that harm to a parent can create a grave risk to the child, in exceptional cases, even if the child is not the primary target of the abuse.³¹ Nonetheless, approaches still differ on what scenarios meet the "grave" threshold and on how liberally this defence should be invoked, leading to uneven application of Article 13(1)(b) across countries.

²⁷See *Does the Hague Convention Adequately Protect Children in Cases of Abuse?*, Chronicle Law (Apr. 29, 2025).

²⁸Silberman (2014) at 221-124.

²⁹HCCH, Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction: Part VI – Article 13(1)(b), at 21–22 (2023).

³⁰*Ibid.*

³¹*Ibid.*

Lack of Uniform Evidentiary Standards

A related challenge is the disparity in burdens and standards of proof required to establish the Article 13(1)(b) exception.³² The Convention itself is silent on the standard, and Contracting States have adopted their own approaches. Many countries apply the ordinary civil standard (preponderance of the evidence), whereas a few impose a higher threshold. The United States, for instance, via its implementing statute, requires that a grave risk be proved by “clear and convincing” evidence, a more demanding standard than a mere balance of probabilities.³³ Conversely, other jurisdictions—including the Netherlands—apply the ordinary civil standard and allow grave-risk claims to proceed on the basis of less formal evidence, such as unsworn statements or minimal documentation, under flexible admissibility rules.³⁴ Such differences mean that the same facts might be deemed sufficient to prove a grave risk in one jurisdiction but not in another. Beyond the standards of proof, practices vary as to what evidence is admissible and how liberally courts allow fact-finding in these summary proceedings. Some courts expect objective or corroborating evidence (e.g., police reports, medical records, expert testimony) before crediting a grave risk claim, while others may rely on affidavits or demeanour assessments in court.³⁵

There is no uniform rule on, for example, whether a court must allow live testimony or expert psychological evaluations in a 13(1)(b) hearing; domestic procedural law governs these questions, resulting in inconsistent evidentiary regimes for what is meant to be an internationally harmonised remedy.³⁶ This lack of uniform standards can frustrate the Convention’s goal of predictable outcomes, as the strength of a grave risk case may hinge less on the merits of the claim and more on the forum in which it is heard. International efforts, including HCCH guidance, have begun encouraging greater convergence—for example, by sharing good practices on evidentiary handling—but significant variation remains.

Procedural Limitations of Summary Hague Proceedings

Hague return cases are intended to be expeditious, focusing narrowly on the threshold issue of return without delving into custody merits. Article 11 of the Convention pointedly urges that courts resolve abduction cases within six weeks if possible.³⁷ This emphasis on speed and limited scope, while critical to the Convention’s deterrent aims, creates tension when a grave risk defence is raised. Allegations of abuse or other serious harm often demand careful fact-finding and nuanced judgment—yet the summary nature of Hague proceedings constrains the

³²Hague Conference on Private International Law, *Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction: Part VI – Article 13(1)(b)* § 4.3.1–4.3.3 (2023).

³³42 U.S.C. § 11603(e)(2) (2018).

³⁴See HCCH, *Draft Guide to Good Practice on Article 13(1)(b) of the Hague Convention*, ¶ 12 & annex 4 (June 2011).

³⁵Barton & Paz-Dil (2016) at 147-156.

³⁶Lindhorst & Edelson (2022) at 131, 142-143.

³⁷Hague Abduction Convention art. 11.

time and tools available to judges.³⁸ There is typically no discovery phase or prolonged evidentiary hearing; many courts decide 13(1)(b) applications on written submissions and brief oral argument. The overriding imperative of prompt return means that judges may feel pressure to decide quickly, sometimes on an incomplete record, rather than engage in what might resemble a “mini-trial” on the child’s welfare. Indeed, the Convention’s drafters and subsequent review meetings have cautioned that return proceedings should not morph into full-blown custody inquiries or comprehensive best interests determinations of the child.³⁹ The limited scope is designed to prevent delays, but it also means that courts might not fully unpack complex issues often raised in an Article 13(1)(b) case.⁴⁰

In practice, this procedural limitation can lead to inconsistent outcomes: some courts, wary of overstepping the Convention’s mandate, err on the side of ordering return without extensive fact-finding, whereas others take more time (sometimes incurring criticism for delay) to ensure that a claimed risk is thoroughly evaluated. The net result is a structural challenge: how to reconcile the Convention’s demand for swift, uniform justice with the reality that grave risk claims often require individualised, context-sensitive appraisal. Recent international discussions have underscored the need to strike a better balance, for example by using accelerated evidence-gathering techniques and provisional measures, but the tension between speed and fairness in Article 13(1)(b) cases remains a central practical problem.⁴¹

Structural Barriers to Cross-border Judicial Understanding

One of the most difficult aspects of applying Article 13(1)(b) in cases involving alleged domestic violence is that such abuse remains an allegation unless it has been formally adjudicated elsewhere.⁴² A Hague return proceeding is not a full trial on the merits; the court in the requested State is tasked only with determining whether the claim of a grave risk is sufficiently established to warrant an exception to the child’s prompt return, not to definitively resolve underlying family violence issues.⁴³ This limitation creates a procedural tension. Courts must adequately and promptly examine the domestic violence allegation for the purposes of the grave risk inquiry, yet they cannot delay Hague cases for a full-blown fact-finding process and often cannot objectively verify or fully try disputed abuse claims within the Convention’s summary timeframe. The result is an inherent informational gap: judges are asked to assess the veracity and severity of abuse allegations – and the child’s consequent risk – on the basis of limited evidence and expedited presentations.⁴⁴

This structural gap in knowledge can leave courts uncertain how to interpret the facts and apply Article 13(1)(b) consistently, especially when the alleged harm and its future likelihood depend on conditions in a foreign jurisdiction.⁴⁵ Another

³⁸Weiner (2018) at 101, 125–126.

³⁹Silberman (2004) at 912-914.

⁴⁰Ibid.

⁴¹Beaumont & Trimmings (2017a) at 137, 145–146.

⁴²Weiner (2020) at 32-33.

⁴³Ibid. at 147-148.

⁴⁴Lindhorst et al (2009) at 456–457.

⁴⁵Beaumont & Trimmings (2017b) 497.

challenge is evaluating what awaits the child (and the taking parent) if returned to the country of habitual residence. Some courts, especially in earlier U.S. case law, held that a petitioner must show not only a serious risk of harm but also that the authorities in the habitual residence would be unable or unwilling to safeguard the child (or the abused parent) upon return. This dual burden has been criticised for imposing an unduly high evidentiary threshold on the alleging parent, who may already face logistical, financial, or psychological barriers to gathering information about a foreign legal system. It effectively presumes the sufficiency of foreign protections unless disproved, an expectation that is not only inconsistent with the Convention's text but also difficult to meet in practice.⁴⁶

Scholars contend that this requirement shifts the focus away from the core inquiry of grave risk and toward speculative assessments of foreign state capacity, undermining the protective purpose of Article 13(1)(b).⁴⁷ Other courts and commentators have criticised this requirement as placing an unrealistic and onerous burden on the taking parent. For example, in *Baran v. Beaty* the U.S. Eleventh Circuit Court of Appeals rejected the idea that a respondent must show that authorities in the country of habitual residence are incapable of protecting the child. The court reasoned that such a requirement “creates difficult problems of proof” not considered by the Convention and risks undermining its child-centric aims. Instead, the focus should remain on whether returning the child would expose them to a grave risk of harm, not on unverified foreign legal remedies.⁴⁸

At the same time, this standard has troubling implications for seeking parents, who may be defending against allegations of abuse. From the seeking parent's perspective, an unsubstantiated allegation – if not rigorously tested – can become a de facto determination of grave risk, effectively penalising that parent without a full hearing. Furthermore, when courts demand proof that the home country has effective protections in place, the burden may shift implicitly to the seeking parent to validate the adequacy of their legal system or to rebut generalised claims of systemic failure. This places the seeking parent in the position of having to prove a negative (that no risk exists), and may result in return denials based more on perceived institutional deficiencies than on the facts of the individual case. In practice, this dual burden creates a procedural asymmetry: one parent must prove danger and the other's system's inability to respond, while the other must simultaneously disprove abuse allegations and affirm the credibility of a sovereign legal regime.⁴⁹

In short, judges face an interpretive quandary: whether to trust the institutions of the child's home country to mitigate the danger, or to focus solely on the risk posed by the alleged abusive parent irrespective of foreign protective measures. This cross-border knowledge gap – uncertainty about foreign legal frameworks, enforcement of protection orders, social services, and cultural context – can lead to divergent outcomes and standards of proof across jurisdictions. It is a structural barrier that complicates the uniform application of Article 13(1)(b) —one that requires targeted

⁴⁶Silberman (2014) at 912-914.

⁴⁷Silberman (2014) at 221, 230–233.

⁴⁸See *Baran v. Beaty*, 526 F.3d 1340, 1352 (11th Cir. 2008) (“[T]o require the respondent to provide proof about the adequacy of another nation's legal system or its enforcement of protective services.”)

⁴⁹Scott & Seltzer (2014) at 123, 129-132.

interventions such as improved judicial communication and better access to comparative legal information.⁵⁰

Bridging the Knowledge Gap: Direct Judicial Communications as a Mezzo-level Intervention

Efforts to close the structural knowledge gap in Article 13(1)(b) cases have increasingly emphasised mezzo-level judicial communication. The Hague Conference encourages mechanisms such as direct inter-judicial contact, especially through the International Hague Network of Judges (IHNJ), which enables judges in the requested State to consult with counterparts in the child's habitual residence. These communications can clarify applicable foreign laws, assess the availability and reliability of protective measures, and provide essential context about the child's return environment. By equipping courts with timely, case-specific information, these tools strengthen the integrity and consistency of grave risk determinations and promote more informed, balanced adjudication under the Convention.⁵¹

Judicial Coordination as a Middle Path

The International Hague Network of Judges (IHNJ) represents a mezzo-level intervention—situated between case-level adjudication and treaty-level reform—that aims to harmonise judicial practices and address procedural disparities in Hague return cases. Rather than altering treaty text or creating new obligations, the IHNJ enhances judicial communication, access to foreign legal context, and mutual understanding among courts handling Hague cases. It is particularly relevant to the complex and fact-intensive inquiry under Article 13(1)(b), where cross-border judicial understanding is often crucial to resolving allegations of grave risk.⁵²

Structure of the IHNJ

The IHNJ consists of judges from over 80 jurisdictions who facilitate judicial co-operation in international child protection cases. Each participating State designates one or more judges to the network, creating a formal channel for cross-border communication in Hague return proceedings. Network judges are selected based on expertise in international child protection and commitment to cross-jurisdictional cooperation and trained in Hague processes including cross-border judicial cooperation. They serve as official liaison points, bridging procedural and informational gaps that frequently arise in child abduction cases.⁵³

While the Hague Abduction Convention does not explicitly regulate judge-to-judge communication, an evolving and complementary soft-law framework guides

⁵⁰Elrod & Lindhorst (2012) at 317, 345–346.

⁵¹HCCJ, *Guide to Good Practice under the Hague Child Abduction Convention: Part VI – Direct Judicial Communications* (2022).

⁵²Picchi (2022) at 395-408.

⁵³HCCJ, *25th Anniversary of the International Hague Network of Judges* (Oct. 2023) (noting that “the IHNJ currently includes 152 judges representing 88 States in all major continents”).

this practice.⁵⁴ The several HCCH guides to good practice on the Hague Abduction Convention, implementation of article 13(1)(b), and judicial communications, for example, guide practical implementation of the Convention. The *Emerging Guidance and General Principles for Judicial Communications* outlines the goals and limits of direct judicial communication.⁵⁵ They emphasise that while such communications can provide valuable context—especially in cases involving Article 13(1)(b)’s “grave risk” exception—they must be conducted with great care to uphold judicial independence, respect domestic law, and preserve the integrity of the proceedings.

Judges are advised to avoid discussing the merits of a case and to ensure transparency throughout any communication process. Whenever possible, parties should be notified in advance and given an opportunity to participate, and a record of the communication should be maintained. Communications are often facilitated through secure means, and in many instances, with the knowledge and support of the relevant central authorities--- a contracting state’s designated administrative agency for the Hague Convention. Importantly, the IHNJ does not alter the text or obligations of the Convention but serves to enhance mutual understanding of applicable legal standards and to streamline cooperation between courts.⁵⁶

The IHNJ’s primary communication tool is the *The Judges’ Newsletter on International Child Protection*. First published in 1999, it serves as an important communication tool for sharing experiences, commentary, and evolving best practices among members of the IHNJ and the broader judicial community.⁵⁷ In the *Newsletter*, members of the network have described direct communication as a “sensible and prompt” method to resolve complex jurisdictional and procedural issues, especially those concerning a child’s best interests. The IHNJ thus plays an essential role in improving the responsiveness and coherence of Hague proceedings while safeguarding due process and judicial impartiality. Importantly, direct judicial communication is complementary to the central authority system under the Convention – it operates as a “judge-to-judge” channel to support and expedite cooperation mandated by Article 7 of the Convention.

The Practice of Direct Judicial Communications

How do these communications work in practice? A core function of the IHNJ is the facilitation of direct judicial communications. These communications—usually conducted by email, videoconference, or telephone—enable judges in different countries to clarify procedural norms, confirm protective measures, or understand the legal environment in the child’s habitual residence. Though informal in form, these contacts are guided by emerging norms of fairness and neutrality, including

⁵⁴Guzman & Meyer (2010). See also Kuchinski (2018) at 203.

⁵⁵HCCH, *Emerging Guidance Regarding the Development of the IHNJ and General Principles for Judicial Communications* (Prel. Doc. No. 3A rev. July 2012).

⁵⁶*Ibid.*

⁵⁷HCCH, *The Judges’ Newsletter on International Child Protection*.

the requirement that parties are informed and allowed to participate in or review communications as appropriate.⁵⁸

Typically, a network judge in the requested state (where the child was taken) can directly reach out to a network judge in the state of the child's habitual residence. They might confirm whether there are ongoing custody proceedings, inquire about possible protective measures or undertakings if the child is returned, or coordinate the timing of proceedings. Communications are limited to procedural or logistical matters – e.g., scheduling hearings, verifying orders, or clarifying law – never usurping the deciding court's authority on the merits of a case.⁵⁹

Addressing Article 13(1)(b) Challenges

Grave risk claims under Article 13(1)(b) of the Hague Convention often involve complex factual and legal determinations that transcend national borders. One of the central difficulties judges face is the lack of timely, reliable information regarding the legal, social, and protective frameworks available in the child's country of habitual residence. Direct judicial communication, facilitated through the International Hague Network of Judges (IHNJ), helps bridge this gap. By enabling judge-to-judge contact, the IHNJ allows courts to clarify whether specific protective measures exist, whether they are enforceable in practice, and whether they would mitigate potential risks to the child upon return.

This channel bypasses slow and often opaque diplomatic or intergovernmental routes and promotes faster resolution of urgent custody matters. For instance, a judge may reach out to an IHNJ peer in the requested state to determine if a restraining order would be recognised and effectively enforced. Such context-specific insights allow courts to evaluate “grave risk” not in isolation, but with a grounded understanding of the protective environment abroad, helping prevent both the wrongful denial and wrongful granting of return orders based on incomplete or speculative reasoning.⁶⁰

Enhancing Procedural Fairness, Safeguards and Mutual Trust

While the IHNJ is not a comprehensive solution to the procedural and substantive complexities of Article 13(1)(b) cases, it represents a meaningful evolution in transnational judicial cooperation. This evolution encompasses procedural fairness and safeguards that are essential to ensuring that cross-border judicial dialogue respects the due process rights of the parties involved. Some jurisdictions require explicit consent from the parties before any communication may occur. For example, an Australian judge explained that “if there is no consent then the communication cannot occur,” and that all parties must be informed of and have the opportunity to

⁵⁸HCCJ, *Emerging Guidance Regarding the Development of the IHNJ and General Principles for Judicial Communications* (Prel. Doc. No. 3A rev. July 2012).

⁵⁹Ibid.

⁶⁰Kuchinski (2018) 300-301.

respond to any information exchanged.⁶¹ More commonly, even where consent is not mandatory, parties are notified in advance and given the chance to provide comments or submit questions to be conveyed during the communication.⁶²

HCCH guidance outlines key procedural safeguards in direct judicial communications. These include: prior notice to all parties; the creation of a written record or transcript of any communication; and a prohibition on discussing the substance of the legal dispute or confidential information without the parties' consent.⁶³ These safeguards are now widely accepted, reflected not only in national court protocols but also in binding legal instruments. For instance, the United States' Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) codifies these protections, requiring that parties be informed and that a record of judicial communication be maintained.⁶⁴

Importantly, judges surveyed by the HCCH have overwhelmingly agreed that, so long as "fundamental principles of due process are respected"—namely, the parties' right to be heard and to contest any information exchanged—direct judicial communication does not compromise the fairness of the proceedings.⁶⁵

Judges also distinguish between procedural and substantive communications. Routine logistical matters—such as scheduling hearings, confirming the existence of orders, or coordinating the service of documents—are generally viewed as administrative in nature. Most judges agree that communications limited to such procedural issues "do not affect or compromise the independence" of the judiciary or the parties' rights.⁶⁶

Legal and Procedural Bases: Legislative vs. Non-Legislative Bases

There is no uniform global standard for authorising direct judicial communications in cases governed by the 1980 Hague Child Abduction Convention. Instead, a diverse range of legal and procedural frameworks has emerged across States. Some jurisdictions have established formal legislative provisions expressly permitting or regulating judge-to-judge communication. Others rely on non-legislative mechanisms grounded in judicial discretion, court-issued practice directions, or customary administrative practice.

A 2012 HCCH Special Commission recommended that States adopt a clear legal basis—either domestic or international—for judges to engage in direct communications and encouraged the incorporation of such provisions into future multilateral instruments.⁶⁷ In response, many Contracting States undertook reviews

⁶¹HCCH, *The Judges' Newsletter on International Child Protection*, Vol. XXIV, 2020, at 28.

⁶²*Ibid.*

⁶³HCCH, *Emerging Guidance Regarding the Development of IHNJ and General Principles for Judicial Communications* (Prel. Doc. No. 3A rev. July 2012).

⁶⁴Unif. Child Custody Jurisdiction & Enf't Act §§ 110(d), 111 (National Conference of Comm'rs on Unif. State Laws 1997); see also *id.* § 111 (requiring notice to parties and record of communications).

⁶⁵HCCH, *The Judges' Newsletter on International Child Protection*, Vol. XXIV, 2020, at 6, 12.

⁶⁶*Ibid.* at 13.

⁶⁷HCCH, *Emerging Guidance Regarding the Development of the IHNJ and General Principles for Judicial Communications* (Prel. Doc. No. 3A rev., July 2012).

of their domestic legal frameworks, details of which were catalogued in the report, *Direct Judicial Communications: Legal Bases and Practical Experiences – Synthesis of HCCH Members’ Responses* (2023).⁶⁸

Two broad models of legal and procedural bases for judicial communications emerged from the report:

- **Legislative authorisation** – where a statute, code, or binding rule explicitly permits (or directs) judges to communicate with foreign counterparts. These provisions typically set clear parameters for when and how such communications may occur, offering judges a codified foundation and institutional legitimacy for engaging in cross-border dialogue.
- **Non-legislative frameworks** – where direct communications occur under inherent judicial powers, case law, court-issued practice directions, or simply as an administrative practice consistent with procedural law, without a specific statute. In these settings, judges often rely on professional norms, discretion, and guidance from judicial councils or international instruments to determine the appropriateness and scope of communications.

Table 1 is a “snapshot” of legislative authorisation and non-legislative frameworks among Contracting States, derived from a 2023 HCCH survey of judicial communications practices. It illustrates the diversity of approaches that exist across jurisdictions and underscores the importance of both formal and informal mechanisms for supporting international judicial cooperation.⁶⁹

The Contracting States listed in Table 1 are illustrative of some common practices and variation in approaches to judicial communications. Numerous other States have adopted one or a combination of these approaches. For instance, Ecuador’s Code of Childhood (Art. 121) enables direct contacts to secure a child’s return; Nicaragua’s Family Code (Art. 515) permits using modern communication methods in international abduction cases; Dominican Republic, El Salvador, Hungary, the Netherlands, Czech Republic, and others report having either legislative provisions or formal protocols in place.⁷⁰

⁶⁸HCCH, *Direct Judicial Communications: Legal Bases and Practical Experiences – Synthesis of HCCH Members’ Responses* (HCCH Prel. Doc. No. 6, Dec. 2023).

⁶⁹*Ibid.*

⁷⁰HCCH, *Direct Judicial Communications: Legal Bases and Practical Experiences – Synthesis of HCCH Members’ Responses* (HCCH Prel. Doc. No. 6, Dec. 2023).

Table 1. Comparative Approaches to Direct Judicial Communications

Countries with Legislative Authorization (Formal law or rule)	Countries Relying on Non-Legislative Practice (Guidelines, inherent powers)
Argentina: Civil and Commercial Code (2015), Art. 2612 – authorizes judges to communicate directly with foreign judges “when the situation so requires,” provided due process is observed.	Australia: No specific statute; common-law discretion applies. The Chief Justice’s approval and concentration of Hague cases in Family Court have enabled an internal practice allowing direct judge communications as a matter of judicial administration. Australian judges view such communication as an “ <i>administrative function</i> ” to facilitate the Convention, often contingent on party consent and fairness safeguards.
United States: Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) § 110 – adopted in 49 states – mandates that when a court learns of a simultaneous custody proceeding in another jurisdiction, it “ <i>must stay its action and communicate</i> ” with the other court to determine the appropriate forum. The UCCJEA treats foreign countries as U.S. states for these purposes and requires a record of the communication and opportunity for parties to be heard.	Canada: No federal statute, but the Canadian Judicial Council in 2007 approved a Network of Contact Judges. This Network issued “ <i>Recommended Practices for Court-to-Court Judicial Communication</i> ” (2009) – effectively guidelines checklist for judges to initiate direct contact, with due process safeguards (avoiding merits discussion, copying communications to parties, etc.). In 2011, Canadian judges also published a how-to guide, “How to Communicate with a Judge in Another Jurisdiction,” outlining procedures for both domestic and international communications.
Spain: Law 29/2015 on International Legal Cooperation in Civil Matters, Art. 4 – expressly authorizes Spanish courts to engage in direct judicial communications with foreign courts “ <i>without any intermediation</i> ,” as long as the foreign law is respected. It stipulates such communications “ <i>shall not affect the independence of the courts or the rights of the parties</i> .” (This law also amends related provisions to facilitate obtaining foreign law information via direct judge contacts.)	United Kingdom: No dedicated statute for judge communication. English courts rely on inherent powers and the leadership of the Head of International Family Justice (a senior judge) to facilitate contacts. A former UK liaison judge described this as a modern form of “judicial activism” serving transnational justice, within the limits of judicial discretion. Direct communications are undertaken when needed under the general duty of cooperation in child abduction cases, viewed as implicitly encouraged by the Hague Convention itself. (The UK has formal protocols to designate liaison judges, but the practice itself does not rest on a specific Act of Parliament.)
European Union: Brussels II ter Regulation (Council Regulation (EU) 2019/1111), Art. 86 – in force 2022 – provides that courts “ <i>may cooperate and communicate directly</i> ” with courts of other member States in matters of parental responsibility and child abduction, <i>provided</i> procedural rights of parties and confidentiality are respected. This EU-wide rule explicitly endorses use of “ <i>any appropriate means</i> ” of judge-to-judge communication for specified purposes (e.g., locating a child, coordinating simultaneous proceedings).	Hong Kong (China SAR): Developed practice through case-law and practice direction. After a 2013 Court of Appeal decision highlighted the need for judicial co-operation (while cautioning against informal contacts), the Hong Kong High Court in 2014 issued Practice Direction 25.1 – “Guidance on Judicial Communications in International Family Disputes Affecting Children.” This guidance closely follows the HCCH Principles, ensuring any direct communication is documented and limited to procedural matters.
Switzerland: Federal Act on International Child Abduction (2007), Art. 10(1) – mandates that courts “ <i>shall cooperate as required with the authorities of the State in which the child had his or her habitual residence before abduction</i> .” Swiss law thus imposes a general duty of judicial cooperation in abduction cases. (In addition, Swiss procedural law obliges family judges to <i>investigate facts ex officio</i> , which further empowers reaching out for information abroad in the child’s interest.	New Zealand: Lacking a broad statutory mandate, NZ judges have engaged in ad hoc direct communications as a matter of practice. A survey response noted such communications are “informal” and handled case-by-case. Notably, the High Court in NZ adopted Rule 1.22 in its Rules of Court to <i>regulate</i> cross-border judge communications (e.g., requiring party consent and respect for foreign law). This rule codifies best practices but is viewed as affirming an existing inherent ability rather than creating a new right.
Uruguay: Law 18.895 of 2012 (Return of Illegally Removed Minors) – Article 28 directs the Supreme Court to <i>designate a “Liaison Judge”</i> to facilitate direct judicial communications in Hague cases, and authorizes <i>reciprocal consultations between courts</i> (to be recorded in the case file, with parties notified). This law effectively implements the IHNJ concept in Uruguayan domestic law.	Israel: No specific provision in law; however, in practice Israeli judges have occasionally engaged in direct contacts on an <i>informal understanding</i> . As one report notes, communications in Israel occur “on an informal basis” given their primarily logistical character (e.g., to check on hearing schedules or warrant status), and thus have not been seen as legally problematic or requiring explicit authorization.

Source: HCCH, Prelim. Doc. No. 8, June 2023 *Direct Judicial Communications: Legal Bases and Practical Experiences – Synthesis of HCCH Members’ Responses* (HCCH Prel. Doc. No. 6, Dec. 2023).

Limitations of Judicial Communications

Direct judicial communications may enhance procedural coordination between judges in Hague Convention cases, but their limitations become apparent—especially when courts diverge in their interpretation and application of the Article 13(1)(b) “grave risk” exception. A core challenge is the lack of harmonised legal definitions, especially regarding domestic violence.⁷¹ While judicial dialogue can help clarify legal procedures or the factual basis of allegations, it cannot resolve divergent legal thresholds that govern how those facts are evaluated. Even within the European Union, where harmonization is an explicit goal, member states continue to differ significantly in how they define and prosecute domestic violence.⁷² Such fragmentation undermines mutual legal understanding and mutual confidence, and reduces the effectiveness of judge-to-judge communications in complex return proceedings.

Judicial independence also constrains the practice. In jurisdictions with strong norms of judicial autonomy—particularly common law systems—judges may be reluctant to engage in communications that could be perceived as compromising their decisional independence.⁷³ The HCCH emphasises that such exchanges must respect judicial independence and procedural fairness, but their voluntary, confidential, and non-binding nature can raise concerns about transparency, legitimacy, and even the appearance of *ex parte* conduct.⁷⁴ Practical obstacles also persist. Language barriers, incompatible court procedures, and time zone differences may impede timely communications.

While direct judicial communication is a promising procedural tool within Hague Convention proceedings, especially in addressing complex Article 13(1)(b) cases, its utility remains constrained by structural and systemic limitations. Divergent legal definitions—particularly around domestic violence—limit the effectiveness of cross-border judicial dialogue, while concerns over judicial independence and inconsistent procedural safeguards may create hesitancy among judges. Practical challenges such as language barriers, incompatible procedures, and time constraints further reduce its reliability in urgent or sensitive cases. These limitations highlight the need for targeted, mezzo-level reforms that can build institutional trust, clarify procedural boundaries, and support judges in using this tool consistently and confidently.

Recommendations: Advancing Judicial Communication as a Mezzo-Level Intervention

The International Hague Network of Judges (IHNJ) functions as a mezzo-level intervention—operating between treaty obligations and individual casework—to

⁷¹HCCH, *Draft Guide to Good Practice on Article 13(1)(b) of the Hague Convention*, ¶12 (June 2011).

⁷²Picchi (2023) at 105, 110 in *A European Perspective on the Proposed EU Directive on Violence Against Women*, in *Domestic Violence and Parental Child Abduction* 105, 110 (M. Menz et al. eds., 2023).

⁷³Mastracci (2019) at 323.

⁷⁴HCCH, *The Judges' Newsletter on International Child Protection*, Vol. XXIV, 2020, at 12–13.

address persistent gaps in Article 13(1)(b) proceedings. While not a substitute for legal harmonisation, structured judicial communication offers an immediate, adaptable tool to reduce procedural inequities, clarify risk, and support more consistent child-focused outcomes.

Even where legal frameworks are robust, judicial discretion, national biases, and interpretive uncertainty may undermine the Convention's core promise of prompt and consistent child return. The following targeted reforms aim to support the diffusion and institutionalisation of judicial communications within the Convention's existing architecture, while responding to the concerns of both seeking and taking parents.

Strengthen Legal and Procedural Foundations

Contracting States should adopt clear rules—through legislation, practice directions, or judicial guidance—that authorise and regulate judge-to-judge communication. Table 1 illustrated examples of these legislative and practice dimensions. Codifying these practices strengthens judicial confidence, ensures procedural clarity, and reinforces due process protections for all parties. These frameworks should preserve judicial discretion, require notice to parties, and ensure a written record of communications—principles already reflected in HCCH guidance and national best practices.⁷⁵

Institutionalise Judicial Communication Through Training and National Networks

Judicial training programs should emphasise the value of a network approach to direct judicial communication as a practical, ethically sound tool that supports child protection in complex international cases. One example is the U.S. State Department-administered U.S. Network of Judges, which currently includes three state-court judges serving as IHNJ liaisons. These judges are listed on the State Department's Judges Network website, which provides contact information and serves as a conduit for informal peer consultation. This network is featured on the Department's public website, offering a foundation for training and outreach.⁷⁶ Canada also maintains a robust judicial liaison structure through its Canadian Network of Contact Judges, which complements its IHNJ participation. This network includes provincially and territorially appointed trial judges as well as federally appointed judges who serve as international liaison judges.⁷⁷

Training efforts may be most impactful when they extend beyond procedural mechanics to highlight the child-centered purpose of judicial communication—namely, supporting decisions that affect a child's safety and well-being through access to reliable cross-border information. National judicial colleges, bar associations, and international partners such as the HCCH are well-positioned to

⁷⁵HCCH, *Direct Judicial Communications: Legal Bases and Practical Experiences – Synthesis of HCCH Members' Responses*, Prelim. Doc. No. 8, June 2023.

⁷⁶U.S. Department of State (2025), *For Judges: Hague Conference International Hague Network of Judges*.

⁷⁷HCCH, *Direct Judicial Communications: Legal Bases and Practical Experiences – Synthesis of HCCH Members' Responses*, Prelim. Doc. No. 8, at 22–23 (June 2023).

develop regionally tailored workshops, simulations, and continuing education programs that reflect this goal. Such programs can familiarise judges with the ethical and procedural dimensions of initiating communication, while also offering practical tools for evaluating protective measures and assessing grave risk under Article 13(1)(b). When viewed through a child protection lens, direct judicial communications become a meaningful component of the court's role in fulfilling both the letter and spirit of the Convention.

Diffuse the Judges' Newsletter on International Child Protection to Share Successes

Promoting the thoughtful use of judicial communication depends in part on visibility. The HCCH's *Judges' Newsletter on International Child Protection* offers an exemplary model for documenting and disseminating practical experiences.⁷⁸ By publishing case studies, reflections from liaison judges, and summaries of successful cross-border communications, the Newsletter provides a trusted platform to normalise and celebrate the responsible use of judge-to-judge communication—particularly in Article 13(1)(b) cases where coordinated protective measures have enabled safe returns or clarified risk.

Expanding and replicating this model—regionally or nationally—could accelerate the diffusion of best practices. Judicial councils, bar associations, and international training bodies might consider sponsoring similar publications or online repositories focused on family law and international cooperation. By institutionalising this form of peer learning, the international legal community can foster confidence in cross-border dialogue and support a growing body of practitioners equipped to use it effectively.

Conclusion

This paper has explored the evolving role of direct judicial communication under the Hague Child Abduction Convention, particularly in cases involving the Article 13(1)(b) “grave risk” exception. When international parental child abduction cases become entangled with allegations of domestic violence, courts must navigate the tension between procedurally fair grave risk assessments, prompt return, and the child's safety. Direct judicial communications offer a critical mezzo-level intervention: not altering treaty obligations, but bridging the operational divide between national systems and lived case realities.

Despite its promise, this tool faces institutional and practical limitations that impede broader uptake. Divergent legal definitions, judicial hesitancy grounded in norms of decisional independence, and logistical constraints all diminish its full potential. Yet as this paper demonstrates, direct communication remains one of the few mechanisms capable of bringing real-time clarity to high-stakes return decisions. It allows judges to verify protective measures, coordinate logistics, and assess grave risk in context—not abstraction.

⁷⁸ *The Judges' Newsletter on International Child Protection* (biannual publication, avail. at <https://www.hcch.net/en/publications-and-studies/publications2/judges-newsletter>).

For policymakers, strengthening the IHNJ and its integration into domestic court practice is a strategic opportunity. Reforms should focus on codifying ethical and procedural safeguards, expanding judicial training, and fostering a culture of transparency and mutual respect. For practitioners and child advocates, encouraging courts to leverage this channel can lead to more informed, child-sensitive outcomes—especially as parents must navigate opaque systems across borders. And for judges, this tool affirms their autonomy while offering practical support in the pursuit of justice.

Ultimately, the success of the Hague Convention depends not only on legal commitments but also on the operational capacity to deliver timely, fair, and protective outcomes. By investing in and normalising direct judicial communication as a functional, rights-respecting instrument, states can fulfil both the spirit and the letter of the Convention—while serving the best interests of the children and families it was designed to protect.

Directions for Future Research

While this paper has examined the legal and procedural contours of Hague Abduction Convention Article 13(1)(b) and direct judicial communications in Hague Convention cases, further research is necessary to evaluate how this mezzo-level intervention operates across jurisdictions and impacts outcomes in practice:

- Empirical studies should document the frequency, form, and results of judge-to-judge communication, particularly in cases involving Article 13(1)(b) claims. Comparative analyses can identify success factors, systemic barriers, and jurisdictional differences in judicial engagement.
- Researchers should examine the effect of judicial communication on return outcomes and timeliness. This includes assessing whether such communication reduces delays, facilitates voluntary agreements, or contributes to the development and implementation of effective protective arrangements for children.
- More attention must be paid to the experiences of seeking parents. Understanding whether they are informed about judicial communications, and whether they perceive these exchanges as enhancing fairness or procedural integrity, is critical for improving practice and trust in the system.
- Research should also assess States' institutional capacity required to support effective judicial communication, including training, language support, secure technology, and administrative coordination. Identifying resource disparities may help guide future investments or international assistance efforts.
- Further inquiry into dissemination tools—such as the *Judges' Newsletter on International Child Protection*—can reveal how success stories and emerging norms are shared, adopted, and operationalised across jurisdictions. Evaluating the impact of these platforms may inform strategies for broader diffusion of best practices.

Advancing research in these areas will strengthen the evidentiary foundation for judicial communication as a rights-respecting, child-cantered procedural innovation, and help promote more consistent and equitable implementation of the Hague Abduction Convention worldwide.

References

- Barton, C. & A. Paz Dil (2016). 'Domestic violence and proving "grave risk" in the Hague Convention' *International Insolvency & Cross Border Law Review*, 147, 156.
- Beaumont, P.R. & K. Trimmings (2017a). 'Article 13(1)(b): The exception that undermines the rule' in Beaumont, P.R., Holliday, J. & K. Trimmings (eds.), *The 1980 Hague Convention on International Child Abduction: Implementing the Revised Brussels II Regulation*.
- Beaumont, P.R. & K. Trimmings (2017b). 'Conclusions' in Beaumont, P.R., Holliday, J. and Trimmings, K. (eds.), *The Hague Convention on International Child Abduction: A Critical Analysis of the Current Practice*.
- De Stefano, R. (2025). 'Does the Hague Convention adequately protect children in cases of abuse?' *Chronicle Law*. <https://chroniclelaw.co.uk/blogs/2025/04/29/does-the-hague-convention-adequately-protect-children-in-cases-of-abuse/>.
- Elrod, L.D. & T. Lindhorst (2012). 'Protecting children from the grave risk of harm standard in Hague abduction cases' in *Family Law Quarterly* 46:317, 345–346.
- Guzman, A.T. & T.L. Meyer (2010). 'International soft law' in *Journal of Legal Analysis* 2:171-225.
- Kucinski, M. (2018). 'International judicial communication: Minding the gap to promote child protection' in *Family Court Review* 56:295, 300–301.
- Lindhorst, T. and Edleson, J.L. (2022). 'The tightrope of Article 13(b): How courts evaluate domestic violence claims in Hague child abduction cases' in *Indiana International & Comparative Law Review* 32: 131, 142–143.
- Lowe, N. (2023). *Direct judicial communications: legal bases and practical experiences – synthesis of members' responses (Preliminary Document No. 6)*. Hague Conference on Private International Law.
- Mastracci, M. (2019). 'Judicial independence: European standards, ECtHR criteria and the reshuffling plan of the judiciary bodies in Poland' in *Athens Journal of Law* 5(3):323–350.
- Pérez-Vera, E. (1982). *Explanatory report on the 1980 Hague Child Abduction Convention*. Hague Conference on Private International Law. <https://assets.hcch.net/upload/expl28.pdf>.
- Picchi, M. (2022). Violence against women and domestic violence: The European Commission's directive proposal. in *Athens Journal of Law* 8(4):395–408.
- Schulz, A. (2018). 'The interaction of the Hague Child Abduction Convention with cases of domestic violence: The need for judicial communications' *Judges' Newsletter on International Child Protection* 22:12, 13–14.
- Scott, E.S. & R.J. Seltzer (2014). 'Global challenges in international child abduction law' in *Family Court Review* 52:123, 129–132.
- Silberman, L. (2004). 'The Hague Convention on Child Abduction and unilateral relocation by custodial parents: A perspective from the United States and Europe—Removing the disincentive to return' in *Oklahoma Law Review* 57:903, 912–914.

- Silberman, L. (2014). 'Hague Convention return proceedings and domestic violence: Reassessing the role of undertakings and protective measures' in *Law & Contemporary Problems* 77:221, 225–230.
- Lindhorst, T., Edleson, J.L., Beeman, S.K. & J. Pearson (2009). 'U.S. judicial implementation of the Hague Convention in cases alleging domestic violence' in *Family Court Review* 47:451, 456–457.
- Weiner, M.H. (2018). 'Strengthening Article 13(1)(b): A child-centered approach' in *Utah Law Review* 2018:101, 104–106, 125–128.
- Weiner, M.H. (2020). 'Disaggregating the two prongs of Article 13(b) of the Hague Child Abduction Convention: A case for separating the "intolerable situation" exception', 32–33.

Web Article

- 'Does the Hague Convention adequately protect children in cases of abuse?' (2025, April 29). *Chronicle Law*. <https://chroniclelaw.co.uk/blogs/2025/04/29/does-the-hague-convention-adequately-protect-children-in-cases-of-abuse/>.

Cases

USA

- Baran v. Beaty*, 526 F.3d 1340, 1352 (11th Cir. 2008).
- Blondin v. Dubois*, 238 F.3d 153, 162–164 (2d Cir. 2001).

UK

- Re E (Children) (Abduction: Custody Appeal)* [2011] UKSC 27, [2012] 1 A.C. 144, ¶ 34 (U.K.).

Legislation

- 22 U.S.C. §§ 9001–9011 (1988) International Child Abduction Remedies Act (ICARA).
- 42 U.S.C. § 11603(e)(2) (2018).

Treaties

- Hague Convention on the Civil Aspects of International Child Abduction, 25 October 1980, T.I.A.S. No. 11,670, 1343 U.N.T.S. 89 (hereinafter referred to as Hague Abduction Convention).

U.S. Government Publications

- Text and legal analysis, 51 Fed. Reg. 10,510 (26 March 1986).
- U.S. Department of State (2025). *For Judges: Hague Conference International Hague Network of Judges*, <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/for-judges.html>.

HCCH (Hague Conference on Private International Law)

- Hague Conference on Private International Law (HCCH), Special Commission on the Practical Operation of the 1980 and 1996 Conventions: Statistical Analysis 2021 (Mar. 2023) at 40.
- Hague Conference on Private International Law (2012). *Emerging guidance regarding the development of the International Hague Network of Judges and general principles for judicial communications* (Preliminary Document No. 3A rev.).
- Hague Conference on Private International Law (2020a). *Guide to good practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction: Part VI – Article 13(1)(b) §§ 4.3.1–4.3.3*. <https://assets.hcch.net/docs/51f04c2b-2d46-4b3c-8b63-3a96b46f37f8.pdf>.
- Hague Conference on Private International Law (2020b). *The Judges' Newsletter on International Child Protection* Vol. XXIV:6, 12–13. <https://assets.hcch.net/docs/f107c3cc-3820-4e3d-b515-bc275c521a6e.pdf>.
- Hague Conference on Private International Law (2022a). *Guide to good practice under the Hague Child Abduction Convention: Part VI – Direct judicial communications*. <https://assets.hcch.net/docs/c1e7405c-e6d3-41b6-bf77-ecf9d65b61ec.pdf>.
- Hague Conference on Private International Law (2022b). *Emerging guidance regarding the development of the International Hague Network of Judges and general principles for judicial communications*. <https://assets.hcch.net/docs/60220417-5071-4479-8c87-7fb6d2be65a9.pdf>.
- Hague Conference on Private International Law (2023a). *25th anniversary of the International Hague Network of Judges*. <https://www.hcch.net/en/news-archive/details/?varevent=944>.
- Hague Conference on Private International Law (2023b). *Information on the legal basis for direct judicial communications within the context of the International Hague Network of Judges* (Preliminary Document No. 8). <https://assets.hcch.net/docs/59b8cfbb-2a15-4c69-ace6-b21b450a3d72.pdf>.
- Hague Conference on Private International Law (2023c). *Statistical study of applications made in 2021 under the 1980 Child Abduction Convention – Global report* (Preliminary Document No. 19A), 39–40. <https://assets.hcch.net/docs/b8db385f-19a4-4af6-acaa-6d6d507dfbf9.pdf>.
- Hague Conference on Private International Law (2023d). *Statistical study of applications made in 2021 under the 1980 Child Abduction Convention – Regional report* (Preliminary Document No. 19B). <https://assets.hcch.net/docs/bf685eaa-91f2-412a-bb19-e39f80df262a.pdf>.

