

Speech for REUNITE's Launch of "International Parental Child Abduction, A Guide for Members of Parliament", London, 18 March 2009

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There can be few more devastating events in the life of a child than the permanent separation of his or her parents. Almost always the child would prefer that the parents remain together and, if that cannot be, that close and continuing contact between the child and both parents should somehow continue. Not only is this what the child usually wants, it is also the child's universally recognised right.

The ideal of continuing contact between the child and both parents is more difficult to achieve if the separation has resulted in the parents living in different countries and perhaps different cultural settings – the more so if one parent has, abruptly removed the child from his or her settled place of residence. When a child is suddenly and without preparation torn from the company of one parent, the child can be damaged, and the longer the deprivation lasts, the greater the damage and the more difficult it becomes to restore that relationship. To say nothing of the anguish suffered by the left-behind parent.

This is the world that REUNITE inhabits – a world in which it brings comfort and hope to grieving parents and stability to the lives of their children. The activities of REUNITE – viewed from The Hague where we at the Hague Conference monitor and co-ordinate the operation of the 1980 Hague Child Abduction Convention, with its 81 States Parties – are truly remarkable. The work of NGOs in support of the Convention is crucially important, and REUNITE stands out as pre-eminent in setting the standards for what an NGO can achieve in so many matters – for example, in the giving of advice and information, in preventing abductions from occurring, in promoting agreement among parents (especially through REUNITE's mediation programmes), in supporting the work of the Central Authority and in promoting research. I am aware also of how generous REUNITE has been in sharing its expertise and experience with NGOs in many other countries. REUNITE really is regarded within the global community as a model of excellence.

And then there is the work that REUNITE does to engage the interest and commitment of key national stakeholders – those who can initiate and help implement reforms – in particular Members of Parliament. We know from our experience in many countries how vital it is to involve MPs in the struggle against parental child abduction – and especially to keep them informed of why it is that the Hague Convention has to operate as it does – on the fundamental principle that it is generally in the interests of the abducted child to be returned

as quickly as possible to the country from which the child has been unlawfully taken or retained. This is an area in which MPs may be subject to diverse pressures from lobby groups and constituents, and it is so important that they have available an instant source of balanced and experienced advice to call upon. This is why the new REUNITE Guide for Members of Parliament is so essential and so welcome. I may add that the non-partisan work of the All-Party Parliamentary Group on Child Abduction has also been of great importance in helping to ensure that the Hague Convention continues to operate in an effective and sensitive manner.

Ensuring that a child may keep in regular contact with parents living in different countries is not an easy matter, particularly when the parents are in conflict. Part of the solution is to create an international legal environment (1) which encourages parental agreement, (2) which gives parents the confidence and assurances which they need to allow a child to visit a parent in another country, and (3) one which dissuades parents from placing obstacles in the way of contact with, or visits from, the other parent. The Hague Convention of 1980 provides part of this environment, in particular by ensuring that a child will be returned after a period of visiting a parent abroad. The 1996 Hague Convention on the International Protection of Children goes further by ensuring, among other things, that court orders concerning parental responsibility, including provisions for contact made in one country, are recognised and enforced in other countries. It is of note, and to be welcomed, that all EU Member States, including the United Kingdom, will, if all goes well, be ratifying this important Convention by June of next year.

The latest publication of the Hague Conference "*Transfrontier Contact Concerning Children - General Principles and Guide to Good Practice*", explains exactly how the Hague Conventions can best be used to give real effect to the contact rights of family members. It contains advice which will be helpful to judges, to lawyers, to Central Authorities supported under the Hague Conventions, to NGOs, as well as to interested members of the public.

Where no legal structures exist between countries, the prospects for parents and children are often poor – with little hope of securing the return of an abducted child and often an uphill battle to achieve some level of contact. Unfortunately, this is often the case with countries whose legal systems are based, or partly based, on Shariah law – countries which for the most part have not become Parties to the Hague Conventions. Mediation is of course one possibility, and the efforts in which REUNITE is engaged, with countries such as Egypt, to mediate these difficult cases is to be applauded. However, without a supporting legal structure, mediation has its limits, and in any case a legal structure is needed to ensure that agreements once reached are respected in the countries concerned.

Work is going on to try to improve legal co-operation between the two sets of countries –

those that are within the Hague network and those which are not. The Hague Conference initiated a process – known as the “Malta Process” – five years ago which is a dialogue among experts – senior judges and high-ranking court officials – on how we may improve legal co-operation among the participating States. The next meeting will be held at the end of March this year, and will involve experts from 30 States, half of them non-Hague Convention countries. Already the Malta Process has drawn important conclusions, for example:

- (1) the need for the development of a network of professional centralised administrative authorities in each country to act as focal points for the exchange of information and for the provision of assistance and advice to foreign applicants who are trying to secure the return of or contact with their children;
- (2) the need to intensify activity in the field of international family mediation;
- (3) the importance of preventive measures where an abduction is threatened;
- (4) the need for the courts in the different countries to apply common rules of jurisdiction (competence), and to be prepared to recognise foreign decisions on the basis of those common rules;
- (5) the importance of international judicial networking and other measures to improve understanding, mutual confidence and respect between the judiciaries in the different countries.

The Hague Conference’s new publication on *Contact Concerning Children* also is directed towards achieving improved co-operation between the “Hague Convention” countries and countries from within the Islamic world, by setting out the essential ingredients for improved inter-State legal cooperation at both the administrative and judicial levels

There is much work to be done. This work cannot be achieved without the support of Parliamentarians. Achieved it must be for the sake of children and their parents; achieved it can be with the support, talent and commitment of organisations like REUNITE.