



*keeping open a window of hope*

**reunite**  
INTERNATIONAL  
helping families on child abduction

**THE SENATE STANDING COMMITTEE ON LEGAL AND  
CONSTITUTIONAL AFFAIRS**

**INQUIRY INTO INTERNATIONAL CHILD ABDUCTION TO AND FROM  
AUSTRALIA**

**SUBMISSION OF REUNITE INTERNATIONAL CHILD ABDUCTION  
CENTRE (A UK BASED CHARITY)**

**IN RESPONSE TO THE TERMS OF REFERENCE THE FOLLOWING  
SUBMISSIONS ARE MADE:**

**(a) the costs, terms and conditions of legal and departmental assistance  
for parents whose child has been abducted overseas.**

**reunite** confirms that Applicants in English incoming Hague cases are in receipt of non-means, non-merits tested public funding throughout their Hague convention proceedings for the summary return of their child(ren). Respondents (i.e. the taking parent) are only in receipt of means and merits tested public funding and this sometimes leads to situations where the applicant is represented by a specialist legal team while the Respondent appears as a litigant in person.

Australian/English child abductions are quite common (about 20 per year) and the English central authority provides its services for free. In some cases the Australian applicant has felt it necessary to instruct the English legal team via an Australian lawyer. This is an unnecessary cost to the Applicant and has provided an unnecessary barrier between the applicant and his/her English legal team, especially so when there is no language barrier.

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**1**  
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**International Child Abduction Centre**

**(b) the effectiveness of the Hague Convention in returning children who were wrongly removed or retained, to their country of habitual residence;**

**reunite** has received no complaints about the effectiveness of the Hague Convention in Australian/English cases; such cases have been organised quickly and efficiently, so that the true purpose of the 1980 Convention (of summarily returning the child to the requesting state so that welfare based decisions can be made) is upheld. However there is a new concern that has developed specifically in Australian cases in recent months, which is dealt with in (e) (3) below.

**(c) the roles of various Commonwealth departments involved in returning children who were wrongly removed or retained, to their country of habitual residence;**

A great deterrent to child abduction would be to provide parents with information on the Hague Convention (1980). Whilst the roles of the Central Authorities and the Commonwealth departments cannot be criticised on any information that **reunite** has, it is respectfully pointed out that an NGO based in Australia would be better placed to play an educative role for potential abducting parents and parents whose children have been abducted (by them or the other parent) alike.

**(d) policies, practices and strategies that could be introduced to streamline the return of abducted children;**

It is respectfully suggested that international judicial liaison to ensure a 'soft landing' for abducted children and a quick hearing where issues can be ventilated, and undertakings and orders considered, may be a way of further streamlining the return of abducted children.

A further practice that would assist would be the provision of specialist international mediation.

**reunite** encourages the application of the guidelines set out in the Hague Good Practice Guides.

**(e) any other related matters.**

1) We would suggest that there needs to be greater awareness of international parental child abduction. Many primary carer abductors who contact **reunite** are unaware that a parent can 'abduct' their own child and know nothing of the Hague Convention. If they had been aware then they may not have abducted and would



have either applied to the overseas court for leave to remove the children or remained in the overseas location.

2) An increasing number of British parents resident overseas are contacting the **reunite** advice line requesting information on how to apply for leave to remove their children from the foreign jurisdiction. During the first six months of 2011, **reunite** received six new enquiries from British parents resident in Australia who are considering seeking permission to remove their children from Australia.

3) There is an indication that it is becoming increasingly difficult to obtain permission to relocate from the jurisdiction of the Australian Courts. If this is true then this may result in more abductions and more contested Hague cases following abductions as the requested Court may be the only place that abducting ('taking') parents may feel that they will be able to ventilate their cases for relocation albeit in a summary setting.

4) We would suggest that there needs to be greater emphasis on prevention of abduction and the measures parents can take to safeguard their children. **reunite** has focussed on raising awareness of abduction and prevention of abduction for the last year and our advice line statistics for January - June 2011 show a 36% increase in the number of prevention cases reported to our advice line by parents who are seeking information on how to prevent an abduction.

5) One frequent suggestion from abducting parents is that more information should be available for families who are considering emigrating to Australia. They tell **reunite** that if they had known prior to emigrating that they would not be able automatically to return to England with the children if their relationship broke down overseas, then they may have thought twice about relocating in the first place. It is suggested that the Australian immigration information 'pack' should contain information about the implications of changing the children's country of habitual residence.

6) Whilst **reunite** is a UK based charity, our advice line service is available for parents of any nationality, based in any country across the world. We are regularly contacted by Australian nationals/citizens based in Australia and whilst their case may involve an abduction/retention in England, it can also involve an abduction from Australia to other states such as India, Algeria, Germany. This indicates a need for an Australian NGO similar to **reunite**.

7) The Pakistan Protocol and the UK-Cairo Declaration are pale imitations of the Hague Convention 1980, whilst laudable in their aims, they have no statutory basis in law.

8) Mediation is a useful tool for resolving abduction cases. **reunite** has mediated in six cases of abduction from Australia and in all six cases the parents were able to reach agreement, thus avoiding a court enforced decision and future litigation. Means and merits tested public funding is available for parents who wish to participate in mediation in England.

Written by Marcus Scott Manderson QC and Teertha Gupta, barristers on behalf of **reunite** International Child Abduction Centre

Dated 27.7.11