

International Parental Child Abduction and Mediation

Sustracción internacional de menores y mediación

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SUMARIO: I. *Introduction*. II. *The 1980 Hague Child Abduction Convention*. III. *Guide to Good Practice on Mediation*. IV. *International Family Mediation: Challenges and Specialized Necessity*. V. *Conclusions*.

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In this article we mentioned several examples about the United States of America and Mexico, the reason is because this research was done during a sabbatical year at Stanford Law School and under the sponsorship of DGAPA, UNAM.

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ABSTRACT: The goal of this article is, first, to analyze the operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction in the context of its Guide to Good Practice on Mediation to determine whether such guide will promote Mediation as a useful method for family conflict resolution in cases of international child abduction by one of the parents. Secondly we aim to explore current efforts to ensure that parents have the opportunity to choose mediation voluntarily with a skilled international family mediator to resolve issues between the left-behind parent and the taking parent and, why not, the child or children. The use of advanced technological tools in these cases is evaluated.

Key words: International parental child abduction, mediation, international family mediation, alternative disputes resolution, wrongful removal, wrongful retention, habitual residence, left-behind parent, taking parent, Guide to Good Practice, Hard Law, Soft Law

RESUMEN: El objetivo de este artículo es, primero, analizar la operatividad de la Convención de 25 de octubre de 1980 sobre los aspectos civiles de la sustracción internacional de menores en el contexto de la Guía de Buenas Prácticas en Mediación para determinar si tal Guía puede promover la mediación como un método útil para la resolución de conflictos familiares en materia de sustracción parental internacional de menores. En segundo lugar, nos proponemos explorar los actuales esfuerzos para asegurar que los padres tengan la oportunidad de elegir la mediación voluntaria con un mediador familiar internacional especializado para resolver problemas entre el padre perjudicado y el padre sustractor y, por qué no, el niño o los niños. Se evalúa, asimismo, el uso de herramientas tecnológicas avanzadas en estos casos.

Palabras clave: Sustracción parental internacional de menores, mediación, mediación familiar internacional, medios alternos de solución de disputas, traslado ilícito, retención ilícita, residencia habitual, padre perjudicado, padre sustractor, guía de buenas prácticas, Hard Law, Soft Law.

RÉSUMÉ: Le but de cet article, qui est tout d'abord d'analyser les opérations de la Convention de Hague du 25 Octobre 1980 sur les Aspects Civils de l'Enlèvement International d'Enfants dans le contexte du Guide des Bonnes Pratiques sur la Médiation - pour déterminer si ce guide encourage la Médiation comme une méthode utile pour la résolution du conflit familiale dans le cas d'enlèvement parental international d'un enfant par un des parents. Deuxièmement, on vise à explorer les efforts actuels pour s'assurer que les parents ont l'opportunité de choisir volontairement un médiateur familial international spécialisé dans la résolution des problèmes entre le parent délaisse et celui qui a enlevé l'enfant, et même pourquoi pas l'enfant ou les enfants aussi. L'utilisation des outils technologiques avancés est évaluée dans tous ces cas.

Mots-clés: l'Enlèvement International d'Enfants, Médiation, la médiation familiale internationale, modes alternatifs de règlement des différends, transfert illicite, detainer illégale, résidence habituelle, père blessé, parent ravisseur, Guide des bonnes pratiques, Hard Law, Soft Law.

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