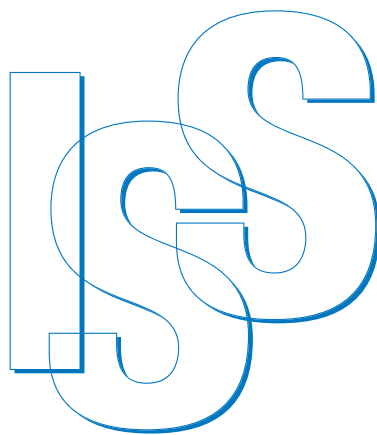


LIVING IN LIMBO

The experience of International Parental Child Abduction

the call for a national support service



International Social Service
Australian Branch
February 2005

This project was made possible with funding from the Commonwealth Attorney-General's Department and International Social Service Australian Branch. My sincere thanks is extended to the many people who gave their time, expertise and wisdom to assist me to gain insight into the nature and extent of international parental child abduction. The collective reflection and hindsight assisted in the formation of the proposed support service. I hope that in the future, families will receive assistance and support when confronting the trauma of this form of abduction. My particular thanks goes to the parents who shared their stories in the hope of helping other parents.

Anne Tuohey
Project Worker

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Executive Summary and Recommendations

Apart from high profile cases of parents abducting their children to other countries, little is generally known about the extent and impact that International Parental Child Abduction has on children and families.

The incidence of these abductions is greater than official government figures reveal. Only abductions which occur between Australia and countries which have signed the Hague Convention into the Civil Aspects of Parental Child Abduction are recorded. Abductions involving countries not a party to the convention are not counted. There is also no official recording of attempted cases which do not eventuate.

Abductions occur when relationships have failed and usually where the parents come from different cultural backgrounds. Domestic violence, a deep sense of unfairness about contact and access arrangements, intense fear of losing the child and disagreement about the other parent's cultural beliefs relating to child rearing are common reasons for parents choosing this regrettable path.

There are serious emotional consequences for the abducted child taken from all that is familiar, most usually to the parent's country of origin. As the child is already dealing with the breakdown of the family unit, this additional trauma can cause emotional problems which if not treated in an ongoing way, can have lasting consequences. The left behind parent also suffers considerable grief, anger and guilt which will affect ongoing relationships with other children as well as children who have been abducted. The abducting parent is also usually in need of therapeutic help.

The legal remedy available through the Hague Convention of seeking to have the child returned to the country where he or she lived habitually prior to the abduction aims to achieve a fair process. There is also an underlying premise in the Convention that matters relating to the custody of children are rightly the responsibility of the national jurisdiction where the child habitually lived pre-abduction. The Convention process cannot however comprehensively address the post traumatic stress experienced by family members or the underlying issues which led to the abduction.

Growing concerns about the impact of abduction, particularly on the children but also the parents and recognition of the limitations of a legal response prompted the Commonwealth Attorney-General's Department to fund a project to consider the viability of establishing a support service.

International Social Service Australia undertook this project and this paper outlines key findings. International Social Service is a non-profit organisation which operates through a worldwide network of offices in over 140 countries. Core work relates to child welfare issues involving Australia and another country. Their work is also guided by International Conventions focusing on children and families.

The report recommends that a support service be established. The service will comprise an advice line, make referrals to specialist agencies, lawyers and experienced parents. It will also conduct community education and training and undertake research and advocacy. The report concludes that as the service complements the work of International Social Service Australia, it is an appropriate choice for the location of the service.

Recommendations

That:

Recommendation one

Funding be sought from Attorney-General's Department to enable an International Parental Child Abduction Advisory and Referral Service to be established.

Recommendation two

The service be auspiced by International Social Service Australian Branch and based in the national office in Melbourne.

Recommendation three

A 'champion' be identified who can act as patron in supporting parents and families affected by International Parental Child Abduction.

Recommendation four

Ways to enable Reunite United Kingdom to be involved with the establishment of the service be investigated.

Recommendation five

Initial promotional options be explored including holding an overnight call-in hotline, inviting callers to seek information and share their experiences.

1. Introduction

1.1 Background

Cases of international parental child abduction (IPCA), while relatively unknown within the broader community, occur regularly across Australia and the rest of the world. Several thousand children are the victims of international parental child abduction around the world each year.¹ In Australia, official records estimate 2-3 children are taken illegally by a parent out of and into Australia each week.²

The increasing number of inter-country relationships, the overall increase in family breakdown, advancements in telecommunications and information technology, and the speed and convenience of international travel, all contribute to this global problem.

This form of child abduction is fraught with difficulty due to the highly emotive nature of the issue and the subsequent legal and physical difficulties in dealing with child custody disputes across international borders. Parents are confronted by feelings of powerlessness, loss and despair as they navigate often unfamiliar legal and cultural territory. In some cases, language barriers present a further challenge. If action is not taken immediately, the chances of recovering children often reduces with the passage of time. The emotional trauma already experienced by all parties facing family breakdown is exacerbated by the daunting practical, legal and often financial obstacles parents now face within an international setting.

The effect on children can be catastrophic. Children who are abducted are usually already going through the pain of their parents' relationship breakdown. They now face the trauma of losing contact with their familiar world including grandparents, school, friends and local community. The experience is perplexing and shocking as children try to make sense of a situation which is difficult to understand.

“Kidnapping a child away from everything he’s known and loved is like ripping someone’s heart out.”³

The Hague Convention establishes a Central Authority in each country to deal with applications for the return of children taken to and from each country. The Commonwealth Attorney-General's International Family Law Branch (IFLB) carries out the role of Central Authority. In each of Australia's capital cities there is also a state or territory-based central authority with the key national central authority having overarching responsibility to meet the obligations of the Commonwealth under the Hague Convention on the Civil Aspects of International Child Abduction.

The Attorney-General's Department has funded International Social Service Australian Branch (ISS) to undertake a project reviewing relevant local and overseas models which could be applicable for an Australian information and referral service for families affected by IPCA.

1.2 Project management and supervision

Direct project supervision was provided by the Director of ISS. Stakeholders provided advice and guidance throughout the project and received regular updates on the project's progress. Due to distances involved, contact was predominantly made through regular electronic communications.

¹ Hague Conference on Private International Law; legal database on child abduction cases; www.hcch.nl

² Attorney-General's International Child Abduction News quarterly statistics.

³ Bowles,R; Taken in Contempt,MacMillan, Sydney, 2001; p. 69

The stakeholders:

Jenny Degeling (Federal Attorney General's Department)
Nan Levett (Federal Attorney General's Department)
Denise Carter (Reunite, United Kingdom)
Sarah Wayland (Friends and Family Missing Persons Unit, NSW)
Ally Bailey (Domestic Violence and Incest Resource Centre, Vic)
Sally Nicholes (Middletons Lawyers)
Jeevani Korathota (NSW Central Authority)
Lis de Vries (ISS)

1.3 Scope of the project

The scope of the project was to examine the need for a national support service for families affected by the emotional trauma of international parental child abduction. The final report was to provide statistical analysis on IPCA, background research on potential service models and make recommendations regarding an appropriate service model and its implementation. This report outlines the findings and conclusions from the project.

1.4 International Social Service, Australian Branch

ISS operates through a world-wide presence in over 140 countries. ISS provides a professional inter-country casework service under the motto of 'bridging families across the world'. The General Secretariat of ISS is based in Geneva and is responsible for the setting of standards, international communications, hosting of annual meetings and resolving issues across countries.

The core work of ISS relates to child welfare, neglect, custody, abducted and missing children, family tracing, mediation, unaccompanied minors and migration issues. The work is largely governed by requirements relating to International Conventions relating to children and families.

The experience from a local perspective is that the casework has become much more complex and multifaceted as global movements have increased and as family breakdown has become more common.

International Social Service (ISS) Australian Branch and the wider ISS global network have been involved with cases of parental abduction and missing children over several decades. Involvement in these cases spans most States and Territories. Files in the ISS Melbourne office document cases from the 1970s. Early cases are sometimes referred to as child kidnapping or legal kidnapping.

1.5 Rationale for the project

1.5.1 The need for a support service

The IFLB has for some time been concerned about the level of support and assistance many parents require to cope with the ordeal of IPCA. The nature and expertise of the legal work of this branch does not extend to providing ongoing support and counselling to members of families affected by this ordeal. Parents who have learned that their child will not be returned or has just been abducted can be highly emotional and inconsolable. There has been interest and support from IFLB for some time to explore the possibility of establishing a parent support service which can adequately cater to and support these needs. The success of the United Kingdom's Reunite service had been identified as a potentially appropriate model with relevance to the Australian setting.

It is important to note that while the level of support and assistance given by the International Family Law branch is by nature legal and limited to the professional expertise of branch personnel, the project identified that many individuals appreciated support which was often clearly above the requirements of position specifications within the International Family Law section.

As abductions usually occur at a time of severe family conflict such as during a custody battle or at the height of a marriage breakdown, there is intolerable stress added for all family members if an abduction occurs or is threatened. Where an abduction remains unresolved for a lengthy period, there will be inestimable levels of suffering on the part of all adults and children involved.

An abduction always affect at least three parties, (two parents and a child) and potentially more if we consider the impact on grandparents, other family members, friends and communities of interest. There is also the drain on resources of the various authorities involved; central authorities, Federal police, lawyers and the Family Court, crisis lines and welfare services. Human suffering of this intensity and the desire to offer more to address IPCA cases further reinforces the value in conducting this research project.

“Given the many awful implications of the adversarial process, I believe that it is important to try all other avenues before resorting to legal action which should be a last resort, especially considering that we are dealing with children, sometimes very small of a broken relationship.”⁴

1.5.2 Trends in inter-country marriage

Australian Bureau of Statistics (ABS) Data reveal that there is a high incidence of inter-country marriages in Australia.⁵ The ABS reported that 28% of marriages registered in Australia in 1998 were between couples born in different countries. Of this group, 39% were Australian-born men marrying overseas-born women, while 42% were Australian-born women marrying overseas-born men. The remaining 19% were overseas-born men and women marrying partners from different overseas countries. (These figures do not account for de facto relationships or for the number of resident Australian citizens in marriages who married in other countries.) They do however provide a snapshot of the changing face of Australian families. The statistics also point to the possibility that where children eventuate, there will be a likely increase in the number of cases where, following relationship conflict, separation or divorce, one partner may consider returning to his or her homeland or make the return to Australia.

Not all inter-country relationships which break down eventuate in cases of child abduction. More correctly, parental abduction occurs when adult relationships fail. It is apparent however that there is a strong correlation between IPCA and intercultural relationships. This is borne out by an examination of cases in which ISS has been involved and also by discussions with the Central Authority. A number of international studies confirm that children of intercultural relationships are at a higher risk of parental abduction than children from same culture relationships.⁶

Thus, the intercultural marriage trends, the steady incidence of abductions as well as the serious emotional toll IPCA has on people affected, have all contributed to the decision by the Attorney-General's Department to fund a project to examine the feasibility of a national service to assist all parties affected by IPCA. Clearly this is a social issue which is not going to go away.

⁴ Parent with experience of IPCA.

⁵ Australian Bureau of Statistics; Marriage Australia (2003)

⁶ Greif, R.L., & Hegar, R.L. (1994). Parental abduction of children from international and cross-cultural marriages. *Journal of Comparative Studies*, 25, 135-138

2. Research Findings relating to Literature review and initial environmental scan

2.1 Available research

There is extensive research available and documentation on the workings and experience of IPCA in many countries. The opportunity to learn from this wealth of material is considerable. While a large volume of work undertaken relates to legal interpretation of the Convention, there is also a great deal of work which examines cause and effect issues and discusses preventive and early intervention strategies for countering abductions.

2.2 Defining “International Parental Child Abduction”

The term ‘abduction’ has an implication that kidnapping and possibly violence is involved and conjures a picture in our heads of a child being snatched away. It is important to understand that this approach is not necessarily common to all cases. Often, one parent has either given permission for the other parent to go away with the child or the parent and child fail to return by the previously agreed date. There is often a high degree of planning and organisation by the abducting parent to ensure the abduction goes ahead smoothly.

It is important to understand that the terminology is used to emphasise that the removal or retention is wrong because it is in breach of rights of custody under the law of the state in which the child was habitually resident. The removal or retention has prevented the exercise of those rights of custody.

There have been a number of situations where a parent and child will move between countries in a way which does not fit the usual pattern of abduction. It is therefore helpful to focus on the breach of rights of custody which occur when a child is removed.

One definition of parental abduction which is helpful in encapsulating all relevant factors is:

“the taking, retention or concealment of a child or children by a parent, other family member or their agent, in derogation of the custody rights.....of another parent or family member.”⁷

This definition successfully pinpoints one of the key concerns. When a parent takes a child with the intention of not returning, the parent is depriving the child not only of contact with the other parent but with all the child has been accustomed to in relation to home, extended family, friends, neighbourhood, school. There is also the flow on to the left behind parent who is deprived of an ongoing relationship with the child. This is a serious breach of the fundamental right of children and parents to maintain the child-parent relationship.

“Loss-that’s what I was feeling. And outrage. A thread of our own family had been snapped with the loss of my grandson and son.”⁸

2.3 Abduction is not always the end point

It is important to emphasise that many inter cultural relationships which breakdown are able to negotiate relatively smooth pathways out of the acrimony and sense of unfairness which are often features of bitter divorce and custody battles. If moving away is a preferred option for one parent, he or she can return to his or her country of birth, having successfully negotiated a mutually acceptable custody arrangement. Usually in these cases, one parent is clearly the primary caregiver. As with many relationships which break down though, not everyone is able to accept that the relationship is over, work at getting on with their lives, with the best interests of their children the central consideration in any steps they take.

⁷ Girdner, L.K., % Hoff, P.M. (1992) Obstacles to recovery and return of parentally abducted children:Final report’
Page 1. Washington, DC: Office of Juvenile Justice and Delinquency Prevention

⁸ Bowles,R; Taken in Contempt, Macmillan, Sydney 2001; p.78

2.4 Option of seeking a Relocation Order

Where relationships between former partners are still functioning sufficiently well, there is a legitimate avenue for a parent seeking to relocate with children following a Family Court settlement.⁹ Relocation cases involve the resident parent, usually the mother, wishing to move with the child to a new location, usually due to employment reasons, entering a new relationship or to be close to family. Where a parent with whom the children live seeks to move to a distant location, the Family Court of Australia may be called upon either to approve the move or order the resident parent to remain in current place of residence. Relocation cases are brought to the attention of the Family Court when a parent, most often the contact parent seeks an order from the court that relocation be prevented because it would not be in the best interests of the child that such contact be altered by the proposed relocation.

2.5 Reasons for abducting

Child abduction is a vastly different experience to relocation and usually eventuates because of a range of factors. These most commonly include domestic violence, extensive hostility between the former or estranged parents, resulting in a strong desire by one to wreak the ultimate revenge against the other parent; a deep sense of unfairness felt by one parent in relation to Family Court contact arrangements; fear of and inability to communicate between former partners and the proprietorial nature of some parents' relationships with their children. The birth of the child can also expose differences in relation to the parents approach to child-rearing, discipline, inculcation of religious or cultural beliefs which become intolerable for one parent.

2.6 The Changing Face of abductions

2.6.1 Profile of abductions in 1970s

An analysis of 99 abduction cases across a number of countries within the ISS network in the 1970s¹⁰ initially confirmed the ongoing trend that the international character of the parents is the first common condition which typifies abduction cases. Of the ninety nine cases, seventy nine sets of parents were from birth countries different to each other. The cultural differences between the adults which are frequently linked to different nationalities of the parties was seen as a second typical element.

The majority of abductions took place after the parents were separated but before a court had issued a divorce order. Access played a role in half the cases, either legal or voluntarily agreed by the parents. Legally permitted visiting ranks high on the list of occasions offering the opportunity for abduction.

In the majority of cases, the children were between 2 and 12 years of age, with the total falling between 6 months and 18 years. In almost half the cases, the children had dual citizenship. In the majority of cases, the abducted child was an only child.

In 80 cases, the father was the abductor. In 18 cases, the mother was the abductor. In the majority of cases, the child was taken to the country of birth of the abductor.

There were three main categories of reasons given as contributing to the abduction:

- A wish to control the cultural upbringing of the child. This reason was most likely to be a motivation of fathers;
- Fear of loss of the relationship with the child; and
- Frustration in relation to residence and contact arrangements.

⁹ McConvill, J and Mills, E; The flip side of the Relocation Coin (2003)

¹⁰ ISS Report; Legal kidnapping; Preliminary Document No 3. 1979

2.6.2 Current profile of abductions

While many elements remain the same in abductions over a thirty year period, there is one striking difference in the face of abductions in recent times. In 1999, an analysis of 1080 return and access applications in Contracting States under The Hague Convention revealed that 70% of abductors were women.¹¹ The most common reason for the abduction was fleeing from domestic violence. Men comprise 29% of abductors with the remaining 1% made up of abductors of both sexes; grandparents; a parent with an older sibling; or other relative.

It is apparent that it is now much more likely here and in other parts of the world, to be the mother who abducts. There are notable regional differences which the above report identified. For example, the mother is the abducting parent in Scandinavian countries in between 87.5 per cent and 100 percent of cases. Conversely, and while only a small part of the sample, all abductors to Hong Kong and Bosnia-Herzegovina were male.

The same report revealed that 78 per cent of abducted children were under 9 years of age.

2.6.3 The situation in Australia

As mentioned earlier, the official statistics maintained by the Central Authority do not identify which parent is the abductor. However State and Territory Central Authority representatives confirmed that the majority of abducting parents are now mothers, usually the primary caregiver. This trend has been apparent for a number of years.

2.7 Statistical analysis on Australian abductions

Hague Convention statistics have been maintained by The Central Authority since 1997/98. They outline on a quarterly basis:

- The number of abduction and access applications in and out of Australia by State and Territory;
- The outcome of abduction and access applications;
- The outcome of access applications; and
- Abduction and access applications by country.

“In” refers to applications for the return of children removed **to** Australia. “Out” refers to applications for the return of children removed **from** Australia.

These statistics provide a running total as at each quarter and provide a useful snapshot of the incidence of return and access applications. These reports are available from website www.law.gov.au/childabduction and as an insert in the Central Authority’s quarterly International Child Abduction News. An example of the statistical reports is included in the appendices.

In the March quarter of 1999/00, the Central Authority also commenced recording statistics on known abductions and enquiries with non- Hague countries. This reporting was for each quarter. The practice of recording these statistics discontinued in 2003/04. There is no longer any specific reporting of the level or type of known abductions or inquiries relating to non- Hague countries.

¹¹ Lowe, N, Armstrong, S, Mathias, A, Paper presented to Special Commission of The Hague, 2001

Hague Convention reporting-incidence of applications

The total number of applications for return and access have remained steady since 1998/99. There was a sharp increase from 1997-98's figure of 129 to 1998-99's 176 cases. Total abduction and access applications received:

1997-98 = 129
1998-99 = 176
1999-00 = 170
2000-01 = 173
2001-02 = 172
2002-03 = 177
2003-04 = 174

There have always been more 'out' abductions than 'ins'. Since 1999/00 there have been between 20-40% more 'out' abductions each year. (Refer Table one for comparative figures.)

State and Territory comparisons

There is a consistent trend of the majority of cases occurring along Australia's eastern coastal States. Table one illustrates the figures by State and Territory. New South Wales consistently has the highest incidence of abduction return and access applications. Queensland has the second highest and Victoria, the third highest except for 2002/03 when Victoria recorded a higher number than Queensland. In 1999 and 2000, Western Australia edged out Victoria to be third highest State. The remaining States and Territories consistently have very small numbers of return and access applications, usually between nil and a maximum of 5 per year.

While the statistics compiled by the Central Authority do not provide any further locational breakdown, the Australian Central Authority State representatives in New South Wales and Queensland identified a locational concentration of these cases. Both States confirmed that there appears to be a high incidence of cases within rural and semi rural coastal locations. There was no clear understanding or explanation for why this might be the case. One explanation could possibly relate to migratory and settlement patterns for recently arrived migrants, seeking the idyllic seaside lifestyle and possible house and land affordability issues. Alternatively, this could be an example of families experiencing conflict that is relatively cut off from appropriate services due to the isolation of these coastal towns. When the situation becomes extremely tense and conflictual, there may be a greater tendency for some parents to take matters into their own hands.

Hague countries with highest incidence of abduction cases

New Zealand consistently has the highest incidence of abduction and access applications. United Kingdom has the second highest, apart from 2000/01 and 2001/02 when U.S.A was slightly higher. In the other years, U.S.A was the third highest. (Refer Table two for comparative figures.)

Of the remaining countries which are involved in cases with Australia each year, the incidence of cases ranges between 1-5 cases. These can involve both 'in' and 'out' abductions and access applications.

The key discernible trend from this table is the continuing high involvement with New Zealand, United Kingdom and United States of America. These three countries on average each year, account for 60-70% of the total number of cases.

Return applications

The majority of applications relate to return applications. Outcomes for return applications are recorded within four categories: returned; rejected; withdrawn and pending. (See statistical report, Appendices.)

Access applications and outcomes

Access applications are recorded by outcome and as an overall total. A State/Territory breakdown is not provided. The number of access applications is considerably smaller than abduction return applications, accounting for approximately 13-20% of all applications per year. In contrast to return applications, the access 'in' applications are more frequent than the 'out' access applications except in the years of 1997/98 and 1999/00.

Outcomes for access applications are recorded within four categories: access arranged; rejected; withdrawn; and pending. There is no discernible overall trend in outcomes for access applications.

In relation to 'access arranged', the best result is 1:4 cases. The average is within the range of 1:6 and 1:7. In 1999-00 access was not arranged for any cases.

Australia will only 'reject' an application if the foreign applicant parent does not have a right of access in the relevant country. There is no set process for dealing with access matters and each country deals with them in their own way.

Applications are only 'withdrawn' if the applicant parent instructs it or if contact is lost with the applicant parent. The Central Authority advised that applications are withdrawn more often for positive reasons rather than negative ones. One parent was possibly unaware that the other parent wanted access. There have also been cases of reconciliation or mutual resolution between the parties who recognise that they wish to avoid an exacerbation of hostilities.

The 'pending' category has the highest number of cases, averaging 40-70% of all cases. Pending access cases are those where negotiations between the parties for contact have commenced. These negotiations usually extend beyond a year particularly if contact is being monitored. If negotiations fail, the matter will eventually end up in court which is also a lengthy proceeding. In some cases in Australia, proceedings commence immediately but usually the Central Authority will try to negotiate contact between the parties first.

Identifying who is abducting or making access applications

The statistics do not identify whether it is the mother or father making the return or access application.

General comments on Hague and non- Hague comparisons

It is difficult to make a conclusive comparison about the relative incidence and nature of non-Hague and Hague abductions from the statistical reporting. This is in part due to the discontinuance of non- Hague reporting in 2003. This also relates to the different reporting method used for Hague and non- Hague cases. The Hague statistics detail return and access applications lodged. They do not list general inquiries. The non- Hague statistics bundle known abductions and general inquiries into one category.

There is also no formal requirement to report on non- Hague cases as there is as part of the Hague Convention. It is therefore unlikely that the non- Hague statistics provide an accurate picture of the level and type of abduction activity between Australia and non- Hague countries.

It is still significant however to note that while the non- Hague reporting is more generalised including inquiries of which the outcome is unknown, both Hague and non-Hague reports outline the countries engaged in abduction activity. This enables an examination of which countries are involved in these cases and whether there are any discernible patterns. (See table three for non-Hague cases by country) Reporting commenced in the March 2000 quarter and no reports were recorded beyond the June 2003 quarter:

March 2000 quarter	17 cases
June 2000 quarter	40 cases
June 2001 quarter	40 cases
June 2002 quarter	8 cases
June 2003 quarter	9 cases

General discussion

The potential for child abduction statistics to provide even more worthwhile data is considerable. The current statistics while providing a useful account of the incidence of cases and which Contracting States are involved, could be expanded to provide more opportunity to inform best practice, assist with greater understanding of abduction patterns and profile of abductors.

Reunite United Kingdom produces advice line statistics which record detailed information about:

- Who is calling;
- Whether the cases relate to Hague or non- Hague countries;
- If the case is abduction, prevention or a return;
- Whether the abduction is by primary caregiver or non-primary caregiver;
- The number of children per case; and
- Domestic abductions as well as international abductions.

In the event of establishing a support service, it would be beneficial to consider implementing a detailed statistical reporting system for all calls to the advice line, similar to Reunite's system.

Table 1: Abduction and access applications by States and Territories

	97/98		98/99		99/00		00/01		01/02		02/03		03/04	
	In	Out	In	Out	In	Out	In	Out	In	Out	In	Out	In	Out
New South Wales	19	26	23	34	22	34	30	36	30	27	25	36	32	31
Queensland	11	16	28	20	22	22	21	22	15	24	11	18	15	30
Victoria	6	10	11	16	11	17	15	16	17	30	21	21	13	16
Western Australia	7	5	11	14	8	17	6	15	7	12	6	23	10	17
South Australia	3	3	5	5	4	5	2	6	2	3	0	6	3	2
Tasmania	1	2	3	0	1	2	1	0	0	0	1	2	3	1
Northern Territory	0	0	1	0	0	2	0	0	0	1	3	1	0	0
ACT	2	0	3	2	3	0	2	1	0	2	0	3	1	0
Total	49	62	85	91	71	99	77	96	71	99	69	110	77	97

**Table 2: Abduction and Access applications for New Zealand,
 United Kingdom and USA and overall total number for all countries**

	97/98			98/99			99/00			00/01			01/02			02/03			03/04		
	In	Out	Total	In	Out	Total	In	Out	Total	In	Out	Total	In	Out	Total	In	Out	Total	In	Out	Total
New Zealand	21	19	40	30	27	57	31	31	62	43	41	84	29	32	61	16	27	43	31	29	60
United Kingdom	9	15	24	15	22	37	15	26	41	5	14	19	6	20	26	12	23	35	10	25	35
U.S.A	7	11	18	16	15	31	11	9	20	7	16	23	12	15	27	18	14	32	20	11	31
Total for N.Z, U.K & U.S.A	37	45	82	61	64	125	57	66	123	55	71	126	47	67	114	46	64	110	61	65	126
Overall total; all countries	60	69	129	85	91	176	71	99	170	76	97	173	73	99	172	67	110	177	77	97	174

Table 3: Non - Hague countries with known abductions and inquiries

99/00	00/01	001/02	002/03
17 cases	40 cases	8 cases	9 cases
<ul style="list-style-type: none"> • 6 - Lebanon • 2 - Japan, Syria • 1 - China, Kenya, Pakistan, Philippines, Singapore, Solomon Islands, Sri Lanka 	<ul style="list-style-type: none"> • 21 - Lebanon • 4 - Egypt • 3 - Japan, Thailand • 2 - Sri Lanka • 1 - Cook Island, Iran, Jamaica, Malaysia, Philippines, United Arab Emirates, Western Samoa 	<ul style="list-style-type: none"> • 2 - Ukraine • 1 - Guatemala, Indonesia, Japan, Lebanon, Papua New Guinea, Sri Lanka 	<ul style="list-style-type: none"> • 2 - Lebanon • 1 - China, Indonesia, Iran, Saudi Arabia, Solomon Islands, South Korea, Syria

3. International Conventions and Instruments in existence with relevance to International Parental Child Abduction

3.1 The Hague Conference on Private International Law

The Hague Conference on Private International Law was convened in 1893 and became a permanent institution in 1951. Based upon unifying rules of private international law, The Hague Conference has produced a series of multilateral treaties which seek to address international legal problems which may arise. A convention is usually the culmination of the work of various bodies within the Conference.

Since 1951, the Hague Conference has adopted 36 conventions which generally deal with the determination of applicable law, conflict of jurisdiction, recognition and enforcement of foreign judgements and/or the administrative and judicial cooperation between authorities. There are presently 62 members of the Hague Conference.

3.2 Hague Conventions

A country may sign, ratify or accede to a specific Hague convention. By signing a convention, the relevant country expresses its intention to become a 'party' to it, although it is not obliged to take any further action. However, when a country 'ratifies' a convention, it comes under a legal obligation to apply the convention. Accession is only possible once the particular convention has entered into force and the other parties to it accept the accession, either expressly or tacitly, depending on the actual wording of the convention. In general, three instruments of ratification, acceptance or approval are required to be deposited with the Hague Conference before the particular convention comes into force in a country. As a general rule, the particular convention then enters into force in that country three months later. Australia became a member of the Hague Conference in 1973 and is a party to a number of conventions. The following Conventions relate specifically to the welfare of children:

- Convention on the Protection of Children;
- Convention on International Child Abduction; and
- Convention on Intercountry Adoption.

3.2.1 The Hague Convention on the Protection of Children

The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children entered into force in Australia in August 2003. It also contains provisions concerned with child abduction. Article 7 preserves the jurisdiction of the Contracting State of the child's habitual residence even if the child is not returned by the Contracting State to which the child has been wrongfully taken or retained. Article 35 strengthens the Contracting States' obligation to secure effective rights of access.

3.2.2 The Hague Convention on Intercountry Adoption

Australia is a party to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. The Convention entered into force for Australia in December 1998. The main objective of the Convention is to establish international procedures and standards and co-operation mechanisms between government authorities involved in safeguarding the interests of children subject to intercountry adoption.

The Convention will assist parents in Australia who wish to adopt children from other Convention countries. The Convention countries are listed in Schedule 2 of the Family Law (Hague Convention on Intercountry Adoption) Regulations.

3.2.3 The Hague Convention International Child Abduction

The Hague Convention on the Civil Aspects of International Child Abduction was established in 1980 and entered into force in Australia in January 1987. There are currently close to 70 countries which are party to the Convention. (See appendices for list.)

The stated objects of the Convention (set out in Article 1) are:

- To secure the prompt and safe return of children who have been wrongfully removed from one Contracting State to another; and
- To ensure that rights of custody and of access according to the law of one Contracting State are respected in the other Contracting States.

A key purpose of the Convention is often summarised as being to restore the pre-abduction status and to deter parents from crossing to another country which may have a more sympathetic jurisdiction.

As far back as the 1970s when the Hague Conference on Private International Law undertook the preparation of a convention dealing with the specific problem of international abduction of children by one of their parents, there was recognition that child abduction could not be adequately treated by a strictly legal remedy.¹²

The desire to prevent or at least reduce the incidence of abduction also lay at the heart of the convention. There was also recognition that a greater understanding and addressing of the underlying causes and triggers relating to an abduction occurring or the likelihood of this occurring, could provide paths to a more effective solution and a more adequate and wholistic response.

Operation of the International Child Abduction Convention

The Convention applies between those countries that have ratified it, and countries that have acceded to it and whose accession has been accepted by other ratifying or acceding countries. These countries are called Contracting States.

The Convention requires all Contracting States to establish administrative bodies known as Central Authorities. A parent whose child has been wrongfully removed can apply to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State, for assistance in securing the return of the child.

If a Central Authority receives such an application, it must under Article 7:

- take all appropriate measures to discover the whereabouts of the child;
- prevent harm to the child or, prejudice to the applicant parent;
- secure the voluntary return of the child or otherwise;
- bring about an amicable resolution of the matter.

When it becomes necessary, the Central Authority can initiate judicial or administrative proceedings to secure the child's return.

Article 11 requires that a Contracting State act in a prompt manner in all proceedings.

¹²ISS Report; Legal Kidnapping Prelim. Doc No 3 Feb 1979

The Convention is not directly incorporated into Australian law. Instead, the Family Law (Child Abduction Convention) Regulations (“the regulations”), which came into force on 1 January 1987, provide the legislative structure for the application of the Convention as a matter of Australian domestic law. The Convention is set out in a schedule to the Regulations for the purpose of interpreting the Regulations and for ascertaining the position where the Regulations are silent.

In some other countries such as the United Kingdom, the Convention itself is directly incorporated into local law. In others it is enacted through its own statute. The range of approaches may contribute to some confusion in the application of the Convention.

The Convention, The Regulations and the Best Interests of the Child

The judicial function is to determine whether or not the Convention applies and, if so, whether the limited exceptions that give rise to a discretion not to order the return of the child apply in a particular case. Implicit in this is the assumption that the child’s best interests are most appropriately determined by the jurisdiction in which the child was habitually resident prior to the wrongful removal or retention.

There is some misunderstanding relating to whether the best interest of the child is the key consideration. It is important to recognise that the Convention is not directed fundamentally to that question, which may seem strange. It goes back to the two fundamental objectives of the Convention:

- namely to discourage and where possible, eliminate the harmful practice of removal of children internationally and secondly; and
- to ensure that the welfare of the children is determined by the jurisdiction in which they were habitually resident at the time of removal.

There is an underlying premise in the Convention that each Contracting State has faith in the domestic law of the other Contracting States and trusts matters relating to the custody of children under the age of 16 will be dealt with in a fair and proper way.

There is considerable discussion around this issue as it appears to fly in the face of the principle enshrined in Australian domestic law that the best interests of the child are the paramount consideration in child welfare cases. It is important therefore to recognise that the Convention aims to deal with the application as expeditiously as possible to ensure no loss of time and minimal disruption to the children. It then follows that their long term welfare can be resolved by the appropriate authorities in their habitual country of residence.

Eligibility for the Hague Convention

Cases which satisfy the following criteria fall within the scope of the Convention:

- The child was habitually resident in a Contracting State immediately before any breach of access or custody rights (Article 4);
- The child is under 16 years of age (Article 4); and
- The removal or retention is wrongful.

Article 3 defines a wrongful removal or retention as one where:

- i) the removal or retention is in breach of rights of custody under the law of the state in which the child was habitually resident; and
- ii) those rights of custody were exercised or would have been exercised but for the removal or retention.

There have been cases where Courts have interpreted these guidelines narrowly and applications have not been accepted. There have also been incidents where a broader interpretation has resulted in more cases being accorded a hearing under the Convention. The interpretation of the Convention is one area which attracts mild controversy at times.

Habitual Residence

In Convention cases, the issue of a child's place of habitual residence is a threshold issue to be determined by the court. In order to come within the scope of the Convention, a child must be habitually resident in a Contracting State. If a child is abducted from for example, America to Australia, the Australian court would decide if the case is within the scope of the convention. If it determines it is within the scope and there had been a wrongful removal, then the child would be returned to America. The court there would decide on the range of issues relating to the child's welfare and living arrangements.

Given its central importance within the Convention, there has been much conjecture about the apparent deficiency that the term "habitual residence" is not defined in the Convention.

While it is not the intention of the ISS project to draw conclusions about specific issues of the Convention unless they have a bearing on the development of the proposed service, this issue was one which was raised by many parents consulted by the project worker. This could be a potential area for further research to review decisions of different Contracting State's determination of what constitutes a child's habitual residence in varying circumstances.

3.3. The United Nations Convention on the Rights of the Child

The UN Convention on the Rights of the Child has been in force since 1989. It includes a call for action on child abduction. Under Article 11, Contracting States must "take measures to combat the illicit transfer and non-return of children abroad." They must also "promote the conclusion of bilateral or multilateral agreements or accession to existing agreements." In addition, under Article 35, Contracting States must "take all appropriate national, bilateral and multilateral measures to prevent the abduction, the sale of, or traffic in children for any purpose or in any form."

Additional relevant obligations are contained in Article 9 which includes the child's "right to maintain contact with both parents if separated from one or both"; Article 10, the "right of children and their parents to leave any country and to enter their own in order to be reunited or to maintain the child-parent relationship"; and Article 18 which embodies the principle that "both parents have joint primary responsibility for bringing up their children and the state should support them in this task."

3.4 The European (or Luxembourg) Convention on Recognition and Enforcement of Decisions Concerning Custody of Children

This European Convention was completed in 1980, the same year as the Hague Convention on International Child Abduction. The Convention has similar objectives of locating children, securing their prompt return and enforcing access rights by using the administrative mechanism of Central Authorities. In contrast to the Hague Convention, however, this European Convention is concerned with the recognition and enforcement of court orders. Accordingly, in order to use this European Convention, applicants must either already have or must obtain court orders that support their position.

Member States to the European Convention are drawn from members of the Council of Europe and are therefore confined to that continent. Most of the Member States are also Contracting States to the Hague Convention. In practice, where there is a choice between the two Conventions, the Hague Convention will be used.

4. The Australian Government's role in administering the Hague Convention

The Convention establishes a Central Authority in each country to deal with applications for the return of children taken to and from each country. The Commonwealth Attorney-General's Department is the Central Authority for Australia.¹³

The Child Abduction Convention is implemented in Australia by the Family Law Act, 1975 and the Family Law (Child Abduction Convention) Regulations. The Regulations set out the procedure for making Convention applications, the powers of the court, and the functions of the Central Authorities. The Regulations and the Act are widely available and most readily accessible on website www.law.gov.au/childabduction

4.1 Contact with Central Authority

Applicants deal directly with the State or Territory Central Authority in their nearest capital city. These are sent onto the Australian Central Authority which coordinates the applications and contact with the other country. A list of Australian Central Authorities is included in the appendices.

The Central Authority has produced the International Child Abduction Guide for Parents and Practitioners, which outlines all necessary steps a parent needs to take if making an application under the Hague Convention. Free copies are available from the Central Authority and can be found on their website.

The International Family Law Branch compiles quarterly statistics on the type and incidence of abduction return and access applications for Hague applications and activity. A quarterly bulletin entitled, International Child Abduction News is also compiled. Both are available on the website. The statistics detail; abduction and access applications by State and territory; abduction applications by outcome; access applications by outcome; and abduction and access applications by country. Previously, there was also reporting on non- Hague Convention countries, including known abductions and inquiries, this reporting ceased in 2003.

The International Child Abduction News gives information on recent Australian decisions, any updates on recent research or events and lists any new Convention countries.

4.2 Making an application

Once the requirements detailed in the previous section have been satisfied, a person can make an application. The application can be made using the available form, either electronically or from the guide. A person may also seek a solicitor to make an application on their behalf. The Central Authority can be contacted directly for advice and assistance as can a legal aid office or a community legal centre.

4.3 Other forms of assistance in relation to applications

4.3.1 Translations

Many non English speaking countries accept applications in English. If a country requires a translation, this will be arranged by the Commonwealth Attorney-General's office. State and Territory authorities will forward these requests onto the Central Authority in Canberra.

¹³ Detailed information on all aspects of administration of the Hague Convention in Australia are contained in the Attorney-General's Department, International Child Abduction: A guide for parents and practitioners. Nov 2001

4.3.2 Financial assistance for legal and travel expenses

There is a means-tested scheme, administered by the Attorney-General's Department to provide assistance with overseas legal fees and travel costs to where a child has been removed from Australia.

5. Identifying appropriate international support service models

The project was publicised through the ISS network and other non- government and government networks. It was emphasised that the expected outcome of the project was to identify a feasible non-government support service for people affected by IPCA. Key stakeholders and relevant agencies provided useful leads to potentially applicable services and models. Web searches identified several organisations with an interest in IPCA. Some of these are linked to central authorities and while more likely to be defined as government bodies, may still have service components worth considering.

It is also unclear in some cases whether the groups listed are still playing an active role in IPCA. As with many grassroots organisation which develop from personal experience, it is possible that after years of dedication to the cause, some groups experience burn out brought on by too few resources and constant contact which can be intrusive particularly where the group is operating from a person's home and with little financial support.

This section provides some initial scoping of what is available internationally which could be directly relevant or has some appropriate service elements which warrant further examination.

5.1 Reunite United Kingdom

Reunite is possibly the best known IPCA non government agency outside of Australia. It has been very successful and has wide publicity. Reunite is an agency in the United Kingdom with the sole charter of providing a specialised support and advice service on International Parental Child Abduction. Reunite has become the informed voice on the subject within the U.K. and the service is also well regarded throughout Europe and many parts of the world. Reunite has seven staff; some are part time and a couple are voluntary positions. Reunite also conducts research on a consultancy basis.

Reunite provides advice, information and support to parents, family members and guardians who have had a child abducted or who fear child abduction. It also provides advice to parents who may have abducted their child or are considering taking this action. (See also Section on stakeholder consultations.)

*"I did discover the UK charity Reunite in about the middle of proceedings which provided the first independent info....However the Australian perspective was missing and being overseas meant contact was very limited."*¹⁴

5.2 The clearinghouse model

An Internet search revealed that America has several agencies offering support and advice services relating to IPCA, based on a clearinghouse model. In examining their functions, it became clear that many were in effect acting as the central authorities, or as an adjunct to the law administration arm, particularly where they are located in justice departments. The clearinghouse model provides resources, training and general information on issues relevant to IPCA.

A clearinghouse can serve a wide audience including parents and families, law enforcement personnel, non government agencies and interested citizens. Most help locate missing children by distributing photos and descriptions.

¹⁴ Parent who has experienced IPCA.

Clearinghouses vary in the functions mandated and resources available to them. Commonly, their functions include public education and information, communication and coordination with parents and attorneys, law enforcement personnel and government agencies and assistance in the location and recovery of parentally abducted children.

Forty two States and the District of Columbia have State Missing Children clearinghouses. Most were established by statute and are housed within the State criminal justice agency.

The National Centre for Missing and Exploited Children (NCMEC) is a private, not-for-profit organisation which receives government funding to serve as a national clearinghouse and resource centre. NCMEC provides technical assistance in parental abduction and other missing children cases. It has produced a step by step guide to family abduction with prevention and response measures. It also maintains a toll-free hotline and provides legal consultation with civil attorneys and prosecutors in abduction cases.

Juvenile Justice Clearinghouse (JJC) serves as a national resource for information on juvenile crime and missing children issues. JJC maintains an extensive collection of publications on parental abduction and other topics relating to missing children. JJC distributes research findings, statistics and evaluations. JJC also offers library services and access to an electrical bulletin board for news and announcements.

Additionally, through the U.S Department of State, Office of Children's Issues, a number of useful fliers have been produced outlining travel measures and alerts which can be activated to prevent an abduction. Relevant websites are listed under Sources.

Many of the clearinghouses emphasise the importance of the public being better informed about the issues involved in IPCA. The existence of clearing houses is a useful way of publicising a particular issue. The model emphasises referral more than support.

5.3 Other information identified through international search.

A number of ISS agencies made contact to expand on particular approaches or aspects of services which they believed may be of assistance with this project. In most cases, the ideas relate to central authorities, not stand alone support services. There was unanimous support and enthusiasm for the proposal to develop an Australian support service.

The following excerpts although not formally structured are included as a display of the interest in improving IPCA outcomes and the concern that it remain on the political and social agendas of countries. Mostly, these responses were provided via email from overseas ISS bureaux. They include specific initiatives or measures which respondents believed may be useful to illustrate the current workings in a country in relation to IPCA cases.

“Public ignorance can mean that victim parents do not know about their rights and do not seek legal advice or delay in seeking it. There are some reported instances of parents only seeking legal action after reading about the Hague Convention in a magazine.”¹⁵

The common agreement from responses received is that it is important that clear, accurate and accessible advice is available from a specialist agency. Affected parties also need to know where and how to obtain this information and specialist help so publicity is important.

¹⁵ Bowles,R; Taken in Contempt. Macmillan, 2001; p. 143

Canada

A web search identified a parent support group, entitled P.A.R.E.N.T, Parents Advocating for Return through Education by Networking Together. This organisation was founded by a parent of an abducted child. The latest newsletter posted on the site was July 2002 so it was unclear how active PARENT remains.

Denmark

The central authority operated an IPCA advisory hotline in 2002 over a 24 hour period to ascertain the public's response and issues. The project worker noted that this could be a worthwhile way to promote the establishment of a service and then publish the findings. Denmark has a private organization which aims to help parents who fear abduction or have had a child abducted. The acronym is D.A.P.H.N.E.

Finland

Information on preventive measures is included in a booklet prepared in cooperation between Ministries of Foreign Affairs, Justice, Social Affairs and Health and the Association for Abducted Children. It can be viewed at www.om.fi/96404.htm.

France

The central authority's inclusion of a social worker on the legal team assists in identifying the most appropriate means of ensuring the effective return of the child under conditions which are most favorable to the child's physical and physiological well being.

Every effort is concentrated on defusing the emotionally charged ordeal and promoting the possibility of future relations with the child and the parent he or she leaves behind. Accordingly in one case, three children had been placed provisionally in a centre operated by Social Services for children while awaiting collection by their mother. The social workers were able to organise a meeting with the parents which led to an agreement in which the mother undertook to facilitate contact with the children and their father. The contents of this agreement had already been clearly explained to the children before their return to Israel that same evening.

The French Minister for Justice established in 2001 the Mission for Assistance in International Family Mediation. A function of this body is to seek to obtain by negotiation between the parties, voluntary enforcement of judicial orders. This object has been achieved in 15 return cases. As such, bringing parties together in order to reach agreement is a priority, as is assuring the parent who returns the abducted child that he or she can continue to exercise his or her parental rights.

France believes it is preferable to encourage voluntary settlement of abduction cases either before court proceedings are initiated or during these proceedings. It is also important to provide an opportunity for the child's wishes to be considered and also, ongoing mediation to enable a more satisfactory resolution rather than the court-imposed decision.

Germany

The German Central Authority believes countries need specialized counseling and supports the establishment of bodies which in cases of bi-national family conflicts, including child abduction can provide or arrange for counseling and assistance.

Hungary

Since 2003, mediation has been available in contact cases. Hungary intends establishing in 2005 a special child protection mediation network to work through international cases. The guardianship authority with the agreement of both parents may suspend court proceedings for 4 months for the purposes of mediation.

If no agreement is reached and a parent impedes the exercise of access rights, enforcement action may be taken by the bailiff, the police and the guardianship authority. A fine is first imposed (and may repeatedly be imposed) to compel the parent to allow contact. The impediment of contact in the long run and the alienation of the child from his/her parent could serve as a legal ground for placing the child with the other parent.

(General comment. It is not clear whether this punitive approach constructively meets the best interests of the child.)

New Zealand

New Zealand's Department of Courts website contains information on preventive measures for parents. A pamphlet has been produced by the Department of Internal Affairs.

New Zealand has a high rate of returning children to the country of their habitual residence. Between 1/1/02-31/12/03, there were twenty one applications for return; six for access. Only two for return were declined. Eleven resulted in order for return and the balance was resolved voluntarily; two by return of the children to their habitual residence and seven by withdrawal of the application. Of those access applications determined, four were resolved by orders made by consent.

The vast majority of children brought to New Zealand come from Australia for obvious geographic and demographic reasons. In recognition of this, there has been a high level of judicial cooperation between the two countries which has been developed through personal contact between Family Court Judges from the two countries.

Sweden

Swedish statistics confirm that the majority of abductors are the primary care giver. Sweden has national legislation concerning enforcement of custody and the right to access. The views of children over the age of 12 are considered a key consideration. The Swedish system is based on a presumption that resolving by voluntary agreement, the terms of contact, is in the best interests of the child and that the parents are better qualified than the court to make decisions on the subject. Conciliation is encouraged and in court cases, the court can order the parents to attend conciliation.

Sweden is an active supporter of Reunite. At a Reunite conference, Sweden welcomed the opportunity for exchange of information.

6. Relevant services in Australia

In searching for applicable models, it became clear that there is widespread support throughout the legal, government and non-government sectors to improve the service currently available to these families.

Currently in Australia, there is no high profile, dedicated service within the community to address the needs of parents and children who are experiencing the immediate or long term affects of child abduction. As explained above, families usually make initial contact with either a lawyer or the Attorney General's Department which acts as the Central Authority. There are two parent support groups referred to below, Hug-ur-kids and Empty Arms, both of which have had greater prominence in the past. The status of their current activity levels suggest they are not as actively involved as they were in the past.

*"To be able to talk to someone else who understood what I was going through would have been incredibly helpful and reassuring."*¹⁶

The services offered by both the legal profession and Attorney General's Department are by nature limited to advice on practical and legal steps to recover or return children. As author Robin Bowles expresses in her book, 'Taken in Contempt' on the experience of abduction:

*"Several times a day, the Authority's staff deal with parents who are angry, sobbing, begging, defeated, desperate, desolate, threatening to write to the minister or even to kill their case workers. Through all this high-powered emotion, they are expected to remain calm and professional, working their way through the red tape, through the various jurisdictions of foreign countries, pleading on behalf of their clients, just trying to do their jobs."*¹⁷

The absence of any comprehensive or dedicated Australian service means that the effects of child abduction on individuals and families and the community is not acknowledged or addressed in any meaningful or effective way. There is also therefore limited capacity to reflect on and evaluate the learning to enable the development of effective early intervention measures which could prevent other abductions.

There is a lack of detailed research or statistical analysis of child abduction cases either in or out of Australia. The limited focus is on recording of cases between countries which are party to the Hague Convention. There are therefore a number of cases and inquiries relating to non- Hague countries which go unrecorded, indicating that the extent and nature of these cases is officially unknown.

*"There is very limited knowledge and literature available to parents in this situation, both alleged abductors and abductees. I felt there was nowhere I could go to obtain this sort of information..."*¹⁸

6.1 Hug-ur-kids

Hug-ur-Kids is a Parental Child Abduction support group, based in Western Australia which commenced in Australia about 5 years ago. In previous years, it had greater public prominence, utilising media involvement to publicise some abductions. It covers both domestic and international abductions.

According to its website, in September 2004, due to ongoing expenses and lack of support, it officially closed its non profit organisation and now operates under the direction of HUKO International. The operation is now subject to a user pays system. Contact can be made in a variety of ways, via telephone, email, msn message chat service, free internet to internet phone service. HUKO International operates 7 days per week.

¹⁶ Parent who experienced IPCA.

¹⁷ Bowles, R, Taken in Contempt. MacMillan, Sydney 2001 p323

¹⁸ Parent who experienced IPCA

The website has a considerable amount of statistics and profiling information about families affected by abduction. The site has links to other organisations associated with parental abduction. The organisation advocates for Parental Child Abduction to be criminalised. IPCA is not a criminal offence in Australia. It also sees greater education, awareness and stronger penalties as effective deterrents.

6.2 Empty Arms Australia

Empty Arms support group comes under the umbrella of The Committee for Missing Children Inc. which has links to approximately 30 countries. Empty Arms was started by Jacqueline Pascarl, formerly Gillespie. Under the Missing Children website, contact details are listed for each participating country. Empty Arms is operating from a Melbourne address and an email address and mobile number are listed. There is also a link to www.missingpersons.com.au which is a site where people can post photos and descriptions of both missing persons and items. It covers Australia and New Zealand. It is unclear the extent of this group's current involvement.

6.3 International Social Service, Australian Branch

International Social Service (ISS) with its national branch in Melbourne and an office in Sydney receives inquiries from parents throughout Australia and overseas who suspect that abduction has occurred. ISS is an agency with a network of branches in over 140 countries which assists individuals with issues usually of a child or family welfare nature, resulting from migration or international movement. The Central Authority, both nationally and at a State and territory level, also make referrals to ISS. (See stakeholder consultations for more information.)

6.4 Friends and Family of Missing Persons Unit (FFMPU)

FFMPU is based in Sydney and covers New South Wales only. The service provides counselling, information and support for families of missing persons including left behind parents of children who are abducted by family. The majority of the Unit's work relates to missing persons with mental health issues who possibly do not want to be found, may have committed suicide or have been victims of homicide or involved in an accident.

FFMPU has a website and a number of comprehensive publications detailing practical support and advice for people who are a family member or friend of a missing person.

FFMPU identified that there is a gap in service provision for people dealing with parental child abduction. As the FFMPU deals with issues of grief and loss, the Unit initially received a couple of calls from counsellors dealing with clients affected by IPCA who were seeking therapeutic assistance. The New South Wales central authority has made referrals to FFMPU.

7. Consultation with stakeholders

A number of individuals with first hand experience of IPCA and a range of agencies which provide support services to families and children were consulted during the project. The project sought deliberately to seek the voice of relevant agencies which to date have not been vocal on the matter but who would be well placed to consider the need and type of service which would be beneficial. The project acknowledges that there are strong advocates for IPCA from legal and government sectors who were not contacted.

Stakeholders were selected with a view to their expertise and experience of either IPCA or the underlying issues which are often present in these cases. The individuals and agencies come from the community and government sectors and private practice.

Some of the agencies provide general information and referral; others specialist expertise in areas of family law, clinical psychology, general support and counselling, grief and loss counselling, domestic violence and child protection.

The engagement with stakeholders was intended to elicit information and gather the collective wisdom of people working in relevant fields to inform understanding of the nature of IPCA and also, to assist in the development of an appropriate service model. The consultations were reasonably free-flowing with specific questions asked about:

- The extent of knowledge and exposure to IPCA;
- The extent of damage and potential for damage to families and in particular, the children;
- Advice regarding measures which could reduce the trauma and harm to all parties; and
- Suggestions regarding any other steps or initiatives which could have a preventative or alleviating effect.

In approaching a number of agencies seeking their involvement in the project, it was significant that some had direct experience of IPCA; others had none and felt ill-equipped to provide useful assistance; others while having no direct experience, felt able to extend their own expertise in related fields of child and family welfare and were able to provide useful comments. Relevant insights from the stakeholders who agreed to participate are contained in this section.

7.1 State Central Authorities

Each State and Territory in Australia has a central authority in the capital city. Any person seeking information and advice or wishing to make an application for the return of their child, contacts their local Central Authority.

When an application is received by the State or Territory Central Authority, it is sent to the Attorney-General's Department in Canberra which co-ordinates the operation of the Convention in Australia. The Attorney-General's Department sends the application to authorities in the Convention country where the child is believed to be.

Face-to-face interviews were held with personnel from both Victoria and New South Wales State Central Authorities. Phone and email contact was made to the remaining State and Territory Central Authorities to enable their input into the project. A list of Australian Central Authorities is contained in the appendix.

7.1.1 Victoria

The project worker met with three team members of the Victorian Central Authority which is located within Legal Services Branch, Department of Human Services.

The team see their role as receiving applications and helping to prepare cases. All staff are lawyers. It is a purely legal enforcement role although there have been times the team have used resources within the department to evaluate the welfare of a child.

The team members recognise in their positions they are unable to offer much support and assistance beyond the legal work. They have at times referred people to International Social Service and always encourage people to access the Attorney General's website and to utilise the International Child Abduction Guide produced by Attorney-General's Department for parents and practitioners.

There was agreement that there are more mothers abducting and a perception that there is a high correlation with domestic violence. The team, dealing only with Hague Convention cases was unaware of the extent of inquiries or actual cases relating to non- Hague countries. There was general agreement across the team that developing a support service for families affected by IPCA would be beneficial. The team do not often hear the outcome of cases for families; whether the children settle well after the return and whether the abducting parent has further contact.

The Victorian team noted that there is a degree of difference in the way in which the authorities work within the States and Territories.

7.1.2 New South Wales

The project worker had a number of phone conversations with an officer, a lawyer from the New South Wales team and later met with her in the Sydney office.

NSW has consistently the highest number of abduction cases. A disproportionate number of these cases occur in coastal towns, north of Sydney. The profiles of cases also reveal that in the majority of cases the mother has been subjected to domestic violence or abuse.

The officer indicated that her experience suggests that the abducting trend in New South Wales has for some time been custodial mothers wanting to leave Australia and return to country of birth and birth family. The marriage is reasonably often an arranged one. These mothers often have little support in Australia and may have difficulties speaking English. Sometimes the cases further relate to migration issues where the relationship breaks down. Domestic violence is a common feature with Apprehended Violence Orders (AVOs) or Domestic Violence Orders (DVOs)¹⁹ already taken out in the majority cases.

New South Wales' central authority team also refer people to Attorney General's website and to the guide book. They have also made referrals to the Families and Friends of Missing Person's Unit (FFMPU) in Sydney. This service has a qualified counsellor who is experienced with IPCA. (See stakeholder consultations.)

The officer believes a service to assist families affected by the trauma of IPCA would be valuable.

7.1.3 Central Authorities in other States and Territories

The project worker had only brief phone or email contact with the central authorities in other parts of Australia. This contact confirmed that there appeared to be a predominantly legal role performed in the authorities as proscribed. These bodies do make referrals on occasion to advisory services, as they deem appropriate such as Dads Landing Pad in Western Australia, International Social Service Australia. They also refer applicants to the Attorney-General's website and available material. The level of engagement suggests that more could be done to ensure families affected by IPCA are better supported through the ordeal.

¹⁹ AVOs and DVOs are terms used in New South Wales. In Victoria, more commonly called Intervention Orders

7.2 Other Organisations and Individuals

7.2.1 Reunite United Kingdom.

Reunite is a non profit agency in the United Kingdom with the sole charter of providing a specialised support and advice service on International Parental Child Abduction. Reunite has become the informed voice on the subject within the U.K. and the service is also well regarded throughout Europe and many parts of the world. Reunite has 7 staff; some are part time and a couple are voluntary positions. Reunite also conducts research on a consultancy basis.

Reunite provides advice, information and support to parents, family members and guardians who have had a child abducted or who fear child abduction. It also provides advice to parents who may have abducted their child or are considering taking this action.

It is part funded by the Department of Constitutional Affairs, the Foreign Office, Commonwealth Office and the Home Office. It also receives funding for specific projects from charities and trusts as well as raising independent funds.

Reunite's philosophy is that IPCA, whether or not viewed as a criminal offence in particular countries, is wrong. However, acting strictly within the law, Reunite will do all it can to assist parents who may have abducted their child.

The project conducted a phone interview with the CEO who sees Reunite as well placed to assist the abducting parent or family member to come to terms with the fact that the child must be returned. While the service is most often contacted by left behind parents, it is uniquely well-placed to assist the abducting parent in a non-judgemental and supportive way which can assist to diffuse the emotionally charged atmosphere surrounding the family dynamics at this particular time. Reunite is clear that it always acts in the best interests of the child. It firmly believes abduction is never in the best interests of the child, however well intentioned the abducting parent's actions. Reunite uses its accumulated nine years of experience working with families affected by IPCA to help the return take place with minimal disturbance and trauma.

The CEO referred often to her own experience of assisting people as well as specific research undertaken by Reunite which informs best practice. She spoke specifically about preliminary findings of research into the effects of IPCA on children which finds that there is always a level of harm.

The range of emotional and other forms of damage experienced by the child can be varied, the child may experience:

- Insecurity, depression and stress; nervousness and confusion;
- Isolation, powerlessness, hopelessness, intense loneliness;
- Separation from siblings and extended family and friends; parental alienation and anger with left behind parent for not rescuing the child;
- Missing the left behind parent while away, including cases where the child has been told that parent has died; grieving alone, discovering they had been lied to and being dangerously detached on return;
- Suffering loss from losing the abducting parent with whom an attachment has grown as part of a survival need;
- Educational disruption;
- Loss of connection to all that was previously familiar, including in some cases, a language spoken at home;

- Learning to keep secrets and to become manipulative;
- Witnessing violence against a parent;
- Assuming too much responsibility for the abduction; and
- Practicing self-harm.

Often these emotional responses and harmful effects are shared by the left behind parent, the abducting parent, siblings and grandparents.

Reunite recognises that ongoing support is required and that this must extend beyond the resolution brought about by the court proceedings. Post-abduction services in particular must be viewed in terms of all the parties to the abduction who may have an equal need for help in dealing with the issues emanating from the abduction. Abductors may be as much the victims of the abduction as the left behind parent and the child. Reunite does not discriminate.

The CEO spoke of the increase in abductions by primary carers, usually mothers. Reunite now sees more fathers as the left behind parents. She confirmed that with the U.K cases, there is also a strong correlation with domestic violence. The Hague Permanent Bureau is presently commissioning research to examine this link. Reunite will be involved with this.

The CEO believes that as the face of abduction has changed with more women now abducting, there are opportunities for specific community education, targeted at young women at particular stages in their lives. Contact could be made through interest groups and primary care services such as migrant women's groups, health services. General Practitioners could be an effective first line service provider as most people visit their G.P regularly, particularly young women contemplating motherhood. G.Ps do receive some training in relation to identifying family violence. These skills could be developed to provide a greater awareness and understanding of IPCA. Similarly, a well promoted advice line such as Reunite's which provides a level and breadth of advice which Central Authorities cannot provide, is an effective means of getting the message across. Consistently, feedback received by Reunite is that the advice line provides a high standard of advice to parents and professionals. It also allows appropriate referrals to be made.

The CEO also reported that mediation organised by Reunite has a relatively high success rate. Out of twenty cases involved in mediation, ten have resulted in a successful outcome. She believes Reunite has been able to train mediators to fully understand the issues and environment of IPCA. There is a vastly lower success rate with mediators who have not undertaken Reunite training. She also advised that their experience is that mediation is only likely to succeed where both parties are open to mediation. "Mediation under duress" is doomed to fail.

Reunite also undertakes training to understand and educate others about jurisdictions and relevant cultural issues in non-Hague countries. The CEO sees this as critical in contemporary society and relevant given the growing number of abductions involving Non Hague countries. She believes there are many opportunities to better publicise IPCA through travel advice routinely sought or observed by people seeking passports, visas, customs advice, booking travel.

Reunite also provides a list of legal practitioners with expertise in this field. The CEO advised that a situation can quickly deteriorate if parties are given incorrect advice by lawyers or left with false hope or inaccurate surmises of process and likely outcome.

The CEO was extremely enthusiastic and supportive of Australia establishing a similar service to Reunite. There are already strong links established between Reunite and Australia's Central Authority and the cooperation of Reunite throughout the term of this project is further evidence of their willingness to see a similar service established here. She welcomed the opportunity to come to Australia to assist in the early establishment of the service. Alternatively, she supported an Australian employee of the service being seconded to Reunite to learn what needs to be done to set up the service.

7.2.2 Friends and Family of Missing Person's Unit (FFMPU) N.S.W

FFMPU based in Sydney and covering New South Wales, is a non-profit agency which provides counselling, information and support for families of missing persons including left behind parents of children who are abducted by family. The majority of the Unit's work relates to missing persons with mental health issues who may have committed suicide or have been victims of homicide or involved in an accident.

FFMPU has a website and a number of comprehensive publications detailing practical support and advice for people who are a family member or friend of a missing person. FFMPU identified that there is a gap in service provision for people dealing with parental child abduction. As the FFMPU deals with issues of grief and loss, the Unit initially received a couple of calls from counsellors dealing with clients affected by ICPA who were seeking therapeutic assistance.

The project worker spoke with FFMPU's counsellor and reviewed information material and publications produced by the Unit. The counsellor identified that while there is a difference between a person who goes missing with no explanation and leaves no clues as to where they have gone and the loss of a child, taken by one parent, often to a known destination, there are still common emotions and experiences for those left behind. She believes the expertise of the Unit, established four years ago, lends itself well to supporting families affected by IPCA.

The Unit liaises with the Central Authority to ensure services and publications are well informed and relate appropriately to these families. The Unit is only servicing New South Wales and is very supportive of a proposal to establish a national advisory service which could support and link people to appropriate assistance.

7.2.3 Women's Information and Referral (WIRE), Victoria

WIRE, a non-profit agency, provides free information, support and referrals to women across Victoria. WIRE services include a phone support service, a walk-in centre, training, education, and a comprehensive, searchable website. Across these services, WIRE aspires to be recognised for quality and consistency in informing, supporting, knowing and voicing the concerns of Victorian women.

Women contact WIRE seeking information and support about a range of issues. A key focus is on family life and relationships, domestic violence, health and wellbeing and housing and finance.

While WIRE could not quantify the number of inquiries received relating to child abduction or suspected abduction, the Coordinator of the service described the incidence as "common but not regular." The calls come, not only from mothers but also from grandparents who express a sense of loss and powerlessness when grandchildren have been taken by a parent. In most cases, because it is a service for women, the callers are mothers who are victims of abduction by the father. WIRE has also received calls from mothers considering what options are available to them to escape a violent partner, taking the children with them.

WIRE spends time talking through the issues with the person, seeking to explore what the person needs for themselves, to help with the situation. In relation to IPCA cases, WIRE discusses the emotional and support needs and how to assist in addressing practical issues. When a person is in crisis, WIRE will arrange a follow up session. Where legal assistance is required, a referral is made to the Women's Legal Service.

The Co-ordinator advised that the calls relating to IPCA often involve other related issues such as domestic violence, child support and access. There is no specific statistical category for IPCA cases. They are more likely to be logged under the headings of domestic violence, or relating to a legal matter.

The coordinator sees the cases as complex and requiring sensitive handling and expertise. In her experience of the most extreme of these cases, she has dealt with people who utilise their power to remove a child with little regard for the impact on the child and wilful pleasure in causing distress to the other parent. She is aware that these cases are usually fraught. She compared the emotionally charged setting as similar in some cases to where a father, unhappy with access arrangements has resorted to a murder suicide of his children and himself as the ultimate revenge on the mother and his last resort. She believes some features of these cases are similar to IPCA, only the father does not have the option of abduction to another country.

WIRE believes that a specialist advice and referral service would be an advantage for women and other family members affected by ICPC, recognising that specialist support and advice is needed to adequately respond to these cases.

7.2.4 Gatehouse Centre, Melbourne

The Gatehouse Centre, a unit of the public Royal Children's Hospital, provides a range of assessment and treatment services for children when there are concerns of abuse. The inclusion of Gatehouse for consultation purposes does not imply that all children abducted have experienced abuse. However, there is a correlation with emotional abuse and issues of parental deprivation when a child is unable to maintain a relationship with one parent. There is also a co-relation where a parent's reasons for abducting the child, relate to escaping a violent home life.

Gatehouse's multidisciplinary team includes highly skilled social workers, psychologists, a psychotherapist, paediatricians, forensic physicians and an administration team. These professionals work together, providing the following range of services:

- Paediatric medical examinations as required, together with medical consultations to hospital and community doctors;
- Education and training programmes;
- Short and long term counselling for victims of child abuse and their non-offending family members;
- Specialised assessments of all forms of child abuse;
- Group work;
- Court preparation and support and expert evidence;
- Outreach counselling services;
- Research; and
- Advocacy, information and referral to hospital staff, agencies and the community.

The coordinator of the service, spoke of Gatehouse's expertise in diagnosing and identifying appropriate remedial options for children who have experienced abuse. This expertise covers the spectrum of abuse from milder neglect and isolated incidents through to the most severe cases of ongoing emotional, physical and sexual abuse. The Centre takes referrals from anywhere. Gatehouse does not work with offenders or alleged offenders.

The Centre's Intake Duty Officer does occasionally have contact with left behind parents. The coordinator noted that the situation can be extremely volatile. Her understanding is that where abduction has occurred it is usually well planned in advance with the other parent often caught unawares even though, in hindsight, the parent recognises there were warning signs. These are often difficult to read at the time when communication is strained. The left behind parent usually feels powerless and often guilty that steps weren't taken to prevent the abduction occurring. The home life for any left behind sibling is usually chaotic, sad, depressed and dysfunctional.

The lack of contact with one parent, the sense of loss and the dislocation of the family causes acute bereavement, anger, frustration, sadness and depression. The situation leading up to and where abduction occurs is often very volatile. The coordinator emphasised that the post traumatic stress and disorders which usually result need to be recognised and taken seriously. In family violence, the impact on the child is often not acknowledged with claims made that the children were sleeping when the violence occurred. According to the coordinator and the experience of Gatehouse, there is always an impact on the children. These issues if not dealt with as soon as possible after the event and in an ongoing way, almost always lead to an emotionally disturbed adult, with trauma and attachment issues.

Gatehouse offers a wide range of training and education which can be tailored to particular needs. The service offers one to one counselling, family sessions, group processes. The coordinator believes the latter could be particularly relevant to help people know they are not alone, that others have gone through this too.

The coordinator emphasised the level of skill required working in these fields. There are always issues of loss in relation to availability of a parent in the child's formative years and the child's need to unravel and come to terms with identity issues tied up with the parent who is missing in their life. The availability of the parents always has an impact on a child's ability to form basic attachment with people. The developmental needs of the child will differ depending on age and require specialist understanding of how to respond to children of different ages.

The coordinator was very supportive of the proposal to establish an IPCA advice and referral service and saw Gatehouse as an appropriate referral agency. Currently, Gatehouse receives 110-120 referrals per month. There is a four month waiting list so work load issues would need to be addressed if Gatehouse was to play an active role as a specialist referral agency. Gatehouse regularly devises and delivers therapeutic programs over 6-8 weeks, which address a specific need, perhaps a training one.

While open to the idea of parents with experience of IPCA being available to speak to parents going through the ordeal, the coordinator emphasised that there needs to be stringent protocols to ensure the relationship is conducted in a professional manner.

7.2.5 International Social Service, Australian Branch

ISS Australia Branch is located in the Melbourne Office. In the five years the social worker has been with ISS, he has had involvement with a number of abduction cases. He is also involved in his daily work with a range of other child welfare related issues. He manages a number of other cases relating to adoption and tracing, alleged child neglect and abuse.

A common feature of the cases involving IPCA is the torment and pain inflicted on the left behind parent and the abducted child living in limbo, often not attending school nor having contact with other children because of the abducting parent's fear that the child will be discovered. The detrimental impact on some of the children has been extreme as they exist in a long term temporary realm, separated from all that was familiar to them. Some of the abductors moved frequently, moving frequently to different countries. This meant that children never had the opportunity to establish themselves in a new setting and school. A reasonably common theme for many of the children affected was the disengagement from education and peer networks as a result of abduction. Their lives became ones of basically existing rather than thriving as they progressed through the stages of development. Some of the reunion stories were unsuccessful as the children had been separated for too long and had developed serious attachment disorders.

The level of support required to sustain a parent through the ordeal is considerable and must be ongoing. There are often related issues of neglect, family violence and abuse which require specialist skills. A support service for parents and families affected would be very beneficial and such a service and he supported such a service being auspiced by ISS due to its existing international network and experience of IPCA.

7.2.6 Brisbane Domestic Violence Advisory Service (BDVAS)

In seeking involvement of relevant stakeholders, ISS sought agencies outside of Victoria. The project was publicised through peak agencies networks. BDVAS contacted ISS after hearing about the project through the national domestic violence network. Because of the correlation of many cases and family violence, ISS was interested to receive information from domestic violence agencies.

BDVAS is one of the many non-profit domestic violence services throughout Queensland. It covers the Brisbane metropolitan area. It is starting to see more young women. While one position is funded to do half time crisis work, the service attends to whatever needs arise. If a client is in crisis, the service works to provide whatever practical support is required. The service has three workers, each with a caseload of 15 clients. This is managed without a waiting list.

The service offers support and assistance to people experiencing domestic and family violence, including children. Services available include supported accommodation, counselling and support, court assistance, information and referral.

A worker at BDVAS spoke with the project worker to share her service's insights and experience of working with women affected by IPCA. The service has been in operation two years. The worker has had direct experience of cases of IPCA. She spoke particularly about two cases where abductions were averted or quickly resolved with ongoing and intensive care and support from the service.

Both involved non- Hague countries with one potential abduction brewing before the baby was born. The mother had fled back to Australia before the baby was born when after a history of violence, she discovered her husband was arranging to have her name placed on his visa, thus restricting her free movement.

In this case, the woman was cut off from family and friends. She emphasised the emotional vulnerability of women who are subjected to violence and the need to support them in an ongoing way. Their partner will often attempt reconciliation and use persuasive tactics to coerce the woman to return. It is very difficult for an unsupported woman to resist these approaches. Support must be broadly based, including accurate legal advice, practical support and other assistance based on needs. There must be an outreach component as the women are not always mobile and to minimise any other accessibility barriers.

BDVAS provides alongside the case worker, a childcare worker to enable the mother to attend to critical issues. There is no chance of success in these cases unless the support is ongoing and adequate. In effect, the service provided overall case management to ensure legal aid obtained was accurate and timely, all paper work was completed and the woman was supported in court. A pace alert was arranged for the baby and the service assisted the woman to relocate to another State, assisting with housing transfers.

The BDVAS worker recognises that it is an emotionally fraught time and a woman enduring this needs a wholistic support response. Besides the obvious legal needs, the service provided mental health support, financial assistance, parent aid programme support and housing assistance.

The worker estimates that the service provided 85 hours of support through phone contact, outreach and court support. While it sounds a substantial allocation of time, without this support, it is unlikely that the woman would be living a violent-free life in Australia with her child.

In another case, where a father took one child back to his birth country, a non- Hague country, the service was able to move swiftly to assist the mother, using all available avenues to arrange the relatively speedy return of the child. Again, the level of intensive and ongoing support gave the woman the strength to persevere throughout the ordeal. While this woman had greater financial resources than the woman in the previous case and some family support, she still needed emotional support and assistance with safety issues. She was separated from her 2 year old for several months and was severely traumatised by this. The support provided also allowed her to maintain hope.

BDVAS recognises that it must continue supporting these women over the long haul. The range of issues must be addressed. BDVAS is not funded to provide court support but performs this service as it believes it is important. The DV worker establishes rapport and it is important that this is maintained throughout. This enables a much better chance to meet overall needs.

The worker mentioned that where there are specific cross cultural issues, the service works with the Immigrant Women's Support Service.

She was very supportive of a national advisory service which could give advice and make appropriate referrals.

7.2.7 Family Lawyer

The lawyer has represented a number of clients who have been affected by IPCA. She remains very involved with the issue and an active participant in the international network of professionals committed to achieving a higher rate of successful outcomes. She recently appeared in an SBS documentary, Tug of Love, which told the stories of several parents who have experienced abduction of their children. The program included an interview with an adult who discussed the detrimental impact her abduction by her mother had on her childhood and later years.

Her own contact with clients has exposed her to the suffering endured by parents as they face the knowledge they may have little or no contact with a child in the future. She spoke of the welfare of the child and the damage to the child through the denial of access to one parent as key concerns. She shares the concerns of many working in the field that if not handled extremely carefully, these cases result in loss and damage to all parties.

In relation to developing a service, she believes that it is important to achieve the right balance between legal and social considerations when dealing with all parties. She is aware of cases where some family lawyers have not understood the spirit of the convention and have given clients wrong advice due to their inexperience. The provision of accurate information and specialist training for professionals working in this field is vital and could be a component of what is offered by the service.

7.2.8 Clinical Psychologist

The project worker interviewed a clinical psychologist who works in private practice, seeing many clients going through divorce, separation and family conflict often following a court decision in relation to custody. His clinical expertise provided some profiling information on parents who are likely to abduct.

He sees these parents as likely to experience a deep sense of loss and a deep sense of unfairness. If there is an inability to eventually come to terms with the loss, they may wish to inflict the same sense of loss on the former partner who they blame for their predicament. While some former partners may fantasise about inflicting pain and loss, those attempting abduction are less able to inhibit these desires and feel compelled to act them out.

The desire to abduct a child can be motivated by narcissistic attachment and seeing the child as property and an extension of oneself. Anyone going through the experience of abduction or threatened abduction will be feeling extremely threatened and stressed. An experienced psychologist or therapist can provide a safe holding space and alleviate the levels of stress and threat. The adversarial court system with documents and orders being served can exacerbate a person's level of agitation. Family lawyers would benefit from training in the experience of the parent enduring IPCA and learning how to alleviate the sense of threat.

Children and left behind parents who have experienced abduction are likely to develop post traumatic stress. If not treated therapeutically, this is likely to have serious consequences in later life.

The psychologist works one on one with clients and recognises that where a relationship is extremely hostile or irreconcilable, it is possible to use a therapist as the bridge providing a therapeutic space.

He saw value in a service which offers accurate advice, assessment of support needs and appropriate referrals.

7.2.9 Author, Public Speaker and Grandparent affected by IPCA

The project worker spoke with a woman who has had first hand experience of IPCA which prompted her to write a book about the subject, Taken in Contempt. In the course of writing the book, she interviewed many parents, both abductors and left behind parents and several children. The book also contains useful information about what to expect from Central Authorities, the legal process and the approaches different countries take. The book also examined the desperate measures parents will take to get their children back, including re-abducting with the assistance of private investigators.

The author speaks to groups about the experience of IPCA and finds a continued high level of interest in the subject. She brought hindsight to the discussion as she considered what she had learned from researching the subject for her book and her own personal experience of abduction. As with many family members who have experienced IPCA, she expressed her desire to impart any learning she has which could help others facing similar experiences.

In relation to the families affected by IPCA, she saw some common features. Usually, one parent was feeling very isolated often because he or she, (more usually it was the mother), was away from her own family having moved to another country. Cultural differences are often a bigger strain than people recognise. She sees value in any mechanisms to put these people in touch with people from their own country of origin and with shared cultural interests. She feels that their insecurity and isolation is assisted when they can spend time with people possibly experiencing a similar predicament. She mentioned the Ionian Club, an international friendship organisation which welcomes people living in a foreign country. The Ionian Club holds regular meetings and outings including a welfare committee which assists in supporting people who are experiencing homesickness and depression. She recognises that this organisation may appeal to a particular cross section of the community due to the structure and type of activities.

The author also spoke of cultural differences in relation to seeking help. Citizens of some countries find it inappropriate to seek outside help, believing difficulties should remain and be resolved within the family. Special care and effort needs to be taken to work sensitively with these groups.

Any outreach and community education to particular groups such as newly arrived women from overseas would be beneficial. She believes there are warning signs and the more information and discussion about where people can discuss their concerns, the more likely that the suffering by all parties may be alleviated.

She discovered that the experience of IPCA for many was akin to the death of a loved one. The ongoing uncertainty and lack of hope leaves many with post traumatic stress. The emotion most commonly shared by the people she came across while writing the book was anger. There is anger about something which the person feels cannot be resolved. It may be the court decision, a sense that the partner cannot understand what it is like for the other parent. The situation has usually continued on unresolved for a long time, leaving very little chance for reconciliation or satisfactory resolution.

When a parent is caught in this ongoing state of unresolved anger, there is also deep sadness and very often depression. When left untreated, this combination of emotions can be volatile.

She also spoke of the extreme compulsion many parents feel to follow the abducted child in an attempt to have contact and bring them back. This is contrary to advice given by central authorities. She feels some written material and counselling which could be made available to these parents would assist them through what is at times, an unbearable waiting game, coupled with extreme feelings of guilt and powerlessness. This information should be available in a range of languages. It is also important to avoid the use of specialised, technical or abbreviated words. Clear, simple and precise communication must be used to avoid any ambiguity or imprecise messages.

She had dealings with Reunite in the course of her own experience and welcomes the establishment of a similar service in Australia. As a result of her book, she has been contacted by many parents throughout the world seeking support from someone who understands what they are going through.

She believes having parents who have been through IPCA available to speak to people would be a beneficial component of the service. She also emphasises the importance of parents having realistic expectations of likely outcomes and not false hopes.

7.2.10 Dad's Landing Pad, Western Australia

The project worker spoke to the President, Dad's Landing Pad. This organisation is listed in the Central Authorities list of government and non-government agencies which can assist with Hague Convention inquiries. While the website address is no longer operating there were several links to the organisation. One link outlines the purpose of Dad's Landing Pad as:

'To assist fathers and children to quality outings, barbeques, trips away, camps etc., access to lawyers, counselling referrals. Most things regarding fathers and children.'

The organisation has been operating for six years, from the President's living room. It started out as a support group for single fathers and now offers a wide range of support and advice in relation to family law matters, counselling referrals and assisting non custodial fathers to have access to fun outings with their children.

One of its strengths is that it takes a balanced view on matters, believing the interests of the child are paramount. Given its modest operation, it appears to be well known with records revealing it has received 10,000 calls since 2003.

The President explained that it is an unfunded operation. The Attorney General's Department provided funding for the purchase of a phone/fax and photocopier. No other financial assistance is received. An average of 13-16 calls are received per day with a record 520 calls received during January. These calls range across all manner of issues relating to family law. The President estimates he has had direct involvement in 7-8 abduction cases. The work with parents however has probably avoided a number of abductions eventuating. The President emphasised that they are not solely there for fathers and are happy to work with both parents, whatever it takes to achieve a good result for the children. There are times when he needs to enlist the police's help due to violent outbursts and has been involved in cases which have ended in tragedy. He has a list of agencies and specialists he can make referrals to as required.

The service operates a 24 hour call line answering machine. The address is also advertised and people turn up at anytime which the President readily admits can be intrusive as he cares for two young children. It is clear that he is motivated by a sincere desire to help in a balanced way. He believes that his assistance has succeeded in the resolution of many family conflict cases which would have necessitated court involvement. He advocates an approach which avoids confrontation and which aims to resolve matters.

Dads Landing Pad receives calls from around the world and takes referrals from government departments and other authorities. The President has very good rapport with the Federal Police who have been very helpful in assisting, including placing children and partners on watch lists when there was concern that they may leave the country without authority.

He is very supportive of an overarching national referral and advice service. He stressed that it needed to be friendly and cost effective. He believes the involvement of lawyers and high fees are often an added burden and stress which exacerbates the emotional state of some people seeking assistance. He sees this as a strength of Dad's Landing Pad; that the help sought is welcome and there are practical skills and expertise available to assist people to prepare for court proceedings.

7.3 Themes arising from stakeholder consultations

Overall support for a national advice and referral service

There was unanimous support for the establishment of a service providing specialist advice on IPCA and able to make appropriate referrals. It was clear that many of the stakeholders had worthwhile ideas and learning that if channelled through a recognised expert body, such as an advice and referral service, could reap benefits for people affected by IPCA. Their experiences could be put to good use to ensure a continuously improving service and greater quality in the outcomes for affected families.

The project also identified parents willing to be parent advocates or support for parents experiencing the ordeal of IPCA. A service would provide the appropriate coordination and training of parents to provide this support.

Everyone interviewed had a clear belief that we owe it to the children affected by IPCA to establish an effective way of responding to their needs. Several specialists who work with children and parents affected by family conflict, abuse and violence spoke of the serious damage to children when appropriate care and support is not provided promptly and in an ongoing manner. A service could assist in making referrals to appropriate bodies, coordinating the assistance and monitoring cases.

Endorsement for expanding community knowledge through publicity on IPCA and providing targeted community education

Widening the general public's knowledge of IPCA is in the best interests of everyone involved. Because of the correlation with domestic violence, there is often shame and secrecy around these cases which limits the potential for assistance. Greater community knowledge can bring the issue out in the open and counter some of the stereotypical interpretations which may exist about who are the abductors and the reasons for abducting.

We know a great deal about the demographics of abduction so outreach education, targeted to for example, specific cross cultural groups and women's' groups would be of benefit.

Providing specialist training to people and agencies working in the field.

Frequently, stakeholders raised the importance of people receiving accurate advice. When professionals working in the field understand the likely outcomes of an application and the correct steps which need to be taken to act on an abduction or access application, the atmosphere remains calmer.

Similarly, professionals need to understand the volatile nature of IPCA and recognise the triggers and warning signs which indicate a person is not coping, is crying out for help and could resort to desperate measures.

Because it is a largely hidden problem in society and many people affected may feel too disempowered to seek specialist help, ensuring general services are aware of the issue is important. Groups such as general practitioners and maternal and child health nurses are two potential groups.

Providing specialist training is also a way of utilising the learning and experience of many affected by IPCA, both personally and working in the field. This can be an affirming and validating experience.

Training would also enable work between related fields, eg migrant services, domestic violence agencies and other agencies which address the often underlying causes and effects of IPCA. The exchange of learning and experience would be invaluable.

Training would also assist in the identification of early warning signs and alert agencies to better understand what they are potentially dealing with. The experience of Friends and Family of Missing Persons Unit where generalist counsellors approached the unit seeking to find out which kind of therapeutic intervention would assist with abduction cases is further evidence of the need to offer specialist training.

Benefits from an advice and referral service

The stakeholders used a variety of words to describe the kind of service they believed would be most appropriate. The descriptors used help to identify what they feel is presently lacking, or what only a non government agency can provide. Their suggestions imply an understanding of the real value the service can offer. These words came up repeatedly: friendly, non-threatening, safe, affordable, non-judgemental and non-discriminatory, ongoing.

The present assistance provided by the Central Authorities is accurate and helpful, but limited by its legal nature. A government agency is bound by many protocols which limits the degree of freedom in its dealings with members of the public. A non government agency is not bound to operate in quite the same manner. The engagement is immediately less formal as most likely is the setting which immediately alleviates tension. The culture is less legalistic although a level of legal explanation will be provided. The opportunities for a free flowing discussion are greater in this environment where people usually feel less guarded and less intimidated.

The service can offer a range of support, advice and referrals which treat the issues holistically and be able respond to both practical and higher order needs. The benefit of a specialist, authoritative service which is secular and the informed voice on the subject, is that it engenders confidence from the community and individuals seeking help. A service which does not discriminate helps people to feel less judged and in turn, there is potentially more opportunity to establish a relationship of trust.

The creation of the Hague Convention has had a deterrent effect and assisted in providing clear guidelines in the midst of emotional chaos. The establishment of an advice and referral service could also have a deterring impact and alleviate some of the emotional turmoil. It gives the issue prominence and builds a greater capacity for prevention and early intervention in a less confrontational way.

This goes hand in hand with increased community perception and understanding of issues relating to IPCA. If potentially vulnerable groups could receive accurate information and insights into the issues, this is likely to result for many potential cases, in a greater capacity to read the warning signs and act before it is too late.

Many of the people consulted confirmed the damage to children if delay in receiving appropriate treatment. A service would enable prompt identification and referral to appropriate service providers.

The value of research and statistical analysis.

There is currently an absence of rigorous, detailed data collection and analysis which if carried out, would track trends and result in valuable ongoing information.

Increasing the capacity to better understand IPCA and learn from trends, will have many positive flow on effects. There is a great deal of anecdotal evidence which identifies trouble spots in relation to countries, areas of Australia and personal profiles. Detailed statistical analysis will provide meaningful findings which could inform future Government planning and policy. Having an agency which tracks the stories and conducts research, will assist in ensuring the issue makes it onto and remains on the policy agenda. Evidence-based studies would also assist with continuous improvement and quality service targets.

Providing a central, non government authoritative voice on IPCA.

Currently, the Central Authority is the key voice on the issue. The parameters within which government bodies can speak on issues are limited. A non government service through the development of its expertise and reputation becomes the voice of experience and authority on the issue. The community sees this kind of service speaking out on behalf of the user or consumer of the service. Government authorities by their very nature are seen to speaking within the complexity of political and governmental processes.

8. The proposed service

The project provided a timely opportunity to consider current service models which may be applicable to a national IPCA support service. The consultation with stakeholders, the ISS network and many others in the field confirmed the strong need for a support service to support families affected by IPCA. The proposed service will also promote and enhance community awareness of an issue, that given current and projected rates of inter-cultural marriage and relationship breakdown will continue to cause considerable trauma to the many children and families affected by the detrimental consequences of parental abduction.

The proposed service will comprise both advisory and referral components. Referrals will be made to specialist agencies, lawyers and other experienced parents. There will also be an outreach community education and training component and capacity to undertake research and advocacy.

8.1 Auspice agency for the service

In examining auspice options, the various components of working with IPCA cases were considered. The nature of the work involves understanding of legal procedures as they relate to family and international law particularly in relation to the relevant international conventions and instruments. The service would also fit most comfortably within an agency with a charter which relates to international family welfare and the best interests of the child embroiled in inter country conflicts or negotiations.

In considering potential auspices, it was difficult to identify an agency with as much relevance and experience in these areas as International Social Service. There are few agencies with as sufficiently broad international child welfare experience which works to address situations where one party resides in Australia and the other party, anywhere else in the world.

A further unique strength of ISS is that it operates through a worldwide presence in over 140 countries. ISS provides a professional inter-country casework service under the motto of 'bridging families across the world'. The General Secretariat of ISS is based in Geneva and is responsible for the setting of standards, international communications, hosting of annual meetings and resolving issues across countries. This enables an immediate entry into an existing network. There are therefore ample opportunities to work cooperatively across the issue of IPCA and pool resources effectively. There are also accessible opportunities to learn from and contribute to, the international scene of IPCA.

Further, both formally and informally, the relationship that the Australian Central Authority has with the ISS network is well developed and constructive. This was evident in the level of cooperation throughout the project and the ongoing desire to continue working together to achieve a shared goal of providing the best possible support and service to people affected by IPCA.

The core work of ISS relates to child welfare, neglect, custody, abducted and missing children, family tracing, mediation, unaccompanied minors and migration issues. The experience from a local perspective is that the casework has become much more complex and multifaceted as global movements have increased and as family breakdown has become more common. ISS is aware and committed to providing a wholistic service which recognises the complexity and the need to address underlying issues as comprehensively as practical to achieve successful outcomes.

International Social Service (ISS) Australian Branch and the wider ISS global network have been involved with cases of parental abduction and missing children over several decades. Files in the ISS Melbourne and Sydney offices document cases from the 1970s.

It is envisaged that the service will be located in the Melbourne office, which is the coordinating office and where both the Director is located as well as the Council of Management.

8.2 Components of the service

Advisory and referral

The service will provide a telephone advice line specialising in international parental child abduction with a detailed message and emergency number for after hours. Callers to the service advisory line will speak to an appropriately trained staff member with the potential involvement of volunteers for some shifts. The line will be monitored by the specialist counsellor who is on hand to assess callers issues and needs regarding referrals. The counsellor will provide day to day supervision of the calls and train the advisory line staff. The advisory staff will also collate data regarding the calls.

A website will provide detailed information and advice. This will also include a 'question and answer' section to enable people making contact after hours to seek information. The website will be written in clear, simple language. Consideration is to be given to providing the information in other languages and to providing links to other websites. The website will be regularly updated with statistical information, personal stories, research findings and events.

Community Education and Training

This component will provide outreach community education to interested parties. The position will prepare presentation material for delivery to a range of groups, including women's groups, migrant groups, special interest groups. It is envisaged that this position will focus initially on preparing material, proactively seeking speaking opportunities and responding to public interest.

In conjunction with this community education function, there is a capacity to provide specialist training to people working in related fields such as the legal profession, counsellors, child care workers, other community agencies.

Policy, Research and Advocacy

A policy, research and advocacy function is required to complement all aspects of the service. In the first instance, this function will utilise the practical and statistical information received via the advisory line to provide an ongoing monitoring and tracking record to evaluate the service from inception through its establishment. This function will also maintain a watching brief on international and local action and undertake research as required. There will also be an outreach component to engage with relevant agencies particularly academic institutions and government in relation to potential research projects.

The research material will be used for a range of purposes, including building links to government and services, developing a service profile, conducting advocacy and promotional opportunities. It is envisaged that the research and advocacy worker would resource the ISS Executive Director to enable her to do some of the advocacy, promotional and public relations work.

8.3 Staffing requirements

The service will operate under overall management and direction of ISS, Australian Branch. It is envisaged that for the service to work to an effective capacity, a total of 2.6 complementary, full time equivalent (FTE) positions are required.

The 2.6 FTE workforce would be allocated as follows across all aspects of the service:

Advisory and referral

- Specialist counsellor – 1 FTE
- Phone counsellor and data entry – .6 FTE
- (Unpaid volunteering component to provide approximately 1.5 days coverage.)

Community education and training

- Community educator and trainer – .5FTE

Research and advocacy

- Researcher – .5 FTE

It is envisaged that the majority of advocacy which does not already occur through the work of other staff members of the service, will be carried out by the Director, ISS.

8.4 Indicative budget

The cost of the service, including wages, overheads, development of promotional material, training and management and administration is estimated to total \$180 000 per annum.

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Appendices

Central Authorities

If you wish to make an application, enquire about the progress of an application or make a general enquiry about child abduction, contact the Central Authority in your state or territory. Alternatively, you may contact the Commonwealth Central Authority.

Commonwealth

International Family Law Unit
Attorney-General's Department
Canberra
Telephone: 1800 100 480
Facsimile: (02) 6250 5917
E-mail: childabduction@ag.gov.au
Ms Nan Levett
Telephone: (02) 6250 6724

New South Wales

Ms Doreen Muirhead
Department of Community Services
Ashfield
Telephone: (02) 9716 2490
Facsimile: (02) 9716 2988

Queensland

Ms Helen Tooth
Department of Families
Brisbane
Telephone: (07) 3235 9862
Facsimile: (07) 3404 3570

Victoria

Ms Ruth Andrew
Department of Human Services
Melbourne
Telephone: (03) 9616 7777
Facsimile: (03) 9616 7012

Northern Territory

Ms Cheryl Watson
Department of Health and Community Services
Darwin
Telephone: (08) 8999 4789

South Australia

Det Superintendent Peter Woite
Major Crime Investigation Branch
Adelaide
Telephone: (08) 8463 7870
Facsimile: (08) 8231 3905
Ms Lydia Makiv
SA Crown Solicitor's Office
Adelaide
Telephone: (08) 8207 1632
Facsimile: (08) 8207 1794

Tasmania

Mr Simon Allston
Office of Solicitor-General
Hobart
Telephone: (03) 6233 3408
Facsimile: (03) 6233 2510

Western Australia

Missing Persons Bureau
Perth
Telephone: (08) 9492 5471
Facsimile: (08) 9492 5470
Ms Ilse Petersen
WA Crown Solicitor's Office
Telephone: (08) 9264 1888
Facsimile: (08) 9264 1440

Australian Capital Territory

Mr Greg Stagg
Department of Education and Community Services
Canberra
Telephone: (02) 6207 1502
Facsimile: (02) 6207 1501

Countries which are parties to the Convention

The Convention only applies between countries that are parties to the Convention. The Convention is in force between Australia and the following countries:

Argentina	France	Panama
Austria	Georgia	Paraguay
Bahamas	Germany	Peru
Belarus	Greece	Poland
Belgium	Honduras	Portugal
Belize	Hong Kong	Romania
Bermuda	Hungary	Saint Kitts and Nevis
Bosnia and Herzegovina	Iceland	Slovak Republic
Brazil	Ireland	Slovenia
Burkina Faso	Israel	South Africa
Canada	Italy	Spain
Chile	Latvia	Sri Lanka
Colombia	Luxembourg	Sweden
Costa Rica	Macau	Switzerland
Croatia	Macedonia, The Former Yugoslav Republic of	Trinidad and Tobago
Cyprus	Malta	Turkey
Czech Republic	Mauritius	Turkmenistan
Denmark	Mexico	United Kingdom of Great Britain and Northern Ireland
Ecuador	Moldova	United States of America
El Salvador	Monaco	Uruguay
Estonia	Montserrat	Uzbekistan
Fiji	Netherlands	Venezuela
Finland	New Zealand	Yugoslavia, Federal Republic of (Serbia and Montenegro)
	Norway	Zimbabwe

INTERNATIONAL CHILD ABDUCTION NEWS

Hague Convention on the Civil Aspects of International Child Abduction
Statistics as at 31 December 2004

ABDUCTION AND ACCESS APPLICATIONS: BY STATE AND TERRITORY

STATE/ TERRITORY	ABDUCT IN 03/04	ABDUCT OUT 03/04	ABDUCT IN 04/05	ABDUCT OUT 04/05	ACCESS IN 03/04	ACCESS OUT 03/04	ACCESS IN 04/05	ACCESS OUT 04/05
New South Wales	25	27	13	14	7	4	1	1
Queensland	12	27	6	7	3	3	2	1
Victoria	8	13	5	10	5	3		1
Western Australia	5	16	2	2	5	1		3
South Australia	2	1		7	1	1	1	1
Tasmania	3	1						
Northern Territory				1				
ACT	1		1	2				1
TOTAL	56	85	27	43	21	12	4	8

ABDUCTION APPLICATIONS: BY OUTCOME

	IN 03/04	OUT 03/04	IN 04/05	OUT 04/05	Note: 'IN' refers to applications for the return of children removed <u>to</u> Australia 'OUT' refers to applications for the return of children removed <u>from</u> Australia
RETURNED	23	39	3	6	
REJECTED	7	4	2	2	
WITHDRAWN	17	19	6	4	
PENDING	9	23	16	31	
TOTAL	56	85	27	43	

ACCESS APPLICATIONS: BY OUTCOME

	IN 03/04	OUT 03/04	IN 04/05	OUT 04/05
ACCESS ARRANGED	5	6	1	
REJECTED	3	1	1	1
WITHDRAWN	4	2		
PENDING	9	3	2	7
TOTAL	21	12	4	8

ABDUCTION AND ACCESS APPLICATIONS: BY COUNTRY

COUNTRY	ABDUCT IN 03/04	ABDUCT OUT 03/04	ABDUCT IN 04/05	ABDUCT OUT 04/05	ACCESS IN 03/04	ACCESS OUT 03/04	ACCESS IN 04/05	ACCESS OUT 04/05
Argentina				1				
Austria		1						
Belgium								
Brazil		1	1					
Canada	1	2	1	1				
Chile		1		1				
Colombia		1		1				
Croatia								
Cyprus		1			1			
Denmark				1		1		
Fiji		1		1				
Finland	1							
France	1	2	1	1	1			
Germany	1	2				2		1
Greece		1	1	1	1		1	
Hong Kong		1						
Hungary								
Ireland		2						1
Israel				1				
Italy	2	1			2			
Macau				1				
Malta								1
Mauritius		1						
Netherlands	1	1	1	1				1
New Zealand	23	25	12	13	8	4	3	
Norway			1					
Poland		1						
Portugal		2						
Romania	1	1						
Serbia (FYR)								
Slovakia						1		
Slovenia								
South Africa	1	1	2					
Spain		1		1	1			
Sri Lanka				1				
Sweden		1		1				
Switzerland				1	1			
Thailand		1						
Turkey		1						
United Kingdom	8	22	3	12	2	3		3
USA	16	10	4	3	4	1		
Uruguay								1
Venezuela								
TOTAL	56	85	27	43	21	12	4	8

Stakeholders consulted

Author, grandmother of abducted grandchild, Ms. Robin Bowles

Clinical Psychologist, Mr. Steve Osrin

Domestic Violence Advisory Service, Ms. Dayle Merino

Family lawyer, Ms. Sally Nicholes, Middletons

Friends and Family Missing Person's Unit, Ms. Sarah Wayland

Gatehouse Centre, Ms. Karen Hogan

International Social Service, Mr. Prem Manuel

N.S.W Central Authority, Ms. Jeevani Korathota

Victorian Central Authority, Ms. Ruth Andrew, Ms. Leng Phang and Ms. Natalie Weerawardane

Reunite, United Kingdom, Ms. Denise Carter

W.I.R.E, Ms. Samira Douglas

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