

Juin / June 2009



**Groupe de travail sur la médiation dans le cadre du processus de Malte  
Questionnaire**

*établi par le Bureau Permanent*

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**Working Party on Mediation in the Context of the Malta Process  
Questionnaire**

*drawn up by the Permanent Bureau*

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Questionnaire**

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**Identification**

State: **PAKISTAN**  
 Name of contact person: **MR. JUSTICE TASSADUQ HUSSAIN JILLANI**  
 Name of Authority / Office: **SUPREME COURT OF PAKISTAN.**  
 Telephone number: **9212588**  
 E-mail address: **justicejillani@hotmail.com.**

The Permanent Bureau kindly requests responses to the Questionnaire to be sent to < secretariat@hcch.net > by 20 July 2009 at the latest.

<b>I - EXISTING STRUCTURES</b>	
1. Are there existing mediation services / structures in your country for <b>international</b> family disputes involving children?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
2. If so, are the mediation services / structures provided:	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Please specify: 1) <b><u>Section 89-Aof Civil Procedure Code makes room for ADR.</u></b> 2) <b><u>Under Family Laws Ordinance, 1961 a Judge is mandated to resort to mediation before deciding it on merit.</u></b>
b) by NGOs?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Please name them and give details of the services they provide: 1) <b><u>Karachi Centre for Dispute Resolution.</u></b> 2) <b><u>Alternate Dispute Resolution Centre at Lahore.(www.adrcpk.com)</u></b>
3. If there are mediation services / structures in your country for <b>international</b> family disputes, how can parties to such disputes access mediation?	<input type="checkbox"/> The parties can apply to participate in mediation services. <input type="checkbox"/> A referral to mediation by a judicial or administrative authority is possible. <input type="checkbox"/> Other. Please specify: <b><u>It has to be a consensual initiative of both the parties.</u></b>

## II – SCENARIO – CURRENT APPROACH IN NON-HAGUE CONVENTION CASES

How would the following scenario currently be approached in your country?

Parents with shared custody of their minor child split up, and one parent takes the child to your country with the intention of settling there without the permission and contrary to the wishes of the other parent. The left-behind parent would like the child to be returned or to have regular contact with the child. (The Hague Child Abduction Convention is not in force between the States involved.)

<p>1. What course of action would currently be recommended to the left-behind parent in your country (being that to which the child has been taken) in such a situation?</p>	<p>Please specify: <b><u>File a Habeas Petition.</u></b></p>
<p>2. Would your country, being that to which the child has been taken, assist the left-behind parent in any way?</p>	<p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes, by facilitating contact with information-giving bodies</p> <p><input type="checkbox"/> Yes, by referring the left-behind parent to existing mediation services for international family disputes</p> <p><input type="checkbox"/> Yes, by giving legal advice</p> <p><input type="checkbox"/> Yes, by giving practical assistance to the parent</p> <p><input type="checkbox"/> Yes, by taking other measures. Please specify: <b><u>We have signed U.K. – Pakistan Protocol on Family Laws in 2003.</u></b></p>
<p>3. Does a central contact point exist in your country for such cases?</p>	<p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes. Please specify: <b><u>We have a Liaison Judge in the Supreme Court.</u></b></p>
<p>4. Are there NGOs in your country that help parents in such situations?</p>	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Please specify: ..... .....</p>

<p>5. If you were to identify the main problems that the left-behind parent might have to face in your country (being that to which the child has been taken) with her / his wish to have contact with the child / to have the child returned, what would they be?</p>	<p><input checked="" type="checkbox"/> Lack of specific structures for international family disputes</p> <p><input checked="" type="checkbox"/> Inefficiency of existing structures</p> <p><input checked="" type="checkbox"/> Lengthy processes under the existing structures</p> <p><input type="checkbox"/> Language problems</p> <p><input type="checkbox"/> Legal obstacles to agreed solutions</p> <p><input checked="" type="checkbox"/> Problems because of parallel asylum procedures regarding the other parent and child</p> <p><input type="checkbox"/> Difficulties in obtaining information on your legal system</p> <p><input type="checkbox"/> Problems locating the child within your country</p> <p><input checked="" type="checkbox"/> High costs of available mediation services</p> <p><input type="checkbox"/> Other. Please specify: ..... .....</p>
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**III – EXISTING RULES / LEGISLATION ON FAMILY MEDIATION**

<p>Is family mediation regulated in your country?</p>	<p><input type="checkbox"/> No.</p> <p><input type="checkbox"/> Yes, there is general legislation on mediation, which also applies to family mediation. Please specify: <b><u>Section 89-A of Civil Procedure Code.</u></b></p> <p><input type="checkbox"/> Yes, there is specific legislation on family mediation. Please specify: <b><u>Family Courts Ordinance.</u></b></p> <p><input type="checkbox"/> Other. Please specify: ..... .....</p>
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**IV - ADDITIONAL REMARKS**

<p>Further remarks or questions:</p>	<p><b><u>U.K. – Pakistan Protocol on family laws is a good start. It has to be followed by some legislation.</u></b></p>
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Thank you.