

**THE INTERNATIONAL FAMILY JUSTICE JUDICIAL CONFERENCE
FOR COMMON LAW AND COMMONWEALTH JURISDICTIONS 2009**

Cumberland Lodge, England

4-8 August 2009

Jurisdictions Present: Australia, Bangladesh, Canada, Cyprus, England & Wales, Ghana, Hong Kong, India, Indonesia, Irish Republic, Israel, Kenya, Malaysia, Malta, New Zealand, Nigeria, Pakistan, Scotland, Singapore, South Africa, USA, Trinidad & Tobago, Eastern Caribbean States

Number of Judges Present: 42

CONCLUSIONS AND RESOLUTIONS FROM THE CUMBERLAND LODGE CONFERENCE

WHEREAS the Common Law and Commonwealth jurisdictions participating in this conference recognise and value their common legal heritage and wish to sustain the legal culture which unites them

AND WHEREAS the participating jurisdictions recognise and value the importance of this group of states as a group which is not merely regional but global in reach and which, although united by a common legal history, represents a plurality of ethnicities, religions and ideas

AND WHEREAS the participating jurisdictions consider the building of mutual respect between judges as crucially important for the development of International Family Law

AND WHEREAS the participating jurisdictions consider the creation of a Common Law and Commonwealth Judicial Network as complementary to and supportive of the International Hague Network of Judges

AND WHEREAS the participating jurisdictions recognise as a forerunner to this conference the Judicial Conference for Common Law Jurisdictions held in Washington in 2000 and are committed to continuing this process

AND WHEREAS the participating jurisdictions aspire to increase the representation of Common Law and Commonwealth jurisdictions attending future conferences

IT IS RESOLVED THAT:-

1. The participating jurisdictions hold a tri-annual International Family Justice Judicial Conference for Common Law and Commonwealth Jurisdictions and shall ensure that the invitation to this conference is sent to all Common Law and Commonwealth jurisdictions.
2. A Common Law and Commonwealth Judicial Network be established forthwith. All jurisdictions participating in this Conference and those that are subsequently identified as participating in this Conference are encouraged to nominate a Judge or Judges to this Network. The nominated Network Judges and their contact details will be notified to and held at the Office of International Family Justice in London and will be regularly updated.
3. The rapid growth and complexity of cases involving international family and child protection law require the investment of more resources at national, regional and international levels to support judicial training in this area. This is needed in particular to assist judges to become familiar with and to apply consistently the Hague Conventions, as well as other international instruments concerning international child protection. Judges with experience in Hague cases are encouraged to lend their assistance to training programmes for countries which are in the process of implementing the international instruments.
4. Subject to domestic law, the judiciary should take an active role in encouraging the governments of their states to ratify the Hague Convention on the Protection of Children and Co-operation in respect of Inter-Country Adoption (1993) and to promulgate implementing legislation to give effect to the provisions thereof.
5. Being aware of the economic dimensions of inter-country adoption, coupled with the real dangers of improper financial gain, illegal movement and sale of children and other related abuses, these aspects of inter-country adoption cannot be left only to reactive law enforcement but require pro-active awareness and caution.
6. Noting the increasing ratification of the Hague Convention on the Protection of Children and Co-operation in respect of Inter-Country Adoption (1993) by Common Law and Commonwealth countries and the concomitant efforts in member states to implement the

7. When a judge is hearing a Hague Convention Child Abduction return application and the following issues are raised:
 - a. Child's objection to return; and/or
 - b. Grave risk of harm or intolerable situation; and/or
 - c. Settlement of the child in a new environment

in giving the child the opportunity to be heard the judge should consider whether directly to see the child either solely or in combination with other means.

8. Mediation in cross-border child abduction be recognised and supported, subject to proper training of mediators in this specialised field. A register of trained and competent mediators for such cases should be compiled and made readily available to the judiciary in each participating state.
9. Regarding relocation cases, the search for common principles to be applied in the judicial resolution of relocation disputes in the best interests of the children concerned, be pursued both nationally and internationally. Further, participating jurisdictions shall use their best efforts to ensure such disputes are resolved in a timely fashion. In addition, more research and longitudinal studies should be carried out into the impact of relocation decisions on the children and parents concerned, whether relocation is permitted or not (including comparative studies as to the impact of the non-custodial parent's decision to relocate).
10. Participating jurisdictions might consider providing assistance, including legal advice, for left-behind parents (including parents in non-Convention countries) who seek the return of a child abducted to a non-convention jurisdiction. Such an office might be centred in the Ministry of Law and Justice and named The Office of International Co-operation on International Family Law.

11. The conference emphasises the value of direct judicial communications in international child protection cases, as well as the development of international, regional and national judicial networks to support such communications.

12. The Conference has also identified a number of emerging international family law issues that require further study and discussion including international surrogacy arrangements (and also immigration issues in this regard) and transfer of embryos across boundaries, the status and recognition of unmarried relationships and the possible relationship between issues of child relocation and child abduction.