

Professor Marilyn Freeman, PhD

# PARENTAL CHILD ABDUCTION: The Long-Term Effects



5th December 2014



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**Marilyn Freeman**

5th December 2014

## **Abstract**

This small-scale qualitative study was undertaken to investigate the lived experiences of those who were abducted many years earlier. The aim was to learn whether, and how, in the views of the participants, these abductions had affected their lives, and whether such effects had continued long-term. The study is based on personal interviews undertaken by the principal investigator with 34 participants including three sets of abducted children and one set of an abducted child and non-abducted sibling. The interviews took place principally in England and the USA in 2011–2012, with an opportunity for updating by email provided in 2014. The study found that a high proportion of the participants reported suffering very significant effects from their abductions in terms of their mental health, and that these effects were ongoing into their adult lives very many years after the abduction. These findings tend, therefore, to support those from earlier studies about the long-lasting effects of abduction which are emphasised in this project by the direct reporting of the abducted children, as adults, long after the event. The study concludes that, as the effects of abduction can be seriously negative and long-lasting, more must be done to protect children against abduction and its effects. Recommendations are made relating to the prevention of abduction, reunification when abduction occurs, and support for abducted children and their families including where the abducted child is not found, or is not returned to the State of habitual residence, as well as when the child is reunified with the left-behind family.

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## Foreword

The preamble to the Hague Convention on the Civil Aspects of International Child Abduction proudly declares that the States parties are 'firmly convinced that the interests of children are of paramount importance in matters relating to their custody' but then goes on to declare those States' desire 'to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence ...'. The premise is that abduction is so harmful that return to the home country is automatically the right solution for them, save in some very tightly defined exceptional cases.

Yet the evidence of those harmful effects is remarkably sparse, based on studies involving very small samples, often some time ago, and rarely from the perspective of the abducted children themselves.

This study may suffer from the first defect – the sample is small, not randomly selected and to some extent biased towards those likely to have suffered harmful long term effects; the abductions were also long ago, almost all before the Hague Convention came into force, but that is to be expected in a study of the long term effects; and it certainly does not suffer from the third defect – it is a study of the experience of people who were abducted in childhood, some of whom were reunited with their left-behind families, often after a considerable lapse of time, some of whom were not. They have some important stories to tell, from which some important lessons can be learnt.

So we find, for example, that those who were not traced and returned may suffer from feelings of unworthiness that their left behind parent did not try to follow them, as well as feelings of resentment towards that parent; that those who were returned may struggle to find their place within a family structure which has changed and adjusted to their absence while they were away; that even those abducted by a primary carer, whom they may not see as an abductor at all, nevertheless can suffer significant harmful effects.

The requested State is not bound to return the child where there is a 'grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation' (article 13(1)(b)). This is how the Convention seeks to balance the presumed harmful effects of the abduction in all cases against the possible harmful effects of return in the individual case. It is an exception frequently pleaded by abductors and there are many who believe that the courts have applied it too restrictively, particularly in abductions by primary carers who claim that they were fleeing domestic violence and abuse. It would be interesting to know whether the effects of an abduction which the child perceived to be for their own or their carer's protection are different from those in other cases. There were only four such cases in this sample of 30 so no conclusions can be drawn. I feel another research project coming on ...

But the main message from this project, small though it is, is that abducted children need support – effective follow-up and support if they are returned and a safe source of support which they themselves can access (for example through the internet) if they are not. As Professor Freeman says, parental abduction needs to be seen for what it is – a serious matter which can have serious long term consequences for the child and not just one of those unfortunate things which happens in families.

**Brenda Hale**

5th December 2014

# 1. Introduction

This research was undertaken to broaden our current understanding of the long-term effects of parental child abduction. We need to know more about this issue so that we can understand what else, if anything, we need to do to prevent abduction and for children who have been abducted. Very little is known generally about the effects of parental child abduction<sup>1</sup> and the data which do exist are often based on small samples<sup>2</sup> and sometimes in studies undertaken a considerable time ago,<sup>3</sup> when awareness and expectation of the topics being considered may have been very different to those which exist today, or where the research design may have been unlikely to produce detailed information on effects.<sup>4</sup> There is even less data available from the perspective of the abducted, or previously abducted, child.<sup>5</sup>

The 1980 Hague Convention on the Civil Aspects of International Child Abduction (hereafter ‘the Convention’)<sup>6</sup> has proved to be both a popular,<sup>7</sup> as well as an extremely useful, instrument in securing the return of increasing numbers of abducted children<sup>8</sup> to their countries of habitual residence.<sup>9</sup> However, there is no mechanism within the Convention for following up on the outcomes for abducted

- 1 See M. Freeman, ‘The Effects and Consequences of International Child Abduction’, *Family Law Quarterly* Vol 32, No 3 (Fall 1998) pp 603–621 (hereafter *Effects and Consequences*); M. Freeman, ‘Pilot Project into Outcomes for Returned Children’, March 2001, September [2001] *IFL* 1; M. Freeman (2003). *Outcomes for Children Returned Following an Abduction*, September 2003 (hereafter *Outcomes*) which contains the conclusions of the pilot project on pp5/6; M. Freeman (2006) *International Child Abduction: The Effects*, May 2006 (hereafter *The Effects*). For the *Outcomes* and *Effects* reports see [www.reunite.org](http://www.reunite.org) For descriptions see 2:2 below.
- 2 For example Greif, G.L. (2009). ‘The long-term aftermath of child abduction: Two case studies and implications for family therapy’. *American journal of Family Therapy*. 37, 273–286.
- 3 For a review of the then available literature see Janet Chiancone, (2000) *Parental Abduction: A Review of the Literature*, US Department of Justice, Office of Juvenile Justice and Delinquency Prevention 2000, available at <http://www.ncjrs.gov/pdffiles1/ojdp/190074.pdf> A literature review was also included by the author in *Effects and Consequences* fn 1 supra. Also Greif, G.L. (2000). *A parental report on long-term consequences for children of abduction by the other parent* (hereafter *parental report*), *Child Psychiatry & Human Development*, 31, 59–78 which was based on 32 parental reports taken in a telephone interview and a brief mailed questionnaire where Greif found that “a significant minority of the children continue to suffer emotionally and may be having more physical ailments than their peers”, and Greif, G.L. & Bowers, D.T. (2007). ‘Unresolved loss: Issues in working with adults whose sibling was kidnapped years ago’ (hereafter *Unresolved Loss*), *American Journal of Family Therapy*, 35, 203–219.
- 4 For example Finkelhor’s study involved a national telephone survey of 10,544 randomly selected households where harm was calculated by asking the respondent to assess it. Finkelhor, Hotaling and Sedlak, ‘Children Abducted by Family Members; A National Household Survey of Incidence and Episode Characteristics’, 53 *J. Marriage & Fam.* 805 (1990–91) See fn 15 and p. 611, *Effects and Consequences* fn 1 supra where the current author noted the limitations of the findings of this study.
- 5 The author noted this gap in the available research in *Effects and Consequences* fn 1 supra at p606 where she also discussed the reliance for study purposes in some of the earlier research projects on the criminal justice and clinical populations which risked an over-representation in the samples of those for whom the experience was especially traumatic. Agopian conducted a small study of the effects of the abduction on 5 children based on interviews with those children – see M.W. Agopian, ‘The Impact on Children of Abduction by Parents’, 63 *Child Welfare* 511 (1984). Children were included as participants in the author’s 2006 research *The Effects*, fn 1 supra, and Greif undertook interviews with eight previously abducted children as well as three left-behind parents and one stepparent of abducted children who were interviewed, and one with a left-behind parent of children who were not interviewed, as well as a further interview with an abductor of a child who was interviewed. The interviews concerned nine separate abductions – Greif, G.L. (2010). *Family reunification after a lengthy abduction*. Alexandria, VA: National Center for Missing and Exploited Children. See also Greif and Winkelstein Waters, ‘Ambiguous Reunification: A Case Illustration and a Framework for Understanding the Aftermath of Abduction’ (2014) 2 *IFLP* 1, 24–32 at fn 113 below which provides an account of one previously abducted child.
- 6 Convention on the Civil Aspects of International Child Abduction concluded 25 October 1980 which, with related materials, is accessible on the website of the Hague Conference on Private International Law [www.hcch.net](http://www.hcch.net) For full history of the Convention see Hague Conference on Private International Law, Actes et documents de la Quatorzieme session (1980), Tome 111, *Child Abduction* (ISBN 80 12 03616 X, 481 pp). See further 2.3.1 below.
- 7 There are currently 93 Contracting States to the Convention [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=24](http://www.hcch.net/index_en.php?act=conventions.status&cid=24) last visited 3rd October 2014.
- 8 A statistical analysis of applications made under the Convention in 2008 (see fn 9 below) indicated a sharp increase in such applications. These relate only to the use of the Convention and exclude abductions to non-Convention countries, and applications which are made other than through the central authorities which administer the Convention in the respective signatory States, as well as inter-State abductions. The actual numbers of abductions may, therefore, be higher than those contained within the statistical analysis. However, those statistics may be seen as a good indication of the trends in abduction cases.
- 9 “Compared with the 2003 survey, there has been a 45% increase in return applications and a 40% increase in access applications”, A Statistical Analysis of Applications Made in 2008 under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part 1 Global Report (hereafter *Global report*) p5 (The *Global Report* formed Part 1 of the statistical analysis, Part 11 contained the Regional Reports, Part 111 contained the National Reports) drawn up by Professor Nigel Lowe, Cardiff Law School, Preliminary Documents No 8 A, 8B and 8C (update) of November 2011 for the attention of the Special Commission of June 2011 on the practical operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention <http://www.hcch.net/upload/wop/abduct2011pd08ae.pdf> <http://www.hcch.net/upload/wop/abduct2011pd08be.pdf>; <http://www.hcch.net/upload/wop/abduct2011pd08c.pdf> During this period, England and Wales made 158 applications and received 200 applications which is an overall increase of 33% from the number of cases handled in 1999; the USA made 309 applications and received 283 applications. It was in the minority of countries that did not receive a higher number of applications than in 2003. Lowe notes however that the 5% decrease in applications received by the USA since 2003 was still a 14% increase on the number of cases in 1999. It is worth noting that there was a dramatic 202% increase in outgoing applications since 2003 and 87% since 1999 and this overall constituted a 33% increase on applications since 2003. Australia made 86 applications and received 75 applications and, in total, there was a 21% increase on the 2003 figures; New Zealand made 54 applications and received 37 applications. For details of all statistics see *Global report* supra.

children once returned as the purpose of the Convention has been achieved and exhausted by that stage.<sup>10</sup> Sometimes abducted children are not returned. This may be because they are never found, or because the judicial or administrative authorities in the requested State either decide not to return them or fail to enforce the return order that has been made. They are, however, still abducted children, subject to most of the same challenges as those who are returned as well as some others specific to their circumstances of non-return. These may include feelings of unworthiness emanating from their perception of not being important enough to the left-behind parent to fight for.

Many countries are not parties to the Convention and, where abductions occur involving these jurisdictions, the focus is usually on securing good contact between the child and the left-behind parent as it is unfortunately often not possible to do more.<sup>11</sup> Since the return of these children is less likely to happen it is more difficult to find out about the effects of their abduction than in the case of children abducted between signatory States to the Convention. It has therefore been particularly helpful in this research to learn of the effects on some children abducted to non-Convention countries.<sup>12</sup>

Of course, not all abductions are international and many occur within the same country. This is especially relevant in large geographical areas like Australia and the United States where the population tends to move within the different states of the country rather than abroad. In these cases, as with the Convention, the relevant domestic legislation for dealing with such abductions focuses on securing the return of the child and does not usually include any requirement for follow-up.<sup>13</sup> Once again, therefore, information about the child's welfare and the effects of abduction is seldom available.

Although return is the aim of the Convention, and other instruments relating to abducted children, the problems for these children (and their families) are often heightened on their return as they struggle to find their place within their own family structure in their changed circumstances. The reunification itself can be the cause of many problems for abducted children and it appears that the disturbance generated by the reunification has often been a catalyst for the emergence of difficult psychological issues for them relating to their identity and sense of belonging. These are extraordinarily testing times for those involved. Children often have conflicted loyalties having spent a period of time with the abducting parent as their sole support system, only to be returned to a sometimes barely-remembered parent who may be experiencing all types of challenging feelings about what has occurred and who often emotionally expects to get back the child who was taken rather than the older, and 'different', child who has returned. There may also be non-abducted siblings, half-siblings, or step-siblings who feel resentment at the time which has been spent searching for the abducted child, at having been left behind, and at having to fight for attention now that their abducted sibling has been returned. The family composition may have changed since the child was abducted to now include a new step-parent or other siblings for the abducted child to form relationships with. The abducted child may blame the left-behind parent for not finding them, and for deserting them. They may have thought the left-behind parent was dead, and even have grieved for them, so that the person with whom they are now expected to settle down happily is simply a ghost of what they once knew. The left-behind parent may blame the abducted child for not doing enough to find their way home, and may resent the returned child for what seems like an abandonment. These are just some of the examples of what may happen when a child is returned. It is equally possible that the return may be a happy and fulfilling experience for the family, but it appears very unlikely that this will occur without at least some of these issues arising. These families often cope with these alone, without support, and encounter great challenges in so doing.

<sup>10</sup> Article 1.

The objects of the present Convention are:

- a) To secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- b) To ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

<sup>11</sup> "In 2012 alone, more than 634 children were abducted to countries that have not signed the Hague Convention".

Rep. Chris Smith, House of Representatives, Subcommittee on Africa, Global Health, Global Human Rights, and Int'l Orgs. Washington D.C. May 9, 2013. <http://www.gpo.gov/fdsys/pkg/CHRG-113hhrg80801/html/CHRG-113hhrg80801.htm>

See information on The Malta Process on the Hague Conference website which addresses the problems posed by international abduction as well as the better protection of cross-frontier rights of contact between the States involved in that initiative (Algeria, Belgium, Egypt, France, Germany, Italy, Lebanon, Malta, Morocco, the Netherlands, Spain, Sweden, Tunisia and the United Kingdom). See Malhotra, 'To Return or Not to Return: Hague Convention versus Non-Convention Countries', *Journal of Family Law and Practice* (2010) Vol 1.3, 50.

<sup>12</sup> See further 2.3.4 below.

<sup>13</sup> For example, in Australia, a recovery order can authorise a person to find, recover and deliver a child to a parent, a person who has a parenting order that states the child lives with, spends time with or communicates with that person, or a person who has parental responsibility for the child, or can prohibit the person from again removing or taking possession of the children, S67Q Family Law Act 1975. In the USA, The Uniform Child-Custody Jurisdiction and Enforcement Act (1997), 9(1A) U.L.A. 657 (1999). [www.nccusl.org](http://www.nccusl.org) (UCCJEA) was enacted to address interstate parental kidnapping. Massachusetts still uses the UCCJA (Uniform Child Custody Jurisdiction Act) but all other US States have adopted the UCCJEA. There is no requirement in either case for follow-up following the child's return.

In our increasingly mobile world we cannot any longer immunise ourselves against what happens elsewhere in the hope or belief that these things do not affect us personally. They do and they will. These children and these families are part of our global society and our lives even if we do not know them. The impact of their experiences will affect us and we cannot successfully ignore, or turn a blind eye, to them; nor should we. The ripples of abduction bounce without respect for jurisdictional boundaries – the abducted child will grow to become a previously abducted adult who will form relationships and families that could potentially include many of us. Their experiences and their lives will touch and impact on our own. They do not constitute a separate group or society. We are part of each other.

The reasons for currently knowing so little about the effects of child abduction include the acknowledged difficulties in obtaining relevant research samples. Support services are scarce for abduction victims and their families which makes contact with them extremely challenging. The help of Take Root<sup>14</sup> with this research project has thus been extremely valuable as it is one of the very few such support services available for the victims of abduction.<sup>15</sup> I was extremely grateful that some of its members were prepared to participate in research interviews with me in the US. Other participants were recruited through professional contacts, media exposure, and word-of-mouth primarily in the USA and the UK. The information provided in this report therefore comes from 34 in-depth interviews I undertook personally as Principal Investigator (PI). The abductions occurred between 10 – 53 years prior to the interview<sup>16</sup>, and involved 18 different countries including some that are not signatory States to the Convention.

In essence, the experiences of the majority of those interviewed support earlier findings<sup>17</sup> that the effects of abduction can sometimes be seriously negative and long-lasting. The lack of after-care support for abduction victims is keenly felt by them as they seek understanding and validation of their troubled emotions. Many feel undermined by society's mistaken attitudes towards parental abduction. The difference in society's approach to parental abduction and stranger abduction is very marked<sup>18</sup> and tends to be relatively dismissive in cases where the child is taken by a parent rather than a stranger as the experience is somehow considered to not be as bad. However, parental child abduction experiences have sometimes included sexual and physical abuse by the abducting parent and associates,<sup>19</sup> and the child being in constant fear and danger, not knowing how or when it might all end. Being abducted by a stranger is rightfully regarded as a terrible thing to occur and, although abduction by a parent may well be a completely different experience for the child concerned from that suffered by the stranger-abducted child, especially if it occurred for protective reasons, this need not necessarily be so. In some cases, parental abduction may be an experience that is not at all dissimilar to stranger abduction as it too involves being taken away from everything the child is familiar with and being catapulted into an unknown, frightening and dangerous world with a parent who may be unfamiliar to the child, or who becomes different to the person the child had previously known, and where the child's focus is purely on survival. Even where the circumstances are not so extreme, the parentally-abducted child will still have been removed from a home, school, friends, pets, and extended family, and may have been told lies to justify what has happened. Feelings of confusion and concerns about disloyalty often arise in these circumstances which the child has to manage alone together with those feelings of loss and grief which can be expected to be experienced for what has been so abruptly removed from their lives. These issues

<sup>14</sup> Take Root was established in response to a lack of direct services for victims of child abduction when they are no longer missing and its "Support Branch Program provides the first and only ongoing aftercare support program available to victims of child abduction when they are no longer missing" – see "About" on website, [www.takeroot.org](http://www.takeroot.org)

<sup>15</sup> **reunite** began in 1987 as a parent support network, evolving into an information and resource centre. It is the leading UK charity specialising in international parental child abduction and the movement of children across international borders. It operates the only telephone advice line in the UK offering support to those who have had their child abducted and to those who have abducted their child. See further [www.reunite.org](http://www.reunite.org)

<sup>16</sup> The breakdown of the number of interviews for the different categories of time between abduction and interviews is as follows: 10–15 years – 3; 16–20 years – 2; 21–25 years – 5; 26–30 years – 4; 31–35 years – 7; 36–40 years – 4; 41–45 years – 6; 46–50 years – 2; 50+ years – 1.

<sup>17</sup> M. Freeman, *The Effects*. May 2006 [www.reunite.org](http://www.reunite.org) Also Grief, parental report, see fn 3 supra who identified at 70 that these children remain an "at risk" population for emotional and possible physical problems as they enter late adolescence and young adulthood.

<sup>18</sup> "Family abduction lacks society's recognition of its devastating and long-term impact. The public's reaction to family abduction declares that the child is "fine." This is because he or she is with the other parent. They may believe the left behind parent must have deserved to have the child removed or that the matter is "just" a custody dispute between two battling parents. The public's view of abducted children is defined by "stranger" abductions...but evidence clearly shows that the majority of abducted children are taken by family members". California Child Abduction Task Force <http://www.childabductions.org/impact2.html>

Over four-fifths of completed abductions recorded by the police involve a perpetrator known to the victim. Less than one-fifth are committed by a stranger <http://www.childabduction.org.uk/index.php/the-facts> citing Newiss, G. and Traynor, M. (2013) *Taken: a study of child abduction in the UK*. London: PACT and the Child Exploitation and Online Protection Centre.

<sup>19</sup> This was recognised in Janvier, McCormick and Donaldson, 'Parental Kidnapping: A survey of left-behind parents', 41 *Juvenile and Family Court J.* 1–8 (1990) who reported that two-thirds of 101 children whose parents they surveyed were believed to have been physically or sexually abused while on the run, although this is a much higher figure than that suggested by Finkelhor et al's telephone survey at fn 4 supra which placed the estimate at 5%.



and experiences may be exacerbated when a child is returned to the left-behind parent and, when the child survives into adulthood without being returned, sometimes remain active but unresolved. In some cases they drive and inform everything which the previously abducted child is and does, including their future relationships and lives.

These are matters that must be addressed by the international community. These adults are the abducted children we are enjoined to protect by the 1980 Hague Convention.<sup>20</sup> Whether we have done enough to protect them by returning them to where they were previously living is another question but, at least, in these circumstances we know who they are which is a good start to being able to provide them with help and post-abduction support. When they are found and not returned by the requested State we similarly have a chance of being able to offer post-abduction support. When they are not found, and we have no knowledge of who or where they are, we need to consider whether there is any way we could do more for them than leave them to find their own way through their post-abduction maze. Additionally, we must question whether we have done enough to prevent abductions occurring at all.<sup>21</sup> These are matters to which I will return in the conclusions to this report.

## 2. Background

### 2.1 Other life-events causing effects on children

#### 2.1.1 Adoption

Adopted children may feel a whole range of emotions at different times after being adopted including abandonment, loss, grief, identity questioning, lack of self-esteem, anger, depression and lack of trust,<sup>22</sup> as their lives are transplanted from one family setting to another. There are some similarities between the circumstances of adopted and abducted children in that they both leave behind at least part of their families and, although babies may be unaware of the changes, the majority will have to adjust to living within a new familial environment. There are, of course, also fundamental and critical differences between these two groups of children. Abducted children are usually unprepared for what happens to them in an abduction, while adopted children are usually subject to a high level of age-appropriate support, in particular from their adoptive parents who are usually able to put the child's interests before any personal feelings about the child's birth parents and can avoid seizing the opportunity to influence the child negatively against them. This is often not the case with the abducted child whose abductor may feel the need to justify his or her own position by repeated references to the bad behaviour of the left-behind parent, and to form an alliance with the child against that parent. The abducted child may be told that the left-behind parent has lost interest in them, or has died. They may have to deal with those issues by relying on the abductor as their sole support system in this new world into which they have been catapulted. Although a low percentage of adoptions break down<sup>23</sup> the adopted child will have

<sup>20</sup> The preamble to the Convention states the desire of the drafters to protect children internationally from the harmful effects of their wrongful removal or retention. The Convention's Explanatory Report by Professor Perez Vera (hereafter the Perez Vera report) explains at paragraph 24 that the struggle against the great increase in international child abductions must always be inspired by the desire to protect children and should be based upon an interpretation of their true interests. [http://www.hcch.net/index\\_en.php?act=publications.details&pid=2779](http://www.hcch.net/index_en.php?act=publications.details&pid=2779)

<sup>21</sup> Not all abductions can be prevented especially where the abduction occurs against a background of violence or abuse. See M. Freeman, 'Primary Carers and the Hague Child Abduction Convention' [2001] *IFL* 150 (hereafter Primary Carers); Proces-Verbal No 18 (Acts and Documents of the Fourteenth Session of The Hague Conference on Private International Law, Tome 11, Child Abduction, p386, contains discussion about the situation where an abduction was found to be in the child's best interests and not harmful. Also, Bruch, 'Unmet Needs of Domestic Violence Victims and Their Children in Hague Child Abduction Convention Cases' (2004) 38(3) *Fam Law Quarterly*. It is worth remembering that children abducted by primary carers who were interviewed in The Effects sample did not view the event as abduction see The Effects fn 1 supra at p. 62. See further discussion on this point at 4 (p) (i) below.

<sup>22</sup> See *Impact of Adoption on Adopted Persons*. Child Welfare Information Gateway. August 2013. [https://www.childwelfare.gov/pubs/f\\_adimpact.pdf#page=2&view=Postadoption+Issues](https://www.childwelfare.gov/pubs/f_adimpact.pdf#page=2&view=Postadoption+Issues).

<sup>23</sup> It seems that the overall disruption rates are relatively low. See Selwyn, Wijedasa and Meakings (2014). *Beyond the Adoption Order: challenges, interventions and adoption disruption*. University of Bristol School for Policy Studies Hadley Centre for Adoption and Foster Care Studies, which states at pp 5,6 that "[o]ver a 12-year period (2000–2012), using national data on 37,335 adoptions and information supplied by adoption managers on 565 disruptions, the rate of disruption was calculated at 3.2%. The rate was lower than we had expected, but was similar to that reported (3.7%) in one of the few studies that disentangled the proportions of pre and post order disruptions (Randall 2013). The research team has also completed a study of adoption disruption in Wales (Wijedasa and Selwyn 2014) using the same methodology. The disruption rate was similar in both countries. Wales had an adoption disruption rate of 2.6% over an 11 year period."

professional support in coping with the adoption<sup>24</sup> whereas neither the non-returned abducted child nor the abducted child who is returned to the left-behind parent and family will usually have such support. It is here that the sharp differences in societal attitudes towards these events is clearly apparent.

## 2.1.2 Abandonment and institutionalisation

Many children are abandoned, and inevitably suffer effects from this event. A total of 395 minors under the age of 17 were abandoned by parents or guardians in Japan in the three years from March 2011 – March 2014.<sup>25</sup> Babies are being abandoned at such an alarming rate at the Jinan “baby hatch” in China<sup>26</sup> that restrictions have had to be placed on those who will be accepted by the hatch. A recent collaborative book on Romania’s abandoned children,<sup>27</sup> based on the Bucharest Early Intervention Project undertaken by the authors, found that the children were severely impaired in IQ and manifested a variety of social and emotional disorders, as well as changes in brain development.<sup>28</sup> These children were said to have had severe reactive attachment disorder:

“...[A] pathologic and psychiatric diagnosis where an individual person, a child in this case, would be unable to have affectional connection to an adult, to a parent, incapable of exchange of love.”<sup>29</sup>

One of the authors of the study and book, Charles Nelson, a professor of paediatrics at Harvard Medical School and Boston Children’s Hospital, explained how the brain is dependent on experience to develop normally and, when those experiences do not exist, those circuits fail to develop or develop in an atypical fashion, with the result being a mis-wiring of circuits.<sup>30</sup>

Several abducted interviewees in the current research project spoke of their feelings of abandonment, and their inability to connect with family members, as well as difficulties with being in loving relationships. Many of those interviewed spoke of not knowing or understanding what was wrong with them. It may be that abducted children suffer some of the same effects as those identified as relevant to abandoned and institutionalised children. Attention is now focusing on the impact of abandonment and it may be helpful to consider in this context links between this issue and abduction.

## 2.1.3 Abuse

Non-abducted children are often abused by adults, and this may include neglect, physical, sexual or psychological abuse. Although it has been recognised that abduction can in itself be a form of child abuse,<sup>31</sup> it is also possible that abducted children may additionally also suffer one or more of the

<sup>24</sup> For example, the 2013 Select Committee on Adoption Legislation called for greater post adoption support in order to ensure placement stability (para 336). Following this the Adoption Support Fund was launched with funding of £19.3m to pay for therapeutic services such as cognitive therapy, play and music therapy, and intensive family support – helping children recover from their previous experiences, bond with their adoptive families and settle into their new lives. <https://www.gov.uk/government/news/new-193-million-support-fund-for-adoptive-parents>

<sup>25</sup> The Japan Times News <http://www.japantimes.co.jp/news/2014/07/20/national/social-issues/nearly-400-children-abandoned-in-japan-since-2011-survey/#.U9pi3PldUUM>

<sup>26</sup> Opened on 1st June 2014, in just 11 days 106 children, all with disabilities or medical conditions, were left at the Jinan facility, see: <http://edition.cnn.com/2014/06/30/world/asia/china-baby-hatches> the hatch is a small detached room at the side of an orphanage where local parents or guardians can anonymously leave a child. Parents are instructed to leave a date of birth and details of medical conditions. There are 32 hatches across the country, the first having been introduced in 2011 as a response to the less humane ways that were being used to dispose of babies. Baby hatches were first introduced in Europe in Germany in 1999. There are currently around 100 such hatches in Germany, Austria, Belgium, The Czech Republic, Hungary and Italy even though child abandonment is against the law in Europe as legal amendments have been made to protect mothers who use baby hatches.

<sup>27</sup> Nelson, Fox and Zeanah (2014) *Romania’s Abandoned Children: Deprivation, Brain Development, and the Struggle for Recovery*. Harvard University Press

<sup>28</sup> [http://books.google.co.uk/books/p/harvard?q=Google+Search+Inside&vid=ISBN9780674724709&hl=en\\_US&ie=UTF-8&oe=UTF-8&redir\\_esc=y](http://books.google.co.uk/books/p/harvard?q=Google+Search+Inside&vid=ISBN9780674724709&hl=en_US&ie=UTF-8&oe=UTF-8&redir_esc=y)

<sup>29</sup> Per Jane Aronson, physician and founder of the Worldwide Orphans Foundation, The Washington Post [http://www.washingtonpost.com/local/romanian-orphans-subjected-to-deprivation-must-now-deal-with-disfunction/2014/01/30/a9ddea6c-5d13-11e3-be07-006c776266ed\\_story.html](http://www.washingtonpost.com/local/romanian-orphans-subjected-to-deprivation-must-now-deal-with-disfunction/2014/01/30/a9ddea6c-5d13-11e3-be07-006c776266ed_story.html)

<sup>30</sup> See article in Washington Post supra.

<sup>31</sup> See Kreston, *Notre Dame Journal of Law, Ethics & Public Policy*, Vol 15, Issue 2, 1-1.2012 at p533 citing Greif and Hegar, *When Parents Kidnap, The Families Behind the Headlines* (1993); Dorothy Huntington, *Parental Kidnapping: A New Form of Child Abuse*, Address (March 1984), in American Prosecutors Research Institute, *Investigation and Prosecution of Parental Abduction* app. (1995). Also Faulkner, *Parental Child Abduction is Child Abuse*. (1999) [www.prevent-abuse-now.com/unreport.htm](http://www.prevent-abuse-now.com/unreport.htm) cited in Brief for the National Center for Missing and Exploited Children as Amicus Curiae in Support of Petitioner, *Lozano v Alvarez*, Supreme Court of the United States, No. 12-820. For a recent statement relating to abduction being abuse, see Chris Smith, House Republican, in relation to the Sean and David Goldman International Child Abduction Prevention and Return Act which was approved by Congress on 25th July 2014 [http://www.nj.com/monmouth/index.ssf/2014/07/child\\_abduction\\_bill\\_inspired\\_by\\_nj\\_father\\_earns\\_final\\_legislative\\_approval.html](http://www.nj.com/monmouth/index.ssf/2014/07/child_abduction_bill_inspired_by_nj_father_earns_final_legislative_approval.html)

many other forms of child abuse during, or following, the abduction.<sup>32</sup> Lazenbatt<sup>33</sup> states<sup>34</sup> that the experience of maltreatment can have major long-term effects on all aspects of a child's health, growth and intellectual development and mental wellbeing and that it can impair their functioning as adults. Depression, severe anxiety, panic attacks and post-traumatic stress disorder are the most common mental health consequences of abuse<sup>35</sup> and child physical abuse is associated with a wide range of debilitating emotional and behavioural problems that may persist into adulthood and generalize to future relationships, including parent-child relationships. It can lead directly to neurological damage, physical injuries, pain and disability or, in extreme cases, death. It has been linked to aggressive behaviour, emotional and behavioural problems, and educational difficulties in children.<sup>36</sup> Some of these issues are experienced by children who have been abducted but have not been abused (other than any abuse which occurred as a result of the abduction itself) which at least demonstrates the similarities between the effects of abuse and the effects of abduction and lends support to the assertion that abduction per se is, in fact, often a form of abuse. Lazenbatt's statement that, in many cases, child maltreatment has consequences for children, families, and society that last lifetimes<sup>37</sup> is a salutary reminder of the potential significance of the effects of abduction about which we are beginning to learn.

## 2.2 Author's previous studies on the effects of child abduction

In addition to the studies of others, some of which are referred to in the Introduction above, I have undertaken several previous research projects that have provided information about the post-abduction situation for parents and children.

### 2.2.1 Pilot Project Into Outcomes For Returned Children, March 2001<sup>38</sup>

There have long been concerns about what happens to a child on their return to the country of habitual residence and whether undertakings given in the court of the requested State will protect them adequately on their return.<sup>39</sup> This 2001 pilot project, which was based on distributed questionnaires, focused on the maintenance and efficacy of undertakings.

The pilot project's conclusions formed an Information Document at the Fourth Special Commission in March 2001 into the Operation of the 1980 Hague Child Abduction Convention and are re-stated in Outcomes (pp5/6):

"Although the giving of undertakings by the applicant parent is often considered as a token of good faith by the courts of the requested State, the frequent failure to honour such undertakings must call into question whether such an assumption is supportable. The mirroring of such undertakings does not appear to provide any guarantee that they will, in fact, be honoured. Even where undertakings relate to the maintenance of de facto care of a young child by the primary carer parent, evidence exists that such undertakings have been broken, in one case at the airport of the State of habitual residence, where the left-behind parent removed the child from the primary carer parent on arrival, in breach of the recently given undertaking".

<sup>32</sup> A child abducted for protective reasons who may not suffer abuse from the abduction itself is still susceptible to some of the general effects of abduction encountered by other abducted children – see further fn 21 supra and discussion at 4(p) (i) below.

<sup>33</sup> NSPCC Reader in Childhood Studies, Queen's University, Belfast

<sup>34</sup> Research Briefing published by the NSPCC, February 2010. Key findings p2 [http://www.nspcc.org.uk/Inform/research/briefings/impact\\_of\\_abuse\\_on\\_health\\_pdf\\_wdf73369.pdf](http://www.nspcc.org.uk/Inform/research/briefings/impact_of_abuse_on_health_pdf_wdf73369.pdf)

<sup>35</sup> Supra p. 2.

<sup>36</sup> Supra p. 3 citing Finkelhor D. (2008) *Childhood victimization. Violence, crime and abuse in the lives of young people*. Oxford: Oxford University Press.

<sup>37</sup> Supra p5, citing Kendall-Tackett K.A. (2003) *Treating the lifetime health effects of childhood victimization* Kingston, NJ: Civic Research Institute Inc.

<sup>38</sup> Undertaken for the reunite Research Unit [www.reunite.org](http://www.reunite.org)

<sup>39</sup> For a discussion on undertakings, see Schuz, *The Hague Child Abduction Convention, A Critical Analysis*, Hart Publishing 2013 at p. 291 et seq.

This means that undertakings may simply be sophisticated forms of judicial conscience appeasement<sup>40</sup> and that many children are returned subject to undertakings which do not adequately protect them.

### 2.2.2 Outcomes for Children Returned Following An Abduction, September 2003<sup>41</sup>

This project involved 30 interviews with parents relating to 22 individual cases about 33 children. There were no direct interviews with children. Undertakings were given in 12 cases (57.14%) including those relating to the use of violence (given on six occasions and broken on six occasions) and non-removal of the returning child from the care of the returning parent (given on eight occasions and broken on four occasions), and were mirrored in five of these cases. In eight of the 12 cases (66.6%) the undertakings were broken. This led to the research conclusion that the best guarantee of undertakings being honoured was the bona fides of the undertaker.<sup>42</sup> However, this inevitably brought into question the utility of undertakings and whether those with a genuine intention to fulfil undertakings were those who most needed to be regulated by their provisions. Those who do not intend to abide by their undertakings did not appear to be constrained by the mechanism. The research findings underlined the conclusions of the pilot project regarding the lack of protection for children on their return that is apparently offered by undertakings.

### 2.2.3 International Child Abduction – The Effects, May 2006<sup>43</sup>

The data provided by these earlier projects, as well as from other research in this field,<sup>44</sup> revealed that children may be suffering seriously negative effects from their abduction experiences. With support from the Department for Constitutional Affairs, I undertook a specific project investigating the effects of abduction in which 25 out of the original 30 interviewees<sup>45</sup> from the 2003 study agreed to participate. The other five interviews in this project comprised three adults abducted as children, one grandparent of a child in the original sample, and one non-abducted sibling of an abducted child. The study concerned 22 separate cases involving 33 children. Effects on the children were considered from the perspective of the interviewed adults as well as, very rarely, from the perspective of the children concerned through direct interviews with those children.

Seventy-two per cent of the 25 previously interviewed parents thought there had been physical and non-physical effects on the children from the abduction. One left-behind mother graphically described one of the most profound effects that I have encountered while dealing with these cases. She explained the psychological barrier that had been created between the abducted child and the left-behind parent and which surfaced on the child's return because they both knew that they had survived this period of separation and life without each other, and they had now both lost faith in their reciprocal need. Their ongoing relationship was not the same as the one that had preceded the abduction. It was a new relationship and was informed by the knowledge that they could live without each other. That 'forever' quality is not usually present in separations between children and parents which are more often of a temporary and/or consensual nature. In abductions, the circumstances are often very different with an inherent 'forever' quality to the time away which is felt by those involved, and yet the left-behind parent and the abducted child both survive this indeterminate period of time away from each other. This goes to the root of personal relationships. It is an extremely unsettling emotion for those who have experienced it, and is a question mark which hangs over many reformed relationships which follow reunification. How much do I actually mean to you if you can manage to live without me?

The small group of adults who were abducted as children which participated in this study described the effects of abduction on them as lasting. They spoke individually and repeatedly about their confusion, and of feelings of shame, self-hate, loneliness and insecurity which, in their view, emanated from the abduction. They also highlighted the importance to them of research into this subject because they felt grateful that someone wanted to know and understand what they experienced.

<sup>40</sup> M. Freeman, Primary carers fn 21 supra at 146.

<sup>41</sup> Undertaken for the reunite Research Unit. Funded by The Foreign and Commonwealth Office, [www.reunite.org](http://www.reunite.org)

<sup>42</sup> Outcomes, supra, p. 32.

<sup>43</sup> Undertaken for the reunite Research Unit. Funded by the Department for Constitutional Affairs, [www.reunite.org](http://www.reunite.org)

<sup>44</sup> See fns 3, 4 supra.

<sup>45</sup> The original sample in the Outcomes research, see fn 41 supra.

The child interviews were conducted by two members of Cafcass<sup>46</sup> who were experienced in child interviewing. Ten children were interviewed from seven families and they were aged 10 to 18 years at the time of their interview. Four children were aged 4 years and under, five children were aged 5 – 9 years, and one child was aged over 14 years at the time of their abduction. All the children reported being adversely affected in different ways notwithstanding their ages and stages of development. The periods of time spent away for these children ranged from 6 weeks to 14 months, and in one case the child was never returned.

Seventy per cent of these children had been abducted by their mothers. They all described their mother as the primary carer and did not experience her as an abductor. None of the 30% abducted by their father considered him to be their primary carer, and they did tend to see him as an abductor. Abduction was often initially presented to the children as a holiday – when reality set in that this was not the case it came to feel like a betrayal and a deception. This, together with anxiety about the left-behind parent, had long lasting, adverse consequences for all of the children. Even those children who did not see themselves as having been abducted felt angry and confused by the court battle and the insecurity of their living arrangements. Their trust in one of their parents, and sometimes both, was compromised. The children said that they yearned for an end to the ongoing proceedings. They resented being caught up in the adult conflict and did not want to hear negative things about either parent or to feel that they had to defend the other parent. They did not feel that they were taken seriously in terms of the decisions taken about them, or that their views carried much weight. They also found that their return following the abduction could be as upsetting and stressful as the original abduction.<sup>47</sup>

The clear trend in the data to this point was that the effects of abduction might be seriously negative and long-lasting. It was apparent that more specific information was required on the long-term nature of the effects of abduction, including those cases where the child was not returned.

## 2.3 Abduction – The Legal Context

There is a considerable amount of international legal machinery dealing with abduction but all of these instruments face challenges in their implementation.

### 2.3.1 The 1980 Hague Child Abduction Convention<sup>48</sup>

The Convention addresses the situation that existed before its implementation where an abductor often attempted to choose the forum in which the future of the child would be decided in the hope that the outcome would be more favourable to the abductor than a decision of a tribunal in the State of habitual residence. This was described by Professor Perez-Vera in the Convention's explanatory report:<sup>49</sup>

"It frequently happens that the person retaining the child tries to obtain a judicial or administrative decision in the State of refuge, which would legalize the factual situation which he has just brought about. However, if he is uncertain about the way in which the decision will go, he is just as likely to opt for inaction, leaving it up to the dispossessed party to take the initiative. Now, even if the latter acts quickly, that is to say manages to avoid the consolidation through lapse of time of the situation brought about by the removal of the child, the abductor will hold the advantage, since it is he who has chosen the forum in which the case is to be decided, a forum which, in principle, he regards as more favourable to his own claims".<sup>50</sup>

The Convention, which currently has 93 Contracting States,<sup>51</sup> provides for the prompt return of children wrongfully removed or retained in any Contracting State.<sup>52</sup> In spite of the Convention's successful recruitment, there are many gaps in its membership. In 2011, Professor William Duncan<sup>53</sup> spoke about

<sup>46</sup> Child and Family Court Advisory and Support Service – which provides the Court with information and recommendations to help make decisions about children's futures.

<sup>47</sup> See The Child Report, The Effects, p. 55 et seq.

<sup>48</sup> See fn 6 supra.

<sup>49</sup> See fn 20 supra.

<sup>50</sup> Ibid at para 14.

<sup>51</sup> See Hague Conference website [www.hcch.net](http://www.hcch.net) and fn 7 supra.

<sup>52</sup> Art 1 and fn 10 supra.

<sup>53</sup> Former Deputy Secretary General of the Hague Conference on Private International Law.

some of the significant missing countries from the Convention<sup>54</sup> and the fact that “there is a large group of States whose laws are based on or influenced by Shariah law which have not yet decided to join the 1980 Convention.”<sup>55</sup> However, notwithstanding the benefits of membership, it may not be enough to simply encourage more States to join up to the Convention. Schuz commented that, even though at first sight it would seem that the success of the Convention would be enhanced by maximising the number of signatories to it, this view is misconceived because the object of the Convention is undermined by the accession of States that are not committed to the best interests of the child or whose legal systems do not comply with basic standards of natural justice.<sup>56</sup>

Under the Convention the obligation to return the child forthwith is subject to a very limited number of exceptions<sup>57</sup>. These have been the subject of conflicting and inconsistent interpretations by some of the courts deciding abduction cases which presents a challenge to the efficacy of the Convention.<sup>58</sup> Another concern relates the narrow interpretation of the defence provisions which has arisen.<sup>59</sup> Schuz noted that the prevailing restrictive approach to the interpretation of article 13(b)<sup>60</sup> suggests:

“...[T]hat only too often courts have failed to provide adequate protection for children and that their zealotry not to determine the long-term interests of children has also led them to ignore their immediate interests. Whilst undertakings, judicial liaison and other provisional measures appear to provide the optimal solution to the tension between the need to protect the child and the danger of undermining the Convention, these measures are of little value unless courts ensure that they are really effective”.

The topic and appropriate extent of considering best interests under the Convention<sup>61</sup> has received some recent attention in the European Court of Human Rights (ECtHR) where parents in member States of the European Convention on Human Rights<sup>62</sup> have claimed violations of that Convention concerning the

<sup>54</sup> Including the Russian Federation, Japan, India and mainland China. The Convention has since entered into force in the Russian Federation in October 2011; and in Japan in April 2014.

<sup>55</sup> Duncan, ‘Globalisation of The Hague Children’s Conventions with Emphasis on The Child Abduction Convention’, *Oklahoma Law Review* (2011) vol. 63, No. 4, at 608. He commented that it might take time to persuade some countries to move away from concepts like nationality or connecting factors like religion – which in some of the Muslim States is the connecting factor linking the child to a particular legal system – but that the Malta process (see fn 11 supra) offers some hope in this direction.

<sup>56</sup> Schuz, *The Hague Child Abduction Convention*, Hart Publishing (2013) (hereafter Schuz) at p. 14.

<sup>57</sup> Arts 12, 13, 20. For description of art 13(b) see fn 59 below.

<sup>58</sup> See Linda Silberman, ‘The United States Supreme Court’s Hague Abduction Decisions (*Abbott, Chafin, Lozano*): Developing a Global Jurisprudence’ [forthcoming, *UK Journal of Comparative Law*] (hereafter Supreme Court’s Hague Abduction Decisions) at p. 1 citing Linda Silberman, ‘Interpreting the Hague Abduction Convention: In Search of a Global Jurisprudence’, 38 *U.C. Davis L.Rev.* 1049 (2005) which had stressed “the compelling need for a uniform and autonomous interpretation of the Abduction Convention given its structure as a cooperative mechanism among countries for the deterrence and remediation of parental child abduction internationally”. One of the current pressing issues concerns the achievement of concentration of jurisdiction within a limited number of courts to hear Hague Convention cases as, in some countries, there are hundreds of judges able to hear these cases, many of whom will never have heard such a case previously. Such dilution of jurisdiction may tend to result in decisions which resemble the more usual welfare-based child custody approach than the specific requirements of the Hague Convention process. Volume XX of *The Judges’ Newsletter*, Summer-Autumn 2013 is a special focus issue on this matter. Silberman notes that in the US: “Hague cases can come before any one of a vast number of judges, many of whom are not familiar with the Convention and may confront only a single such case in their judicial careers”, Supreme Court’s Hague Abduction Decisions, *Ibid* at pp. 3–4.

<sup>59</sup> The exception in art 13b allows a child’s return to be refused where there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation. There is also an exception in art 13 which relates to a child’s objection to being returned where she has reached an age and degree of maturity at which it is appropriate to take account of her views. There is a wide divergence of practice amongst the Convention’s signatory States as to the age at which it is appropriate to take account of a child’s views and how these views should be ascertained. In England and Wales, there is a general move towards hearing children in the family justice system and the government has recently made the commitment that, from the age of ten, children and young people involved in all family court hearings in England and Wales will have access to judges to make their views and feelings known – see Press Release Friday 25th July 2014, Ministry of Justice <https://www.gov.uk/government/news/children-will-be-seen-and-heard-in-family-courts> (see further fn 111). There have been concerns voiced about the potential for parental alienation in this context (although it has often been referred to as parental alienation syndrome, this has been criticised for its lack of scientific foundation – generally see Bruch, ‘Parental Alienation Syndrome and Parental Alienation: Getting it Wrong in Child Custody Cases’, *Family Law Quarterly*, Vol 35, No 3, Fall 2001, p. 527 et seq) but also see Schuz, fn 56 supra at p. 69, who states that the theory about parental alienation does not take into account that there may be objective reasons for the child’s negative attitude to the left-behind parent and his refusal to return, and argues that the assumption that children always side with the abductor is too simplistic. She cautions against the automatic assumption that the child’s objections to return are not independent as such an assumption renders the child’s objection exception redundant.

<sup>60</sup> Schuz, fn 56 supra at p. 315.

<sup>61</sup> The Convention is not premised on the best interests of the individual child, see para 23 Perez-Vera report which states “the dispositive part of the Convention contains no explicit reference to the interest of the child to the extent of their qualifying the Convention’s stated object, which is to secure the prompt return of children who have been wrongfully removed or retained”. It is, however, premised on the best interests of children. The preamble to the Convention states that the signatory States are “firmly convinced that the interests of children are of paramount importance in matters relating to their custody.” For further discussion, see M. Freeman, ‘In the Best Interests of Internationally Abducted Children? – Plural, Singular, Neither or Both?’ (2002) *IFL* at 77.

<sup>62</sup> 4th November 1950. 47 European countries are parties to the Convention <http://conventions.coe.int/Treaty/Commun/print/ListeTableauCourt.asp?CL=ENG&MA=3> last visited 6th August 2014

child's best interests in abduction decisions which have been made in their cases.<sup>63</sup> This has produced decisions of the ECtHR to the effect that the individual child's best interests were relevant to the Convention's return proceedings. Schuz has warned<sup>64</sup> that, if the ECtHR continues with this approach, a head-on collision between that court and those of the Member States seems inevitable. She urged the ECtHR to be very slow to accept petitions brought by abductors which give them an additional bite of the cherry over those who abduct to non-European countries.

### 2.3.2 Europe and Brussels 11 Revised

The Convention applies differently between those countries which are member States of the European Union as it does between those countries which are not. This is because of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility. This is commonly known as Brussels 11 Revised<sup>65</sup> and modifies the way in which abductions are dealt with within member States as it takes precedence over the Hague Convention between those States<sup>66</sup> in matters governed by it.

Article 11(2) requires a child to be given the opportunity to be heard during the proceedings unless this appears inappropriate having regard to his or her age or degree of maturity. Although this is a welcome recognition of the importance of listening to children in matters which concern their lives, Schuz has noted<sup>67</sup> that the method by which the child should be heard is not regulated by the regulation, the preamble of which states that the regulation is not intended to modify national procedures.<sup>68</sup> She cited one commentator who has highlighted the vulnerable position of the migrant child arising out of divergent child-consultation procedures between the Member States.<sup>69</sup> Brussels 11 Revised further limits the opportunities for a requested State's refusal to return a child, in particular in relation to article 13(b) so that a return may not be refused where it is established that adequate arrangements have been made to secure the protection of the child after his or her return.<sup>70</sup> Where the requested State refuses to return the child its decision is subject to a subsequent judgment of the court of the State of habitual residence which requires the return of the child which will trump that of the requested State in the Hague Convention return proceedings.<sup>71</sup> This subsequent judgment will be recognised and enforceable in the requested State without the need for a declaration of enforceability and without any possibility of opposing its recognition if certified in accordance with the requirements of the regulation.<sup>72</sup>

### 2.3.3 The 1996 Hague Convention

The Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children was concluded on 19<sup>th</sup> October 1996 but entered into force on 1<sup>st</sup> January 2002.<sup>73</sup> There are currently 41 Contracting States to this Convention.<sup>74</sup> Schuz stated that:

<sup>63</sup> See *Neulinger and Shuruk v Switzerland* App No 42615/07 (6 July 2010), and *X v Latvia* App No 27853/09 (13 December 2011).

<sup>64</sup> Schuz fn 56 supra p. 28.

<sup>65</sup> Also known as Brussels 11 bis. It is directly enforceable in each of the EU member states other than Denmark. It came into force on 1st August 2004, applying from 1st March 2005. The Regulation may be viewed at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003R2201:EN:HTML>

<sup>66</sup> Art 60. Bainham and Gilmore note that Brussels 11 bis has largely in practice superseded The Council of Europe instrument, The European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and Restoration of Custody of Children 1980 (The European Convention), *Children The Modern Law*, 4th Edition 2013, Family Law, p264. The European Convention was generally regarded as less successful than the 1980 Hague Child Abduction Convention and, as both the Brussels 11 Regulation and the 1980 Hague Child Abduction Convention take precedence over the application of the European Convention, in practice, severely limit its application – Lowe, Everall and Nicholls, *International Movement of Children, Law Practice and Procedure. Family Law*, 2004 at p400. In relation to England and Wales, see Ss9(b) and 16(4)(c) Child Abduction and Custody Act 1985.

<sup>67</sup> Schuz fn 56 supra p. 22.

<sup>68</sup> Clause 19 states: The hearing of the child plays an important role in the application of this Regulation, although this instrument is not intended to modify national procedures applicable.

<sup>69</sup> G Shannon (2007), The Impact and Application of the Brussels 11 bis Regulation in Ireland in K Boele Woekli and C Gonzalez Beilfuss (eds), *Brussels 11 bis, Its Impact and Application in the Members States* (n119) 157.

<sup>70</sup> Art 11(4).

<sup>71</sup> Art 11(8).

<sup>72</sup> Art 42(1).

<sup>73</sup> It came into force in England and Wales on 1st November 2012 not having been ratified by this jurisdiction until that year. Further see *The 1996 Hague Convention on the Protection of Children*, Lowe, N. and Nicholls, M. Family Law, Jordans Publishing Limited (2012) and M. Freeman *Australian Journal of Family Law*, (2013) 27 AJFL 276

<sup>74</sup> [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=70](http://www.hcch.net/index_en.php?act=conventions.status&cid=70) last visited 7.10.14

It is difficult to conceive of any reason why a left-behind parent would choose to invoke the Protection Convention instead of the Abduction Convention as a means of recovering a child who has been abducted. Firstly, this possibility will only exist where there has been a breach of a pre-existing custody order, which he then seeks to enforce. Secondly, the Protection Convention does not provide for the expedited treatment of cases and so this is likely to be a slower procedure. Thirdly, there is no provision for legal aid under the Protection Convention as there is under the Abduction Convention.<sup>75</sup>

She discussed the ways in which the 1996 Convention may assist in operating the 1980 Convention,<sup>76</sup> but fairly criticised the situation arising where there are conflicting decisions from the requested and requesting States which do not seem to be prevented by the 1996 Convention.<sup>77</sup>

### 2.3.4 Non-Convention countries

There are countries which are not parties to any of the above international instruments and where, as noted by Bainham and Gilmore,<sup>78</sup> the prospects for recovery of abducted children may be bleak.<sup>79</sup> A left-behind parent has very few options in such cases. There may be a possibility of extradition if a treaty exists between the two relevant jurisdictions, but the likelihood is that the left-behind parent may need to seek civil remedies in a country where he or she does not speak the language, where legal aid is not available, and where the domestic law militates against the possibilities of the child's return. The immense difficulties in this course of action speak for themselves and have prompted attempts at re-abduction by left-behind parents who feel there are no other realistic choices available to them.

### 2.3.5 The links between relocation and abduction in legal decision-making

The 2012 Hague Conference Special Commission on the Child Abduction Convention debated whether work should be undertaken by the Hague Conference into the possible harmonisation of relocation law between the signatory States to the Convention. It was ultimately not felt to be within the remit of the Hague Conference to do so, but the fact of its debate was clear recognition of the links between relocation and abduction.

Abduction and relocation have been called two sides of the same coin.<sup>80</sup> There has been considerable recent focus on relocation,<sup>81</sup> including its links with abduction, and whether a liberal or restrictive relocation regime is more or less likely to encourage abductions.<sup>82</sup> Additional issues concern the impact

<sup>75</sup> Schuz, fn 56 supra, at p. 30 citing N Lowe, 'The 1996 Hague Convention on the Protection of Children – a Fresh Appraisal' (2002) 14 *Child and Family Law Quarterly* 191, 205.

<sup>76</sup> E.g. undertakings will count as urgent measures under art 11 and will be enforceable in the requesting State but note the view that such undertakings may not be enough to protect against domestic violence, M. Weiner, 'International Child Abduction and the Escape from Domestic Violence' (2000) 69 *Fordham Law Review*, 593 at pp. 685–86.

<sup>77</sup> See further Lowe and Nicholls, (2012) fn 73 supra at pp. 102–103, where the likely application of Art 23(2) is explained in relation to the possibility of non-recognition of a pre-existing custody order in the state of habitual residence, but where the problematic possibility of a custody order by the home jurisdiction made subsequent to the non-return order under the Convention is discussed, citing Nygh 'The New Hague Child Protection Convention' (1997) 11 *Int Jo of Law, Policy and the Family* 344 at 349 where he said that there is nothing to stop the left-behind parent from seeking an appropriate order in the 'home' court and seeking to enforce it under the 1996 Convention.

<sup>78</sup> See fn 66 supra.

<sup>79</sup> Ibid at 291. The approach of the courts of England and Wales is that the issue of return in non-Convention cases is based on the welfare of the child principle, but see *re E (Abduction: Non-Convention Country)* [1999] 2 FLR 642 which held that welfare is subject to the child's cultural background. N.B. Some influence may exist in The United Nations Convention on the Rights of the Child 1989 which "has achieved almost universal ratification with the exception of Somalia, South Sudan, and the United States" – see Lundy, Kilkelly, Byrne and Kang, *The UN Convention on the Rights of the Child: a study of legal implementation in 12 countries conducted on behalf of UNICEF* (2012) at p. 15. The authors stated at p. 17 that the ways in which the CRC is given legal effect is highly contingent upon the constitutional and legal systems of individual countries. Schuz noted that "courts will generally try to interpret the Abduction Convention in a way which is compatible with their Government's international obligations under the CRC", see Schuz fn 56 supra at p. 33. It could optimistically be suggested that the same general inclination might be evident where the State from which return of the child is being sought is not a party to the Convention but is a party to the CRC. However, Bainham and Gilmore's observation is a more realistic assessment of the situation.

<sup>80</sup> See *G (Children)* [2010] EWCA Civ 1232 at para 12.

<sup>81</sup> In particular four qualitative studies: Freeman, M. (2009, July). *Relocation: The reunite research*. Research report. London: Research Unit of the Reunite International Child Abduction Centre; Taylor, N.J., Gollop, M., & Henaghan, R.M. (2010). *Relocation following parental separation: The welfare and best interests of children* (Research Report to the New Zealand Law Foundation). University of Otago, Dunedin: Centre for Research on Children and Families and Faculty of Law; Parkinson, P., Cashmore, J., & Single J. (2010). 'The need for reality testing in relocation disputes'. *Family Law Quarterly*, 44(1), 1–34; Behrens, J., Smyth, B., & Kaspiew, R. (2009). 'Australian family law court decisions on relocation: Dynamics in parents' relationships across time'. *Australian Journal of Family Law*, 23(3), 222–246.

<sup>82</sup> See M. Freeman, 'International Family Mobility, Relocation and Abduction: Links and Lessons' (2013) *IFL* 41; 'Abduction and Relocation: Links and Messages' (2013) 1 *IFLPP* 1, 99; 'Abduction and Relocation: Links and Messages', *Children Australia, A Special Issue on International Family Mobility (and the Broader Family Law Context)* 38 (2013) 143–148.



of an abduction on a subsequent application for relocation, and the use of conditions or undertakings to secure a child's return to the state of habitual residence following an abduction. Schuz referred<sup>83</sup> to my previous research showing that such undertakings were often broken.<sup>84</sup> and stated that the need for reality testing, which is a key finding of the relocation research,<sup>85</sup> is equally important in abduction cases where there is a potential risk of harm to the child. She concluded by urging left-behind parents to set aside their anger and reality test the various options for themselves and their children of the abduction litigation followed by relocation litigation and to "be sure that there is no other option which better promotes the long-term welfare of their children."<sup>86</sup>

As seen above, there is considerable international machinery for dealing with the return of abducted children<sup>87</sup> but there are challenges in each instrument's operation which impact on those subject to their provisions. Regarding the effects of abduction, however, the legal process only represents a part of the story for abducted children who may suffer effects from the abduction and/or return in addition to any effects emanating from the legal process. Additionally, not all abducted children are found, or are returned through judicial or administrative processes, or at all, and the effects they may experience are outside of those associated with the legal machinery regulating return.

### 3. Methodology<sup>88</sup>

This was a small-scale qualitative study to find out about the lived experiences of those who had been through an abduction many years earlier, and to learn whether, and how, the participants felt that the abduction had affected their lives, and if those effects had continued long-term.

#### 3.1 Sample

The sample was recruited primarily in the USA and UK although initial discussions with potential participants took place in other countries including South Africa and Spain. The sample was acquired through personal and professional contacts working in the field,<sup>89</sup> word of mouth, and via the assistance of Take Root, an organisation for previously abducted children, funded by the U.S. Department of Justice and located in Washington State.

Thirty-four adults participated in the study – 33 had been previously abducted as children, and one was the non-abducted sibling of an abducted child participating in the research. Each participant was interviewed by the author as Principal Investigator (PI) during the period 2011–2012 with an opportunity provided to each participant to update the PI by email in July 2014 (see below). Some of these interviews concerned the same abduction: one set of interviews was undertaken with the previously abducted child and a non-abducted sibling; and there were also three sets of abducted siblings interviewed. Therefore, eight of the interviews concerned four abduction incidents, and the sample of 34 interviews related to 30 separate incidents of abduction.

The difficulties in obtaining an empirical research sample in the abduction field are well recognised. Where the abduction occurred many years ago these problems become even more acute as those concerned are dispersed around the world, almost always without any form of cohesive association through which contact might be more feasible. Several leads were followed by the PI with previously abducted people (or those who knew them) who had expressed interest in the research but felt reluctant to become involved for understandable reasons such as the undesirability of stirring up uncomfortable

<sup>83</sup> Schuz fn 56 supra at p. 88.

<sup>84</sup> Outcomes, 2.2.2 supra.

<sup>85</sup> See Parkinson, Cashmore and Single, 'The Need for Reality Testing in Relocation Cases' (2010) 44 *Family Law Quarterly* at p. 34.

<sup>86</sup> Schuz fn 56 supra at p. 90.

<sup>87</sup> NB there are other instruments not discussed here which also deal with the return of abducted children, e.g. The Inter-American Convention on the International Return of Children to which 14 States from the Americas are parties (including Bolivia and Antigua & Barbuda) which are not yet Parties to the 1980 Hague Child Abduction Convention. There are also many bilateral agreements in force between various States.

<sup>88</sup> The proposed methodology was reviewed and approved by the Research Ethics Review Panel of the Faculty of Law, Governance and International Relations, London Metropolitan University.

<sup>89</sup> Information packs with background information and stamped addressed envelopes were distributed to lawyers and various professional organisations known to be working in the abduction field, inviting them to pass on the information to anyone who might be interested in participating. Notices about the research which invited contact with the PI were uploaded onto the websites of relevant organisations including the BBC after a radio interview with the PI.

emotions they often did not fully understand. These people did not go on to become part of the sample in this study.

Due to the large geographical nature of countries like the United States and Australia, it is likely that many abductions occur within the composite parts of the country rather than involving an international dimension.<sup>90</sup> Although there may be some differences, the children subject to such inter-state abductions are likely to experience many of the same effects and consequences as children abducted to different countries. For this reason, it was decided that the research sample should include both domestic and international abduction cases since the study is aimed at exploring the effects of all types of parental abduction on children.

The modest use of percentages in various places in the findings section of this report is to help illustrate the number of participants affected by particular issues. However, the research is qualitative and the findings are therefore not suggested to be generalisable.

One of the key aims of the research was to ascertain the existence and degree of effects reported by the interviewees which, in their opinion, were associated with their abduction.

For analytical purposes, the following classification system was used:

- (a) "Very significant effects" are those where the interviewee reported:
  - (i) Attempting to see, seeing, or having seen a counsellor, therapist, psychologist, psychiatrist or similar; or
  - (ii) being diagnosed with a condition like post-traumatic stress; or
  - (iii) having suffered a psychotic episode or breakdown; or
  - (iv) having been admitted to a hospital or other institution with mental health issues; or
  - (v) having suffered depression or attempted suicide.
- (b) "Effects" are those which do not fall into the above classification, but where the interviewee reported other effects such as having problems with:
  - (i) trust in relationships; or
  - (ii) lack of self-worth; or
  - (iii) fear of abandonment; or
  - (iii) panic attacks.
- (c) "No real effects" are where the interviewee reported having had:
  - (i) minimal; or
  - (ii) no effects from the abduction.

## 3.2 Interviews

A semi-structured interview format was used by the PI. Informed consent forms were provided to, discussed with, and signed by the interviewees. Permission was sought, and given in all cases, for the interviews to be recorded and the PI also took notes, again with the consent of the interviewees. Each interview took from 2–4 hours depending on the needs and circumstances of the interviewee. The 20 interviews arranged through Take Root took place in Oregon, USA over a period of two weeks in September 2011. The remaining 14 interviews were principally conducted in England between 2011–2012 at a range of places, including the homes of the interviewees and the university's London premises. Some interviewees provided additional information by email following the interview, and there was an opportunity offered to all participants by email for follow-up in July 2014. There were 13 responses to the July 2014 follow-up opportunity, and all updates were included in the data analysis by the PI.

<sup>90</sup> 60% of the interviews with Take Root members were inter-state abductions, the remaining 40% were international abductions.

### 3.3 Clinical follow-up

To comply with Take Root's guidelines relating to participation in research, the interviewees who were members of this organisation participated in a follow-up session with its clinical psychologist after the interview with the PI. All other interviewees were provided with information regarding appropriate resources and services they could consult should they consider this necessary.

### 3.4 Data analysis and publication

The interview recordings and PI's notes were transcribed following the interviews. The PI then undertook a thematic analysis, coding the data according to the issues and themes that had either informed the research questions or had emerged from the transcripts.

The research report was written by the PI. Where thought necessary, some characteristics of the research participants may have been deliberately changed in parts of the report in order to obscure the identity of the interviewee.

Copies of the report will be distributed to all interviewees. The report will also be published on the website and in the journal of the International Centre for Family Law Policy and Practice (ICFLPP)<sup>91</sup> and will be disseminated to all interested parties including Take Root and those on the extensive domestic and international mailing list of the ICFLPP.

## 4. Findings

### (a) Parents from different countries

In this sample nearly 57%<sup>92</sup> of the abduction cases were from families where the parents were from different countries. Twenty of the interviews (59%) concerned abductions where the parents of the abducted child were from different countries (including the three sets of abducted siblings)<sup>93</sup>. The remaining 14 interviews concerned abductions where the parents of the abducted child were from the same country (including that of the abducted child and non-abducted sibling). In one case where the parents were from the same country, the heritage of one of the parents was from a different country. In this case, it was not the parent with a different heritage who abducted the child. The findings suggest a possible link between the abduction and the fact that the parents of an abducted child have a strong connection with another country but it cannot be asserted with any certainty from this finding that the fact that parents do not come from the same country of origin is a key indicator in the abduction.

### (b) International or domestic abductions

Fifteen of the interviews related to domestic or non-international abductions, the remaining 19 related to international abductions. Thirteen of the non-international abductions occurred within the USA. The other two involved France and Greece respectively. The international abductions from the USA were reported as follows by the interviewees: three went to Canada (and in one case onwards around the world afterwards); two to Scotland; one to Croatia; one to Mexico; and one to England. In addition, there was one from Canada to England; one from Argentina to the USA; one from Norway to the USA; one from France to the USA; one from Greece to England; two from England to Yugoslavia; one from England to Ireland and subsequently France; two from England to Jordan; and one from England to Nigeria. Neither Jordan nor Nigeria are parties to the 1980 Hague Convention. No conclusions can be drawn from these findings.

<sup>91</sup> <http://www.famlawandpractice.com>; <http://www.famlawandpractice.com/journals/journal.htm>

<sup>92</sup> 56.6%. Statistic calculated on the basis of the 17 cases where parents were from different countries out of a total of 30 separate cases.

<sup>93</sup> Twenty interviewees out of the total sample of 34 interviewees reported parents from different countries representing 58.82% of the interview sample.

**(c) Pre-Abduction domestic violence**

Eighteen (53%) of the interviewees discussed the intra-familial violence they observed or experienced before their abduction.<sup>94</sup> In 14 of these interviews the violence was solely between the parents,<sup>95</sup> but in four the violence was against the child as well as between the parents. The violence was sometimes physical and at other times was described as “mental” or “emotional” violence.<sup>96</sup> Some of these incidents of violence relate to accounts relayed to the abducted child by the abducting parent, which they had to choose whether or not to believe, while others are direct accounts of the violence or abuse from the interviewee’s own experience. In the four cases where the violence or abuse was reported to be against the child, the perpetrator was the abductor in two cases, and the left-behind parent in two cases.

Although this finding indicates an unacceptably high level of pre-abduction familial violence, once again it is difficult to definitively link the incidence of this circumstance to the occurrence of abduction.

**(d) Identity and status of the abductor**

Nineteen (56%) of the interviews concerned abductions by fathers, while the remaining 15 (44%) were by mothers. In relation to the number of separate abduction cases involved in this sample, 55% were by fathers, and 45% were by mothers.<sup>97</sup> Thirteen of the interviewees labelled the mother abductors in their cases as either the primary carer or joint primary carer (this included one set of interviews with an abducted child and non-abducted sibling), and three interviewees labelled their father abductors as joint primary carers. The remaining interviewees labelled their abductors as non-primary carers. Therefore, a high proportion (86.6%) of interviews concerning abductions by mothers were by reported primary carers or joint primary carers,<sup>98</sup> and a low proportion (15.78%) of interviews concerning abductions by fathers were by reported joint primary carers, with none being by reported primary carers.<sup>99</sup> As the abductions in the present sample occurred between 10–53 years before the date of the research interview in 2011–2012, it is interesting to note that a higher proportion of father abductions were reported than is currently the case.<sup>100</sup> While the number of cases where the abductor was reported to be the father was high in relation to the now generally accepted trend,<sup>101</sup> the proportion of primary carer abductions in those cases reported by the interviewees where the mother was the abductor is consistent with that trend.<sup>102</sup>

**(e) Reasons for the abduction**

In line with previous findings,<sup>103</sup> many reasons for the abduction (other than the protective reasons already discussed above) were provided by the interviewees. These included:

- Preventing the child from living with the other parent;

<sup>94</sup> These included two sets of abducted siblings, therefore this represents 16 separate cases. However, on the basis that siblings may not have the same recollection of events it is, in the author’s opinion, valid and necessary to treat the interviews as separate and distinct accounts of their experiences and the statistic has been calculated on this basis.

<sup>95</sup> The harm caused to children by overhearing or witnessing violence between adults is well documented, and has been reflected in s31(9) Children Act 1989 which now states that harm means ill-treatment or the impairment of health or development including, for example, impairment from seeing or hearing the ill-treatment of another.

<sup>96</sup> Note that In March 2013, a new definition of domestic violence was introduced by the UK Home Office: Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass but is not limited to the following types of abuse: psychological, physical, sexual, financial and emotional. Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour. Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish or frighten their victim. This definition, which is not a legal definition, includes so-called ‘honour’ based violence, female genital mutilation (FGM) and forced marriage, and is clear that victims are not confined to one gender or ethnic group. See: New government domestic violence and abuse definition. *Home Office Circular* 003/2013 <https://www.gov.uk/government/publications/new-government-domestic-violence-and-abuse-definition>

<sup>97</sup> Statistic based on 16.5 of 30 cases where abductions were by fathers, and 13.5 cases where abductions were by mothers. The reason for the 0.5 fraction is that, in one set of abducted siblings, each sibling viewed the abduction differently, one seeing the abduction as having been undertaken by the father, and the other seeing the abduction as a subsequent taking by the mother.

<sup>98</sup> Statistic based on 13 out of 15 reported cases of mother abductions

<sup>99</sup> Statistic based on 3 out of 19 reported father abductions

<sup>100</sup> See Global Report supra at para 42: “[in 2008] 28% [of the taking persons] were fathers, compared with 29% in 2003”.

<sup>101</sup> See The Effects report at p9 where 68.18% of sample involved abductions by mothers. Also see Global Report fn 9 supra, para 12, “69% of taking person were mothers, a figure that has stayed virtually constant throughout past surveys at 68% in 2003 and 69% in 1999.”

<sup>102</sup> See Global Report supra at para 47: “Overall therefore, 72% of taking persons were the child’s primary or joint primary carer compared with 68% in 2003.”

<sup>103</sup> See Outcomes 2.2.1 supra at p. 23.

- Jealousy of the step-father;
- Dislike of the way of life in which the other parent was raising the child;
- Cultural pressures on parental separation;
- Saving face with the abductor's family after being left by the other parent;
- Control of the other parent;
- Wanting to leave the other parent but not wanting to leave the child;
- Anger or shame about the other parent initiating the separation;
- Possessiveness, and parental alienation of child against the other parent;
- "Rectifying" a custody decision or in anticipation of an unfavourable custody decision.

Unsurprisingly, the reasons for the abduction did not appear to affect the effects suffered by the child.<sup>104</sup>

**(f) Protective abduction**

Four interviewees considered that the primary or joint primary carer abduction could have been for protective reasons. Three of these interviewees described the abduction by the primary carer or joint primary carer parent (two were mothers, one was a father) as possibly being for protective reasons towards the child. In the other interview, the interviewee described the abduction by the primary carer mother as being to protect the mother from further abuse.

**(g) Age of the abducted child**

The majority of the study participants (24; 70%) reported being abducted as children between 2–8 years of age, with 12 (35%) of them being in the range of 2–4 years, and 12 (35%) being in the range of 5–8 years. Five (15%) were abducted when they were aged 9–11 years and four (12%) when they were aged 0–2 years. Only one participant (3%) reported being abducted when they were over 12 years of age.<sup>105</sup>

**(h) Length of time away**

The time span between abduction and reunification with the left-behind parent ranged in length from a few days to 42 years. Reunification meant that either the abducted child returned to live with the left-behind parent (17) or just became reacquainted with them (15). Two interviewees (6%) were never reunified.

**(i) The operation of the 1980 Hague Convention**

In one of the international cases, Hague Convention proceedings took place under which the child was returned to the State of habitual residence from which leave to remove was subsequently lawfully obtained. In another case where the countries were parties to the Convention it was not clear whether the Convention was invoked (as it was understandably difficult for interviewees to specifically recall, or indeed identify, whether the court proceedings in question were Hague proceedings or other types of legal processes) but the abductor absconded with the abducted child before a court hearing was held. In the remainder of the international abductions, either the abduction took place before the Convention was promulgated, or the Convention was not yet operational in the relevant jurisdictions, or the countries concerned were not parties to the Convention. It is a matter of conjecture whether the existence and operation of the Convention would have made any difference to the length of time away, and/or to the effects of the abduction.

**(j) Multiple abductions**

Twelve (35%) of the interviewees reported actual, or attempted, multiple abductions. In one case the interviewee reported an initial abduction by the father, followed by a re-abduction by the mother, and a second re-abduction by the father. Sometimes the multiple abductions involved the same child only,

<sup>104</sup> But see 4 (p) below and comment regarding abduction for protective reasons where the child believes and supports the abductor.

<sup>105</sup> NB: The 34 interviews included one with a non-abducted sibling which related to the abduction of 2 siblings. One of these siblings formed part of the sample but the other did not. The latter sibling was therefore included in these age statistics in relation to the interview of the non-abducted sibling. There are, therefore, 34 age statistics included but these all relate to abducted children in the cases in the sample. The personal details of the non-abducted sibling have not been used.

while at other times they involved other siblings as well. In one case the abducting parent had previously abducted his children from an earlier marriage.<sup>106</sup>

**(k) Siblings abducted together**

Nineteen interviews (56%) concerned abductions of siblings.<sup>107</sup> Where sets of siblings were interviewed, it was noteworthy that each interviewee corroborated their sibling's account of events; however, all the interviewees reported different sibling experiences. It is unsurprising that children of different personalities, genders, and ages, and at different stages of development and dependency, will experience such dramatic events in different ways. Some examples of the different ways in which siblings experienced the abduction are:

- (i) One interviewee reported being treated very differently by her father's new wife than her co-abducted sibling. The interviewee was made to feel unwanted by her step-mother.
- (ii) Another female interviewee felt less revered by the abductor and his family than her co-abducted male sibling which she believes was connected to the culture of the country to which they were abducted.
- (iii) A different interviewee reported being abused far worse by the abducting mother than his co-abducted sister which he feels was connected with him looking like his father.
- (iv) Although another interviewee reported abuse of all the abducted siblings by the abducting father, only one of the female siblings was reported to have been sexually abused by the father.
- (v) One interviewee reported being left with relatives by the abducting father who took the co-abducted siblings to live with him for a period of time before coming back to collect her.
- (vi) One interviewee reported blanking out what occurred during the abduction and remembers much less about it than his co-abducted sibling who has distinct and different recollections of that time.
- (vii) Another interviewee reported not being able to let go during the time away of what he had left behind while his co-abducted sibling was able to accept the situation better than him.
- (viii) Other interviewees reported having different reactions during the time away to those of their co-abducted siblings because of the different relationships they had enjoyed with the left-behind parents. The child who was closer to the left-behind parent generally had a harder time emotionally in these cases.

**(l) Non-abducted siblings**

The abandonment felt by left-behind siblings seemed, at times, to create anger and bitterness that made it very difficult for the abducted child when reunified with the family. One interviewee reported that her non-abducted half-sibling was neglected because of the abduction, and found it very difficult to allow the abducted child to re-integrate into the family. Another interviewee reported that her older non-abducted brother was angry at not having been taken by their father, was starved of affection during the time she was away and, when they eventually met up again, forced her to have sexual intercourse with him. A non-abducted half-sibling reported being devastated at the loss of the abducted child and felt completely abandoned by the abductor, her step-mother.

Where half-siblings were born after the abduction to the left-behind parent and a new partner, interviewees reported difficulties in establishing relationships with them in light of the inability of the half-sibling to deal with the absence of the abducted child and its impact, as well as the abducted child's own inability to accept the new relationship. Where half-siblings were born to the left-behind parent and the abducting parent as a result of a pregnancy in being at the time of the abduction, great distress and abandonment were experienced by the half-sibling as reported by the interviewee.

<sup>106</sup> Two of the interviewees did not classify their abductions or attempted abductions by their mothers as an abduction but, for the purposes of this calculation, they have been included as both events appear to satisfy the basic criteria of abduction as the wrongful removal of a child in breach of rights of custody within the Convention.

<sup>107</sup> This included the three sets of abducted siblings, and the set of non-abducted and abducted siblings, who participated in the research. The remaining 11 interviews were of individuals who had been abducted with siblings, but where only the individuals participated in the research.

One interviewee stated that there should be a support group for left-behind siblings as they are greatly affected by the abduction and, where applicable, the abducted child's return.<sup>108</sup>

**(m) The time away**

Eighteen (53%) of the interviewees described the time away as definitely, or possibly, being spent in hiding. Seven reported having had their names and identities, and sometimes also their appearances, changed. Some used fake identification papers. Most memories of being in hiding were very compelling, but in a small number of cases it was not clear to the child whether they were definitely in hiding although they recalled lying to schools about their reasons for being unable to provide proper records, for example, saying that there had been a fire which had destroyed previous school records, or falsifying documents and grades to satisfy school enquiries, and moving on every couple of months to avoid being pressed for answers. Several interviewees spoke about not being allowed to make friends or to become too close to anyone. Three interviewees reported their "indiscriminate friendliness"<sup>109</sup> where they sought out other families to sit with in public places to make themselves feel happier and more "normal." One interviewee described this need as "the bigger the family the better" for her, and another said that she would invite herself to other people's picnics as she admired intact families so much. One interviewee reported wanting to hug people like teachers and to be close to them.

Sixteen (47%) of the interviewees reported violence or abuse towards them during the time they were away, including sexual abuse. Eleven of these interviewees reported the perpetrator of the abuse as being the abductor. An interviewee abducted by her father described how he hit and hurt her, and that she had to have time off school as she was black and blue with bruises. Her father was not violent to his new wife or child. Another interviewee reported that her "vile" abductor father would make her stand up and yell at her for two or three hours in order to control her. One interviewee said she was systematically beaten by her abductor father and remembered going inside her head "into a large, dark, black hole" to deal with what was happening. She said she had to wear trousers to school to hide the marks. Sometimes the violence occurred in response to questions from the abducted child about their circumstances, with the abductor telling the child that he or she had sacrificed everything for her. Sometimes the violence was apparently unprovoked, but one interviewee said he was physically beaten worse by his abductor mother than his abducted sibling because he looked like his father. He described how his abductor mother would "hit me until I went numb, and I would wait for that point because it was the only way I could fight back, and then she would hit me harder." Some interviewees reported sexual abuse by friends of the abducting parent, on occasion with the knowledge of that parent. Others reported sexual abuse by members of the wider family of the abductor, or strangers. Two interviewees were unsure whether they were sexually abused by the abducting parent and spoke of the "blurred boundaries" of their way of life during the time away, sometimes sharing a bed with the opposite-sex abductor. One interviewee reported the sexual abuse of her co-abducted sibling by the abducting father who openly shared a room with that child. The abducting parent was sometimes abused by new partners and this was witnessed by the abducted child. One interviewee reported that her abductor mother was "probably a whore."

Several interviewees described how the abductor was all they had, and that they were terrified of being abandoned by their only support system. One interviewee referred to this as the 'Stockholm Syndrome',<sup>110</sup> and said that he was terrified of losing his abductor mother who was always so fragile that he had to parent and look after her. Notwithstanding being abused by the abducting mother, another interviewee reported trying to kill a man who hit his mother because "she was all I had." Another interviewee explained the significance of depending on the abductor for all their emotional support and said that, although her father had told her what to do if her mother ever took her, he had not told her to "make the call even if your mother will hate you."

<sup>108</sup> See, *What About Me? Coping with the Abduction of a Brother or Sister*, (2007) Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice <https://www.ncjrs.gov/pdffiles1/ojjdp/217714.pdf> However, this booklet is based on input from eight children who have experienced the abduction of a brother or sister by a non-family member, which is a very different circumstance from intra-familial child abduction. See also Greif and Bowers, *Unresolved loss*, fn 3 supra.

<sup>109</sup> Indiscriminate friendliness is characterised by an inappropriate willingness to approach adults, including strangers. Children who experience profound neglect have been found to be more prone to this behaviour <http://www.news-medical.net/news/20131203/Severely-neglected-children-more-prone-to-indiscriminate-friendliness.aspx>; See Olsavsky et al, 'Indiscriminate Amygdala Response to Mothers and Stranger After Early Maternal Deprivation', *Biological Psychiatry*, Vol 74, Issue 11, 1 December 2013, 853–860

<sup>110</sup> A group of psychological symptoms that occur in some persons in a captive or hostage situation. <http://medical-dictionary.thefreedictionary.com/Stockholm+syndrome>

At times, the Police were involved for some unconnected reason with the abducted child but this did not lead to protection or salvation. One interviewee reported that speaking out never worked in her favour because, although people would believe her, they would then speak to her abducting mother who would somehow talk them out of it. This was echoed by another interviewee who was returned to the abductor by the Police when he tried to grab her sister after the original abduction. She felt “nobody can help me”, and just accepted that this was the way it was.

Some of the interviewees reported planning to kill their abductor so that they could return home again. Feelings of loss and confusion were regularly reported by the interviewees, with many having to deal with complete culture changes. Several also spoke about their depression and suicidal thoughts or attempts. One interviewee said that from the date her father abducted her she felt suicidal, but did not know how to kill herself.

Anger was frequently felt towards the left-behind parent for not coming to find the child, for abandoning the child, for not caring, and for starting again without the abducted child. One interviewee described being a “highly angry child, very upset and emotional” and said that she asked for her mother all the time. However, many interviewees said that they stopped thinking about their left-behind families, and stopped wanting them, because they knew they could not have them. They described “just surviving”, “shutting down”, “living under the radar” and “growing up as a ghost” with “weak attachments” which meant that they were able to deal with the constant moves and changes in their lives with resigned acceptance.

Twenty two (65%) of the interviewees reported no contact with their left-behind parent during their time away. In some cases, contact was resumed but the child remained away. One interviewee explained that the left-behind parent blamed him for going with the abductor, and another reported that she felt so angry with the left-behind parent for not coming to get her that she gave up on him. In other cases, the resumption of contact brought the abduction to an end.

Many of the interviewees described how they grew to accept the abductor’s account of the left-behind parent. One interviewee reported how her abductor father’s stories about her left-behind mother not caring about her (otherwise she would find her) became her reality. Over time, she came to hate her mother because she believed that she had abandoned her, and the bond between them had been completely erased. Another interviewee reported being scared of being found by her left-behind father because of all the things she had been told about him. She did not know what was true and what was not. Some interviewees were told that the left-behind parent was dead. Others reported having to support their abducting parent’s untruthful accounts of events and stories about the left-behind parent in court proceedings and felt overwhelming guilt at doing so.

**(n) Voice of the child and the legal process**

Although prevention of abduction was recognised by several of the interviewees as a very important issue, it was also felt that it was not possible to prevent all abductions. Some interviewees said that they did not think that it would have been possible to have prevented the abduction in their own case. While many of these cases occurred a considerable time ago, and there have been changes in some jurisdictions regarding the recognition of the need for a child’s voice to be heard in proceedings



affecting them,<sup>111</sup> it is significant that several interviewees did not feel that their voices were heard sufficiently during the legal process at the relevant time. Where the abducted child had been made to feel that they had to choose between their parents in legal proceedings it caused enduring feelings of guilt for the child. Decades later one interviewee had been unable to deal with what she perceived as “the treachery” of her role in depriving the left-behind parent of his children.<sup>112</sup>

Several of the interviewees discussed what happened when the legal process was over, and the issues it does not deal with, and urged “a more joined-up approach for those working in this area.” This was explained by one interviewee when she said that, just because an abduction has occurred, it does not mean that it is necessarily right to hand the child back to the left-behind parent without any follow-up. Whenever an abduction occurs, the abducted child needs support and observation. Abduction is a very complex situation, creating impacts and effects in all the parties concerned. Left-behind parents often feel abandoned by the child who is subsequently returned to them in a different form and in different circumstances to the child who was taken. That can cause many different reactions in the new family dynamic. In her case, she said that “no-one found out that my mother was abusing the heck out of me.” This interviewee also urged that contact with the abducting parent should not be cut off because this might, at least, provide some control or brake on what happens to the returned child as this may be the only person who is monitoring what is going on after return. Another interviewee remarked that “family judges have to be aware of the impact ... no-one realised how alien we all feel.”

### (o) Reunification

It is very clear from the reports of the interviewees that any reunification which occurred is not the end of their abduction stories. Reunification did not necessarily signify the end of challenging times for the child emanating from the abduction and, very often, it was a time when different and complex problems emerged.<sup>113</sup> There was an equal number of interviewees who had positive and poor

<sup>111</sup> In England and Wales there has been a growing recognition for some time of the importance of listening to children in family law cases and, in particular, in abduction cases. See Baroness Hale in *re D (A Child) (Abduction: Rights of Custody)* [2006] UKHL 51 at para 57: “..As any parent who has ever asked a child what he wants for tea knows, there is a large difference between taking account of a child’s views and doing what he wants. Especially in Hague Convention cases, the relevance of the child’s views to the issues in the case may be limited. But there is now a growing understanding of the importance of listening to the children involved in children’s cases. It is the child, more than anyone else, who will have to live with what the court decides. Those who do listen to children understand that they often have a point of view which is quite distinct from that of the person looking after them. They are quite capable of being moral actors in their own right. Just as the adults may have to do what the court decides whether they like it or not, so may the child. But that is no more a reason for failing to hear what the child has to say than it is for refusing to hear the parent’s views”. This is recognised in Brussels 11 Revised Art 11(2): “When applying articles 12 and 13 of the 1980 Hague Convention, it shall be ensured that the child is given the opportunity to be heard during the proceedings unless this appears inappropriate having regard to his or her age or degree of maturity”. Baroness Hale emphasised that although this only applies to cases within the EU, the principle was of universal application and was consistent with art 12 of the United Nations Convention on the Rights of the Child. She said that it applies: “in effect in every Hague Convention case” although she made it clear that hearing the child does not mean giving effect to his views (para 58). See Family Justice Council’s April 2010 *Guidelines for Judges Meeting Children who are Subject to Family Proceedings* [2010] 2 FLR 1872 and now see Ministry of Justice Departmental Press Release, Friday 25 July 2014 – Children will be seen and heard in Family Courts. The government has made the commitment that from the age of 10 children and young people involved in all family court hearings in England and Wales will have access to judges to make their views and feelings known, and *The Children and Vulnerable Witnesses Working Group’s Interim Report* July 2014 which discusses new rules of court to be introduced: para 13 (vi) states: The rule should require that court/judge will recognise the role of the children and/or needs of children at the outset of proceedings either as participants in proceedings who should be given the opportunity of communicating with the judge; and/or as witnesses and consider how best to provide for their participation and support, para 13(viii) states: the rule should require that all advocates and representatives of the parties must identify and consider how best the role of the child is to be recognised and/or provide for such assistance and support they need to give best evidence. A practice direction is planned for judges seeing children to reflect the Court of Appeal’s decision in *re KP* [2014] EWCA Civ 554 (where a Hague Convention return order was set aside because the judge in the first instance case had gone outside of the scope of the 2010 *Guidelines for Judges Meeting Children* under which the judge’s role was to passively hear what the child had to say and should not become a role of taking evidence) and there should be consideration of the status and nature of the contents of the communication between judge and child. The aim is to have these changes in place by January 2015, and for training to be provided for the judiciary and advocates. See also *re LC (Children) (reunite International Child Abduction Centre intervening)* [2014] UKSC 1 [2014] 2 WLR 124 where the court had to decide various issues including whether a child’s own state of mind was relevant in determining his habitual residence, and whether a child aged 13 years should have been joined as a party to the proceedings. The Supreme Court allowed the appeal saying that joining the child as a party would have given the court a wide discretion about the breadth of the child’s involvement. It was also held that in the circumstances where an adolescent child had lived with one parent in a particular place for a short period of time it was appropriate for that child’s state of mind to be taken into account by the court in determining the question of where he was habitually resident, with Baroness Hale and Lord Sumption dissenting as to the relevance of younger children’s state of mind by going further than the majority and finding that this principle should not be restricted to adolescent children but could also apply to the children in this case who were aged 10 and 8 at the time they spoke to the Cafcass officer.

<sup>112</sup> Note Baroness Hale’s comment in *re D* (supra) at para 58 that hearing the child does not mean giving effect to his views. This is made clear in the 2010 *Guidelines for Judges* (supra) where at para 6 (ii) it states: The judge should also explain that decisions in the case are the responsibility of the judge, who will have to weigh a number of factors, and that the outcome is never the responsibility of the child.

<sup>113</sup> This has been recognised in the work of Geoffrey Greif, and most recently in Greif and Winkelstein Waters, ‘Ambiguous Reunification: A Case Illustration and a Framework for Understanding the Aftermath of Abduction’ (2014) 2 IFLP 1, 24-32. See also Boss, P. ‘Ambiguous Loss Theory: Challenges for Scholars and Practitioners’ (2007) *Family Relations*, 56, 105-111 states at 105: [o]ut of observation and intuition emerged a more inclusive term, “ambiguous loss”, and a model of the two types: physical absence with psychological presence, psychological absence with physical presence”. Clearly, there are similarities between this situation and abduction reunification where the returned child may sometimes be physically but not psychologically present.

reunification experiences (14 in each of these categories including two which began as either neutral or poor but became positive subsequently). The remaining 4 interviewees who were reunified had neutral reunification experiences (there were also two interviewees who were not reunified).

On occasions, the child was returned to the left-behind family through some legal process and a number of interviewees described the abrupt, even brutal, manner in which this was effected. At other times, the abducted child sought out the left-behind parent and family in order to find “home.” Regrettably some discovered that they had turned their backs on their only support system and had replaced the abducting parent with a series of (at best) well-meaning strangers, with their own lives and needs, and where none of them were equipped to help the other. They often did not know what to expect of the left-behind family, or of themselves, but perceived the need to act as if they were happy and settled in these new family units in order to, once again, survive their changed circumstances. It was not unusual for the left-behind parent to feel resentful and unhappy with the abducted child for not having done more to make contact during the time away, nor for the abducted child to feel abandoned by the left-behind parent for not making more effort to find him or her. Both the abducted child and the left-behind parent sometimes seemed to be expecting to have returned to them precisely what they had lost and struggled to adapt to the new and different person that each had become. For the returned child it could mean being thrown into relationships with unknown step-parents, step-siblings, and half-siblings. Many interviewees reported not feeling part of either side of their family after reunification, being confused and lost, and not getting the help that they felt they needed from their left-behind parents who were overly focused on the return and insufficiently focused on the needs of the returned child. It was especially difficult for abducted children who had been told that the left-behind parent did not want them or love them anymore, and re-establishing trusting relationships had sometimes proved impossible to achieve. Unsurprisingly, these reunifications did not always work out well, and sometimes the interviewee experienced this as the real abduction, and chose to return to live with the abductor. When the reunification did work well, it seemed that the left-behind parents were particularly sensitive to the needs of the abducted child.

As reunification is one of the most critical, and sometimes disturbing, aspects of the abduction for the interviewees, it is illuminating to consider some of the examples they provided:

One (female) interviewee who was abducted on two occasions, each time by a different parent, was abducted for the second time at five years of age by her father, and looked for and found her left-behind mother 21 years later. She reported this was “lovely at first.” When she revealed to her mother the abuse she had suffered during the time away, her mother was very surprised because she thought the father had taken the child because he loved her, and would therefore look after her. Things did not work out between the interviewee and the left-behind mother.

One (female) interviewee, abducted at eight years of age by her mother, was reunified with her left-behind father after two years when her mother put her on an aeroplane to see him. After this she was allowed to see her father every Christmas. She said that she never really felt like part of either family after that.

One (female) interviewee, abducted at 11 years of age by her father, was returned to her mother after seven years. She described the return as “surreal” and did not feel that she had roots anywhere. The life she had left behind was as a child, and she was returning as an adult. She said that she did not know how to live in that environment any longer.

One (male) interviewee, abducted at seven years of age by his mother, decided to find his father after nine years. He described his father as “deliriously happy” when he received a phone call from the interviewee, who reported being very nervous. The relationship thereafter was “warm but superficial” because the interviewee said that his father never trusted him fully after this.

One (female) interviewee, abducted with her sibling by her father at nine years of age, was collected after four months by her mother from where she was being kept overseas. Her father had told them that their mother and her family did not want her and her brother. She was put in a cab with her abducted sibling for a five-hour journey from where they were staying to meet their mother. The interviewee reported that she was not happy with her mother as she thought her mother did not love her any longer. She did not think that she ever really “came back from that.” Her mother still never talks about it when the interviewee tries to bring it up. She said that just because her mother got them back it did not mean that everything was “magically sorted out for the kids.” She reported her mother as saying that the interviewee should have spoken more about it, but the interviewee said that, “I am the kid. It’s not my job to tell her how to take care of me.” She still has a relationship with her mother, but said that she feels

disconnected from her and, when there are family get-togethers, she feels like she does not belong in her own family. She explained that she just does not know how to bridge that gap.

One (male) interviewee, who had been abducted by his mother at four years of age, decided to look for his left-behind family after 13 years. He reported his mother as being indifferent when he told her that he and his abducted sibling were leaving. The return was "overwhelming" for the left-behind family. He says that "these people were hugging me and crying" but that neither he nor his abducted sibling felt anything, although they really wanted to do so. His abducted sibling returned to live with the abductor's new husband because she felt that the left-behind father and family could have found them if they had tried harder. She could not forgive them for this and now has no contact with them. The interviewee stayed for a year, but then also returned so that he could be with his abducted sibling. He is now in email contact with the left-behind father, but neither he nor his abducted sibling are in contact with the abductor mother.

One (female) interviewee, abducted when under two years of age by her father, traced her left-behind mother after 11 years. The meeting was "like being in a theatre ... everyone, including the social worker, was so excited." However, the reunion did not work out, and she described it as "a disaster."

One (female) interviewee, abducted at eight years of age by her father, decided to look for her mother when she was 18 years of age and felt "strong enough" to do so. She reported that her mother was "a broken woman" and that their relationship was then not as parent and child but, at best, as friends. The interviewee said that a lot of "unresolved issues" remained between them relating to the fact that her mother had not looked for her.

One (male) interviewee, abducted by his mother at 11 years of age, set out after 20 years to find his left-behind father who, he had been told, was violent. He described how emotional he felt when he walked into his father's home and the first thing he saw after so many years was a photograph of himself with the rest of the family before the abduction. His father had kept this in pride of place in the home. He remains in contact with his father and left-behind siblings, but is no longer in contact with his abductor mother.

One (female) interviewee, abducted by her mother at eight months of age, was returned to her father with her abducted sibling after ten years when her mother was caught by the Police. She described the banners outside her left-behind father's house that welcomed them home. She said she was overwhelmed by this, but was very unhappy inside, although she pretended to be happy because she knew that this was what her father needed her to be. She did not know what was wrong with her, but wanted to be what her father wanted her to be because he was now the only parent she had.

One (female) interviewee, who was abducted at four years of age by her mother, was reunified with her left-behind father after eight years when someone who knew about the abduction told the Police. A Policewoman came to her school, showed her a milk carton with her details on it, and told her that her father was looking for her. She was taken to a foster home and was not allowed to have any of her own things with her. She felt scared and alone, and wanted to go home to get her things. However, when she met her father she felt "instantly safe." He knew that her identity had been changed and asked her what she would like to be called. That relationship went well, but her mother was no longer in her life at the time of the interview.

One (female) interviewee, who was abducted at four years of age by her father, was returned to her left-behind mother by paternal relatives after eight years. The interviewee was not very excited about being back with her mother because she felt that her mother had not been fighting for her and that she was only back because of what she had done herself, not what her mother had done. She described being "in another room full of strangers" and the environment being one that was "awkward for everyone." She never really settled in and eventually went back to live with her father, but that did not work out either. She now has only very occasional contact with both parents.

One (female) interviewee, abducted at about two years of age by her father, was returned to her left-behind mother after a court hearing approximately six years following the abduction. She referred to this as "the kidnapping" because she did not know her mother and was very unhappy when she realised that this change was permanent and that she was never going to see her "family" again. Her mother's family was very different now in that there was a new spouse and two new children. Her mother was very angry about having lost so much time with the interviewee, and getting back a much older child to the one she had lost. Eventually the interviewee went back to live with her father. She does not now speak to her mother.

One (female) interviewee, abducted at six years of age by her father, was reunified with her left-behind mother after 6–7 years when her father was caught and arrested. She met her mother in a room after seeing the court-appointed psychologist and wanted “nothing to do with her.” She told the judge that she wanted to stay with her father, after being coached to do so by her father. She reported being “completely alienated” against her mother. Court-appointed visitation was begun, but was unsuccessful because she said that her father instructed her how to behave. Her mother decided not to insist on the contact taking place and the interviewee got on with her life, loving her father, and thinking her mother was “an evil bitch.” When she was 24 years old she contacted her mother. She had a breakdown and was supported by her mother. She now has a relationship with her mother, but not her father. She said it had taken ten years to reacclimatise and that she and her mother still have a lot of work to do to trust each other again.

One (female) interviewee, abducted at nine years of age by her father, was reunified with her left-behind mother after six years when her mother called the house where she was living with her abductor father. Her father then drove her to see her mother. The interviewee said that it was “nerve-racking” seeing her mother after all the years when she had been told by her father that her mother had wanted to kill her. She described it as a “surreal experience.” She had no idea of how to behave or what to say, and just wanted to extract herself from the situation. She returned with her abducted siblings to live with her father and visited her mother twice per year. Now she has no relationship with her father, but has an active relationship with her mother in which she adopts the parenting role towards her mother.

One (female) interviewee, abducted at eight years by her mother, was reunified with her left-behind father after four years when a friend of her mother reported the situation to the Police. Her father came to her school with a Police officer and told her tearfully that she had a new brother and sister. She described feeling torn and that everything happened very quickly. She went to live with her father who, she said, thought she was going to be able to conform to how she was before the abduction. However, she started to hate living with him and his family. Her father asked her why she had not called him and she could not answer him. She subsequently visited her maternal grandmother when her mother and half-sister were there, and recalled their changed attitude towards her and the feeling that she now had nobody, no family, and did not belong anywhere to anyone. She became suicidal and anorexic. She returned to live with her mother but said that this was the “worst mistake” of her life. Now she gets on well with her father, but not with her mother.

One (female) interviewee, who was abducted at five years of age by her father, was reunified with her mother after seven years when her father put her and one of her two abducted siblings on a train to see their mother. The interviewee did not recognise her mother who was waiting for them on the train station. She said that she did not know anyone and that, although the first six months were “pretty good”, nothing made sense because, while she did not want to see her father, she felt somehow drawn to what was left behind. She felt like she was being abducted all over again, and that just the people and the place had changed. She now has contact with her mother, but said that there was never really a “reconciliation.” Her father is now dead.

One (female) interviewee, abducted at birth by her mother, found her father after searching for him on the internet after 42 years. She had been led to believe that he was dangerous but, on meeting him, she thought that he was “sweet.” Her mother’s family was “so mad” that she got in touch with her father and she has now lost this side of her family.

One (male) interviewee, abducted by his father at 6–7 years of age, was reunified with his mother after ten months when she pulled up at a bus stop where he was waiting with his abducted sibling. He said that he felt “an overwhelming feeling of love” as he discovered his mother was alive when he had been led to believe that she was dead. His father tried unsuccessfully to re-abduct them, but after this he and his brother just heard from him on their birthdays. The interviewee started looking for his father in order to help his brother, who had become ill, but discovered that his father had already died by this time. He is still very close to his mother.

One (male) interviewee, who was abducted at two and a half years of age by his mother, met his father again after 23 years. They now have “a cordial relationship” which, although not what the interviewee said his heart desires, is all that the father is capable of and the interviewee says he is grateful to have it. His mother is now dead.

One (female) interviewee, abducted at four years of age by her father, searched for her mother when she was 17 years old. She described the meeting as “overwhelming” but also “disappointing.” Her mother was looking for the little girl she had lost. The interviewee viewed her mother as a total stranger and felt

that it was all “bizarre, surreal.” She said that she sometimes wishes she had not opened “this Pandora’s Box of craziness.” She still has a relationship with her mother, and had seen her father in the last few years. She does not forgive him, but is reconciled to what happened.

One (female) interviewee, abducted at eight years of age by her mother, was reunited with her left-behind father after 3–4 months. She has a good relationship with her father now, but does not see her mother very often. She said that she is not able to tell her father if she sees her mother, even after more than 30 years since the abduction.

**(p) Effects of abduction**

Very significant effects (see section 3.1 for the definition of these effect terms) were reported by 25 interviewees (73.53%).<sup>114</sup> This finding reveals an apparently high level of mental health problems in this abduction research sample.<sup>115</sup>

Some examples follow of the very significant effects described by the interviewees:

One female interviewee who was 5 years old at the time of the abduction, and was reunified after 7 years, reported having been in therapy for 14 years. She said that she has tried to stop going to therapy for 8 years but has not been able to do so. She explained that people do not ever understand the situation, and even the therapist (who has never before treated anyone who has been abducted) wondered “how bad it could be”.

One female interviewee who was abducted at 6 years of age and reunified after another 6–7 years, reported having a psychotic breakdown in her mid 20’s. She was admitted to a hospital for 4 months. She explained that she felt that she needed “to become whole”. She has been in therapy for the last 18 months. She says that this is “a lifelong thing”.

One female interviewee who was under 3 years old at the time of the abduction, and was reunified after 6 years, had “a total breakdown” for which she was hospitalised. She then had further therapy afterwards.

One female interviewee who was 4 years old at the time of the abduction, during which time her identity was changed, was reunified after 8 years. She suffered an identity crisis which led to a breakdown lasting between 12–18 months.

One female interviewee who was abducted at 5 years of age and was never reunified stated that she has been to both psychiatrists and psychologists. She has been told that she is “in a personal holocaust”. She said that she is “missing the building blocks” and has to pretend they are there in order to “have friendships.. these normal moments”.

One male interviewee who was abducted at 11 years of age and reunified 20 years later said that he has had bouts of depression for which he was prescribed medication and that “there is only a skeleton left” of him.

One female interviewee who was under 2 years of age when abducted and reunified after 13 years said that, as a teenager, she was “a nightmare”. She became increasingly depressed, and kept thinking about suicide. She attempted suicide several times.

One male interviewee who was 4 years old at the time of abduction was reunified after 13 years. He saw a psychiatrist as an adult but did not tell him about the past. He was prescribed anti-depressants. He explained: “I have told you things – I don’t think I can ever do that again”.

<sup>114</sup> All those who reported very significant effects also reported the ongoing nature of the effects at the time of the interview e.g. “I feel a great sadness.. for the child who experienced these things and the adult feeling the effects”; “.. it lasts a lifetime”; “I still have a ball of rage in the pit of my stomach”; “.. it’s still not ok”; “I want to make it clear that I still have repercussions now of what happened then.. I attribute all of these consequences to the abduction”; “I was never able to get back what I missed”; “.. the abduction is one of the primary drivers of who I am”; “Relationships are very superficial. I feel like crap on the inside. It’s a defence mechanism.. when we have family get-togethers I feel like I do not belong to my own family”; “.. to this day, I struggle with reality”; “.. this is a lifelong thing.. you play it out as an adult. The story never ends”.

<sup>115</sup> Although no direct comparison is possible (for example, the time frame within which the mental health problems revealed by those in the research sample is not known) it may be contextually helpful to note the figures provided by Public Health England for Community Mental Health Profiles 2013, where one in 4 people in the UK will suffer a mental health problem in the course of a year <http://www.nepho.org.uk/cmhp/>.

One female interviewee who was abducted at 8 years of age and reunified after 5 years said that she became anorexic as a teenager and wanted to kill herself. She said her abductor took away everything she knew, everything she wanted and loved, and that she never got it back. She explained: "I feel like she pulled the rug out and I was never able to get back what I missed".

One female interviewee who was 9 years old when abducted and reunified after 6 years said that she "went on this road of self-destruction" when she tried to "push everything away". She saw counsellors but said they were not well equipped to handle her situation. She described the "rage in me" and how she attributes these consequences to the abduction.

A female interviewee who was under 2 years of age at the time of abduction and reunified after 21 years, described consulting therapists solidly for the past 20 years. She reported "being in meltdown" and "suicidal" and had suffered from bulimia. She described "the ball of rage in the pit of my stomach".

A female interviewee abducted at 4 years of age who has never been reunified described herself as "a functioning depressed person". She said that "there is a hole there and when you grow up you can't fill it up. I feel very insecure. I realise that my psychological effects stemmed from the abduction".

A female interviewee abducted at 4 years of age who was reunified when she was 18 reported having been suicidally depressed with a bad eating disorder. She had therapy and was hospitalised for several months. She said that the effect reaches everywhere – parenting, relationships and career. Any life change brings it all up again. She stated that the abduction has "taken an incredible toll".

A female interviewee abducted at 8 years of age who was reunified after 3–4 months, described taking an overdose as a teenager because she didn't want to be alive anymore. She has seen therapists, been on anti-depressant medication, and has been told that she has post-traumatic stress disorder.

A further six interviewees (17.64%) reported effects (see below), and the remaining three (8.82%) reported no real lasting effects. Therefore, thirty one (91.17%) of the interviewees reported being affected by the abduction. Of the three interviewees who did not feel that they had been affected, one thought that the abduction had affected her co-abducted sibling much more and said she was less affected because she was younger and supported the abductor rather than the left-behind parent as her sibling had done. The second interviewee who reported no real lasting impact regarded the act of her father in preventing her from leaving with her primary carer mother as an abduction by her father but did not view the subsequent attempted abduction by her mother as an abduction or attempted abduction. Instead she saw this as her mother rightfully trying to take her home. She was subsequently allowed to lawfully leave with her mother with whom she lived thereafter. She did not recall very much of the time when she remained with her father as she was then around three years old and this "abduction" only went on for a few months. The final interviewee in this category was abducted for a very short period of time (2–3 days) at 3–4 years of age and was returned swiftly by the abductor's family to her left-behind mother.

Fourteen (45.2%) of those who reported being affected by the abduction spoke directly of their inability to trust people afterwards. Two additional interviewees reported problems with trusting themselves. One interviewee described how it took a very long time for the left-behind parent to learn to trust her again after the reunification.

At the time of the interview, twenty one (61.7%) of the interviewees were or had been married. Of these marriages, twelve (57%) were still intact and nine (43%) had ended in divorce. This is consistent with the latest figures in England and Wales regarding the percentage of marriages that end in divorce.<sup>116</sup> The findings do not therefore reveal anything unusual in terms of the ratio of divorces to marriages that might be thought to be attributable to the abduction.

Fourteen (41%) of the interviewees were not parents. Many of the other 20 (59%) parent interviewees reported that their parenting had been affected by the abduction. One mother said she did not know how to raise her child as she did not know how to be around family. One father said that he did not know how to father his son as he had not had a father in his life. Several parent interviewees described themselves as overly protective towards their children. A mother reported that her parenting was

<sup>116</sup> Latest statistics (published December 2012) estimate that 42% of marriages in England and Wales end in divorce, see Office for National Statistics <http://www.ons.gov.uk/ons/rel/vsob1/divorces-in-england-and-wales/2011/sty-what-percentage-of-marriages-end-in-divorce.html> NB In addition to those who were or had been married, three of the interviewees were in relationships. The remaining ten interviewees were not married or in relationships.

impacted as she was always scared that her husband would take the children if she did not do exactly what he wanted her to do. Consequently, she did not feel she was “emotionally there for the children.” Two non-parent interviewees (one male and one female) said that their choices about becoming parents were affected by their abductions. The male interviewee reported that he had questioned his ability to father children because he did not really have a father in his own life. The female interviewee described feeling “quite relieved that she is unlikely to have a child” because she worried that she could be as abusive as her abductor mother.

The stance taken by the parent interviewees in relation to talking to their children about their pasts was mixed. A father said that he had not spoken to his children about his past as he did not want it to affect his future, and his wife accepted his position on this. Another father had spoken more to his son than his daughter about his past. His children were young adults of 21 and 22 years of age respectively. Neither of them had apparently asked many questions about what happened. A mother had not discussed the abduction much with her children, but had told them enough to know that her abductor was still alive and dangerous, and not to believe what he said. One of the mother interviewees reported telling her children a little about her past, but did not want to say more because she was worried about “blurting things out.” Another had told her eldest child (14 years of age) about what happened, but had not told another child (seven years of age). Another two mothers said that they talked to their children, but thought they may have shared far too much with them. A further mother had told her children (aged 19 years and 15 years respectively) that she was kidnapped as a child, but said they were shocked when they learned she had been abducted by a parent. Parents take decisions regularly about what to tell their children about their pasts<sup>117</sup> and finding a mixed response to this issue, as well as mixed reactions from their children, is not surprising.<sup>118</sup> Additionally, many non-abducted parents are over protective towards their children. These findings do not, therefore, appear to be particularly linked to the abduction in the backgrounds of the parents. However, the choices about becoming parents, and the unfamiliarity with parenting because of the lack of a role-model parent in the life of the previously abducted child, may well be connected with those abduction experiences.

Several interviewees talked about the significant emotional effects they had suffered from the abduction, for example, psychotic breakdowns, post-traumatic stress, depression, and panic attacks, with some of these effects lasting to the present day. One interviewee explained that she did not feel “whole” after the abduction and said that this is a lifelong thing. She explained that: “It affects you in the patterns, behaviours ... you play it out as an adult. The story never ends. It’s like a tape.” Another interviewee described the fear she began to feel as a child which started off as specific but later became generalised. Several interviewees spoke about their lack of self-worth which emanated from the abduction and their feeling that neither parent really wanted them. One interviewee explained graphically how “I was never able to get back what I missed. I remember crying, wanting my Dad. When I got my Dad he wasn’t there anymore. What I thought was there wasn’t there. Too much time had passed. For a long time I was lost. It affects generations.” Another interviewee spoke of never having had “a real family.” She said that, “everyone else has someone but me.” These effects seem to be closely related to the abduction experience.

Amongst the effects described by many interviewees were that their adult and intimate relationships have been coloured by the abduction they experienced and they reported finding it difficult to connect with people. Some spoke about not being able to keep friends and relationships going because, when something is taken away so abruptly, and when the most important people in their lives could “just go”, they have found that they cannot fill the hole when they grow up. One interviewee explained that she never lets people in, and that her relationships are very superficial. She said this is a defence mechanism and that she is not close with anyone because she just doesn’t know “how to bridge that gap.” Another interviewee never felt secure with her husband and wondered whether the day will come when he will leave her. She felt like she is an emotional burden, and questioned at what stage she will become “too much” for her husband. She found it easier to keep a distance, even in close relationships. She cannot quite let her guard down and there is always a part of her that still feels like an outsider. Many interviewees spoke of a life where anxiety, fear and abandonment remained constant issues for them. One interviewee described this as “the default setting” and that she is “always waiting for the ball to

<sup>117</sup> A recent example concerned President Obama who talked to a group of at-risk children in Chicago about his early life which included making some “bad choices” and “getting high.” This spawned a great deal of debate about whether parents should tell their children about past drug use. See <http://edition.cnn.com/2014/03/04/living/parents-telling-kids-about-past-drug-use/>

<sup>118</sup> It may sometimes be difficult for children to cope with their parents’ unhappiness, even if it occurred in the past, and it is understandable that they may not know how to deal with this complex abduction issue when they are confronted with it. This may not be very different from any personal disclosure a parent makes to a child.

drop all the time." She is adamant that she would not feel like this if the abduction had not happened. Another interviewee spoke of "ending things before they abandon me."

Another interviewee explained that he does not get emotional "because of all the chaos for so long I learned if you want to look after yourself you can't get too emotional." Several interviewees spoke about blocking out feelings so that they did not now have much emotion. One explained that he was told his mother had died, was given no mourning period for her, and then was put back into a normal life with his mother. He said that he had spent a large proportion of his life with that block and not feeling and that he had to constantly ask himself what he is feeling about things.

Others talked about the anger they felt at what happened, the rage they still felt inside, and the way it had turned them into aggressive adults, lashing out at people in authority or those close to them. They see this as a misplaced attempt to hit back at those who abducted them. A recurring theme related to the interviewees' distorted sense of reality, and another to the way that no-one really understood what the abducted child had suffered.

One interviewee summed up by saying that she felt a great sadness for the child who experienced these things and for the adult who was feeling the effects. She said: "I feel that the core of me has been shattered. ... I have an internal conflict between my natural self/personality and the personality that has been formed as a consequence of these experiences."

Some specific categories of abductions were considered in relation to the reported effects:

**(i) Primary carer abductions**

It is sometimes suggested that abductions by primary carers may have different and less seriously negative effects than those by non-primary carers. The Effects research found that, where the children in that sample had been abducted by their primary carer mothers, the children did not experience their mother as an abducting parent. It may be important in this context to recall that the time the children had spent away in that study ranged from six weeks to fourteen months (with one child never having been returned) rather than the generally much longer time periods spent away in the current sample where more than one third were for longer than 10 years. Similarly, the intervals between the abductions and interviews in the current study involving adults abducted as children were generally far greater than those in the earlier study involving children and young people.

In the current study, thirteen of the sixteen interviewees who reported abductions by either primary carer or joint primary carers also reported suffering very significant effects from the abduction. Two of the sixteen interviewees reported effects which included: not being able to fill the hole in their lives left by the abduction; feelings of isolation and lack of self-worth; problems with attachment, security and mistrust; difficulties with personal relationships including lack of emotion; guilt towards the left-behind parent; and rejection by the left-behind parent on return because of the anger felt towards the child for not finding a way back. One of the sixteen interviewees described herself as suffering no real effects. In this case, the child was three years old at the time of abduction by the primary carer mother, and recalled being on her mother's side and feeling then, as now, that her mother did the right thing in taking her. Ten of the sixteen primary carer interviews related to abductions by the sole primary carer who was the mother in every case. Seven of these reported very significant effects, two reported effects, and one reported no real effects.

Although the child interviewees abducted by their primary carer mothers in the Effects study appeared not to experience them as abductors, they were nonetheless found to have been adversely affected by the abduction. This is reflected by the reports in the current research of the adults who were abducted as children by their primary carers and who have articulated the effects on them through the prism of their broad and evolved post-abduction life experiences. As one interviewee stated: "it takes time to know what it has done to you, and how you are feeling".

**(ii) Protective abductions**

It might be thought that primary or joint primary carer abductions undertaken for protective reasons would be likely to produce different outcomes in terms of the effects on the child. In the three interviews where the interviewee described the abduction by the primary carer or joint primary carer parent (two were mothers, and one was a father) as being, or perhaps being, for protective reasons towards the child one of the interviewees described having effects from the abduction, and the other two interviewees described having very significant effects. In the only interview where the interviewee



described the abduction by the primary carer mother as being to protect the mother from further abuse the interviewee did not report suffering effects from the abduction. She completely accepted her mother's reason for the abduction and thought her mother had acted correctly. In the three possible child protection abductions, the interviewees either questioned, or were doubtful about, the reason for the abduction being protective, even if the abductor had thought that this was the case. In two of these three cases, the purported protection was related to something that may have happened to another child, i.e. not the abducted child. In the third case, the question of protection was far more nebulous in that it was a vague suggestion from the abducting primary carer mother who was not specific about what the protection related to although it was regarding the abducted child. This might suggest that where the abducted child knows, or believes, that the abduction is for protective reasons the effects may be considerably lessened. However, it is clear that no reliable conclusions can be drawn on this matter from this data.

### (iii) Age of the abducted child

The highest number of very significant effects reported by the study participants were from those aged 2–8 years at the time of their abduction (18 reports representing 75% of those in this category). However, this was unsurprising as this was also the age range where the highest number of abductions occurred in this sample. Interestingly, there were four reports of very significant effects in the 0–2 year age range, representing 100% of those in this category. In the 9–11 year age range, three interviewees reported very significant effects, representing 60% of those in this category. The only interviewee in the over 12 year category did not report very significant effects.

### (iv) Reunification

In the seven interviews where the reunification occurred less than one year after abduction, four interviewees (57.14%) reported very significant effects, one reported effects, and two reported no real effects.

In the five interviews where reunification occurred between 1–5 years after abduction, four (80%) reported very significant effects, and one (20%) reported no real effects.

In the twelve interviews where reunification occurred between 6–10 years after abduction, nine (75%) reported very significant effects and three (25%) reported effects.

In the six interviews where reunification occurred between 11–20 years after abduction, four (66.66%) reported very significant effects and two (33.33 %) reported effects.

In the two interviews where reunification occurred between 21–50 years after abduction, both (100%) reported very significant effects.

In the two interviews where reunification never occurred, both reported very significant effects (100%).

Again, no reliable conclusions can be drawn from these qualitative findings because of the low sample numbers in each of the categories. However, there may be some indication that where there is less than one year between abduction and reunification there may be less incidence of significant effects on the child (although there was still a relatively high incidence of such effects in this sample). This accords with previous research findings on the link between the length of the abduction and the effects on the child.<sup>119</sup>

### (v) Multiple abductions

Ten of the twelve interviewees (83.3%) who reported actual or attempted multiple abductions also reported very significant effects, one reported effects, and one reported no real effects. This latter case involved the interviewee who did not regard being taken by her mother as an abduction so it is perhaps unsurprising that no real effects were reported. As the remaining thirteen interviewees who reported very significant effects had experienced a single abduction, it is similarly unsurprising that such a high percentage of those interviewees subject to multiple abductions or attempted abductions also suffered very significant effects.

<sup>119</sup> See Plass, Finkelhor, and Hotaling, 'Family Abduction Outcomes: Factors Associated with Duration and Emotional Trauma to Children', *Youth and Society* September 1996, 28: 109–30 at p. 128: "Great duration of abductions is associated with an increased risk that a child involved in the event would be emotionally traumatised."

**(vi) Domestic or international abductions**

Where the abduction was domestic or non-international, fourteen interviewees (93.3%) reported very significant effects, and one (6.7%) reported no real effects. Of the international abductions, 11 interviewees (57.89%) reported very significant effects, six (31.57 %) reported effects, and two (10.52 %) reported no real effects. The proportion of those reporting very significant effects was therefore higher in relation to the non-international than to the international abductions in this sample. Allowance must be made for the personal nature of the descriptions provided by the interviewees, and to some extent the arbitrary nature of any classification system used. As the combined statistics concerning effects from the abduction, i.e. very significant effects and effects, were very similar for domestic or non-international abductions (93.3%) and for international abductions (89.46%) it is suggested that this sample may not indicate any discernible difference between the incidence of effects suffered by those subject to a domestic or international abduction although it is accepted that the level and types of effects suffered may be different between these two groups.

**(q) Support and after-care**

The lack of specialist knowledge and support for abduction victims was a recurring theme in the interviews. Where mental health professionals had been involved it was often the case that they had not dealt previously with abduction cases and were not experienced with the specific issues raised in such cases. As one interviewee stated, "this makes it worse." Mental health professionals need to understand the ramifications, consequences and effects of abduction in order to help those who have been through this event. One interviewee explained the impact on abduction victims of this lack of understanding when she said that "people think this is a victimless crime" and asked "how can you recover from that?" Viewing abduction in this way means that there is no validation for the impact and effects of the abduction suffered by the child. She supported this view by highlighting the difference in the ways that society views stranger abduction and parental abduction. The former both terrifies and horrifies the public, while the latter receives a far more equivocal reaction. This was endorsed by an interviewee who said that society views parental abduction as being unimportant because "they are with their parents." She noted that nobody has invested the time in research to find out what the effects are for parental abduction in contrast to the "energy that goes into runaways and stranger abductions, the funding and reporting for that is so much greater."<sup>120</sup> She insisted that "no matter how good the abducting parents think they are it has some long term effects for the child", and commented that there should have been counselling for her when she was seven years old "so that I would not be sitting here now."

Several interviewees spoke about the need for greater awareness and further education about abduction and its effects for parents and the community as a whole, including teachers and neighbours. The public need to understand "that this is bad" so that appropriate support becomes available. One interviewee thought that the lack of recognition for abduction was because we are living in a society that is low in consciousness and that people need to be aware that abduction is a form of abuse. Another interviewee highlighted the reluctance that society displays in facing abuse and therefore perpetuates the secret so that "we are all co-conspirators for types of child abuse." One interviewee reported that nobody at school had questioned her circumstances which should have raised concerns. If they had known more about abduction, and why it matters, she felt that they may have been more aware of this as a possible explanation for her situation and provided more help. Other interviewees stated that schools should play a greater part in raising this awareness and meeting the needs of children who may be abducted.

An interviewee spoke about how difficult it was to get the right help and said that "even now, I don't know what to ask for" in terms of support. She said that "if you have someone who dies there is all this stuff about grief and all these steps you go through, but there is nothing for abduction." This was supported by the comments of another interviewee who insightfully explained that "there is no time

<sup>120</sup> The interviewee nonetheless expressed great appreciation for the current research being undertaken, and it seemed to be the general view of the interviewees that this research was helpful and necessary. Another interviewee said that she had not really spoken about the abduction until she did the interview with the PI. A different interviewee asked the PI why she didn't come to see her when she was 6 years old because, if she had, maybe the interviewee would have been at university now and "have done something with my life". Another interviewee said that the time spent at the interview had "been the most healing". A further interviewee said that "knowing that this work is being done and that it will contribute meaningfully to dealing with and hopefully preventing such circumstances helps me navigate my way through my own turbulent times". Another interviewee said: "I want to thank you from the bottom of my heart for affording us this opportunity. The fact that you have given us this opportunity is priceless. I don't think you will understand the gift that you have given us. People like (us) will have their lives changed because of this opportunity". A different interviewee said: "this event has been most useful. It's huge to talk to people about this who are willing to talk about it and people who understand it. it's so healing. It was very healing to cry because they got it. This has been very helpful for me". One further interviewee stated: "it is very important that someone wants to know what happened" and said that this is the reason she agreed to participate in the research.

limit to the need for aftercare because it takes time to know what it has done to you, and how you are feeling." She recognised that aftercare is necessary for all parties to the abduction, and not just the abducted child.

One of the most useful initiatives which could be developed, in the view of some interviewees, would be for a mentor to assist a child, and family, after an abduction. Being supported by someone who has been through an abduction, and knowing that you are not alone, would be a very helpful form of support because, as identified by several interviewees, so many abducted children report feeling "very alone." One interviewee experienced in law enforcement explained that the Police have no clue about how to handle these situations and that there needs to be training so that they know how it works in practice. He said that "it is very easy to get the kid back, but something has to happen after recovering the child." He further noted that the Police are not currently equipped to do this. Another interviewee emphasised that law enforcement cannot just collect a child "and throw them back into a situation they are not familiar with. A trained clinician and the police should help the child re-integrate into society." A further interviewee supported the view that there should be more effort put into integrating the child back into the family, saying, "you need to get to know the parent you left behind." This was emphasised by another interviewee who said:

"I did not receive therapy or counselling. There was no support system. It was just done. I did not know who I was for a long time. There needs to be something in place once the child is returned. The real work begins once the child is returned. Their life was changed for several years. There has to be some support because children blame themselves for what happened. There are a lot of issues and not knowing what you are and what you are supposed to be".

Another interviewee objected to the very term "reunification" because she questioned who the child is being reunified with – often it is a stranger.

Non-abducted siblings have reported having confusing and difficult reactions to the abduction of their siblings including feelings of loss for the abducted child, abandonment by the abductor, and helplessness towards the grieving and distracted left-behind parent. Such non-abducted siblings have reported that they would have found it very helpful to have had support at the time the abducted child was away – both for how they were feeling themselves and in order to provide some understanding of what to do for the left-behind parent. Nor is there support for non-abducted siblings on the return of the abducted child when various emotions often arise and which they may have to deal with alone while the left-behind parent focuses on their own feelings and relationship with the returned child. Similarly, abducted children often need support at this time in terms of their relationships with the non-abducted siblings. One interviewee explained:

"Things like this can fracture sibling relationships as well. It's not that you want to be jealous of kids – you have a great life – but it's hard with your siblings who are able to have regular lives and who have had Mum and Dad attend your karate lessons and see you get your belt".

## 5. Conclusions

The aim of this project was to find out more about the effects of parental child abduction, and to do so from the perspective of the previously abducted child. The reason was so that we could understand what, if anything, we need to do over and above what is currently done, and to use information provided by the previously abducted child to guide that work.

This study has shown that a high proportion (73.53%) of the previously abducted children in this sample reported suffering very significant effects<sup>121</sup> from their abduction in terms of their mental health.<sup>122</sup> This percentage increases further (to 91.17%) when taking into account those reporting less significant, but still discernible, effects. A very low percentage (8.82%) in this sample reported no real effects, and these were either related to very short abductions or to abductions where the interviewee supported the abduction or intention to abduct by the primary carer. The status of the abductor did not tend to alter the effects experienced by the abducted child. Those who reported very significant effects talked

<sup>121</sup> For definition see Methodology above.

<sup>122</sup> See fn 115 supra and accompanying text.

about the ongoing nature of those effects in their current adult lives, often very many years after the abduction.<sup>123</sup> These findings tend, therefore, to support those from earlier studies about the long-lasting effects of abduction<sup>124</sup> which are emphasised in this project by the direct reporting of the abducted children, as adults, many years after the event. There is some indication from the data that actual or attempted multiple abductions may result in very significant effects and that shorter abductions of less than one year may result in less incidence of significant effects. However, given the qualitative nature of the study, and the small numbers of those reporting within these categories, this project cannot produce any reliable conclusions on these matters. It is emphasised that caution must be used in interpreting these findings as they result from the interviewees' perspectives both as to the impact of the effects on their lives and their cause, as well as the classification by the author into the devised categories. It must also be remembered that the abductions had all occurred a long time ago in this study, the minimum being 10 years and the maximum being more than 50 years earlier. Additionally, in the cases when it occurred, reunification for the majority in the current sample (68.76%) was more than 5 years after the abduction, with more than one third of the reunifications (34.37%) occurring after 10 years. Nonetheless, in this sample very significant effects from the abduction were reported by the interviewees in almost three quarters of the interviews undertaken, and such effects were evident even where the abduction occurred at a very young age where it might be thought that, as the child had not yet had a chance to form a strong and enduring relationship with the left-behind parent, the effects might be expected to be correspondingly less severe.

As the effects of abduction from the reports in this project appear often to be seriously negative and long-lasting, we need to consider whether there is anything more which can be done to prevent abductions from taking place. Notwithstanding that prevention of abduction is, and was recognised by several of the interviewees to be, an extremely important issue, it is not suggested that it is possible to prevent all abductions. Some interviewees even said that they did not think it would have been possible to have prevented their own abduction. This project considered any links that may exist between parents having a strong connection with another country and the likelihood of abduction. If the links in this respect were clear, efforts might be directed towards establishing specific prevention strategies to address this connection. However, while the findings indicate the possibility of some association, it is not possible to assert that it is a key indicator for abduction where parents do not come from the same country. Similarly, this project considered the existence of pre-abduction familial violence as an indicator of likely abduction with the same aim in mind, i.e. the consideration of specific prevention strategies. Although the research finding indicates an unacceptably high level of pre-abduction familial violence, once again it is not possible to link the incidence of this circumstance to the occurrence of abduction. In spite of there being no definite findings in respect of these specific circumstances, it is important that abductions are prevented where it is possible to do so. Therefore, greater awareness of abduction and its effects needs to be available, as well as support provided, to those involved in all categories of family law cases so that those abductions which can be avoided do not occur.

In addition to these efforts regarding prevention, those who have been abducted need appropriate support. It is clear in this study that already-affected abducted children are further impacted by the effects of their abduction on their parents and wider families. They recognise that support is required not only for themselves, but also for those others too, in order that they might continue to operate post-abduction, albeit on a different level, as a family. If this does not happen, abducted children live the consequences of the abduction over and over again as they struggle to cope with the abduction itself, the reunification if it occurs, and the lifetime's aftermath as it affects other family members and their ability to adapt to their changed circumstances. All the family members in this life-changing event are tested through the issues that abduction generates. These are extraordinary events which often happen to ordinary people. In other fields when extraordinary events occur to ordinary people, those involved are recognised as needing help and support. There is little or none available for those who have been through an abduction event, and this needs to change.

<sup>123</sup> See fn 114 supra.

<sup>124</sup> In the author's previous research, this was found to be the case even where the periods of time away for the children were fairly short, i.e. between six weeks and fourteen months (although one was never returned), and where the children were all found to be "adversely affected in different ways." See Effects p. 55.

## 6. Recommendations

### (i) Prevention

The Convention aims to protect children from the harmful effects of abduction.<sup>125</sup> One way of protecting children from those effects is to prevent abductions from taking place. Whilst it is accepted that it is not possible to prevent all abductions, it is submitted that preventable abductions must be avoided. Family law cases are often highly charged with the potential for drastic measures being taken by the parent parties to the dispute. With the ease of international travel, those measures may include the removal of the children to another country. This may be even more relevant when one of the parents comes from a different country to the one where the family is now living. Parents involved in family law disputes need to know about the legal and socio-legal aspects of child abduction. Most parents want to do the right thing for their children and, although that is a subjective determination, knowledge about the effects of abduction may well affect the decisions which parents make. They are decision-makers. They have a choice. However, they need to be provided with the best information available to assist them in making their choices. Many countries are facing changes in their family law systems which mean that public funding is no longer available for Family Court proceedings in most circumstances. Public funding may still be available for eligible parties for mediation in family law cases. What is required is the establishment of a body of abduction-specialist family mediators who are able to provide appropriate information about abduction and its effects in family law cases. The existence of such abduction-specialist family mediators must be widely publicised and, where not publicly funded, must be available at reasonable cost. It is recommended that registers of such specialist family mediators are kept by the Hague Conference on Private International Law<sup>126</sup>, all central authorities of contracting States to the Convention, as well as the body responsible for dealing with non-Convention abductions in each country, and any other relevant institutions, with access available to the courts and administrative authorities of the individual countries, and any other interested party.

In addition, a global campaign of abduction awareness raising should be undertaken in relation to the concept of abduction (for example, many parents still do not appreciate that they can abduct their own children; some lawyers are still advising clients incorrectly about what constitutes an abduction; the criminal sanctions for abduction and the possible immigration impacts are not well understood) as well as the effects of abduction which are not widely recognised.

### (ii) Protection

Another way of protecting children from the harmful effects of abduction is to provide appropriate support and care for those who have been abducted. Although the Convention establishes “procedures to ensure their prompt return to the State of their habitual residence”,<sup>127</sup> it does not provide for such support or aftercare. It is not enough to simply return abducted children<sup>128</sup>. Abducted children need to be protected from the harmful effects of their abduction and this will include those children who are not returned.<sup>129</sup>

<sup>125</sup> Preamble “Desiring to protect children internationally from the harmful effects of their wrongful removal or retention.”

<sup>126</sup> NB: Mr. Phillipe Lortie, First Secretary, Permanent Bureau, Hague Conference on Private International Law, has indicated in correspondence with the author that it would be difficult for the Hague Conference to have a list of mentors and specialist mediators posted on their website but believes that such lists should appear on the websites of the central authorities.

<sup>127</sup> Preamble *supra*.

<sup>128</sup> In this context, and as a result of the Conclusions and Recommendations (Part 11) of the Special Commission on the practical operation of the 1980 and 1996 Hague Conventions (25–31 January 2012), a working group has been established to develop a Guide to Good Practice on the interpretation and application of article 13(1)b which allows for the non-return of children in limited circumstances. The Permanent Bureau will report on progress to the Council on General Affairs and Policy in 2015. This is a very welcome move, but it must be remembered that such Guides to Good Practice are not binding on States Parties amongst which practice on this, and other Hague Convention matters, differs substantially.

<sup>129</sup> This issue was addressed in *re A* [2013] EWCA Civ 1256 where children abducted by a mother from Norway to England were not returned by the court. The father appealed unsuccessfully to the Court of Appeal. Part of the grounds of appeal was that the trial judge had failed to consider the impact of a non-return and the Article 8 rights of the parties where a non-return order was made. An application was made for permission to appeal to the Supreme Court. Part of the Grounds were that there should be a positive obligation on the court under Art 8 European Convention of Human Rights 1950 (which relates to the right to respect for private and family life) and Art 3 United Nations Convention on the Rights of the Child 1989 (which relates to the best interests of children being the primary concern in decisions that affect them) to consider and where appropriate make arrangements to ensure the parent/child link was maintained rather than simply leaving the left-behind parent to pursue whatever remedies he could access. This last point is especially relevant in the situation where public funding for contact cases is unavailable – a situation which exists in England and Wales, and some other countries, and which may therefore require such a constructive approach to the position of non-returned children. The Supreme Court did not grant permission but it is understood no indication was given by the court on the merits of the positive obligation submission. Baroness Hale has previously expressed views on the need to consider contact at the same time as summary return. (Appreciation is expressed to David Williams QC for his contribution on this issue).

The following recommendations are made:

- (a) Where abduction proceedings are held, it is important that the child is properly, and not just nominally, heard within those proceedings. Progress towards this position has been made, and is to be further encouraged.
- (b) Where children are away for a short period of time it may be that the effects of the abduction on them are less significant than when they are away for a long period of time. Therefore, the prompt return of abducted children is to be encouraged.
- (c) Where abducted children are subject to multiple abductions, the effects may be very significant. Therefore, prompt welfare determinations including leave to remove (relocation) decisions after an abduction return are to be encouraged so that a child's future is not left in limbo and re-abductions are less likely to occur.
- (d) Abduction support services must be made available and should be well publicised. Such services should be available in a variety of forms including remote access through the internet. This assists with the problem of contacting children where no link to them exists as unfound, returned and non-returned abducted children would all be able to access these facilities. In this way, all abducted children are able to be the contact-makers, and need not rely on others making contact with them. Similarly, the families of abducted children, including siblings, will have access to abduction support services which may be especially important after reunification. It is recognised that the funding implications of such provision need to be addressed, but some international co-ordinated effort in this regard should be possible, even on a modest scale, and should be immediately investigated.
- (e) Where children are returned to left-behind parents after an abduction, the authority effecting the return should put a monitoring system into place whereby some follow-up on the returned child is provided to the authority, or those designated to receive such information on behalf of the authority, for a period of time. Once again, the resource implications of this recommendation are recognised and will need to be addressed, but even a very modest form of follow-up would be an improvement on the complete lack of follow-up that currently exists.
- (f) Where children are returned by an authority to left-behind parents after an abduction, a mentor should be sought to befriend the child and family and to assist in the reunification process. Ideally, such a mentor should have experienced child abduction themselves. It is recommended that a register of mentors should be created and widely publicised. Copies of the register should be kept by the Hague Conference on Private International Law, all central authorities of contracting States to the Convention, as well as by the body responsible for dealing with non-Convention abductions in each country, and any other relevant institutions, with access available to the courts and administrative authorities of the individual countries, and any other interested party. This register could then also be accessed by the parties when return is effected informally between them and when the need for such support is as great as with in-court effected returns.
- (g) Abduction training programmes should be devised and offered to schools, local authorities, Police, judiciary, and mental health specialists and should include information about the effects of abduction
- (h) Further collaborative longitudinal funded research should be undertaken on the effects of abduction to follow-up on the insights provided by this project and earlier studies.

Consultation between the author (and the ICFLPP) and relevant interested parties regarding the ways in which these conclusions and recommendations may be taken forward has now been commenced.

## 7. Concluding Remarks

Empirical research offers unrivalled opportunities for learning about and better understanding people's experiences in a way which is simply not possible by pure doctrinal study.<sup>130</sup> This is very evident when considering the effects of parental child abduction. Much learned commentary exists on the legal mechanisms for dealing with abduction, and the jurisprudence it has generated, but little to date has been known about the lived experiences of those who have been through an abduction event, especially from the perspective of the previously abducted child. The lack of data in this field is understandable as obtaining a relevant sample is problematic, and funding restrictions may make it impossible to include a control group within the project which it would be preferable to do. Notwithstanding the challenges of such research, this study was undertaken in order to try to provide some of the missing information about the effects of parental child abduction, in particular relating to their longevity.

This study has shown that we are not properly protecting children in danger of abduction, or those who have been abducted. In the light of this study's findings regarding the serious nature of the long-term effects of abduction, which supports those of other earlier studies, it is critical that more is done to prevent abductions from taking place where it is possible to do so. Urgent abduction subject awareness-raising, and the wider use of early interventions in family disputes by specialists who are trained in abduction matters, are advocated. Inaction is often explained by the resource implications of such initiatives but this is not a good enough reason for failing to protect children adequately. This is an area where we can do more to protect children, and should do so. Similarly, where children have been abducted support must be available to them in their particular circumstances and, if returned, assisted with that return and monitored. We cannot continue to think we have done enough to protect children from the harmful effects of abduction simply by returning abducted children to where they lived before. Some children are not found; others are not returned; and those who are returned often cannot pick up where they left off, and struggle to deal with their lives after abduction. We not protecting children properly from the harmful effects of abduction if we refuse to hear what they have told us about those effects and what they need to help deal with them.

Perhaps the most pressing issue is for parental child abduction to be understood for what it is, an important matter with potentially extremely serious effects for the child, and not some relatively benign event which sometimes happens within families. We are failing these children if we do not recognise this.

It is hoped that what has been learned through this project may be sufficient to provide a useful snapshot of these abduction issues, and to encourage the necessary improvements in provision which have been proposed, along with further large-scale, longitudinal, funded empirical research to take forward the work which we have begun.

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<sup>130</sup> D.W.Vick, 'Interdisciplinarity and the Discipline of Law' (2004) 31 *Journal of Law and Society* 164 criticising pure doctrinal analysis for its intellectually rigid, inflexible and inward-looking' approach to understanding law and the operation of the legal system. Cited in *Research Methods for Law*, Edited by Mike McConville and Wing Hong Chui, *Edinburgh University Press*, 2007, at p. 4 and fn 13. See Genn, Partington and Wheeler, *Law in the Real World: Improving our Understanding of How Law Works, Final Report and Recommendations, The Nuffield Inquiry on Empirical Legal Research*, November 2006, p. 1, para 4: "Empirical legal research helps to build our theoretical understanding of law as a social and political phenomenon and contributes to the development of social theory. Put simply, empirical research helps us to understand the law better and an empirical understanding of the law in action helps us to understand society better."

**Int'l Centre for Family Law,  
Policy and Practice Limited**  
43–45 High Road,  
Bushey Heath,  
Herts, WD23 1EE  
UNITED KINGDOM

[www.famlawandpractice.com](http://www.famlawandpractice.com)