

Hague Convention on Child Abduction

International conventions and treaties are important under several topics in the UPSC syllabus. They feature in the news many times and to understand the concept in the news, it is important to understand the underlying conventions/treaties. In this article, you can learn about the Hague Convention on the Civil Aspects of International Child Abduction from an [IAS exam](#) perspective.

Hague Abduction Convention

The **Hague Convention on the Civil Aspects of International Child Abduction** is also known as the **Hague Abduction Convention** or **Hague Convention on Child Abduction** in short. It is also referred to as the Hague Convention but this can be confusing since there are several Hague Conventions on various issues.

- The Hague Abduction Convention specifically deals with the issue of international abduction of children by parents.
- The treaty establishes procedures that provide for the prompt return of children wrongfully retained or removed from their habitual residence.
- It provides for methods to return a child when he/she has been wrongfully taken to another country by a parent (*international abduction*), removing the child from his/her place of habitual residence.
 - This chiefly is related to marriages breaking down and one parent taking (“abducting”) the child to another country.
 - It basically deals with international child custody cases.
 - This is pertinent to India as several Indian couples move abroad to settle.
 - Also, there are several couples where one spouse is a resident/citizen of another country and the other spouse is an Indian citizen.
- The convention was signed in 1980 and entered into force in 1983.
- India has not signed the Hague Abduction Convention.
- The convention applies only to children below the age of sixteen.

Hague Abduction Convention Features

The main features of the convention are mentioned in this section.

- Countries that have acceded to or ratified the convention are required to have a Central Authority that is the nodal point of contact between the parents and other governments involved in cases of abduction.
- The Central Authority usually has the responsibility to help locate abducted children, to help encourage amicable solutions to parental abduction cases, and help facilitate the safe return of children as appropriate.
- Documents submitted to the Central Authority as part of the application can be admitted to courts in partner countries without the formalities associated with documents from foreign countries for admission to courts.

- A parent does not necessarily need to present a custody order to prove that his or her custodial rights were violated when the child was taken from his or her country; the Convention allows proof according to the laws of the child's habitual residence, often by showing proof of parenthood or marriage.
- Whether a child should be returned to his/her habitual residence, or whether access/visitation rights exist, does not depend on the immigration status/or nationality of a child or his or her parents.

For a list of [international environmental conventions and treaties](#), click on the link.

Hague Abduction Convention and India

India has not signed the Hague Abduction Convention amidst a lot of pressure chiefly owing to concerns about women fleeing bad or abusive marriages to India with their children, losing custody of their child owing to the convention's provisions.

- Many say that the terminology of the convention itself where a parent is called an 'abductor' is highly offensive as a parent can never abduct his/her own child.
- This misrepresents a situation where a parent (generally the mother) divorces or separates from the spouse and leaves the country.
- Under Indian law, parents are considered the natural guardians of their children, so there is no question of treating them as "abductors" under Indian law.
- The Convention shows no recognition of the role played by domestic violence in compelling a mother to go back to her country of origin.
- Countries like Japan have signed the convention taking into account exceptions for women who face domestic violence in the country which they fled.
- Some say that the term 'habitually resident' is also vague. This is especially true in the case of infants or toddlers where such a term might not have any meaning for the child since the child would be happy and comfortable with the parent, irrespective of the place of residence.
- The Hague Convention presumes that all jurisdictions are equal when it comes to deciding custodial rights, but the experience of Indians in first world countries reveals deep prejudice against Indian parents.
- However, the 218th Law Commission Report of 2009 had suggested that India should accede to the Convention keeping in mind the foreign perspectives. There is a concern among the foreign judges for allowing children to travel or visit India since the non-signatory nature does not assure the swift return to the habitual resident country.