

Impact case study (REF3)

Institution: University of Westminster		
Unit of Assessment: 18 Law		
Title of case study: International child abduction: raising the voice of children and young people in legal decision making		
Period when the underpinning research was undertaken: Feb 2015 – Dec 2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s): Marilyn Freeman	Role(s) (e.g. job title): Principal Research Fellow	Period(s) employed by submitting HEI: Feb 2015+
Period when the claimed impact occurred: Feb 2015 – Dec 2020		
Is this case study continued from a case study submitted in 2014? <input checked="" type="checkbox"/> N		
1. Summary of the impact (indicative maximum 100 words)		
<p>This case study highlights how Dr Marilyn Freeman’s research into parental child abduction, and the voices of children and young people in decisions affecting their lives, has created the following impacts through her extensive engagement activities:</p> <ul style="list-style-type: none"> • <i>Changing practice:</i> Freeman’s research has changed the way in which abduction disputes are approached by clinical psychologists and lawyers in Australasia. Such practitioners now take account of both the voice of the child and the long-term impact of such disputes on the children involved. • <i>Directly benefitting stakeholders:</i> Freeman’s research has reached a range of stakeholders directly involved in such disputes (parents and adults who were abducted as children) through her dissemination activities, leading to improved mental well-being and navigation of the legal process. • <i>The provision of expert advice to high-level decision makers:</i> Freeman established an international academic association that allowed the 2017 Special Commission into the Hague Child Abduction Convention to receive direct, co-ordinated, academic input for the first time and has raised the prominence of the child’s perspective in this area amongst EU lawmakers. 		
2. Underpinning research (indicative maximum 500 words)		
<p>Across the past two decades, Dr Freeman has pioneered research on parental child abduction as it relates to its effects on the immediate “small family” involved, in particular the children and young people, and its impact on the “large family”, i.e. global society, to which the former is inexorably linked. Her research has created new knowledge and awareness of the previously poorly understood, but often seriously negative and long-lasting, impact of familial abduction in an area where there has been, and there remains, a paucity of relevant research [1]. Three research projects undertaken at the University of Westminster are described here.</p> <p>The first project involved Freeman convening an Experts’ Meeting on the issue of children abducted against a background of violence or abuse as it relates to the 1980 Hague Child Abduction Convention (HCAC herein). In collaboration with The Hague Conference on Private International Law (HCCH), and with assistance from Professor Nicola Taylor, Director of the Children’s Issues Centre at the University of Otago, New Zealand, this Experts’ Meeting of June 2017 was attended by approximately 60 international interdisciplinary experts from 19 global jurisdictions. These experts comprised representatives of governments, researchers, legal practitioners, judges, non-governmental organisations, mediators, and other international organisations actively involved in this issue. In collaboration with The Hague Permanent Bureau, questionnaires were constructed and distributed to all invited Experts, who discussed their concerns about violence in the context of abduction, debated what action was required from the international community, and strategised the direction of such action. These responses, together with supplementary documents received from the Experts, provided data that Freeman analysed with assistance from Taylor. Freeman and Taylor’s resulting research report provides a cross-jurisdictional and interdisciplinary perspective previously lacking in the field; most significantly, it clearly demonstrates that interpretations of HCAC vary across jurisdictions, which causes problems when dealing with cross-border abduction [2].</p> <p>As part of the British Academy’s “Tackling the UK’s International Challenges”, programme, Freeman undertook a cross jurisdictional and interdisciplinary project (March 2017 – March 2018)</p>		

in England & Wales and New Zealand, aimed at redressing the absence of systematic empirical evidence on the use of article 13 – through which children can object to their return to their State of habitual residence (the country from which they had been removed or retained) – by the 101 State Parties to HCAC. As Principal Investigator, Freeman explored, with assistance from Taylor, the tensions and challenges inherent in use of the exception (the child’s objections to return) on a global basis. This mixed-method project involved an international literature review, case law analysis of reported court judgments examining use of the exception from its introduction in England and Wales in 1985 and in New Zealand from 1991, a global online survey of 97 family justice professionals from 32 countries, and interviews with a subset of family justice professionals and 13 family members (nine taking mothers; one left-behind father; three abducted children from two families, aged 19, 15, and 8) who had been involved in Convention proceedings where the exception had been raised. Specialist workshops in Auckland, Genoa, and London were also conducted with the participation of key international stakeholders. This research project resulted in a peer-reviewed article, published in *Journal of Social Welfare and Family Law*, which recommends how State members of HCAC can better address both domestic violence and child participation in the context of both international applications of the Convention and recent geo-political shifts (Brexit) [3]. Further, a dedicated issue of the *Judges’ Newsletter* on International Child Protection with the Special Focus of The Child’s Voice was published by the HCCH. As its First Secretary writes in the Foreword, “it was decided to bring the result of this [Freeman’s British Academy] work to the attention of the international community of experts working in this area through this publication [...] to share good practices in an area where the HCCH has not yet published a Guide to Good Practice” [4]. Selected papers from the specialist workshops were featured, along with a report on key findings of the project written by Taylor and Freeman.

In 2018 Freeman completed a third project, funded by the Quintin Hogg Trust, on the voices of children and young people in legal decisions affecting their lives. In anticipation of the UK Government’s preparation of the next State Report under the UNCRC (UN Convention on the Rights of the Child), this empirical research project involved holding focus groups with secondary school and sixth form college students within a structured framework through which they were able to consider and articulate the areas of law and social policy that impact upon them, and which matter most to them in their everyday lives. Enabling students to initiate discussions and topics, prominent issues that arose included the importance of mental well-being, an awareness of the way in which tokenistic sentiments had replaced meaningful engagement by authorities, and the need for creativity from such authorities in finding ways to resource facilities that will ensure the emergence of leaders in the next generation [5]. Proposed strategies included, for instance, the provision of youth clubs and young people’s community groups within planning requirements for new developments.

3. References to the research (indicative maximum of six references)

- [1] Taylor, N.J. & Freeman, M. (2018) Using Research to Improve Outcomes for Abducted Children, in G.Douglas, M. Murch, V. Stephens, eds. *International and National Perspective of Child and Family Law, Essays in Honour of Nigel Lowe*. Cam: Intersentia: 329-342
- [2] Freeman, M. (2017) *Report on the Experts’ Meeting on Issues of Domestic/Family Violence and the 1980 Hague Child Abduction Convention*, University of Westminster. Used as the Information Document for Agenda Nos 19, 20 and 22 of the 7th Special Commission on the Practical Operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention (10-17 Oct 2017).
- [3] Freeman, M, and Taylor, N.J. (2020) Domestic Violence and Child Participation: Contemporary Challenges for the 1980 Hague Child Abduction Convention. *Journal of Social Welfare and Family Law* (vol.42:2): 154-175. Peer reviewed.
- [4] Taylor, N.J., & Freeman, M. (2018) Outcomes for Objecting Children under the 1980 Convention. *The Judges’ Newsletter on International Child Protection*, Vol. 22, Special Focus, The Child’s Voice – 15 Years Later Edition, 8-12
- [5] Freeman, M. (2018) *Policy Briefing on Quintin Hogg funded research on The Voices of Children and Young People in Decisions Affecting Their Lives*, University of Westminster.

Funding

British Academy. “Outcomes for Objecting Children under the 1980 Hague Convention on the Civil Aspects of International Child Abduction”, Freeman (P-I), 03/2017- 03/2018 £47,996.

4. Details of the impact (indicative maximum 750 words)***Changing practice***

Freeman's research into the voice of the child has impacted on the professional practice of a range of stakeholders in this area of international child abduction. This is attested to here by practitioners in the Australasian region, where Freeman has undertaken collaborative research with Taylor, as described above, and communicated her research through an extensive range of engagement activities such as presentations, briefings, and workshops.

Dr Jennifer Neoh, a clinical psychologist in Victoria, Australia, confirms that Freeman's research has "been significant for my practice", highlighting that "Dr Freeman's group data conclusions of poor identity development, difficulties with self-esteem and trust into adulthood have assisted children currently facing these circumstances" [a-i]. Neoh further states: "Being able to refer to the devastating adult outcomes and prognoses in my clinical and forensic practice **has provided convincing arguments about earlier interventions and assists the Family Courts to make better decisions for children**" [a-i]. Through such application the research "has seen profound changes in the way these cases are managed" [a-i].

Dr Sarah Calvert, a clinical psychologist in Auckland, New Zealand, identifies Freeman's research on the voice of the child as "a clinically relevant tool", stating that: "As far as I am aware no other body of work which combines the actual participants with robust academic data exists which can be used in this way" [a-ii]. Calvert confirms: "Professor Freeman's work has encouraged me, in the reports which I write for complex cases **to more strongly orientate the Court to the long term prognosis for the child or children** and to suggest therapeutic processes which will similarly support a longer view" [a-ii]. Along with providing insight into the long-term effects of child abduction, Freeman's research has also changed how she assesses children involved in such disputes: "In my own work and that of other clinicians it has encouraged more nuanced questions of children about their views of themselves and of their view of the adults they will become. It has also **given us new ways of talking to children about the differences between their own views and experiences and that of powerful and determinative adults** (such as parents)" [a-ii].

Amanda Humphreys, a lawyer in Melbourne, Australia, points out that Freeman's "research is really useful to us as lawyers, not only to support our legal and practical approach but also to help explain to our clients the impacts of child abduction on their children" which has had the beneficial outcome of "**helping to discourage a wrongful removal or retention and supporting voluntary return and mediation**" [a-iii]. The impact of Freeman's research in changing Humphreys' practice in this area is confirmed by the latter's 2017 presentation to the 7th World Congress on Family Law & Children's Rights on why inclusion of the voice of the child in such court cases is valued (citing Freeman's work and engagement activities, e.g. an appearance on *Insight* television program, SBS Australia 31/5/16) and the constraints she has faced within the Australian legal system in pursuing such an inclusion; the presentation also posits solutions for further enabling the voice of the child to be heard within this system [a-iv].

Directly benefitting stakeholders of abduction disputes

Along with its use by practitioners across the globe (e.g. lawyers, mediators, clinical psychologists from Netherlands, Singapore, South Africa) in mediation and court cases [b-i], Freeman's research is also directly benefitting the persons around which such legal disputes revolve through the enhancement of self-understanding. Several unsolicited emails to Freeman express the value to mental well-being that her sharing and analysis of voices from now adult victims of international child abduction have had on other such survivors. [Text removed for publication] [b-ii].

Further, Freeman's international presentations to practitioners – encompassing India, Belgium, Israel, Italy, and Japan in 2019 alone – communicating her **research-based findings and recommendations on the processes of the Hague Convention, have produced content accessible to the public** that has also been of help to such stakeholders. [Text removed for publication] [b-ii] [b-iii].

Freeman's research has also helped children to navigate parental disputes through its translation into child-friendly materials by Darren Mort, an Australian barrister, nationally accredited mediator, and Director and founder of registered children's charity, *To Be Loved Network* (www.tobeloved.org.au) [b-iv]. Freeman's "research and expertise in the area of international child abduction has had a significant impact" on Mort's work as Director of this charity,

which aims to give children a voice when navigating parental separation and family violence, by **informing the content of the resources they produce “to assist and educate children**, such as books, films and more recently, [...] a kid’s APP, for the Family Court” [b-iv]. The latter is being developed as “[t]here is nothing in the Family Court for children to assist them to navigate the court process and to give them information about judges, family consultants, independent children’s lawyers and the system” [b-v]. In some cases, Freeman has been directly engaged, as when she was asked to assess a script for a film her research “recently inspired me to write [...] to ensure its content was valid from a child’s emotional and psychological standing” [b-iv]. Mort has shared positive feedback from young children who read one of his children’s stories, which included comments such as “Some kids have to go through this horrible situation so this book is great for them”, and another comment reflecting on how the book connected to their own experience of their parents fighting (“I felt like I had butterflies in my tummy”) [b-vi]. Such feedback demonstrates how these research-informed materials are able to enhance understanding of such emotionally complex situations for children.

Providing expert advice to high-level decision makers

HCAC: In August 2016, Freeman established The International Association of Child Law Researchers (IACLaR), whose members include Professors from the UK, New Zealand, Italy, Israel, Norway, South Africa, and the Netherlands, as well as Diana Bryant, A.O, former Chief Justice of the Family Court of Australia. It is through IACLaR that **academics were, for the first time, able to be granted observer status in a coordinated way at the Special Commission into the operation of the 1980 and 1996 Hague Child Abduction Convention (HCAC)** in October 2017. In the words of an Expert on the 1980 HCCH (Hague Conference on Private International Law) Child Abduction Convention: “Individuals cannot participate in the meetings conducted by HCCH at the Hague - only States, international organisations, or non-governmental international organisations can participate. IACLaR constitutes the latter and so it allowed academic and research work to be fed into the proceedings for the first time in a coordinated way” [c-i].

The Expert points out that “[s]uch a group had not previously existed in the field of child protection law and it serves the important function of providing an international perspective on this area of the law from the academic point of view,” which is useful because “[a]cademics read case law in a different way than lawyers and judges, **providing another angle that broadens the discussion and development of legal and social policymaking**. Academics may look at, for instance, the sociological facets of case law, its historical contexts, and values, which is especially important in the often contentious and sensitive area of family law” [c-i].

The Expert adds that the international perspective offered by IACLaR is “of great importance in the context of international child protection law as judges should not expect procedures and substantive law to be the same in every region and have to take this into consideration when dealing with practical cases” [c-i]. This point demonstrates the usefulness of **output [2] – Report on the Experts’ Meeting – which was used as a discussion document by the State members of HCAC** and provided the evidence-base supporting that very statement [c-ii]. The beneficial impacts of this document, and of IACLaR having attended this meeting, which occurs only once every five years, are formally acknowledged in The Special Commission’s formal report [c-iii]. **Conclusion and Recommendation (no. 81) states that further engagement with academics should be pursued in future**: “The Special Commission recognises the value of evidence-based research to strengthen existing knowledge on the effects of wrongful removal or retention of children internationally. In particular, it would be desirable to have further research addressing: (1) the short-term and long-term outcomes for children and relevant family members, including taking and left-behind parents; and (2) the impact and effectiveness of protective measures, other judicial and legal processes, support services and / or arrangements to apply post-return” [c-iii, §81]. Notably these recommendations are directly adopted from two of the three suggestions for future work made in Freeman’s report [c-ii, §30].

JURI: On 16 November 2020, Freeman took part in a workshop for The Committee on Legal Affairs of the European Parliament (JURI Committee), held as part of “The 40th Anniversary of the Hague Convention on the Civil Aspects of International Child Abduction”.

Freeman was invited by the Policy Department for Citizens’ Rights and Constitutional Affairs of the European Parliament to write an in-depth analysis on the child perspective in the context of

the Hague Convention, since published on their website, for the benefit of the meeting attendees and to present her research at the workshop [c-iv]. Freeman sat on a panel of three experts alongside Dr Gérardine Goh Escolar, First Secretary at the Permanent Bureau of the HCCH, and Adriana De Ruitter, Chair of the Board of the Spanish organisation for lawyers against International Child Abduction (ASIME) and Associate partner with Lawyers in Europe on Parental Child Abduction (LEPCA) [c-v].

The JURI Committee is responsible for the interpretation and application of European Law – and of international law, so far as the EU is affected, and Freeman presented her research to MEPs from the 27 Member States of the EU, who have the power to influence the laws which affect this area of international child abduction, and which necessarily has a broader reach given children will be transported to or from countries outside the European Union. The specific request for an in-depth analysis of the voice of the child in these matters demonstrates how Freeman, who has pioneered this area of research, has **focussed the attention of high-level European lawmakers on international child abduction towards the voice of the child when making policy decisions**. [Text removed for publication] [c-vi].

5. Sources to corroborate the impact (indicative maximum of 10 references)

- [a] (i) Testimony: Dr Jennifer Neoh, Clinical Psychologist (ii) Testimony: Dr Sarah Calvert, Clinical Psychologist (iii) Testimony: Amanda Humphreys, Senior Associate, Accredited Family Law Specialist (iv) Stahl, P. & Humphreys, A. “What About Me: Making room for the voice of the child in Hague Convention child abduction proceedings”, Proceedings of the 7th World Congress on Family Law & Children’s Rights, 2017
- [b] (i) Testimony: practitioners (lawyers, mediators, clinical psychologists from Netherlands, Singapore, South Africa) using Freeman’s research (ii) Anonymised emails: stakeholders of disputes (iii) Freeman, M. “International Child Abduction: Research on the Effects of Abduction and Reunification” Osaka presentation 10/6/19 [\[link\]](#) (iv) Testimony: Darren Mort, To Be Loved Network Ltd (v) Kirkham, R. “New app to support children involved in family separation, court, family violence”, *The Courier*, 1/2/20 [\[link\]](#) (vi) Feedback from children on To Be Loved resource
- [c] (i) Testimony: an expert on the 1980 HCCH Child Abduction Convention (ii) HCCH Info Doc 6 (adapted version of output [2]) [\[link\]](#) (iii) HCCH “Conclusions and Recommendations adopted by the Special Commission” [\[link\]](#) (iv) Freeman, M. “The Child Perspective In The Context Of The 1980 Hague Convention” (In-Depth Analysis) *European Parliament Think Tank* 31-10-20 [\[link\]](#) (v) JURI Biography of the Experts (vi) Email: Vice-President of the European Parliament