

The 1980 Hague Convention on the Civil Aspects of International Child Abduction is Consistent with the Iraqi Legal System

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Abstract

The universal trend embodied by international conventions did not stop at the end of human rights statement; rather it develops the conclusion of international agreements aimed at guiding the countries to provide procedural guarantees special for the protection of rights. Thus, we find the Hague Convention related to kidnaping for 1980. It was characterized by a procedural manner consulted by States to issue a decision to return of the kidnapped child by a some extent and parents as required by the best interests of the child and the preservation of the family environment. Perhaps the Iraqi legislature has already organized that in various legislation and the judiciary supports it.

Key-words: International Kidnapping of Child, The Right of Custody, The Best Interests of The Child, The Iraqi Law.

1. Introduction

The international system has witnessed a remarkable development in the methods and means of protecting human rights. This happens through the conclusion of agreements international aims to guide local legal systems to provide legal procedural guarantees for the protection of these rights. Thu, it is marked by the Hague Convention on international children kidnaping procedurally to paint the way for the countries of the parties to the issue of judicial powers provisions for the return of the abducted child by one of the parents to the place of normal residence. His is according to the requirements of the best interests of the child and to preserve the family of the center.

The importance of the subject lies in the protection of the rights of children as required by their interests and protects their rights. They could be transferred to the custody abroad citing the illegal organized by legislators and judged by the judiciary committed as brought by the international conventions concerned.

A question could arise: is legal system of Iraq able to commit to what came to the Hague Convention, and what are the principles underlying this the abduction, and whether leaves an impact on the child's best interests, and the law applicable to the custody.

Accordingly, the topic is divided into two sections: the first international is concept of international child abduction. The second includes the effects of the international abduction of children.

2. First: The International Concept of Child Abduction

The international kidnapping of children happens when a parent takes a child or retains a minor illegally in a country other than the State in which the abducted child resides normally. When the child was abducted, s/he is sixteen years of age, ("Article 4 of the Convention of the Hague on the Civil Aspects of International Child Abduction of 1980," 1980) is forcefully taken the place of transfer the origin to another place illegally. In other words, it is a violation of the right of the other parent in the custody. Or, it is keeping the children in a country other than the usual place (Vesneski, Lindhorst, & Edleson, 2011).

It embodied the source of international primary in the Hague Convention on the Civil Aspects of International Child Abduction 1980 which Iraq modified and became effective in its legal system under Law No. 48 of 2013 ("The facts of the Iraqi number: 4305," 2014, p. Article 4).

In preparation for the launch of this Agreement, kidnapping is described as forcefully taking child from the familiar surroundings with the exposure to the serious problems. In addition, kidnapping by itself leaves a negative effect even after the return of the child such as psychological and emotional problems and disorders experienced by the child during the abduction could be persistent long after return (Browne, 2011). Therefore, States agreed to sign this Convention to enable this solution to the crisis which was commissioned by the State. It aims to deal with kidnapping of the child to ensure the immediate return to the place ("Article 4 of the Convention of the Hague on the Civil Aspects of International Child Abduction of 1980," 1980)

Then, the actual custody and visitation rights are provided by the law of the Contracting States by the Contracting States of a other ("Article 4 of the Convention of the Hague on the Civil Aspects

of International Child Abduction of 1980.," 1980, p. paragraph b / Article 1). This requires the states parties to return the illegally transferred child to the place of residence to a different place ("Article 4 of the Convention of the Hague on the Civil Aspects of International Child Abduction of 1980.," 1980, p. Article 3 of CHICA). If it is proven that the transfer of the child is illegal, the burden of proof, s/he has the right to pay for exception to protect the child (Browne, 2011) which is stipulated CHICA (paragraph 2 / Article 12; Paragraph A / Article 3; Thousand BC Rh 2 / Article 13; Paragraph B / Article 13; Article 20 of CHICA). Here, the assessment of this case is left to the state court to which the child was abducted to return the child to the usual place of residence, or to stay in the country to which he moved. Therefore, longer CHICA is procedural convention, however, it opens the door to humanity through an additional review of the decision to review according to the child's best.

CHICA has placed humanitarian obstacles facing the decision to return the child, for example the convention prohibits the return of the child to the place of residence if the place is ineligible to protect the child from any danger that s/he may be exposed to. Then, it takes the decision to return in accordance with human rights. ("Dieter martini, internationale kindesentführung und die kollision des europäischen menschenrechtsschutzes aus unterschiedlichen ansätzen, max-planck-institut für internationale und vergleichende privatrechtliche forschung," 2015) However t leaving the subject of nursery treatment to eliminate the State of habitual residence on it (Browne, 2011). Thus, the range of CHICA to address procedural aspects (Browne, 2011). Also CHICA remained civilian in the return procedures for children. Through the legal automated data to determine the location for a decision on the final custody. In these case, the judge of the country is allowed to decide to which the child was abducted to proceed with a limited issue. This is an illegal transfer rather than the question of the broader custody decisions that belong to the nursery to take in better and in a manner appropriate to the subjective beliefs and cultural privacy of the parties to the conflict in the usual place of residence (Browne, 2011).

On the other hand, Iraq has already modified the 1989 United Nations Convention on the Rights of the Child ("The Committee on the Rights of the Child (CCR) .")to be effective in the system of its legal under Law No. 3 of 1994 ("Waqi'i Al-Iraqiya," 1994). This law is provided for the best interests of the child who has a priority and must be taken into account ("Article 3, (CCR),"). Whenever, the transfer negatively, it is the illegal transfer within the scope of the international kidnapping of children. Also agreement confirmed that separating a child from parents harms the interest. This is a violation of the human, except in some cases when the deprivation of the child for a some extent from a parent leaves a positive effect ("Committee on the Rights of the Child, General

Comment No. 14 (2013) on the right of the child to be the best interests of the primary consideration," 2013).

Thus, the preservation of the family environment is one of the principles that must be followed to achieve the best interests of the child ("The Committee on the Rights of the Child (CCR)."). This is because family reunification leaves a positive impact on the interests of children in the right of custody and watch granted for the protection of the rights of children who are the fruit of a household and their offspring. This rights is ongoing even after ending the marriage.

3. The First Branch: Preserving the Family Milieu

The prevention of parting of a household and maintaining its unity are two components that are important for the child protection system("Poverty Tin 1 and 3 / Article 9, (CCR).") Family unity and its reunification are an inalienable and stable human right within the international instruments and the child 's interest(16). However, it is necessary that the child grew up in a family environment with both parents but sometimes it may be a child separated is more useful.

The Commission on Human Rights confirmed that the interest of the child 's to maintain family relations include a broad meaning. Thus, it includes the concept of family relationships on the extended family such as grandparents and uncles / aunts, and mother sister f/ aunts as well as friends. It also includes the school year and their surroundings, and applies in particular to cases In which the parents are separated and live in different places (Children, 2013). This shows that the preservation of family relations is not constrained by time of the marital relationship between the mother and the father. On the contrary, it is the relationships in the family that are between the child and his parents on the one hand and his relatives and friends on the other hand that remained even after the separation of the parent. It continues and no one can stop it even the government because the continuation of family relationships and keeping them do not harm the rights of the child that are the child 's best interest standards that must be adhered to.

Also, decision of the termination of marriage can be an end to family life and the consequent rights in general. However, the existence of children leads a new reality which is the custody of the child that are part of family life because the separation of the parents does not call for questioning the existence of family life. It requires maintaining the child 's parents links and it is natural to believe that the child is linked to both the parents. Thus, the state should seek to preserve the child's parents association by taking positive steps to achieve this end. the presence of a child is a measure maintain this link even after the separation of the parents (Movsissian, 2015). Thus, the person who the court

did not control their custody is able to visit the child to go to a place of custody maintaining the relationship with the child family taking the latter 's interest into consideration (Movsissian, 2015). This was confirmed by the European Court of Human Rights which state that the child and the parent have the right of seeing to gathering as an element of family life.

We believe that preserving the rights of the child in custody and seeing him/her because of the separation of parents aims to preserve family relations that are in the interest of the child. So any act that violates these rights ,or leads to a break in family communication affects the best interest of the child(CEDH, 1987).

4. The Second Branch: Taking Care of the Best Interest of the Child

The commitment to the best interests of the child should be a primary consideration that arises from the weakness, which characterized the child. It is evidenced by their dependence on adult people on legal status and lack of opportunities to make their voices heard and then necessitates the provision of means of protection and guarantees sufficient to protect the interests of the child (Movsissian, 2015).

The best interests of the child is a multi - concept forms with three types of rules: First, the base objective, which is the interest of a child. So whenever there are other the interests such as that of parents or the public interest or the interest of the state alongside the interests of the child, there must be a balance between all the different interests while ensuring that the child's interest outwiegh other interests (Maldagu). The second is the base of the explanatory, the best interests of the child with the principle of a legal explanatory which serves the child 's best when there is a much of the interpretation of the provision of the legal issues (Children, 2013). While the third rule of procedure, the Commission on Human Rights affirmed that whenever a decision was made which the impact of a child or group of children, it must be assessed that may leave potential impact positively or negatively on the child ("The Committee on the Rights of the Child (CCR)"). The justification for this decision is in the interest of the child, which is not a consideration which is a primary concern if conflicted or contend with political considerations or other individual cases ("Article 3, (CCR),").

Thus, CCR is the source of the legal basis in the protection of children. They embody four general principles. The first prefers the interest to the child over other interests in all procedures related to a child ("Article 3, (CCR),"). The second is based on non-discrimination in all its forms ("Article 3, (CCR),"). The third is the international recognition that every child has an inherent right to life. The child is guaranteed survival and development to a great extent possible ("Article 3,

(CCR, "). The fourth ensures that the countries of the child the right to express the opinions in all matters affecting them in preserving the consideration according to the age of the child and maturity.

In addition to the standards contained in the CCR, there relevant international legal norms and national can affect such decisions. It was stipulated in the Convention on the Rights of the Child that the execution must be quickly applied to conducive to the rights of the Child ("Article 3, (CCR),").

Thus, teh Iraqi legislature to trend distinct in the civil lawmaking the custody taking into account the interests of a child before prior to another. So custody is as planned for the mother then the father. If no one is present, the legislator left it to the court to decide on the custody, taking into account the interests of the youngster. Also, the amendments made by the Iraqi legislator with regard to texts dealing with the right to custody, all revolve around taking into account the interest of the child (*Amendments to Article 57 of the Iraqi Civil Law under Law No. 21 of 1978, the Iraqi realities , number : 2639, Year 1978 and Law No. 65 of 1986 , the Iraqi realities , number : 3081, Year 1986 and law No. 106 of 1987 , of the facts of the Iraqi, number: 3176,, 1987*).

5. Second: Effects of International Child Abduction

The commitment to return the child to the immediate place of habitual residence is required by the interests of the child. Thus, CHICA must perform it. It must leave its effects on the custody of the child and the law that governs it. Then the extent this obligation is implemented taking into account the best interest of the child.

The Branch of the First: The Effects of Abduction on the Law Applicable to the Custody

The Iraqi civil law did not include Iraqi custody definition in a direct text. However, the provider of the second amendment to this to its law indicated that child - rearing and management of its affairs who has a right to do so legally and maintain those who cannot manage his/her affairs and upbringing in terms of taking care and protection. As the text of the terms of her that "required to be a very, intelligent, honest, capable of incubator on raising the child and maintenance. Also, the custody of divorced is left and to the court to decide on case and the eligibility of the mother or the father in custody in the light of the interests of the child("The Second Amendment to the Personal Status Law (Fourth) No. 21 of 1978 .", 1978). These stipulated conditions are mentioned but not specific rather there are other conditions were according to the Court of Cassation on the requirement provided in the custody. These conditions include the union of religion between the custody person and the child.

They stated that if the religion of the custody is different from the religion of the child, this custody will not be safe on the child's religion and lacks the first I custody conditions ("paragraph 2 / Article 57, the law of a personal NiCd, was previously ending words (not married to a foreigner for the child) came to the amendment eliminates the requirement and makes it entrusted to the court according to the interests of the child.,").

The place of custody is where people bring up the child and take care of her/him. The Iraq civil law did not deal with this issue directly, but it stated that when there is not clear text on that, the Islamic law is consulted in paragraph 1/Article 2. However, in general, most opinions agree that the father can see his child, takes care of him/her in a place not far from the place of the father and known to him (Al-Yasiri, 2020). This means that Islamic laws pay attention to the affection of the father to the child when the child is in the mother's custody or any other custody the court decided upon. It makes the custody to those who are reliable on the custody person who does not harm the other parent so s/he is prevented from seeing him. This is what Allah state "[no mother shall be Treated unfairly on account of her child. Nor father on account of his child, an heir shall be chargeable in the same way"(Ali) Quran 1/233.

The Iraqi legislature was characterized by a legal status to law applicable to the custody. We find all the issues related to egitimacy, state and other duties between parents and children in law and one subject to the law of the nationality of the father ("paragraph 4 / Article 19, the Iraqi Civil Law No. 40 of 1951.,"). Thus, the Iraqi legislator avoids the controversy in determining the law applicable to the nursery. It extends the scope of the law of the nationality of the father covering all matters relating to custody and duration of the fall and conducted, but hang this law if one spouse is an Iraqi at the time of marriage. The Iraqi law is administered in regardless of the nationality of the law of the father the time of filing the lawsuit ("Article 16 and 19, CHICA,").

Within the effects of international kidnapping of children, the right of custody exits. Because CHICA is characterized by procedure, it has no role in determining the law governing the custody. It has the rights of custody to be determined by the law of each country separately.

It took into account the question of cultural specificity of each society. This means that this agreement does not have any influence on the determination and implementation of the law applicable to custody. According to our understanding of the topic, we see that the procedural method characterizes CHICA. The phenomenon does not affect the law applicable to the custody, but carries with it the impact of the identification and implementation of the applicable law. It has resulted in some pa revolted relates to the law that governs custody internally as required by the interests of the child. When the judicial authorities of the country of the abducted child take a decision to return to

the usual place of residence, leaving the custody rights to be decided by the judicial authorities of the country of residence, without a doubt. For this illegal transfer of the child to custody, the right of custody will be reconsidered, if the kidnapped parent had a ruling for him/her. Before the abduction in custody, after the abduction and the return of the child in custody, the custody of the other parent withdraws the right of custody from the abducted parent who violated the legal conditions in child custody and let the parent of the right to watch her/his child. It does not deny that the child the care and affection of his abandoned father. In the implementation of international human rights law, which refers to the protection of the interests of the child, leaving the law referred to the application of the former national attribution rules. Also, the researcher takes into account the interests of the child to make custody in safe hands ("paragraph 4 / Article 19, the Iraqi Civil Law No. 40 of 1951.,"). The same happens if a State to which the custody child is abducted issued a decision not to return the child to the place of habitual residence in application of the best interests of the child. Then the judicial authorities will work to determine the law governing custody as required by the interests of the child.

This means the abduction deliberately to bring the legislative jurisdiction, which takes into account the interests of the child in custody in application for the best interests of the child.

Regarding the impact of the impact of the implementation of the law, there is an impact of kidnapping on the implementation of this law. It can be seen through the following example: the imposition of a n law governing the abducted child custody made custody for the mother, and in return the other parent who has the right to visit childe the kidnapped the child labor and depriving her/him of the custody of his mother. Based on the request to return the kidnapped and in cooperation happening between the authorities in the State of residence and the state where he was kidnapped to the custody, the judge of the country to which is abducted issue a decision to return to the habitual residence and return the child to his custody. The ruling on the return of the child in this case is tantamount to strengthening the implementation of the law governing custody. If the judge sentenced the same case according to his/her discretion not to return the child to the place of usual residence depriving the mother of the custody according interests of the child. This is based on the effect of evidences received on the return of the child by the parent kidnapper ("Article 13 of the CHICA,"). In this case, the ruling on the child's non-return means an end to the law that used to govern custody.

This means that the law of abduction has a role in promoting and strengthening the law applicable to the custody. On the other hand, it has a role in preventing implementation of the law applicable to the custody according to the requirements of the best interests of the child.

6. The Second Branch: The Impact of the Kidnapping on the Best Interest of the Child

To find out to what extent was taking into account the interest in the framework of the Iraqi legal system, we address the Iraqi legislator 's status and then the position of the Iraqi judiciary of this subject.

First: The Status of the Iraqi Legislator Regarding the Illegal Transfer of a Child in Custody

To show this status, the research explains a group of relevant laws. This is to find out the extent to which the best interests of the child can be protected from illegal transfer.

Personal Status Law No. 188 of 1959

It stated that the father can consider the affairs of the child and his/her upbringing and education (para. 4 / Article 57). This text between the interpreter has shown that the travel the custodial person with the custody child without the consent of a father is contrary to the text of the legislator (Al-Yasiri, 2020). Despite that, the Iraqi legislator did not explicitly state that the transfer in this case is illegal, but in our opinion, the Iraqi legislator has made the custody mother traveling with the foster child to a country far from the usual place of residence causes the father to be deprived of the right to watch and look into child affairs. This contradicts what is mentioned in the text of the law of a personal status law. The Iraqi legislator sought to protect the interests of the child, by making his/her education and upbringing the center of the care and tenderness foster parent on the one hand, and the father on the other. This grants the later the right of seeing and participating of mother in caring for the foster child and considering his/her affairs and needs. This indicates a legislator wanted to keep the family environment which is in the interests of the child, and any work without prejudice to the family ties be an illegal act.

In the modified personal status law private to Kurdistan region of Iraq, the legislator aimed to protect the interests of the child, to implement the care and consider the child best interest. Even a travel with the foster child is acceptable legally and must obtain the consent of the other parent left behind. However, if the parents are dead, the foster person can travel with the foster person. In any case, the traveler with the foster child must pledge to return the child to the country of habitual residence ("Paragraph (F) / Article 57 of the Iraqi Personal Status Law amended in the Kurdistan Region of Iraq under Law No. 6 of 2015, the Kurdistan facts, No. 189," 2015).

7. Minors Care Law No. 87 of 1980

This law aims to take care of young children and those in their care and their social and cultural affairs (Article 1). The fact that the child is considered a minor until s/he reaches the age of majority or becomes fully competent. During this period, the minor needs someone to take care of his/her affairs, such as caring for the upbringing and management of his money, and the father, according to the rule of law, is the guardian of the minor, and after the father the court (Article 27). This is because the father may be prevented from exercising his duties or he loses his will which is the basis of this mandate, set by the legislator such as being adult, mind and reliable (articles 34 and 53). Or, the incharge person may act in bad direction of the minor, in this case the court can temporary withdraw the custody (Article 32). Also, the Court may stop the custody of the father when he is absent or sentenced for a period of more than one year (Article 33). In such cases, when the mother request as guardian for the child in order to travel, here the court, after conducting the necessary checks to verify the validity of the allegation. It suspends the guardianship of the father, or the guardian, and the mother establishes a temporary guardian for the minor, taking into account the interest of the child in custody (Article 34). The law dealt with this matter and did not leave the minor the quarantined without care, and I tend to install a guardian over the minor to deal with his issues using the provisions of the law of the care of minors.

The law did not deal with the illegal travel with the custody person but it included an indirect reference to take into account the right of a parent in the state on the child and take care of her/ his affairs. Because being the guardian of the child cannot travel with the because it would harm the interests of the child. In addition, here it the transfer is illegal. Also, loss of guardian lost the mandate on a minor custody for any reason, the mother and guardian of the child could have right to travel with her child without the consent of the father. This is he has the qualifications of the state and wills on the child. This is because in some cases terminating the custody could be benfital for the child. However, they are traveling when they get the approval of the court and the application as determined by the procedures in the interests of the child

Passports Iraq Law J No. 32 of the year 2015

This law stipulate issuance of a passport for those under the age of eighteen years with the approval of their commanders (paragraph 2 / Article 5). Here legislator restrict the travel of the minor

to the consent of the legal guardian, is not entitled to the mother to obtain a passport for her son of a minor except with the consent of the legal guardian (Al-Yasiri, 2020).

Also, article 8 of the passport travel system No. 2 of 2011 did not permit the issuance of a passport for those who are not eighteen years of age without the consent of the guardian or guardian ("the Iraqi facts, number 4505, the year,").

The previous text of the consent of the guardian of the issuance of a passport of a minor is very important. Without it a passport cannot be issued. Thus, the transport becomes illegal outside Iraq, because it happened without the consent of the guardian and this harms the child. This is according to the best interest of the child, and in order not to be deprived from the care of his father event if the father is separated from the mother. So, the illegal travel negatively affect the right of father, who has the authority and guardian, to see his child. In the absence of the guardian, issuing passport of a minor under 18 years old then is decided upon by the jurisdiction of personal laws and status. (paragraph 3 / Article 5).

Iraqi Penal Code No. 111 of 1969

This law stipulated that anyone who has distanced a newborn child shall be imprisoned (Article 381). S/he shall be punished by a term of imprisonment for a more than a year. There would also be a fine for a more than one hundred of any parent or grand parents who by themselves or by other took child who was in a custody even if the taking did not happen by (paragraph 2 / Article 382).

It seem that the Iraq legislator has not only described the illegal transference of the custody, but classify it as a crime punished with prison. If the father has travelled with his child, the father has the right to see his child, in order to distance him from his mother without paying attention to the authority of the child's mother who has the legal custody of the child, the travel is illegal. Thus, the father is criminal to be punished by the Iraqi penal code and must be convicted when returning to Iraq.

We find in many cases of international kidnapping international Children, the kidnapper refrains from returning to the place of residence because of the fear of punishment, although the judicial or administrative authorities of the abducted State to the decision to return and vice versa. This happens if foster mother of a child by depriving her son from his father who has the authority to see him. It should be noted that in the text of a well condemns the kidnapped person's act in the first

text when the child is new born. This means that when the kidnapped child exceeds the description of the newborn, this text will not be applied.

Second: The Status of the Iraqi Judiciary Regarding the Illegal Transfer of a Child in Custody

It is recognized, by tradition and law, that transporting or traveling with a child is a consequence and belongings of the custody that revolve around the care of the child ("the decision of the discriminatory No. 3287 / body Aloho the personal and personal material," 2016). Custody has been organized in the Iraqi personal status law Iraqi, and the fact that this law did not address the issue of travel explicitly, more than one opinion on the competent court that can give permission to travel or not. This is according to the discretion granted to the court however, the judicial work on a n personal status courts are competent in the consideration of the arguments of requests for temporary guardianship provided by the foster parent for the purpose of travel. This happens in particular after the migration of some parents abroad (I. Jabbar). However, the Iraqi judiciary identified certain cases in the issue of allowing the I foster to travel with the child, because the mother deserves custody passed according to the law of personal status. However, the father remained the forced and legitimate on custody child, particularly in travel issues resulting in problems such as the migration of the mother of the child, his absence from the country and his concealment (I. Jabbar).

The Iraqi judiciary did not settle one in terms of travel, we find cases where a court has decided to distinguish from the consent of the Federal Court of Cassation has decided the consent of the responsible of the child is a prerequisite ro issue a passport to travel with the issue abraod. In other cases, the Dhi Qar Court of Cassation has decided that travel is not limited to the consent of the father but sometimes need court permission. This means that the Iraqi judiciary has taken the approach to the interests of the child. So whenever, the guardian wants to travel custody outside Iraq to receive treatment, for the child, the foster can obtain approval from the judiciary when it was traveling in the interests of the child. I agree. here, the court, according to its discretion, authorizes the mother to travel, after examining the evidence that shows the child's illness (E. Jabbar) and this is confirmed by the Federal Court of Cassation (E. Jabbar).

Thus, we find the Iraqi judiciary in these exceptional cases ignored the right of seeing the child and it was in the interest of the child. This is because the health of the child is better than the the care and attention he receives from his father while seeing him. If traveling has aim in protecting the interests of the child and nothing results except depriving the child from the care of his father, who

will be left in a state of usual residence, in this case, the right of seeing is violated. This affects the interests of the child, in these cases, we find the Iraqi judiciary intentionally dropping custody of the alleged child, and joining him to his alleged father is valid and in accordance with the law, and therefore travel is illegal. This contradicts the right of the father to take care of his child and see him/her ("the decision of the discriminatory No. 3287 / body Aloho the personal and personal material," 2016). In this case, the foster mother becomes not because she did not take care of the interest of the child by preventing his father seeing him. Thus the Court of Cassation considered that the failure of the foster to bring the child in viewing dates and only specified communication drops the custody because these two elements are conditions for fostering (Cassation Decision No. 10807 / Personal Status and Personal Items Authority on 9/29/2019., 2019).

Thus, we find that the Iraqi judiciary may grant custody to the mother after separation unless the child is harmed, in implementation of what was stipulated in the Personal Status Law. However, depriving the child of his father may cause great harm to the child. This is because the removal of the child from his father is a guarantee that it will have negative effects on the psyche of the child, and this reason is sufficient to drop custody of the mother whose custody is no longer a safe place for the child.

8. Conclusion

International child abduction is defined as the removal of children in a violation of the other parent's right to custody, or to keep the children in a country other than the usual place of residence. The principles governing the organization of kidnapping are embodied in preserving the family environment and taking care of the best interest of the child. This law is applicable to custody as required by the best interest of the child, through bringing in legislative competence that takes into account the interest of the child, and in promoting and strengthening the valid law, and has a role in preventing the implementation of this law. Iraqi laws have included within their framework general references aimed at protecting the child in custody from unlawful transfer, and the Iraqi judiciary has worked to interpret and apply these laws in accordance with the requirements of the implementation and respect of international agreements. These agreements make travel with the child illegal whenever this travel leads to a violation in the custody rights.

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