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BELIZE

HAGUE CONVENTION ON INTERNATIONAL CHILD ABDUCTION

Introduction

Belize was not a participant member of the Hague Conference on Private International Law at its 14th Session in accordance with article 37 of the 1980 Convention on the Civil Aspects of International Child Abduction. However, on June 22, 1989, in compliance with the stated article, it acceded to the Convention. Three months after Belize's accession to the Convention, it entered into force on September 1, 1989.¹

At the time of filing the instrument of accession to the Convention, Belize made the following reservations to the Convention in accordance with article 42:²

1. Any application or other documents transmitted to the Central Authority under the Convention must be accompanied by a translation into English and not in French.
2. Belize will not be bound to assume any costs relating to applications under the Convention resulting from the participation of a legal counsel or advisers, or from court proceedings, except insofar as these costs may be covered by its system of legal aid and advice.

The Convention is in force with the following countries that have accepted the accession of Belize: Argentina, Australia, Canada, the Czech Republic, Finland, France, Germany, Greece, Hong Kong, Hungary, Ireland, Israel, Italy, Luxemburg, Mexico, The Netherlands, Norway, Portugal, Serbia and Montenegro, Slovak Republic, Spain, Sweden, Switzerland, the United Kingdom, the United States of America, and Venezuela.

I. Domestic Laws and Regulations Implementing the Hague Convention

In implementation of its obligation to enforce the provisions of the Convention within its territory, on August 22, 1989, Belize enacted the International Child Abduction Act.³ The enactment declared that, subject to the provisions of the Act, "the provisions of the Convention set out in the Schedule to this Act shall have the full force of law in Belize."⁴ As a result, the Convention became a part of the legal system of Belize. Further, the Act also entrusted the functions of the Central Authority under the Convention to be discharged by the Minister of Social Services.⁵

¹ <http://www.hcch.net/e/status/stat28e.html>, art. 38.

² <http://www.hcch.net/e/status/stat28e.html>, Belize.

³ THE LAWS OF BELIZE, v. 4, ch. 177, § 3.

⁴ *Id.* § 3.

⁵ *Id.* § 5 and §2(b).

II. Domestic Laws Regarding Child Abduction and Parental Visitation

A. Child Abduction

The Criminal Code of Belize declares the abduction of children to be a criminal offense and prescribes punishment for those found guilty. A person who “steals” a child younger than 12 years of age, whether with or without his consent, is liable to imprisonment for 10 years.⁶ Anyone who abducts an unmarried female under 18 years of age is liable to imprisonment for a period of 2 years.⁷

B. Parental Visitation

The Belize Family Court has the exclusive jurisdiction for entertaining applications in all matters relating to children under the Convention. However, in other matrimonial proceedings, including divorce, judicial separation or nullity, etc., the Supreme Court of Judicature may make such orders, with respect to the custody, maintenance, and education of the children, as may appear just in the circumstances.⁸ Accordingly, parental visitation rights appear to be granted by the Supreme Court of Belize.

III. Court System and Structure – Courts Handling the Hague Convention

For the purpose of the Belize Convention, the Minister⁹ for social services will be the Central Authority under the Convention, but the court having jurisdiction to entertain applications under the Convention is the District Family Court,¹⁰ established under the Family Courts Act.¹¹ The court has the power to exercise jurisdiction throughout Belize. No other court has jurisdiction to deal with or try offenses or causes or matters over which the Act has conferred exclusive jurisdiction to the Family Court.¹² When an application has been made to the Belize Family Court under the Convention, that court, at any time before a determination of the application, may give such interim direction as it deems fit for the purpose of securing the welfare of the child concerned or of preventing changes in the circumstances relevant to the determination of the application.¹³ Therefore, for a decision under the Convention relating to parental visitation, the competent court shall be the Belize Family Court.

Before ordering the return of the child, the authority of the contracting state may direct the applicant to obtain from the authorities of the state of the child’s habitual residence a decision or other

⁶ THE LAWS OF BELIZE, v. 3, The Criminal Code, c. 101, § 55.

⁷ *Id.* § 56.

⁸ THE LAWS OF BELIZE, v. 2. The Supreme Court of Judicature Act, c. 91, § 153.

⁹ *Supra* note 3, § 5.

¹⁰ *Id.* § 6.

¹¹ THE LAWS OF BELIZE, v. 3, The Family Courts Act, c. 93, § 3.

¹² *Id.* § 6.

¹³ *Supra* note 3, § 7.

determination that the removal or retention of the child was wrongful within the meaning of article 3 of the Convention.¹⁴

The Belize Family Court and the District Family Courts have jurisdiction to try or otherwise deal with offenses, causes, or matters relating to the Juvenile Offenders Act, Family Maintenance Act, Illegitimate Persons Act, and Married Persons (Protection) Act, except on matters relating to such provisions whose jurisdiction has been expressly given to the Supreme Court.¹⁵ A judge constitutes and presides in proceedings before the Belize Family Court, which has jurisdiction throughout Belize. However, a District Family Court in each judicial district, other than the Belize judicial district, comprising no fewer than three and not more than five Justices of the Peace of that district, appointed on the basis of their knowledge and interest in family matters, constitute a District Family Court.¹⁶

The subordinate inferior courts are the District Courts and the “Summary Jurisdiction Courts” in each district.¹⁷ There are two constitutional courts in operation in Belize, namely, the Supreme Court of Judicature and a Court of Appeal.¹⁸ The Supreme Court consists of a Chief Justice and such other judges as may be appointed. The Court of Appeal consists of a President and two other judges.¹⁹ Both of them are superior courts of record.

The Supreme Court has unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law. It also exercises appellate jurisdiction to hear appeals from decisions of Family Courts and other inferior courts.²⁰ The Court of Appeal is competent to hear appeals against the decisions of the Supreme Court and such other decisions of the Supreme Court, delivered in exercise of its appellate criminal jurisdiction from the decisions of the inferior courts, which involve a question of law.²¹ An appeal of the decisions from the Court of Appeal may be filed before Her Majesty in Council on questions involving interpretations of the Constitution.²²

IV. Law Enforcement System

In order to assist the Belize Family Court in carrying out its functions and to enforce its orders, the Public Service Commission appoints a number of officers as bailiffs, employees, counselors, and social workers to the court such as may be necessary for the stated purpose.²³ For the purpose of

¹⁴ Ch.177, Schedule, art. 15.

¹⁵ *Supra* note 11, § 9 and the Schedule.

¹⁶ *Supra* note 11, §§ 3 and 5.

¹⁷ THE LAWS OF BELIZE, v. 3, The Inferior Courts Act, c. 94.

¹⁸ THE LAWS OF BELIZE, v. 1, Const., c. 4, § 94.

¹⁹ *Id.* §§ 95 and 100.

²⁰ *Supra* note 11, § 17.

²¹ THE LAWS OF BELIZE, v. 3, The Court of Appeal Act, c. 90, §§ 14 and 24.

²² *Supra* note 6, § 104.

²³ *Supra* note 18, §§ 22 & 29.

execution of their functions, all such officers of the Belize Family Court appointed to offices corresponding to those in a magistrate's court, have like powers, privileges, and immunities as are appurtenant to their offices in a magistrate's court. In case no such officers have been appointed for the Family Court, the staff of the magistrate's court in the Belize judicial district may be required to assist the Belize Family Court in the exercise of its functions. Assistance may also be available, if required, from the department of the police, for helping the above-named officers. Officers are appointed similarly in the offices of the District Family Courts for their assistance with identical duties, privileges, and immunities.²⁴

V. Legal Assistance Programs

Legal service and legal aid services are predominantly centered in Belize City.²⁵ The center is staffed by one full-time attorney. Professional legal representation is mandatory only for murder. In all other cases, criminal or civil, access to legal representation and advice is wholly dependent on poorly resourced legal aid and the occasional pro bono work the center is able to attract from private attorneys.

VI. Conclusion

Belize appears fully compliant with the Hague Convention on the Civil Aspects of International Child Abduction. The country has made the Convention a part of its legal system and has also set up specific courts for assistance on international child abduction. Moreover, abduction of children constitutes a criminal offense under the laws of Belize. According to a report submitted to the United Nations Committee on the Rights of the Child, there have been only a few known isolated instances of illegal abduction of children in Belize.²⁶

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²⁴ *Supra* note 11, § 5.

²⁵ <http://www.belize.gov.bz>.

²⁶ <http://www.hri.ca/index.aspx>.