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MONTSERRAT

HAGUE CONVENTION ON CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Montserrat, a British overseas territory, is a small island in the Caribbean, southeast of Puerto Rico. The island was largely destroyed by the eruption of the Soufriere Hills volcano, which began on July 18, 1995, and has resulted in the evacuation of almost two-thirds of the population.¹

I. Domestic Laws and Regulations Implementing the Hague Convention

The Hague Convention on the Civil Aspects of International Child Abduction² was extended to Montserrat by the British Government on December 10, 1998, entering into force on March 1, 1999. Montserrat has implemented the Hague Convention through its Child Abduction and Custody Act of 1997;³ very little information concerning its implementation is available.

II. Domestic Law Regarding Child Abduction and Parental Visitation

A. Child Abduction

It is a criminal offense to remove a child under age 14, either forcefully or fraudulently, from a parent or guardian that has the legal care of the child in Montserrat. It is also an offense to remove a girl under the age of 16 from the care of her parents.⁴

In cases where children have been abused or ill-treated, the courts can remove a child from their parents. A Magistrates Court may issue a warrant to grant the police the power to search for and remove the juvenile from the place where they are in danger.⁵

B. Parental Visitation

The rights and responsibilities of parents to their children is recognized in the common law. However, these rights and responsibilities may be removed by an order of the court. The Guardianship of Infants Act⁶ provides that the welfare of the child is the first consideration in cases where the custody

¹ CIA, The World Factbook, Montserrat, *available at* <http://www.cia.gov/cia/publications/factbook/geos/mh.html> (updated Dec. 18, 2003).

² Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980 T.I.A.S. No. 11,670, 1343 U.N.T.S. 89.

³ Child Abduction and Custody Act 1997, 12/1997.

⁴ United Nations, Committee on the Rights of the Child, Consideration of Reports Submitted by State Parties Under article 44 of the Convention, Overseas Territories and Crown Dependencies of the United Kingdom of Great Britain and Northern Ireland, CRC/C/41/Add. 11, Feb. 2000, at 270.

⁵ *Id.* at 267.

⁶ The Guardianship of Infants Act, c. 297.

of a child is being decided.⁷ It also provides that mothers have the same rights as fathers to seek custody of their children.

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

The court system in Montserrat is:

based on a High Court, presided over a resident puisne judge of the Eastern Caribbean Supreme Court. The High Court has jurisdiction over all matters civil and criminal. It is assisted by a Magistrate's Court, which has jurisdiction in minor-level civil cases. Appeals from the High Court go to the Court of Appeal of the Organization of Eastern Caribbean states. Further appeal, if allowed, is to the Judicial Committee of the Privy Council.⁸

Responsibility for the rights and welfare of children falls under the Ministry of Education, Health, and Community Services. Responsibility for enforcing regulations dealing with children falls to the Legal Department and the Police.⁹

IV. Law Enforcement System

The Central Authority in Montserrat, as designated by the British Government, is the Attorney General.¹⁰

V. Legal Assistance Programs

There is no information available on Legal Assistance Programs.

VI. Conclusion

Overall, the effectiveness of the implementation of the Convention in Montserrat is difficult to ascertain. The numerous natural disasters that the island has been subjected to have resulted in the mass migration of the population, with the stability of the island only tentatively returning recently.

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⁷ *Supra* note 4, at 254.

⁸ JERRY DUPONT, *THE COMMON LAW ABROAD* 271 (2001).

⁹ *Supra* note 4, at 243.

¹⁰ Attorney General, Attorney General Chambers, Montserrat, West Indies.