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S C H O O L O F L A W

**A Critical Analysis on Whether the Islamic Republic of Iran Should Adopt the 1980 Hague Convention on the Civil Aspects of International Child Abduction**

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# Introduction

*‘This is not a story of East versus West. This is not a story of Islam versus the rest of the world, or fathers versus mothers. This is the story of…little kids who – at no fault of their own – have been taken away from everything that was familiar [and safe] to them.’* [[1]](#footnote-1)Alison Azer

Over the past 50 years, international child abduction has become significantly pervasive due to, inter alia, greater international mobility, and soaring divorce rates.[[2]](#footnote-2) Parental-child abduction involves removing or retaining a child in another Country by an individual with parental rights, without Court authorisation or the consent of the left-behind parent.[[3]](#footnote-3) This typically occurs in the context of marital breakdown, where one party has dual nationality.[[4]](#footnote-4) Abduction causes significant distress to families,[[5]](#footnote-5) and is particularly ‘detrimental to the child’s life, wellbeing and best interests.’[[6]](#footnote-6) The cross-jurisdictional nature of this phenomenon necessitated the development of the Hague Convention on the Civil Aspects of Parental Child Abduction 1980 (hereinafter ‘the Convention’) to swiftly recover abducted children.[[7]](#footnote-7) However, the Convention’s remedies are ineffectual where children are abducted to Non-Convention Countries,[[8]](#footnote-8) such as Iran. In Iran, the Courts typically favor the father for custody, and there is no reciprocal arrangement to secure the summary return of an abducted child. Subsequently, there is a gaping lacuna in Iran’s ability to safeguard abducted children. This issue is depicted in the non-fictional 1991 adaptation, ‘*Not Without My Daughter’,* whereby Betty Mahmoody smuggled her daughter out of Iran amid bitter conflict with her husband.

This background informs the research question explored by this thesis. This thesis will evaluate the theoretical underpinnings of the Convention, Iran’s statutory framework, and discuss whether, in light of this, it is useful and feasible for Iran to accede to the Convention. Chapter One will illustrate the Convention’s key objectives and shortfalls, and why Islamic countries are hesitant to accede. Chapter Two will focus on Iran’s approach to custody and abduction. Section 2.3 will explore how Western Countries approach abduction cases involving Islamic Countries. Only cases in common law jurisdictions will be considered due to their accessibility. Further, UK court decisions are utilized as legal responses vary depending on jurisdiction. Chapter Three will consider whether it is useful and feasible for Iran to accede. For comparative purposes, reference will be made to Pakistan and Morocco who acceded to the Convention in 2017 and 2010 respectively. Morocco was chosen as it was the first Islamic country to accede, and Pakistan was chosen as its custody laws are almost analogous to Iran. The author will posit two recommendations (i) Iran should actively participate in the Malta discussions, and (ii) Iran should enter into bilateral agreements with Western Countries to facilitate return of an abducted child. This thesis will conclude that it is both useful and feasible for Iran to accede to the Convention.

Moreover, only ‘Muslim-Majority’ Countries, which operate primarily under Sharia law will be considered. Sharia is defined as the totality of guidance that God has revealed to Prophet Muhammad, as found in the Qur’an.[[9]](#footnote-9)The terms ‘Muslim’ and ‘Islamic’ will be used interchangeably, as will ‘child’ and ‘children’. ‘Sharia’ and ‘Iranian’ law are synonymous. It should be noted that every effort was made to access Iranian case law but judgements are not publicly available.[[10]](#footnote-10) Nevertheless, this thesis consists of library research, and the author has assessed relevant primary and secondary sources, including but not limited to, Westlaw, Hein Online, Lexis Nexis, and the Hague Conference website to reach an informed, and critical Conclusion.

# 1. The Hague Convention

*The welfare of children ‘is best promoted by reversing the effect of an abduction as quickly as possible.’*[[11]](#footnote-11)Rhona Schuz

Historically, many States did not possess provisions for dealing with abduction. This incentivised abductors to seek out a jurisdiction that would be most favourable to them, facilitating forum shopping. The Convention has been lauded as one of, *if not the most*, successful instruments drawn under the auspices of the Hague Conference on Private International Law (‘HCCH’). The Convention is a widely endorsed legal instrument, with 103 signatories.[[12]](#footnote-12)However, behind its acclaimed success, lies personal tragedies, academic controversy and diplomatic tensions.[[13]](#footnote-13) This Chapter will focus on the Convention’s principles and shortfalls, and explore why Islamic Countries are reluctant to accede.

## 1.1 The Convention’s core principles

The Convention operates where a child (below the age of 16)[[14]](#footnote-14) is wrongfully removed or retained from their State of habitual residence (‘HR’), and less than 12 months have elapsed before the commencement of court proceedings.[[15]](#footnote-15) HR is a connecting factor and a question of fact for the applicable law. Removal occurs *‘when a child…previously in the State of its HR, is taken across the frontier of that State; whereas, retention is where a child, which has… been outside the State of their HR is not returned.’*[[16]](#footnote-16) In such instances, a State is required *‘to return a child forthwith.’*[[17]](#footnote-17) Accordingly, the Convention’s primary objectives are two-fold: (i) secure the prompt return of children,[[18]](#footnote-18) and (ii) to ensure that custody rights in one Contracting State are effectively respected in another.[[19]](#footnote-19) Prior to expanding upon this, it is worth mentioning how the Convention operates in practice. The Convention instructs States to establish a Central Authority (‘CA’).[[20]](#footnote-20) CA’s are charged with initiating and receiving requests, locating the child, and taking preventive measures to avoid harm to the child.[[21]](#footnote-21)

CA’s co-operate with one another to secure the child’s prompt return.[[22]](#footnote-22) Nonetheless, in regards to the latter objective, it is imperative to emphasise that theConventionis not a vehicle for dictating the resolution of child access questions. The Convention only determines which forum is better suited to decide custody disputes.[[23]](#footnote-23) Apropos to the former objective, the edifice around automatic return is a proxy for the child’s best interests, and the Convention’s efficacy is dependent upon the legitimacy of this notion.Prompt return isbeneficial for two main reasons. Firstly, it aids in deterring abductions, and precludes abductors from altering existing custody arrangements.[[24]](#footnote-24) Secondly, the mechanism ‘reverses’ the abduction and restores the *status quo,* thus, minimizing trauma suffered by the child. Indeed, abducted children suffer significant psychological sequelae, including social disorders, and severe emotional trauma.[[25]](#footnote-25) Overall, such benefits, as aptly noted by Bozin, are pertinent for the child’s welfare.[[26]](#footnote-26)

Moreover, the Convention has been accoladed by Baroness Hale as *‘admirably clear and simple.’*[[27]](#footnote-27) This is corroborated by the fact that the criteria for ascertaining a return order, and whether a removal/retention is ‘wrongful’ is conspicuously enumerated: (i) the child must be HR in a Contracting State and removed/retained in another,[[28]](#footnote-28) (ii) Removal/retention constitutes a breach of custody rights (‘CR’), and (iii) the applicant must have been exercising those rights at the time of abduction or immediately before.[[29]](#footnote-29) However, the first criteria has attracted some criticism. Despite being a central feature of the mechanism, HR is undefined. Perez-Vera acknowledged that the drafters of the Convention deliberately omitted this to accord the courts flexibility.[[30]](#footnote-30) This is advantageous since courts are empowered to take into consideration the factual matrix of each case, allowing them to respond to the demands of a mobile society. Yet, courts are often faced with situations that the drafters did not anticipate, resulting in immoral outcomes. For instance, in *Re H*,[[31]](#footnote-31) a mother abducted her child to the UK, and was granted asylum on the basis of a well-founded fear of persecution. Despite this, the Court held that the child should be returned. Welstead rightly contends that if this is a reading of the ‘child best interests,’ it seems wholly perverse, particularly where the result is to send asylum seekers back to the persecution they were fleeing from.32 Nonetheless, the underlying justification in not defining HR is somewhat plausible given fluctuating societal attitudes and their impossibility to justify any logical legal doctrine. Indeed, neither domicile nor nationality, as rigid and legalistic connecting factors, can provide this characteristic.

## 1.2 Exceptions to Return

The Convention recognizes five exceptions where peremptory return may be precluded. This includes, *inter alia*, that return would violate the fundamental human rights of the recipient State,[[32]](#footnote-32) the child is settled in the new environment,[[33]](#footnote-33) or return would present a grave risk of harm to the child.[[34]](#footnote-34) Only the latter two defences will be critically analysed due to their applicability in Chapter 3.

A child need not be returned if there is a ‘grave risk’ that return subjects the child to physical harm or another intolerable situation.[[35]](#footnote-35) This is the only occasion whereby the best interests of each child is considered.[[36]](#footnote-36) Although, the Convention provides scope for circumstances where a child is abducted out of necessity,[[37]](#footnote-37) a narrow interpretation is commonly utilised by the UK Courts *(Re E (Children).*[[38]](#footnote-38) Whilst this prevents the Convention from becoming *'a dead letter,'*[[39]](#footnote-39) it possesses disadvantages. Firstly, it is harder for the applicant to prove the abuse. Secondly, where the high threshold is not met, returning a child to a dangerous situation may contribute to harming them. Thirdly, interpretation of ‘grave risk’ inevitably varies from Country to Country. Failure in uniformity and predictability has a crippling impact on the position of applicants, and thereby the efficacy of the Convention.

Where considerable time has elapsed and the child is settled, a summary return will not protect the child.[[40]](#footnote-40) This is beneficial as it effectuates the child’s need for stability. However, Schuz reprimands this exception, suggesting that ‘*the child’s … views should be heard’,*[[41]](#footnote-41)rather than the *‘superficial adjustment to the child’s surroundings.’*[[42]](#footnote-42)This suggestion is arguably inconsistent with the summary nature of the return mechanism. Nonetheless, a narrow interpretation has been duly justified by several judges,[[43]](#footnote-43)leading to greater coherence and sustenance of legal harmonization. Yet, Schuz firmly remarks that a narrow interpretation is inconsistent with the drafter’s intentions.[[44]](#footnote-44) Silberman challenges this, stating that even when a child is settled, authorities obtain flexibility in ordering return.[[45]](#footnote-45)This author concurs with Silberman’s persuasive stance, particularly since some States allow years to elapse before ordering return.[[46]](#footnote-46)

## 1.3 Shortfalls of the Convention

One prominent caveat is the paucity of definitions vis-à-vis HR and CR. Whilst, as noted, certainty was sacrificed in pursuit of fulfilling flexibility,[[47]](#footnote-47) Schuz avers that the *“divergence of views is more apparent than real.”*[[48]](#footnote-48) However, this stance is ostensibly flawed. Three tangible approaches to HR can be identified: parental intentions, independent child-centred and the combined approach. The emergence of these models in themselves highlights the disparity in implementing HR, and alludes to the scarcity of certainty, which makes predicting case outcomes quite challenging.[[49]](#footnote-49) This may, in turn, dissuade Iran from acceding.

However, the fact that the test for HR is the same for the Brussels IIa regulation[[50]](#footnote-50) and theChild Protection Convention,[[51]](#footnote-51) lends to the assertion that there is no need to define HR as it is already a *'well-established concept’.*[[52]](#footnote-52)Similarly, the lack of a comprehensive definition for CR provides necessary scope to include Courts obtaining such rights *in loco parentis*. Whilst this autonomous meaning should give effect to a uniform interpretation, in practice, there is difficulty in discerning ‘*what kind of rights, if any, will qualify as rights of custody.’*[[53]](#footnote-53) This cultivates uncertainty, echoing the inherent issues in implementing HR. Such uncertainty breeds divergent interpretations which may be confusing for Iran when dealing with abduction to foreign legal systems.

Another shortfall is the Convention’s ‘noncompliance issues, and lack of enforceability.’[[54]](#footnote-54) As aptly elucidated by Winterbottom, 'the Convention is useful only…where [the] foreign state [is] willing to comply with the mandates.[[55]](#footnote-55) Indeed, despite Mexico being Signatory to the Convention, one father had to wait almost 2 years for his daughter’s return to the UK.[[56]](#footnote-56) Likewise, Turkey, Austria and Japan have a reputation for poor compliance.[[57]](#footnote-57)Since there are no penalties for those that do not adhere to the Convention’s mandates, it appears that compliance is based exclusively upon international diplomacy, and the volitional conduct of States. This raise concerns in thatthere is no guarantee that a written order by one Contracting Country will be enforced by another. Given the gravity of abduction, this author contends that the Convention would be strengthened by the adoption of enforceability measures. Though, even if the international community is willing to revise the Convention, it is doubtful that consensus would be secured given the sheer number ofContracting States.

Ironically, the Conventions’ successes potentially thwart its improvement.[[58]](#footnote-58)

## 1.4 Iran and Other Islamic Countries

Arguably, the Convention’s greatest deficiency is its lack of applicability in Non-Signatory Countries.[[59]](#footnote-59) Indeed, a preponderance of Islamic Countries refuse to accede. The Malta process was promulgated in 2004 to facilitate discussions on abduction between Contracting, and Islamic Countries. Despite these efforts, non-accession remains a serious impediment to the Convention fulfilling its objectives.[[60]](#footnote-60) The question therefore posed is: why are Islamic Countries so reluctant to accede?

Khaliq illustrates that reluctancy to accede is due to a ‘*presumed incompatibility with Sharia Law, specifically, its child custody rules.’*[[61]](#footnote-61)Schnitzer-Reese echoes that the differences in custodial resolution is relevant, as Islamic Countries are hesitant to give up their right to determine the child’s best interests.[[62]](#footnote-62)These delineations are, to some extent, viable. When deciding with which parent a child shall live, Sharia law presumes that it is in the child’s best interests that she/he lives (i) with a Muslim parent; (ii) with a mother who has not remarried, and (iii) near the father.[[63]](#footnote-63)Whilst these requirements ensure that the child maintains contact with both parents, it is evident that Sharia prioritises both gender and religion in determining the child’s best interests. Sharia courts are also antipathetic to the ‘Western’ ideology that both parents possess equal custody. The Convention, however, does not contemplate these factors in its choice of forum considerations.Thus, participation in the Convention may lead to outcomes that are contrary to Islamic law.

Conversely, Hak is persistent that despite a few areas of concern, no serious incompatibility between Sharia and the Convention exist.[[64]](#footnote-64) Indeed, the child’s best interests being of paramount importance is ‘*an established tenet of family law.’*[[65]](#footnote-65) This is proclaimed in the Convention,[[66]](#footnote-66) and reiterated in Islamic precedent.68Mollar further advances[[67]](#footnote-67) that Islamic child custody and the Convention both operate on a similar fundamental value of ‘best interests’.[[68]](#footnote-68)On this basis, Hak’s stance seems to be one that has merits; though, it is also somewhat exaggerated. Whilst ‘best interests’ are regarded as paramount, if applied, what Sharia constitutes as the child’s best interests, is wholly different to the Convention’s dictation. Accordingly, two different ideologies are posited, which is, arguably, a considerable obstacle to accession. In light of this, Iran’s hesitancy to accede is presumably justified.

However, notwithstanding the profound dissimilarities between Iranian and Western Law,this author postulates that the presumption that religious beliefs are incompatible with the Convention's tenets is implausible, and that *‘more dissemination is required to quash misconceptions about the Convention amongst Muslim countries.’*[[69]](#footnote-69)Based upon the aforementioned arguments, it appears that the aims of the Convention are misunderstood. The Convention seeks to address jurisdictional issues and restore the *status quo ante*, it does not decide upon any *de facto* custody rules, and thus, does not evaluate the child’s best interests. Indeed, the treaty’s success is largely attributed to its strategy of avoiding this substantive evaluation.[[70]](#footnote-70) Since there is no such evaluation, and it is incumbent upon

States to respect one another’s custody laws,72 the preconceived notion that the Convention would violate Sharia law is baseless. Instead, it is this author’s conjecture that reluctance to accede could be due to geopolitical tensions between Iran and Western Countries, for instance, the UK. This concept has been corroborated by Yassari, who asserts that it is the political disposition of Islamic countries (as opposed to their religion) which leads to a failure to fully engage with the Convention.[[71]](#footnote-71) However, upon further examination, this view is unconvincing. If political tensions are the sole reason for reluctancy to accede, then why have a majority of Islamic Countries, including Iran, acceded to the UNCRC?[[72]](#footnote-72) This may be because the UNCRC, unlike the

Convention, allows for reservations to be entered against its obligations where there is incompatibility with Sharia.[[73]](#footnote-73)Whilst this rationalization is reasonable, disputably, there is no need for the Convention to permit analogous reservations since deliberating custody is not within its remit, hence, there is no contravention of Sharia law. Accordingly, politics may be a factor in Iran’s hesitancy to accede, but it is certainly not the main nor sole reason.

*A fortiori*, Emon contends that the real reason Islamic States are tentative is due to the *‘lack of vibrant private international law in Islamic law.’*[[74]](#footnote-74)This has been corroborated by Mattar, who opines that the *‘challenge is the lack of subject expertise, training and curricula…on the Hague Conventions.*’[[75]](#footnote-75) This stance has weight in that, relative to Western countries, such as the UK, there is no extensive private law system in Iran particularly. However, this contention is refuted as Iran is party to other Hauge Conventions[[76]](#footnote-76) and has bilateral private law agreements with Syria and Iraq.[[77]](#footnote-77)Therefore, Iran possesses enough familiarity with private law to adopt the Convention.

## 1.5 Conclusion

Overall, this chapter demonstrates that the expedited return mechanism is beneficial. However, the Convention’s paucity of definitions, and enforcement measures foments legal disharmony. This may dissuade Iran from acceding, however, even if Iran accedes, two pertinent concerns are raised: (i) there is no guarantee Iran would comply with the Convention’s provisions, and (ii) divergent interpretations of the Convention’s conceptsmay breed confusion. Finally, while Islamic Countries are hesitant to accede due to perceived cultural and religious barriers, the nature of the Convention does not consider any substantive custody issues-thus, such apprehensions are unfounded.

# 2. Iran

*‘My aim is to bring Iran…to the same level of civilization and progress as will be enjoyed by the most highly developed countries.’*[[78]](#footnote-78)
Mohammad Reza Pahlavi

The emergence of the Pahlavi dynasty in 1925 marked the advent of modern Iranian legal history.[[79]](#footnote-79) Mohammad Reza Pahlavi, the last Shah (King) of Iran, initiated radical legal reforms inspired by modern European codes, notably France. Although his reign was characterised by political despotism, as far as legal reforms were concerned, a progressive, secular course was pursued.[[80]](#footnote-80) Indeed, the Family Protection Act 1967 was the flagship of Iran’s modernization program. It substantially modified gender inequalities in Islamic law by removing the automatic custody right of fathers.[[81]](#footnote-81) However, such reforms faced severe religious criticism from those who believed westernization to be antithetical to Islam.[[82]](#footnote-82) Accordingly, there was a paradigm shift from an autocraticmonarchy to an Islamic Republic under Khomeini in 1979. Thereafter, secular legislation was abrogated, and replaced with Sharia laws.[[83]](#footnote-83)This chapter will appraise Iran’s approach to custody and abduction. Further, there is a false presumption that Western court *‘decisions [are based] on…Christian beliefs which [are] assumed to be shared in the community.’*[[84]](#footnote-84) This will be repudiated by addressing the way in which Western States deal with abduction cases involving Islamic Countries.

## 2.1 Iran’s Approach to Custody and Abduction

Family law is governed by the 1979 Iranian Constitution and 1928 Iranian Civil Code (‘ICC’). However, the term ‘parental-child abduction’ is alien to Iranian law. Subsequently, parents are directed to the Family Court to settle the dispute as one of custody. Iranian family law reflects the Islamic conception of family, established on the distribution of gender-based roles.[[85]](#footnote-85) The 1928 ICC differentiates between two institutions: *Wilayat* (financial care of the child) and *Hizanat* (responsibility to provide a child with proper care, and education).[[86]](#footnote-86) In its legal connotation, *wilayat* means the authority of the father over his children.[[87]](#footnote-87) By contrast, the father and mother equally bear responsibility of *hizanat*.[[88]](#footnote-88) The distinction between these concepts, specifically how *wilayat* accords the father control of financial assets, lends to the delineation that Iran’s custody laws are *‘patriarchal*.’[[89]](#footnote-89) Further, gender-assigned ‘roles’ illustrate Iran’s somewhat myopic stance on modern family dynamics. Whilst these critiques are valid, it is worth noting that after the 1979 Revolution, women’s access to several professions were severely restricted.[[90]](#footnote-90) Thus, women are generally unable to earn as much as men and may not be as financially knowledgeable. Although this, in itself, exposes further gender inequality, it allows for a logical (though not justifiable) explanation why financial care is bestowed exclusively to fathers. Nonetheless, the fact that the father earns more money places the mother at a significant disadvantage upon divorce. Indeed, *‘the court often...grants custody to the father on grounds of better financial capabilities.’*[[91]](#footnote-91)Notably, even if the father is morally ineligible, he is still prioritised for custody.[[92]](#footnote-92) Iran fails to strike a fair balance between the competing rights and interests of men and women.

If parents cannot reach a custody agreement, the Sharia Court dictates a rule: the mother has priority for *hizanat* until the child reaches the age of seven,[[93]](#footnote-93) thereafter, custody devolves to the father. If, however, the motherremarries during this period, she will lose custody, which is automatically transferred to the father.[[94]](#footnote-94) However, if the father remarries, his custodial right subsists. Whilst Islamic scholars assert that this is based upon the child’s best interests,[[95]](#footnote-95)these provisions have provoked severe, but nevertheless, apt criticism. Such laws have been reprimanded as *‘arbitrary and discriminatory against women and children.’*[[96]](#footnote-96)Winterbottom concurs, stating that these laws are *‘full of male bias’*.[[97]](#footnote-97) Considering the prevalence of gender inequality, Iran does not sufficiently resolve custodial disputes.

Additionally, Sanderson has admonished Iran’s legislation as *‘fixed and immutable.*’[[98]](#footnote-98) Though, this is an overstatement. *Hizanat* is terminated when a child reaches the age of maturity (*Bolough*), after which the child may choose which parent they wish to reside with.[[99]](#footnote-99) Typically, *Bolough* is nine lunar years for girls (8 years and 9 months) and fifteen lunar years for boys (14 years and 7 months). However, in practice, children remain with their parents far beyond these legal boundaries.[[100]](#footnote-100) Ali refutes Sanderson’s notion, averring that Sharia law *‘is susceptible to [the] changing needs of time.’*[[101]](#footnote-101) There is further support for this in that, traditionally, mothers were accorded *hizanat* for a boy until he was two years old, and girl until seven. This gender demarcation was reformed despite religious opposition.[[102]](#footnote-102)Thus, unlike Sanderson’s contention, Iranian custody law appears to possess some flexibility. Nevertheless, in support of Sanderson’s stance, one could argue that despite the changing dynamic of families, Sharia law is still based upon Islamic legal tradition centuries ago and, aside from minor changes, it has remained largely static. On balance, a middle ground between both viewpoints is reasonable. Though, in light of the minutiae changes, it appears that Sharia law is more incorrigible than not.

Although cross-cultural marriages, and international custody cases are increasing,[[103]](#footnote-103)Iran does not recognise the concept of dual nationality; a child born to Iranian-British parents is considered a sole national of Iran. If, *arguendo,* the mother of this child obtained a UK custody verdict that was compatible with Iranian law, and the father abducts the child to Iran, this will likely be considered as a contempt of court in Iran.[[104]](#footnote-104) This is because although parental-child abduction is not a crime, the Islamic Penal Code recognizes abduction as akin to kidnapping, punishable by up to fifteen years imprisonment.[[105]](#footnote-105) However, alarmingly, since the child is considered a sole Iranian national, he/she would not be returned to the UK for as long as the father does not wish to return.[[106]](#footnote-106) Not only does this allude to the patriarchy laced within Iranian law, but dual-national children are forced to remain in an unfamiliar country, away from the left-behind parent. Iran’s failure to acknowledge, and cater to dual national children is seemingly a failure to recognise the hardship children in these situations endure, highlighting the inadequacy of the law.

## 2.2 Practical difficulties to Iran’s approach

It has been illustrated that Iran’s custody laws perpetuate male bias and are prejudiced against women. Whilst this commentary may appear harsh, the effectuation of these laws authenticates these critiques.

 In *B and C*,[[107]](#footnote-107) three salient points are raised. Firstly, this case reveals irrefutable male bias.The father is an Iranian national and a perpetrator of domestic abuse. He abducted his children on two occasions. In the first instance, whilst in transit to Iran, the father was caught by police. When interviewed, the father asserted that: ‘*in Iran it is easy for a man to get custody. All that is needed is…to go to court.’*[[108]](#footnote-108)This highlights that it is common knowledge that Iranian Courts favour fathers over mothers. This evident tendency has thrown the right to fair trial,[[109]](#footnote-109) and the impartiality of Iran’s judiciary into question. Indeed, such judicial activism seems to erode, not enhance rights, which works against, rather than in favor of children.[[110]](#footnote-110) This is because as opposed to obtaining equal access to both parents, children are forced to remain with only one; the father.

Secondly, by harnessing male bias, Iran is a *‘safe harbour,’*[[111]](#footnote-111)enabling perpetrators to *‘evade…authority and get away with kidnapping their child.’*[[112]](#footnote-112)The second instance the father abducted the children, he was successful, and remained in Iran for 7 months. Without any proper due process, the Family Court of Shiraz granted the father custody.[[113]](#footnote-113) This gives effect to the assertion that *‘Iran’s legal processes seemingly ignore [domestic abuse] allegations…and provide little protection for women and children.*[[114]](#footnote-114)Further, one could argue that by not acceding to the Convention, Iran facilitates forum shopping by this demographic. As this case has illustrated, it is axiomatic that *‘women who are abused by their husbands and whose children are abducted…stand no chance at all in Islamic law’.*[[115]](#footnote-115)

Thirdly, this case endorses the contention that ‘*if a child is abducted to a [Muslim] country… there is little [legal] recourse available to the left-behind parent’.*[[116]](#footnote-116)The mother was unable to rely on the Convention’s return mechanism, leaving her in a *‘legal black hole’.*[[117]](#footnote-117)Having no other viable option, she travelled to Iran, smuggled her children ‘under her chador’ [long headscarf] and escaped clandestinely to the UK, making at least part of this arduous journey on foot. This depicts the inevitable difficulties associated with Iran’s Non-Signatory Status. Regrettably, this case is not a sole example. Jodi Reed had no legal recourse when her former husband, Kevin Homaune - a Canadian-Iranian- abducted their daughter to Iran. The ordeal had a significant toll; Reed stopped sleeping and eating, and entered into a state of *‘manic panic’*.[[118]](#footnote-118)Although Homaune was charged with kidnapping upon return,[[119]](#footnote-119) he had successfully managed to deprive Reed of exercising her parental rights for two years. It appears that rather than facilitating return, Iran’s statutory framework makes it much harder, with left-behind parents having no other viable alternative but to take a long, harsh path to recover children. It is, therefore, not only useful, but imperative that Iran accedes in order to curtail these situations.

Additionally, in *Ghasemi & Zoka,*[[120]](#footnote-120) custody was automatically imputed to the father upon the mother’s remarriage. Thereafter, the child seldom saw the mother. This change in care greatly distressed the child, who remained strongly attached to her mother. Literature echoes that physical separation between a primary carer and child has devastating effects. For instance, the child risks internalizing symptoms (depression, anxiety), and externalizing behaviours (withdrawal, aggression).[[121]](#footnote-121) Though this study alludes to parental incarceration specifically, the fact of separation is the dominant effect and is, therefore, generalizable to this scenario. Although Iran claims that their laws are in the child’s best interests, this case indicates that the child’s best interests are forfeited in favour of the father gaining custody, no matter how detrimental to the child’s wellbeing. It is difficult, in this respect, to comprehend how such provisions are representative of the child’s best interests.

## 2.3 How Western Countries Deal with Cases involving Islamic Countries

Initially, English Courts referred to the Convention, relying on the principle of comity.[[122]](#footnote-122) Comity requires one country to respect the laws, and judicial decisions of another.[[123]](#footnote-123) More recently, however, English Courts have moved away from comity, opting for analysis of the child’s best interests instead. Consequently, differences in the legal conceptions of welfare are deemed relevant,[[124]](#footnote-124) and the Court must be satisfied that their *‘welfare test will apply in foreign courts.’*[[125]](#footnote-125)Whilst the best interest’s standard seems conceptually justifiable, arguably, it lends to the apprehensions Iran has for not wanting to accede. Namely, an exploration of the child’s best interests may violate Sharia law, which places significant weight upon religion and gender. This provides impetus for Iran to accede to the Convention where the child’s best interests are not assessed.

However, such apprehensions are placed at ease by the seminal Supreme Court decision in *Re J.*[[126]](#footnote-126)In this case, a father was seeking return of his son to Morocco. Although Morocco had acceded to the Convention, this was not accepted by the UK- therefore, Morocco was treated as a Non-Convention Country.[[127]](#footnote-127) Irrespective of this, Wood opined that *‘it is in [the child’s] best interests to return…’*[[128]](#footnote-128) This case advances two pertinent points.Firstly, it demonstrates that notwithstanding the differences between English and Islamic custody law, English courts will (where appropriate) reciprocate return.Secondly, there is no prejudice towards Islamic Countries. Instead, there is reverence for Sharia law, and decisions are made solely upon the child’s best interests.

There is, however, a contrasting, if possibly erroneous argument. Despite this evident objectivity, Gosselain avers that Western systems are not entirely innocent of wariness or even defiance towards Islamic legal systems.[[129]](#footnote-129) Upon perusing Belgian case law, the majority of magistrates systematically apply Belgian law, even when the parties nationality would require application of foreign law.[[130]](#footnote-130) This is because *‘national legislation, is considered to be more protective of women and children.*35 This tendency is also apparent in France.[[131]](#footnote-131) Such divergence generates uncertainty, but, it also highlights that the absence of uniformity is a shortfall in both Convention and Non-Convention cases. Cognizant of the fact that divergence is prevalent either way, this shortfall should not deter Iran from acceding. Nevertheless, UK case law has embraced cultural independence. This is compounded in *Osman v Elasha*,[[132]](#footnote-132) where it was declared problematic if *‘a State whose system derives from Judeo-Christian foundations condemns a system derived from an Islamic foundation.*[[133]](#footnote-133) Although this case does not concern Iran, it is palpable that decisions made by UK courts are customarily impartial, and Islamic legal systems are not simply disregarded. This has been echoed by Hughes who opines that although Islamic upbringing of children is very different, it does not necessarily follow that it is not child-centred.[[134]](#footnote-134) Such consensus should reassure Iran that custody rules are respected. Though, if Iran acceded to the Convention, they would be accorded more certainty since it is incumbent on Signatory Countries to respect foreign custody laws.[[135]](#footnote-135)

Moreover, whilst a carefulreview of the welfare issues may lead to a refusal of return, this is not an outright rejection of Sharia law.[[136]](#footnote-136) In *S v S*,[[137]](#footnote-137) the father’s application for return from

England to Iran was refused in light of his controlling and manipulative behaviour.140 It was also averred that this behaviour would be entirely in accordance with Iranian law.[[138]](#footnote-138) Evidently, there is a need to balance tensions between combating abduction, and respecting Sharia law, and the need to accomplish the former without jettisoning the latter. Cognizant of the evidence, the Court’s decision is well-considered as it is simply based upon protecting the child’s welfare. This is something which, suffice it to say, Iran, by not acceding to the Convention, fails to do. Although decided impartially, as mentioned, these cases are arguably dealt with less favourably than if Iran acceded. Therefore, such cases provide incentive for Iran to accede to the Convention.

## 2.4 Conclusion

This chapter has provided a critical overview of Iran’s approach to custody, and abduction. Despite minor changes, Iranian family law remains one based upon Islamic tradition, according distinct gender-based ‘roles.’ Such laws have been admonished as biased and patriarchal. Regrettably, case law substantiates these claims, as Iranian courts often favour the father for custody. It is evident that religion, and male patriarchy overrides due process and is often prioritised over the wellbeing of the child. Thus, it is submitted that Iran’s current statutory framework is inadequate to deal with matters pertaining to abduction. In remaining a Non-Signatory State, Iran provides a safe haven for the abductor, and simultaneously, a legal black hole for the left-behind parent. Further, although UK Courts analyse the child’s best interests in Non-Convention Cases, this is conducted with reverence for Sharia law. However, Iran would benefit from acceding to the Convention where there is no appraisal of the child’s best interests and respect for foreign laws are mandatory.

# 3. Should Iran accede to the Convention?

*'I am depressed, I have anxiety and my hair is falling out… I am worried he will not remember me… and what lies his dad might have been telling him about me.’*[[139]](#footnote-139)Left-behind mother

This Chapter will collate, reinforce and advance arguments on whether Iran should accede to the Convention. It will conclude that it is useful and feasible for Iran to accede.

## 3.1 Arguments in favor of Iran joining the Convention

### 3.1.1 Emotional impact

In recognising that abduction could threaten a child’s well-being, the Convention provides for an expedited return mechanism to minimize its effects. Iran, however, does not possess any analogous mechanism. This is a detrimental flaw since the sooner children are returned, the better chance they have of resuming a healthy childhood state.[[140]](#footnote-140) Insight into the extent to which abduction effects children can be gleaned from research.A recent study cited that several children suffered from severe depression when Islamic Courts held that it was in their best interests to remain in the Islamic Country.[[141]](#footnote-141) Although this research involved Islamic countries generally, it may be applied to Iran by analogy since Iran utilizes the same best interest’s test. Indeed, Islamic judicial decisions are often skewed towards religion and gender, disregarding more salient factors, including the child’s wellbeing.[[142]](#footnote-142) Accordingly, it is axiomatic that treating abduction akin to custody, and evaluating the child’s best interests in lieu ofthe Convention’s return mechanism, perpetuates emotional harm. The author of this thesis submits that irrespective of whether being raised as a Muslim is in the child’s best interests, it is certainly not in the child's best interests to endure such trauma. Thus, Iran should give greater deference to children involved in these tragic tugs of war.

Apropos to abduction generally, Sobal’sresearch alludes to the issue of parental alienation, indicating that children are *'emotionally and physically lost to the targeted parent'.*[[143]](#footnote-143)Additional studies have substantiated this. For instance, Yaqub interviewed a mother whose son was abducted to Tehran by the father. The mother did not see her son until he was much older. Although reunited, her son is verbally abusive, and her two grandchildren mimic their father.[[144]](#footnote-144)This study reveals the severity of abduction by highlighting that its effects are intergenerational. Freeman corroborates this by stating that such effects *‘…will never go away’*.[[145]](#footnote-145) Indeed, adults abducted as children may experience problems with violence and substance abuse.[[146]](#footnote-146) By shedding light on the protracted and traumatic impact of abduction on children, such research persuasively dictates that, in order to curtail these ramifications, Iran should accede to the Convention.

### 3.1.2 Left-behind parents

In a similar vein, research has conveyed that left-behind parents felt incessantly depressed, suicidal and physically ill.[[147]](#footnote-147) Often, left-behind parents are alone, attempting to navigate through an *‘agonising and frustrating’*[[148]](#footnote-148)legal orifice to secure their child’s return. Such parents are usually forced to take matters into their own hands, and surreptitiously bring their children home,[[149]](#footnote-149) or, compel the abductor (provided they know where they are and can access them) to meet them in a Convention Country to utilise the return mechanism.These options are unsatisfactory and time-consuming. Indeed, the latter may take many years, and, in the interim, the child may settle in the foreign country. This not only raises problems in that the child’s life , upon return, would be disrupted, but the abductor may successfully utilise the settlement exception.[[150]](#footnote-150) By acceding, Iran would provide a streamlined legal framework to facilitate abduction, thus, alleviating the burden imposed upon left-behind parents.

### 3.1.3 Lack of Safeguards

English Courts typically exercise caution when deciding whether to allow a parent and child to travel to Iran, given the risk of retention. *Re H* [[151]](#footnote-151) concerned a child’s *potential* retention to Iran. In such circumstances, the court ‘…*must be positively satisfied that the advantages to the child of visiting [Iran] outweigh the welfare risks.’*[[152]](#footnote-152) The Court refused permission to travel to Iran for one profound reason: there are no safeguards to secure the child’s return.[[153]](#footnote-153) Accordingly, due to Iran’s non-accession, parents who want to take their child on holiday, visit their family, or immerse their children in Iranian culture, are unable to do so. If Iran did accede, this would grant certainty to both foreign courts (which is useful for improving international relations), and potential left- behind parents.

### 3.1.4 ‘Safe Haven’

Another credible postulation in favor of Iran’s accession is that, currently, Iran cultivates a ‘safe haven’ for abductors, facilitating forum shopping. This has been advanced by Daigle: ‘*abductors frequently flee to Non-Signatory Countries because return of [children are] not guaranteed.’*[[154]](#footnote-154)By fostering a ‘safe haven’, Iran is perpetuating child abduction, and enabling, as opposed to condemning, abductors for their actions. Conversely, Uhlman posits that *‘parental abduction is not in any way supported [by]….Sharīa.’*[[155]](#footnote-155) Whilst this has merits in that the kidnapping of a child outwith Iran is condemned with punitive measures, it does not, *ipso facto*, uphold the same standard for children abducted *to* Iran. Iranian law should serve to accommodate *all* individuals. Therefore, accession is an asset as it would enable Iran to cater to dual nationals and curtail the arbitrary act of abduction. Additionally, as elucidated by Hak, failure to accede means that Iran will not enjoy the reciprocal benefit of securing return of Iranian nationals.[[156]](#footnote-156) At the very least, Iran should not abdicate its responsibility to protect its citizens.

### 3.1.5 Feasibility

Not only is it inherently useful for Iran to accede, but it is also *ex facie* feasible. Ghafear claims that despite trivial differences between the Convention’s tenets and Sharia law, *‘no glaring incompatibility [is] found’*.[[157]](#footnote-157) However, this is slightly optimistic. Although both countries theoretically prioritise the child’s best interest’s, Iranian law is enmeshed with religious ideology, which differs from Western thought.[[158]](#footnote-158) However, it is vital to reiterate that the Convention does notdeal with the question of custody,[[159]](#footnote-159) therefore, there is no appraisal of the child’s best interests. By way of illustration: a *British mother lives in Iran. She has joint de facto custody of the child. If the father applies for custody to the Iranian court and the child is above the age of 7, he is likely to obtain custody. If the mother removed the child to the UK, unless an exception to the return applies, the UK court is bound to return the child because Iranian custody rights are respected.* This demonstrates that the Convention in no way interferes with Iran’s substantive law position, therefore, the Convention would marry with Iran’s laws.However, Iran must be prepared to return Iranian children to a Non-Muslim Country or parent, an issue particularly contentious with Islamic jurists.[[160]](#footnote-160) Nonetheless, given the benefits of accession- including the safeguarding of the child’s welfare, and enhancement of Iran’s diplomatic relations,this seems a feasible comprise.

Furthermore, Adul insinuates that the Convention does not require [Iran] to revise their domestic laws.’[[161]](#footnote-161) This is credible for two reasons. Firstly, although the concept of HR has originated from Western Countries, it is not alien to Sharia. Indeed, in Islamic law, one parent is not allowed to remove children from their original residence without consent of the other.[[162]](#footnote-162) Secondly, the only legislative revision required is for the operation of a CA.[[163]](#footnote-163)In fact, as noted by Shahbazi, CA’s would be hugely beneficial to Iran, saving the Islamic Government ample time, effort and resources.[[164]](#footnote-164) Consequently, accession is ostensibly feasible.

### 3.1.6 Morocco and Pakistan

Morocco and Pakistan’s accession establishes that it is both useful and feasible for Iran to accede. Whilst Iran’s legal system is not entirely equivalent to these Countries, many elements are analogous. While originally, Morocco did not accede due to conflicting domestic legislation,[[165]](#footnote-165) it reformed its laws to include the concept of joint custody, and a CA. Despite this, Morocco maintains its religious values, which coincides with the Convention. Similarly, Iran would be prudent to assimilate strategic reforms by recognizing dual nationality and designating a CA. These minor reforms are suitable and feasible to implement, not least to accede to the Convention, but also to illustrate that Iran has a dynamic legal system that evolves with modern social realities. Interestingly, Pakistan’s custody laws are tantalizingly similar to Iran’s former custody laws. After acceding, Pakistan’s custody laws remained as they were. This, yet again, echoes the sentiment that the Convention does not contravene internal legislation. Overall, despite the dichotomy between Islamic, and Western laws, Morocco and Pakistan’s accession, as aptly illustrated, *‘sends a strong signal of hope…that common ground exists, [and] co-operation is possible…*’ [[166]](#footnote-166)

## 3.2 Arguments Against Iran joining the Convention

### 3.2.1 Safe Haven

By not acceding, Iran is regarded as a ‘safe haven’ for domestic abuse perpetrators. Whilst this notion is certainly plausible in that perpetrators are able to evade criminal liability for abduction and alleged abuse, it disregards the scenario in which the opposite is applicable.Namely, could Iran, in remaining a Non-Signatory State, actually aid victims of domestic abuse? This author suggests that alleged victims may choose to flee to Iran to circumvent the possibility of an immediate court ordered return. This may accord victims reassurance, particularly considering that the ‘grave risk of harm’ exception is interpreted restrictively.

However, whilst there is reassurance, there is no legal certainty. For instance, assuming a mother evading domestic abuse abducts her child to Iran, if the father discovers this and travels there, the Iranian Courts would most probably accord custody to the father. This militates against this proposition and renders it as an implausible argument against accession.

### 3.2.2 Sufficient Safeguards

A more persuasive argument is that Iran is already well equipped to deal with abduction. Currently, if a child is abducted to Iran in violation of a foreign custody order, and that order has been registered at the Iranian Consulate, the enforcement process commences imminently.[[167]](#footnote-167) Further, as elucidated by Singal, Iran is ‘*open to accepting foreign judgments…and will cooperate with interpol where appropriate.’*[[168]](#footnote-168) However, this statement does not confirm that Iranian courts accept foreign judgements, merely that they are open to consider them. Nonetheless, this stance has been compounded by scholars who state that foreign judgments are accepted as long as it is compliant with Iranian public order.[[169]](#footnote-169) Whilst there is recognition that Iranian courts liaise with other countries to facilitate abduction, arguably, such suppositions are idealistic. In practice, there are contradictory experiences with Iranian Courts. On one hand, in *S v S*,[[170]](#footnote-170) return to Iran was refusedas the Court was *unpersuaded that an Iranian court would agree…to follow… conditions imposed by the English court.’*[[171]](#footnote-171)This repudiates Singhal’s statement and substantiates that Iranian courts do not cooperate. Conversely, Laurent, a French national, was *‘full of praise for Iranian justice,’*[[172]](#footnote-172)as *‘[he] experienced [Iranian] judges who were more humane and conscientious than certain French judges.’*[[173]](#footnote-173)Laurent’s former wife-an Iranian-French dual national, abducted their children to Iran in defiance of a French court order that awarded Laurent custody. Despite concerns that his status as a Westerner would count against him, the Iranian Courts upheld the French decision, ordering return to France. Whilst this depicts that Iranian courts are seemingly justiciable, and refutes (to some extent) any apprehension of foreigners being treated differently, it is, nevertheless, disconcerting that Laurent took heart that, *‘Iranian law automatically assigned custody to the father once any child reached seven.*’[[174]](#footnote-174)

This makes ones question as to whether custody was awarded due to Iran’s conspicuous male bias, or because the French decision was the ‘correct’ one. Additionally, Laurent, on advice from his lawyer, converted to Islam. This raises the question: would the Iranian courts have ruled in favour of a foreign judgement according custody to a non-Muslim? Emon is unconvinced, asserting that *‘Left-behind parents who are not Muslim, [and] who are women…suffer…in…Muslim-majority countries.*’[[175]](#footnote-175) Similarly, Sanderson aptly connotes that Iranian law is subject to the prejudices of individual practitioners.[[176]](#footnote-176)Thus, it is doubtful the same result would transpire. Accordingly, the outcome of this case is tainted by the fact that the parent asking for return was a man, not a woman, and one who had converted to Islam. Overall, whilst the Convention rightly provides for a summary return without bias, no such guarantees are demonstrated by the Iranian courts. Hence, as it stands, Iran is inadequate to deal with parental-child abduction.

### 3.2.3 Recognition

According to Andrews, recognition remains a palpable barrier to accession.[[177]](#footnote-177) For the Convention to be operational between States, current members need to recognise a new member’s accession.However, as Beaumont cogently asserts, recognition involves an *‘implied acceptance of the social and legal regime prevailing in that State.’*[[178]](#footnote-178) Thus, Contracting States are cautious to ensure that the standards of justice in an acceding State are acceptable. In the case of Iran, the death of Mahsa Amini in 2022 catalysed a series of international anti-government protests.[[179]](#footnote-179) The Iranian diaspora are protesting, *inter alia*, against the curtailing of women’s rights, a judicial system characterized by unfair trials, and egregious punishments- including the use of death penalty- for political purposes.[[180]](#footnote-180)The ongoing ‘women, life, freedom’ protests brought these issues to the fore, resulting inunwavering international condemnation; the UK imposed 50 sanctions on Iran,[[181]](#footnote-181) and the UN imposed an independent fact-finding mission.[[182]](#footnote-182) Cognizant of this, it is severely unlikely that Iran’s accession will be recognized. Contrariwise, it could be argued that States are more concerned about the political ramifications of refusing to recognize an accession,[[183]](#footnote-183) or States may believe that the advantages of recognizing an accession outweigh any concerns. However, this view is misconceived. Recognizing Iran, whose legal system does not adhere to basic standards of natural justice, is liable to betray the Convention’s objectives, and may even cause an increased use of the human right’s exception to return.[[184]](#footnote-184) Additionally, given the UK’s track record of not recognizing Morocco and Pakistan’s accession, it is submitted that recognition of Iran’s accession is improbable. However, although recognition is unlikely, this does not mean that Iran should not accede. Indeed, by acceding in the height of Iran’s socio-political uprisals, the Iranian government can showcase their commitment to safeguard women and children’s rights to their citizens, and the international community.

## 3.3 Recommendations

Two recommendations are submitted. Firstly, Iran should actively participate in the Malta process. Theoretically, the Malta discussions appear useful; participation has resulted in States (such as Morocco) ratifying the Convention,[[185]](#footnote-185)confirming that intra-Islamic dialogue is an essential step to eventual accession.[[186]](#footnote-186) However, scholars have repudiated the process as *‘long [and] time-consuming’*[[187]](#footnote-187)since its impacts are only seen in the longer term.[[188]](#footnote-188) Further, other States, such as Iraq, acceded to the Convention outside of this dialogue. This raises questions as to whether there is any need for Malta. However, Bernscanoi notes that *‘this is a process that is very worthwhile to conduct.*[[189]](#footnote-189)*’*192 Mobina reinforces this, stating thatwhile concrete results may not yet be seen in an increased number of ratifications, ongoing dialogue fosters understanding.[[190]](#footnote-190) Accordingly, such discussions would enable Iran to gain insight into the Convention’s key principles, and, particularly, to resolve the misunderstanding that the Convention harmonises substantive domestic laws. Further, the HCCH should hold more symposia apropos to the Convention, and translate key concepts into Farsi. Fundamentally, this would aid Iran in understanding the spirit of the Convention.

Secondly, analogous to the UK-Pakistan Protocol,[[191]](#footnote-191) Iran could enter into bilateral treaties with Western Countries, such as the UK. Such treaties are not necessarily binding, for instance, Pakistani Judges bear the UK-Pakistan Protocol[[192]](#footnote-192) in mind, but are not legally bound to abide by its provisions. It is submitted that this would be a step in the right direction to curtail the exponential issue of parental-child abduction. Indeed, such agreements have been accoladed as a *‘useful legal framework serving…as a channel of…communication between authorities.’*[[193]](#footnote-193) However, this recommendation does not account for the widespread phenomenon of abduction. In other words, it does not resolve issues vis-à-vis abduction to and from a majority of countries. Consequently, whilst this may be a sufficient preliminary suggestion, a better and certainly more practicable alternative would be for Iran to accede to the Convention.

# 4. Conclusion

 It is both inherently useful and feasible for Iran to accede to the Convention. Currently, Iran possesses limited legal solutions to facilitate the return of an abducted child. These are timeconsuming, difficult to navigate for the left-behind parent, and have a detrimental effect on the emotional wellbeing of the child. Indeed, Iran typically forfeits the child’s welfare in favour of religious considerations and the father’s custodial rights. Consequently, it would be useful for Iran to accede for four principal reasons. Firstly, the Convention provides a streamlined legal framework for the prompt return of abducted children. This alleviates the burden imposed upon left-behind parents, and minimizes any emotional trauma sustained by the child. Secondly, since the Convention does not consider gender nor religion in its choice of forum considerations, there is assurance of a fair and just legal process. Thirdly, accession will decrease forum shopping by abductors who regard Iran as a ‘safe haven’. Lastly, accession would demonstrate Iran’s commitment to promote international cooperation, which is advantageous in terms of diplomatic relations. However, the Convention possesses visceral shortfalls. For instance, the lack of terminological precision of HR and CR fosters divergent interpretations. Though, even in non-Convention cases, there remains divergence in how different Countries (Belgium and the UK) deal with abduction involving Islamic Countries. Further, there is a risk that strict interpretation of exceptions to return may cause the child harm. However, by not acceding, Iran is indisputably perpetuating emotional harm, as evidenced by research. Accordingly, on balance, it is axiomatic that the benefits of acceding outweigh any shortfalls.

Whilst accession is useful, the ongoing repudiation of the Islamic Republic casts serious doubt upon feasibility. In light of Iran’s current socio-political climate pertaining to its treatment of women and children, it is highly unlikely that Convention Countries would recognize Iran’s accession. However, irrespective of non-recognition, acceding in the midst of this politically charged background is arguably the perfect chance for Iran to highlight their commitment to safeguarding women and children. Moreover, only minimal revision to Iran’s laws is required to allow for a CA, and dual national recognition. These revisions would conserve the Islamic State’s time and resources, strengthen Iran’s legal system so as to accommodate all individuals, and enable Iran to acquire a dynamic legal system.

Furthermore, Iran is reluctant to accede to the Convention citing the Convention’s tenets as incompatible with Sharia law. However, as demonstrated, this presumption is illusory since the Convention only possesses jurisdiction to decide the merits of the abduction claim. This, allied with the fact that Morocco and Pakistan accepted the dissimilarities between Islamic and Western law for the Convention’s reciprocal benefits, provides impetus for Iran’s accession. With many parallels between all three of these Countries, Iran would be prudent to accede, as indeed, ‘*the real victims of political impasse…[are] the children who are forced into such extreme positions.’*[[194]](#footnote-194)

# Bibliography

**Books**

Ali S, ‘Modern Challenges to Islamic Law (Cambridge University Press, 2016)

Alison Cleland and Elaine Sutherland, Children’s Rights in Scotland (3rd edition, Sweet and Maxwell 2009)

Arshad R, *'Islamic Family Law’* (Sweet & Maxwell 2010)

Beaumont P and McEleavy P, *‘Private International Law’*, (W.Green 3rd edn, 2011 )

Beaumont P and McEleavy P, *‘The Hague Convention on International Child Abduction’* (Oxford University Press 1999) 16-17

Davis S and others, *International Child Abduction* (Sweet & Maxwell, 1993)

Davis S, Rosenblatt J and Galbraith T, *‘International Child Abduction’* (Sweet & Maxwell 1993)

Emon A and Khaliq U, *‘Islamic Law and Child Custody’* (Cambridge University Press 2021) 147-217

Kruiniger P, ‘Islamic divorces in Europe’ (Eleven International Publishing 2016)

Schuz R*,‘The Hague Child Abduction Convention: A Critical Analysis’* (Volume 13 in the series Studies in Private International Law, Hart Publishing Ltd 2013)

Sobal B, 'Parental Alienation syndrome and International Child Abduction: A multigenerational Syndrome' in Gardner et al, ‘The International Handbook of Parental Alienation Syndrome ’ (Charles Thomas Publisher LTD 2023)

Welchman L, Women and Muslim Family Laws in Arab States: A comparative Overview of Textual Development and Advocacy (Amsterdam University Press, 2007) 14

Welstead M and Edwards S, *‘Family Law’* (4th edn, OUP 2013)

Yaqub N. ‘Parental Child Abduction to Islamic Law Countries: A Child Rights Analysis of the Legal Framework’ (Bloomsbury Publishing 2022)

**Journals**

Aiyar S, International Child Abductions involving Non-Hague Convention States: The need for a Uniform Approach (2007) 21 Emory Int'l L Rev 277

Baloutaki H.A , A Study on the Rights of the Child in Iranian Legal System(2016) 13 Global Studies in Comparative Law 183- 189 [<](file:////Users/melinaotifeh/Downloads/%253c)[https://link.springer.com/chapter/10.1007/978-3-31923189-1\_10>](https://link.springer.com/chapter/10.1007/978-3-319-23189-1_10) accessed 09/11/2022

Boykin M, ‘A comparison of Japanese and Moroccan Approaches in Adopting the Hague Convention on the Civil Aspects of International Child Abduction’ (2012) 46 FLQ

Ebrahimi S, Child Custody “(Hizanat)” under Iranian Law: An Analytical Discussion (2005) 39 FLQ 459-476

Emon A.M*, ‘Hague Abduction Convention & Islamic Law’* (2015) <<http://www.anveremon.com/projects/hague>[-abduction-convention-.html>](http://www.anveremon.com/projects/hague-abduction-convention-.html) accessed 16/11/2022

Fari F et al, ‘*Iran: A Revolutionary Republic in Transition’* (2012) EUISS < [<http://www.jstor.org/stable/resrep07011.1>](http://www.jstor.org/stable/resrep07011.1) accessed 08/01/2023.

Freeman M, ‘In the Best Interests of Internationally Abducted Children? Plural, Singular, Neither or Both’ (2002) IFL 77,79

Freeman M, ‘International Child abduction: The effects’ (2006) Reunite International Child Abduction Centre<http://takeroot.org/ee/pdf\_files/library/freeman\_2006.pdf> accessed 18/01/2023

Freeman M, The effects and consequences of international child abduction.(1998) 32 *Fam Law Quart* 603–21

Hamid et al,‘The Applicability of the 1980 Hague Abduction Convention in Muslim Countries: Particular Reference to the Malaysian Position’ (2018) 32 ALQ 99

Hart B, ‘Not without My Daughter: on Parental Abduction, Orientalism and Maternal Melodrama’ (2001) 8 European Journal of Women’s Studies 51<[https://research.vu.nl/ws/files/129128201/not\_without\_my\_daughter\_2001.pdf>](https://research.vu.nl/ws/files/129128201/not_without_my_daughter_2001.pdf)

Jaffer M and Ataullahjan S , 'Challenges and International Mechanisms to Address CrossBorder Child Abduction' (2015) [<](file:////Users/melinaotifeh/Downloads/%253c)[https://sencanada.ca/Content/SEN/Committee/412/ridr/rep/rep13jul15-e.pdf>](https://sencanada.ca/Content/SEN/Committee/412/ridr/rep/rep13jul15-e.pdf) accessed 09/01/2022

Michaelides M and Blackborn H, *‘Is it time for the 1980 HC to be revised?’* (International Family Law Group LLP Blog, 7th November 2018) [<https://www.familylaw.co.uk/news\_and\_comment/Is-it-time-for-the-1980-HagueConvention--to-be-revised>](https://www.familylaw.co.uk/news_and_comment/Is-it-time-for-the-1980-Hague-Convention--to-be-revised) accessed 17/04/2022

Michaelides M, ‘Pakistan Accedes the 1980 Hague Convention on the Civil Aspects of International Child Abduction’ (2017) [<https://www.familylaw.co.uk/news\_and\_comment/pakistan-accedes-the-1980-hagueconvention-on-the-civil-aspects-of-international-child-abduction>](https://www.familylaw.co.uk/news_and_comment/pakistan-accedes-the-1980-hague-convention-on-the-civil-aspects-of-international-child-abduction) accessed 16/10/2022

Mir-Hosseini Z, Women, Marriage and the Law in Post-Revolutionary Iran (1993) 59 Women in the Middle East

Nicholson C, *‘The Hague Convention on the Civil Aspects of International Child Abductionpill or placebo?*’ (1999) 32 The comparative and International Law Journal of Southern Africa

Noori S.M, and Torabi M, 'The Principle of Protecting the Best interests of the child in Shia Jurisprudence and Iran ‘s Legal System with Emphasis on Custody (New Understanding of a Traditional Legal Concept’ (6 Asian journal of Legal Education, issue 1-2 2001) [<](file:////Users/melinaotifeh/Downloads/%253c)[https://journals.sagepub.com/doi/full/10.1177/2322005819841525>](https://journals.sagepub.com/doi/full/10.1177/2322005819841525) accessed 07/10/2022

Nuria Martin, International Parental Child Abduction and Mediation: An Overview (2014) 48 FLQ 2

R Schuz, Habitual Residence of Children Under the Hague Abduction Convention: Theory and Practice (2001) 13 CFLQ 1

Renton C, Book review: The Hague Abduction Convention: A Critical Analysis (2014) 164 NLJ 22

Schnitzer-Reese EA, ‘International Child Abduction to Non-Hague Convention Countries: The need for an International Family Court’ (Volume 2 issue 1,Northwestern Journal of International Human Rights 2004)<[https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1010&co ntext=njihr>](https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1010&context=njihr) accessed 15/10/2022

Schuz R,The Hague Child Abduction Convention and Re-Relocation Disputes (2021) IJLPF 35

Shahbazi A and Ghorbanpour M, ‘Some Considerations on Accession to the Hague Convention on Civil Aspects of International Child Abduction (1980) for Iran’ (2017) 47 PLSQ 481

Silberman L, ‘Hague International Child Abduction Convention: A Progress Report’ (1994) 57 Law and Contemporary Problems 209-269

Silberman L, ‘Interpreting the Hague Abduction Convention: In search of a global Jurisprudence’ (2005) 38 U.C. Davis Law Review 1

Siu Lin y, ‘The Hague Convention: Beacon of light in a dark tunnel’, in *The Malaysian Bar Council’s International Malaysia Law Conference (2016)* Kuala Lumpur [<http://www.malaysianbar.org.my>](http://www.malaysianbar.org.my/) accessed 18/11/2022

Spector R, ‘International Abduction of Children: Why the UCCJEA Is Usually a Better Remedy Than the Abduction Convention.’ (2015) 49 FLQ 385. [<](file:////Users/melinaotifeh/Downloads/%253c)[https://www.jstor.org/stable/24576182?seq=1>](https://www.jstor.org/stable/24576182?seq=1) accessed 12/04/2022

Wang Y and others, The Limitations of the Hague Convention to Solve Conflicts Arising out of International Child Kidnapping (2017) 13 Revista Brasileira de Direito 215

Yassari N, *‘Iranian Family Law in Theory and Practice’* (2002-2003) 9 Yearbook of Islamic and Middle Eastern Law 43

**Articles**

Adams C, ‘Man Who Abducted His 4 Kids, Brought Them to Iran, Says He Was Escaping *“Canadian Nightmare”’* Global News *(*18th May 2016) [<https://globalnews.ca/news/2709058/man-who-abducted-his-4-kids-brought-them-to-iransays-he-was-escaping-canadian-nightmare/>](https://globalnews.ca/news/2709058/man-who-abducted-his-4-kids-brought-them-to-iran-says-he-was-escaping-canadian-nightmare/) accessed 03/01/2023

Anwar Iqbal, *‘Pakistan Signs Convention to Prevent Parental Abductions’ DAWN News* (December 2016) [<https://www.dawn.com/news/1303617>](https://www.dawn.com/news/1303617) accessed 25 January 2023

Del Wilber ‘Her husband had taken their young daughter to Iran. She was determined to get the child back’ The Washington Post (USA, April 4th 2013) [<https://www.washingtonpost.com/sf/feature/wp/2013/04/04/her-husband-had-taken-theiryoung-daughter-to-iran-she-was-determined-to-get-the-child-back/>](https://www.washingtonpost.com/sf/feature/wp/2013/04/04/her-husband-had-taken-their-young-daughter-to-iran-she-was-determined-to-get-the-child-back/)accessed 14/02/2023

Kestler-D’Amours J, ‘Mother please for Canada to bring back children taken to Iran’ *Middle East Eye* (Canada, 16th August 2016) <[https://www.middleeasteye.net/news/mother-pleadscanada-bring-back-children-taken-iran>](https://www.middleeasteye.net/news/mother-pleads-canada-bring-back-children-taken-iran) accessed 14/12/2022

Luke Andrews, *‘British Mother, 39, Makes Desperate Plea for Return of Two-Year-Old Son after He Was Taken to Iran’* *Mail Online* (5th July 2019) <<https://www.dailymail.co.uk/news/article>[-7216137/British-mother-39-makes-desperate-pleareturn-two-year-old-son-taken-Iran.html>](https://www.dailymail.co.uk/news/article-7216137/British-mother-39-makes-desperate-plea-return-two-year-old-son-taken-Iran.html) accessed 03/01/2023

Namazie M, 'What isn't wrong with Sharia law?' *The Guardian* (5th July 2010) [<https://www.theguardian.com/law/2010/jul/05/sharia-law-religious-courts>](https://www.theguardian.com/law/2010/jul/05/sharia-law-religious-courts) accessed 15/10/2022

Siu Lin G, ‘The Hague Convention: Beacon of light in a dark tunnel’, in *The Malaysian Bar Council’s International Malaysia Law Conference* (Kuala Lumpur, 2016) < http://www.malaysianbar.org.my>accessed 19/10/2022

**Hague Conference Documents**

Gosselain C, *'child abduction and transfrontier access: bilateral Conventions and Islamic States’* (2002) <[https://assets.hcch.net/upload/abd2002\_pd7e.pdf>](https://assets.hcch.net/upload/abd2002_pd7e.pdf) accessed 07/02/2023

HCCH, ‘10th Anniversary of the Malta Process’ (2014) <[https://www.hcch.net/en/newsarchive/details/?varevent=349>](https://www.hcch.net/en/news-archive/details/?varevent=349) accessed 24 January 2023

HCCH, *‘Hague Child Abduction Convention Soon to Be in Force for Morocco’* (2019) [<https://www.hcch.net/en/news](https://www.hcch.net/en/news-archive/details/?varevent=187#:~:text=Morocco's%20accession%20to%20the%201980,and%20their%20families%2C%20must%20continue)-[archive/details/?varevent=187#:~:text=Morocco’s%20accession%20to%20the%201980,and %20their%20families%2C%20must%20continue>](https://www.hcch.net/en/news-archive/details/?varevent=187#:~:text=Morocco's%20accession%20to%20the%201980,and%20their%20families%2C%20must%20continue) accessed 25/01/2023

HCCH, International Seminar: *‘Islamic legal Perspectives on Cross-Border Family Disputes Involving Children’* (2014) <[https://assets.hcch.net/upload/seminar20140407en.pdf>](https://assets.hcch.net/upload/seminar20140407en.pdf) accessed 14/11/2022.

HCCH, *Islamic legal perspectives on cross border family disputes involving children, document* no. 4 (7th April 2014) <[https://assets.hcch.net/upload/wop/gap2014id04en.pdf>](https://assets.hcch.net/upload/wop/gap2014id04en.pdf) accessed 06/01/2023

HCCH, The 1980 Hague Convention on the Civil Aspects of International Child Abduction: Status Table <https://www.hcch.net/index\_en.php?act=conventions.status&cid=24> accessed 14th December 2022

Perez-Vera E, Explanatory Report on the 1980 Hague Child Abduction Convention (1982) <[https://assets.hcch.net/upload/expl28.pdf>](https://assets.hcch.net/upload/expl28.pdf) accessed 13/10/2022

Permanent Bureau of the Hague Conference on Private International Law, ‘The Seventh Meeting of the Special Commission on the Practical Operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention’ (October 2017) [<https://assets.hcch.net/docs/d4cc8a18-69ba-4161-b0b6-846eb77cd80b.pdf>](https://assets.hcch.net/docs/d4cc8a18-69ba-4161-b0b6-846eb77cd80b.pdf) accessed 12/11/2022

**Blogs**

Andrews A, 'Lower Tier Members of the Hague club', Family Law Week Blog (2018) [<https://www.familylawweek.co.uk/site.aspx?i=ed189054>](https://www.familylawweek.co.uk/site.aspx?i=ed189054) accessed 30/12/2022

Emon A, ‘Islamic Law and Private International Law’: The Case of International Child Abduction’ (*Institute of Advanced Study*, May 20th 2015) [<https://www.islamicity.org/8170/islamic-law-and-private-international-law-the-case-ofinternational-child-abduction/>](https://www.islamicity.org/8170/islamic-law-and-private-international-law-the-case-of-international-child-abduction/) accessed 17/09/2022

Kristine Uhlman, *Overview of Shari’a and Prevalent Customs in Islamic Societies - Divorce and Child Custody* (2004) Expert Law [<http://www.expertlaw.com/library/family\_law/islamic\_custody3.html#110](http://www.expertlaw.com/library/family_law/islamic_custody3.html#110)> accessed 13/01/2023

Michaelides M and Blackborn, H *Is it time for the 1980 HC to be revised?* (International Family Law Group LLP, 7th November 2018) [<https://www.familylaw.co.uk/news\_and\_comment/Is-it-time-for-the-1980-HagueConvention--to-be-revised>](https://www.familylaw.co.uk/news_and_comment/Is-it-time-for-the-1980-Hague-Convention--to-be-revised) accessed 17/04/2022

Randall C, ‘Iranian Court Grants Custody of Children to French Father’ *The National* (France, 9 July 2012 < [https://www.thenationalnews.com/world/mena/iranian-court-grantscustody-of-children-to-french-father-1.405140>](https://www.thenationalnews.com/world/mena/iranian-court-grants-custody-of-children-to-french-father-1.405140) accessed 07/01/2023

Saracens Solicitors, ‘Hague Convention When It Cannot Help- the Fight to Have the Child Returned Can Be Long and Heart-breaking’ (5 April 2017) < [https://saracenssolicitors.co.uk/private-clients/divorce-family-law/hague-convention/>](https://saracenssolicitors.co.uk/private-clients/divorce-family-law/hague-convention/) accessed 03/01/2023

Singal R, *'International Child Abduction To A Non-Hague Convention Country'* (RVS Solicitors Blog 2021) <[https://rvssolicitors.co.uk/latest-news/family-law-blog/internationalchild-abduction-to-a-non-hague-convention-country/>](https://rvssolicitors.co.uk/latest-news/family-law-blog/international-child-abduction-to-a-non-hague-convention-country/) accessed 17/20/2022

 Wilson D, International Parenting Disputes Involving Non-Hague Countries: Tips for the Left behind Parent’ (*Kennedy Partners Lawyers* 17 September 2020) [<https://www.kennedypartnerslawyers.com.au/international-parenting-disputes-involvingnon-hague-countries-tips-for-the-left-behind-parent/>](https://www.kennedypartnerslawyers.com.au/international-parenting-disputes-involving-non-hague-countries-tips-for-the-left-behind-parent/) accessed 23/02/2023

 Wiselaw, *Iran Divorce & Family Law,* (3rd February 2020) <https://www.wiselaw.co.uk/international>[-divorcelawyers/ir/#:~:text=After%20a%20divorce%20in%20Iran,to%20care%20for%20your%20chi ld>](https://www.wiselaw.co.uk/international-divorce-lawyers/ir/#:~:text=After%20a%20divorce%20in%20Iran,to%20care%20for%20your%20child) accessed 10/01/2023

**Theses**

Ahmed A.E.M, ‘International Child Abduction: An Islamic and Hague Convention Perspective’ (phd thesis, University of Aberdeen 2006)

Bozin-Odhiambo B, ‘A critical analysis of the Hague Convention on Civil Aspects of International Child Abduction’ (PhD, Griffith Law School 2013)

**UN Resolutions**

UN Resolution s-35/1 adopted on 24th November 2022

**Websites**

Amnesty International*,*‘Iran: Chilling Use of the Death Penalty to Further Brutally Quell Popular Uprising’ (16 November 2022) [<https://www.amnesty.org/en/latest/news/2022/11/iran-chilling-use-of-the-death-penalty-tofurther-brutally-quell-popular-uprising/>](https://www.amnesty.org/en/latest/news/2022/11/iran-chilling-use-of-the-death-penalty-to-further-brutally-quell-popular-uprising/) accessed 13/10/2023

Britannica, *Mohammad Reza Pahlavi, Biography, History, & White Revolution Britannica’* (2023) <[https://www.britannica.com/biography/Mohammad-Reza-Shah-Pahlavi>](https://www.britannica.com/biography/Mohammad-Reza-Shah-Pahlavi) accessed 24/01/2023

Iranian Executions: Women. Life. Freedom.’ (*The Organization for World Peace* 26 January 2023) <[https://theowp.org/iranian-executions-women-life-freedom/>](https://theowp.org/iranian-executions-women-life-freedom/) accessed 16/10/2022. LibQuotes, *Mohammad Reza Pahlavi* (2023) <[https://libquotes.com/mohammad-rezapahlavi>](https://libquotes.com/mohammad-reza-pahlavi) accessed 13/02/2023

List of Bilateral Agreements, International division of the Ministry of Justice <http://www.biajudiciary.ir/Default.aspx?tabid=3670> accessed 28/01/2023

UK Government, ‘UK Imposes Further Coordinated Sanctions on Iranian Regime Officials’ (January 2023) <[https://www.gov.uk/government/news/uk-imposes-further-coordinatedsanctions-on-iranian-regimeofficials#:~:text=The%20UK%20has%20now%20imposed,hold%20the%20regime%20to%2 0account.>](https://www.gov.uk/government/news/uk-imposes-further-coordinated-sanctions-on-iranian-regime-officials#:~:text=The%20UK%20has%20now%20imposed,hold%20the%20regime%20to%20account.) accessed 25/01/2023

1. Jillian Kestler-D’Amours, ‘Mother’s pleas for Canada to bring back children taken to Iran’ *Middle East Eye* (Canada, 16th August 2016) <[https://www.middleeasteye.net/news/mother-pleads-canada-bring-back-childrentaken-iran>](https://www.middleeasteye.net/news/mother-pleads-canada-bring-back-children-taken-iran) accessed 14/12/2022. [↑](#footnote-ref-1)
2. Rhona Schuz*, The Hague Child Abduction Convention: A Critical Analysis* (Hart Publishing Ltd, 2013). [↑](#footnote-ref-2)
3. Paul Beaumont and Peter McEleavy, The Hague Convention on International Child Abduction (OUP 1999). [↑](#footnote-ref-3)
4. Anver Emon and Urfan Khaliq, ‘Islamic Law and Child Custody’ (CUP 2021)147-217. [↑](#footnote-ref-4)
5. Marylin Freeman, ‘Parental Child Abduction: The Long-Term Effects (International Centre for Family Law, Policy, and Practice 2014)[<http://www.famlawandpractice.com/researchers/longtermeffects.pdf>](http://www.famlawandpractice.com/researchers/longtermeffects.pdf)accessed 15/12/2022. [↑](#footnote-ref-5)
6. Anwar Iqbal, *‘Pakistan Signs Convention to Prevent Parental Abductions’ DAWN News* (December 2016) [<https://www.dawn.com/news/1303617>](https://www.dawn.com/news/1303617) accessed 25 January 2023. [↑](#footnote-ref-6)
7. Nazia Yaqub,*‘Parental Child Abduction to Islamic Law Countries: A Child Rights Analysis of the Legal Framework’* (Hart Publishing, 2022). [↑](#footnote-ref-7)
8. Sandra Davis and others, *International Child Abduction* (Sweet & Maxwell, 1993). [↑](#footnote-ref-8)
9. HCCH, *Islamic legal perspectives on cross border family disputes involving children,* document no. 4 (7th April 2014) < [https://assets.hcch.net/upload/wop/gap2014id04en.pdf>](https://assets.hcch.net/upload/wop/gap2014id04en.pdf) accessed 06/01/2023. [↑](#footnote-ref-9)
10. Lynn Welchman, *Women and Muslim Family Laws in Arab States: A comparative Overview of Textual Development and Advocacy* (Amsterdam UP, 2007) 14. [↑](#footnote-ref-10)
11. Schuz [n 2]. [↑](#footnote-ref-11)
12. HCCH, The Convention: Status Table <https://www.hcch.net/index\_en.php?act=conventions.status&cid=24> accessed 14/12/2022. [↑](#footnote-ref-12)
13. Schuz [n 2]. [↑](#footnote-ref-13)
14. The Convention, art 4. [↑](#footnote-ref-14)
15. ibid, art 12. [↑](#footnote-ref-15)
16. *Re S (A Minor)* [1997] 3 WLR 597, [500] (Lord Brandon). [↑](#footnote-ref-16)
17. The Convention, art 12. [↑](#footnote-ref-17)
18. ibid, art1(a). [↑](#footnote-ref-18)
19. ibid, art 1(b). [↑](#footnote-ref-19)
20. ibid, art 6. [↑](#footnote-ref-20)
21. ibid, art 7. [↑](#footnote-ref-21)
22. ibid. [↑](#footnote-ref-22)
23. ibid, art 16. [↑](#footnote-ref-23)
24. Danielle Bozin-Odhiambo, *A critical analysis of the Hague Convention on Civil Aspects of International Child Abduction* (PhD, Griffith Law School 2013). [↑](#footnote-ref-24)
25. Freeman [n 5]. [↑](#footnote-ref-25)
26. Bozin-Odhiambo [n 24]. [↑](#footnote-ref-26)
27. *Re M and Another* [2007] UKHL 55 Baroness Hale at [11]. [↑](#footnote-ref-27)
28. Mary Welstead and Susan Edwards, *‘Family Law’* (4th edn, OUP 2013). [↑](#footnote-ref-28)
29. The Convention, arts 3 and 4. [↑](#footnote-ref-29)
30. Perez-Vera Explanatory Report on the 1980 Hague Child Abduction Convention (1982) < [https://assets.hcch.net/upload/expl28.pdf>](https://assets.hcch.net/upload/expl28.pdf) accessed 13/10/2022. [↑](#footnote-ref-30)
31. *(A Minor) (Child Abduction: Mother’s Asylum)* [2003] EWHC 1820 (Fam). 32 Welstead and Edwards [n 28]. [↑](#footnote-ref-31)
32. The Convention, art 20. [↑](#footnote-ref-32)
33. ibid, art 12. [↑](#footnote-ref-33)
34. ibid, art 13(1)(b). [↑](#footnote-ref-34)
35. ibid. [↑](#footnote-ref-35)
36. Smita Aiyar, 'International Child Abductions involving Non-Hague Convention States: The need for a Uniform Approach' (2007) 21 Emory Int'l L Rev 277. [↑](#footnote-ref-36)
37. The Convention, art 13. [↑](#footnote-ref-37)
38. *(Abduction: Custody Appeal)* [2011] UKSC 27. [↑](#footnote-ref-38)
39. Perez-Vera [n 30]. [↑](#footnote-ref-39)
40. The Convention, art 12(2). [↑](#footnote-ref-40)
41. Schuz [n 2]. [↑](#footnote-ref-41)
42. ibid. [↑](#footnote-ref-42)
43. Clare Renton, *Book review:* *The Hague Abduction Convention: A Critical Analysis* (2014) 164 NLJ 22. [↑](#footnote-ref-43)
44. Rhona Schuz,*The Hague Child Abduction Convention and Re-Relocation Disputes* (2021) IJLPF 35. [↑](#footnote-ref-44)
45. Perez-Vera [n 30]. [↑](#footnote-ref-45)
46. Renton [n 57]. [↑](#footnote-ref-46)
47. Marilyn Freeman, ‘*In the Best Interests of Internationally Abducted Children? Plural, Singular, Neither or Both’* (2002) IFL 77,79. [↑](#footnote-ref-47)
48. ibid. [↑](#footnote-ref-48)
49. Linda Silberman, *‘Interpreting the Hague Abduction Convention: In search of a global Jurisprudence’* (2005) 38 U.C. Davis Law Review. [↑](#footnote-ref-49)
50. Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and

enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000. [↑](#footnote-ref-50)
51. The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children 1996. [↑](#footnote-ref-51)
52. R Schuz, *Habitual Residence of Children Under the Hague Abduction Convention: Theory and Practice* (2001) 13 CFLQ 1. [↑](#footnote-ref-52)
53. Schuz[n 2]. [↑](#footnote-ref-53)
54. Aiyar [n 37]. [↑](#footnote-ref-54)
55. Martha Winterbottom, *The Nightmare of international Child abduction: Facing the Legal Labyrinth* (1996) 5 J. Int'l L& Prac 595. [↑](#footnote-ref-55)
56. ibid. [↑](#footnote-ref-56)
57. Deborah Wilson, International Parenting Disputes Involving Non-Hague Countries: Tips for the Left behind Parent’ (*Kennedy Partners Lawyers* 17 September 2020)

[<https://www.kennedypartnerslawyers.com.au/international-parenting-disputes-involving-non-hague-countriestips-for-the-left-behind-parent/>](https://www.kennedypartnerslawyers.com.au/international-parenting-disputes-involving-non-hague-countries-tips-for-the-left-behind-parent/) accessed 23/02/2023. [↑](#footnote-ref-57)
58. Marianna Michaelides and Helen Blackborn, *Is it time for the 1980 HC to be revised?* (International Family Law Group LLP, 7th November 2018) <[https://www.familylaw.co.uk/news\_and\_comment/Is-it-time-for-the1980-Hague-Convention--to-be-revised>](https://www.familylaw.co.uk/news_and_comment/Is-it-time-for-the-1980-Hague-Convention--to-be-revised) accessed 17/04/2022. [↑](#footnote-ref-58)
59. Aiyar [n 37]. [↑](#footnote-ref-59)
60. Abdul Hamid et al, *The Applicability of the 1980 Hague Abduction Convention in Muslim Countries: Particular Reference to the Malaysian Position* (2018) 32 ALQ 99. [↑](#footnote-ref-60)
61. Emon and Khaliq [n 4]. [↑](#footnote-ref-61)
62. Ericka Schnitzer-Reese, *‘International Child Abduction to Non-Hague Convention Countries: The need for an International Family Court’* (2004) 2 NJIHR 1. [↑](#footnote-ref-62)
63. Emon and Khaliq [n 4]. [↑](#footnote-ref-63)
64. Hamid [n 61]. [↑](#footnote-ref-64)
65. ibid. [↑](#footnote-ref-65)
66. The Convention, preamble. [↑](#footnote-ref-66)
67. HCCH, Islamic legal perspectives on cross border family disputes involving children, document no. 4 (2014) <https://assets.hcch.net/upload/wop/gap2014id04en.pdf> accessed 06/01/2023 [↑](#footnote-ref-67)
68. HCCH, ‘The seventh Meeting of the Special Commission on the Practical Operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention (2017).

[<https://assets.hcch.net/docs/d4cc8a18-69ba-4161-b0b6-846eb77cd80b.pdf>](https://assets.hcch.net/docs/d4cc8a18-69ba-4161-b0b6-846eb77cd80b.pdf) accessed 14/02/2023. [↑](#footnote-ref-68)
69. Hamid [n 61]. [↑](#footnote-ref-69)
70. Linda Silberman, ‘Hague International Child Abduction Convention: A Progress Report’ (1994) 57 Law and Contemporary Problems 209-269. [↑](#footnote-ref-70)
71. Nadjma Yassari, *Iranian Family Law in Theory and Practice’* (2003) 9 Yearbook of Islamic and Middle Eastern Law 43. [↑](#footnote-ref-71)
72. United Nations Convention on Rights of Child 1989. [↑](#footnote-ref-72)
73. For instance, upon ratification in 1994, Iran indicated that it would reserve provisions contrary to Sharia. [↑](#footnote-ref-73)
74. Emon and Khaliq [n 4]. [↑](#footnote-ref-74)
75. HCCH [n 68]. [↑](#footnote-ref-75)
76. Hague Convention for the Protection of Property in the Event of Armed Conflict 1954. [↑](#footnote-ref-76)
77. List of Bilateral Agreements, International division of the Ministry of Justice <http://www.biajudiciary.ir/Default.aspx?tabid=3670> accessed 28/01/2023. [↑](#footnote-ref-77)
78. LibQuotes,*Mohammad Reza Pahlavi* (2023) <[https://libquotes.com/mohammad-reza-pahlavi>](https://libquotes.com/mohammad-reza-pahlavi) accessed 13/02/2023. [↑](#footnote-ref-78)
79. Yassari [n 73]. [↑](#footnote-ref-79)
80. ibid. [↑](#footnote-ref-80)
81. Ziba Mir-Hosseini, *Women, Marriage and the Law in Post-Revolutionary Iran* (1993) 59 Women in the Middle East. [↑](#footnote-ref-81)
82. Britannica, *Mohammad Reza Pahlavi, Biography, History, & White Revolution Britannica’* (2023) [<https://www.britannica.com/biography/Mohammad-Reza-Shah-Pahlavi>](https://www.britannica.com/biography/Mohammad-Reza-Shah-Pahlavi) accessed 24/01/2023. [↑](#footnote-ref-82)
83. The Constitution of the Islamic Republic of Iran 1979, art 4 and 170. [↑](#footnote-ref-83)
84. Alison Cleland and Elaine Sutherland, Children’s Rights in Scotland (3rd edition, Sweet and Maxwell 2009). [↑](#footnote-ref-84)
85. Yassari [n 73]. [↑](#footnote-ref-85)
86. Seyed Ebrahimi*, Child Custody “(Hizanat)” under Iranian Law: An Analytical Discussion* (2005) 39 FLQ 459-476. [↑](#footnote-ref-86)
87. ibid. [↑](#footnote-ref-87)
88. Islamic Republic of Iran Civil Code 1928, art 1168 (‘ICC’) [↑](#footnote-ref-88)
89. Winterbottom [n 56]. [↑](#footnote-ref-89)
90. Farideh Fari et al, ‘*Iran: A Revolutionary Republic in Transition’* (2012) EUISS [<](file:////Users/melinaotifeh/Downloads/%253c)[http://www.jstor.org/stable/resrep07011.1>](http://www.jstor.org/stable/resrep07011.1) accessed 08/01/2023 [↑](#footnote-ref-90)
91. Ebrahimi [n 88]. [↑](#footnote-ref-91)
92. ibid. [↑](#footnote-ref-92)
93. ICC, art 1169. [↑](#footnote-ref-93)
94. ibid, arts 1169 and 1170. [↑](#footnote-ref-94)
95. ibid. [↑](#footnote-ref-95)
96. Maryam Namazie, *‘Sharia Law in Britain: A Threat to One Law for All and Equal Rights,’* *One Law for All* (17 June 2010) <https://onelawforall.org.uk/wp-content/uploads/2012/09/New-Report-Sharia-Law-inBritain\_fixed.pdf> accessed 26/01/2023. [↑](#footnote-ref-96)
97. Winterbottom [n 56]. [↑](#footnote-ref-97)
98. Namazie [n 95]. [↑](#footnote-ref-98)
99. Yaqub [n 7]. [↑](#footnote-ref-99)
100. ibid. [↑](#footnote-ref-100)
101. Shaheen Ali, ‘*Modern Challenges to Islamic Law’* (CUP, 2016). [↑](#footnote-ref-101)
102. Pauline Kruiniger, ‘Islamic divorces in Europe’ (Eleven International Publishing, 2016). [↑](#footnote-ref-102)
103. Passmore Solicitors, *‘Child Abduction & International Children Law’* (13 October 2017)

[<https://www.passmores.com/legal-services-barry-cardiff-passmores-solicitors-expertise/expert-legal-advicefor-care-and-child-abduction-cases/international-child-law/>](https://www.passmores.com/legal-services-barry-cardiff-passmores-solicitors-expertise/expert-legal-advice-for-care-and-child-abduction-cases/international-child-law/) accessed 15/02/2023. [↑](#footnote-ref-103)
104. UK Government, Foreign, Commonwealth and Developmental Office, Guidance Iran: Abduction (2021)

<https://www.gov.uk/government/publications/iran-child-abduction/iran-child-abduction> accessed 07/02/2022. [↑](#footnote-ref-104)
105. ICC, arts 1174 and 1175. [↑](#footnote-ref-105)
106. UK Government [n 106]. [↑](#footnote-ref-106)
107. (Change of Names: Parental Responsibility: Evidence) [2017] EWHC 3250 (Fam). [↑](#footnote-ref-107)
108. Ibid [7] (Mr Justice Cobb). [↑](#footnote-ref-108)
109. ECHR 1950, art 6. [↑](#footnote-ref-109)
110. Yaqub [n 7]. [↑](#footnote-ref-110)
111. Schnitzer-Reese [n 63]. [↑](#footnote-ref-111)
112. ibid. [↑](#footnote-ref-112)
113. B and C (Change of Names: Parental Responsibility: Evidence) [2017] EWHC 3250 (Fam) at [15]. [↑](#footnote-ref-113)
114. Maryam Namazie, *'What isn't wrong with Sharia law?'* *The Guardian* (London, 5th July 2010) [<https://www.theguardian.com/law/2010/jul/05/sharia-law-religious-courts>](https://www.theguardian.com/law/2010/jul/05/sharia-law-religious-courts) accessed 15/10/2022. [↑](#footnote-ref-114)
115. Betty de Hart, ‘Not without My Daughter’ (2001) 8 European Journal of Women’s Studies 51 [<https://research.vu.nl/ws/files/129128201/not\_without\_my\_daughter\_2001.pdf>](https://research.vu.nl/ws/files/129128201/not_without_my_daughter_2001.pdf) [↑](#footnote-ref-115)
116. Schnitzer-Reese [n 63]. [↑](#footnote-ref-116)
117. ibid. [↑](#footnote-ref-117)
118. Del Wilber ‘*Her husband had taken their young daughter to Iran. She was determined to get the child back’* *The Washington Post* (USA, April 4th 2013) [<https://www.washingtonpost.com/sf/feature/wp/2013/04/04/herhusband-had-taken-their-young-daughter-to-iran-she-was-determined-to-get-the-child-back/>](https://www.washingtonpost.com/sf/feature/wp/2013/04/04/her-husband-had-taken-their-young-daughter-to-iran-she-was-determined-to-get-the-child-back/)accessed 14/02/2023. [↑](#footnote-ref-118)
119. *United States v. Homaune*, 898 F. Supp. 2d 153 (2012). [↑](#footnote-ref-119)
120. *[2015]* FamCA 1013. [↑](#footnote-ref-120)
121. Makariev & Shaver, ‘Attachment, parental incarceration, and possibilities for intervention’ (2010) 12

Attachment & Human Development, 311-331 accessed 18/02/2023. [↑](#footnote-ref-121)
122. Aiyar [n 37]. [↑](#footnote-ref-122)
123. ibid. [↑](#footnote-ref-123)
124. ibid. [↑](#footnote-ref-124)
125. *Re JA* *(Child Abduction: Non-Convention Country)* [1998] 1 FLR 231. [↑](#footnote-ref-125)
126. *(A Child) [2015]* UKSC 70. [↑](#footnote-ref-126)
127. ibid [8]. [↑](#footnote-ref-127)
128. ibid[46] (Roderick Wood J). [↑](#footnote-ref-128)
129. Caroline Gosselain, *'child abduction and transfrontier access: bilateral Conventions and Islamic States’* (2002) <[https://assets.hcch.net/upload/abd2002\_pd7e.pdf>](https://assets.hcch.net/upload/abd2002_pd7e.pdf) accessed 07/02/2023. [↑](#footnote-ref-129)
130. ibid. [↑](#footnote-ref-130)
131. ibid. [↑](#footnote-ref-131)
132. [2000] Fam 62, [F]. [↑](#footnote-ref-132)
133. Gosselain [n 131]. [↑](#footnote-ref-133)
134. *B v EL-B (Abduction: Sharia Law: Welfare of Child)* [2003] 1 F.L.R 811. [↑](#footnote-ref-134)
135. The Convention, art 1(b). [↑](#footnote-ref-135)
136. *Re E* [1999] 2 FLR 642. [↑](#footnote-ref-136)
137. *[2017]* EWHC 3184 (Fam). 140 ibid [17] (Sir Peter Singer). [↑](#footnote-ref-137)
138. ibid. [↑](#footnote-ref-138)
139. Luke Andrews, *‘British Mother, 39, Makes Desperate Plea for Return of Two-Year-Old Son after He Was Taken to Iran’* *Mail Online* (5th July 2019) <<https://www.dailymail.co.uk/news/article>[-7216137/British-mother39-makes-desperate-plea-return-two-year-old-son-taken-Iran.html>](https://www.dailymail.co.uk/news/article-7216137/British-mother-39-makes-desperate-plea-return-two-year-old-son-taken-Iran.html) accessed 03/01/2023. [↑](#footnote-ref-139)
140. Claude Adams, ‘Man Who Abducted His 4 Kids, Brought Them to Iran, Says He Was Escaping “Canadian Nightmare”’ *Global News* (18 May 2016) < [https://globalnews.ca/news/2709058/man-who-abducted-his-4-kidsbrought-them-to-iran-says-he-was-escaping-canadian-nightmare/>](https://globalnews.ca/news/2709058/man-who-abducted-his-4-kids-brought-them-to-iran-says-he-was-escaping-canadian-nightmare/) accessed 04/01/2023. [↑](#footnote-ref-140)
141. Yaqub [n 7]. [↑](#footnote-ref-141)
142. ibid. [↑](#footnote-ref-142)
143. Barbara Sobal, 'Parental Alienation syndrome and International Child Abduction: A multigenerational Syndrome' in Gardner and others, ‘*The International Handbook of Parental Alienation Syndrome ’* (Charles Thomas Publisher LTD, 2023). [↑](#footnote-ref-143)
144. Yaqub [n 7]. [↑](#footnote-ref-144)
145. Marylin Freeman, ‘International Child abduction: The effects’ (2006) Reunite International Child Abduction Centre <http://takeroot.org/ee/pdf\_files/library/freeman\_2006.pdf> accessed 18/01/2023. [↑](#footnote-ref-145)
146. ibid. [↑](#footnote-ref-146)
147. Freeman [n 145]. [↑](#footnote-ref-147)
148. Andrews [n 139]. [↑](#footnote-ref-148)
149. *B and C* [n 107]. [↑](#footnote-ref-149)
150. The Convention, art 12. [↑](#footnote-ref-150)
151. *[2014]* EWCA Civ 989. [↑](#footnote-ref-151)
152. *Re R (A Child)* *[2013]* EWCA Civ 1115 [23] (Patten LJ). [↑](#footnote-ref-152)
153. ibid. [↑](#footnote-ref-153)
154. Dorothy Daigle, Due Process Rights of Parents and Children in International Child Abductions: An examination of the Hague Convention and Its Exceptions (1993) 26 Vanderbilt Journal of Transnational Law. [↑](#footnote-ref-154)
155. Kristine Uhlman, *Overview of Shari’a and Prevalent Customs in Islamic Societies - Divorce and Child Custody* (2004) Expert Law [<](file:////Users/melinaotifeh/Downloads/%253c)<http://www.expertlaw.com/library/family_law/islamic_custody3.html#110>> accessed 13/01/2023. [↑](#footnote-ref-155)
156. Hamid [n 61]. [↑](#footnote-ref-156)
157. ibid. [↑](#footnote-ref-157)
158. Aiyar [n 37]. [↑](#footnote-ref-158)
159. The Convention, art 19. [↑](#footnote-ref-159)
160. Hamid [n 61]. [↑](#footnote-ref-160)
161. ibid. [↑](#footnote-ref-161)
162. ibid. [↑](#footnote-ref-162)
163. ibid. [↑](#footnote-ref-163)
164. Aramesh Shahbazi and Mohammad Ghorbanpour, ‘Some Considerations on Accession to the Hague Convention on Civil Aspects of International Child Abduction (1980) for Iran’ (2017) 47 PLSQ 481. [↑](#footnote-ref-164)
165. Michelle Boykin, ‘*A comparison of Japanese and Moroccan Approaches in Adopting the Hague Convention on the Civil Aspects of International Child Abduction’* (2012) 46 FLQ. [↑](#footnote-ref-165)
166. HCCH, *‘Hague Child Abduction Convention Soon to Be in Force for Morocco’* (2019)

[<https://www.hcch.net/en/news-](https://www.hcch.net/en/news-archive/details/?varevent=187#:~:text=Morocco's%20accession%20to%20the%201980,and%20their%20families%2C%20must%20continue)

[archive/details/?varevent=187#:~:text=Morocco’s%20accession%20to%20the%201980,and%20their%20famili es%2C%20must%20continue>](https://www.hcch.net/en/news-archive/details/?varevent=187#:~:text=Morocco's%20accession%20to%20the%201980,and%20their%20families%2C%20must%20continue) accessed 25/01/2023. [↑](#footnote-ref-166)
167. Saracens Solicitors, ‘Hague Convention When It Cannot Help- the Fight to Have the Child Returned Can Be Long and Heartbreaking’ (5 April 2017) < [https://saracenssolicitors.co.uk/private-clients/divorce-familylaw/hague-convention/>](https://saracenssolicitors.co.uk/private-clients/divorce-family-law/hague-convention/) accessed 03/01/2023. [↑](#footnote-ref-167)
168. R Singal, *'International Child Abduction To A Non-Hague Convention Country'* (RVS Solicitors Blog 2021) [<https://rvssolicitors.co.uk/latest-news/family-law-blog/international-child-abduction-to-a-non-hagueconvention-country/>](https://rvssolicitors.co.uk/latest-news/family-law-blog/international-child-abduction-to-a-non-hague-convention-country/) accessed 17/12/2022. [↑](#footnote-ref-168)
169. Saracens [n 170]. [↑](#footnote-ref-169)
170. [2017] EWHC 3184 (Fam). [↑](#footnote-ref-170)
171. ibid [19] (Sir Peter Singer). [↑](#footnote-ref-171)
172. Colin Randall, ‘Iranian Court Grants Custody of Children to French Father’ *The National* (France, 9 July 2012 < [https://www.thenationalnews.com/world/mena/iranian-court-grants-custody-of-children-to-frenchfather-1.405140>](https://www.thenationalnews.com/world/mena/iranian-court-grants-custody-of-children-to-french-father-1.405140) accessed 07/01/2023. [↑](#footnote-ref-172)
173. ibid. [↑](#footnote-ref-173)
174. ibid. [↑](#footnote-ref-174)
175. Emon [n 12]. [↑](#footnote-ref-175)
176. Namazie [n 98]. [↑](#footnote-ref-176)
177. Elizabeth Andrews, 'Lower Tier Members of the Hague club', Family Law Week Blog (2018) [<https://www.familylawweek.co.uk/site.aspx?i=ed189054>](https://www.familylawweek.co.uk/site.aspx?i=ed189054) accessed 30/12/2022. [↑](#footnote-ref-177)
178. Beaumont and McEleavy [n 3]. [↑](#footnote-ref-178)
179. ‘Iranian Executions: Women. Life. Freedom.’ (*The Organization for World Peace* 26 January 2023) [<https://theowp.org/iranian-executions-women-life-freedom/>](https://theowp.org/iranian-executions-women-life-freedom/) accessed 16/10/2022. [↑](#footnote-ref-179)
180. Amnesty International*,*‘Iran: Chilling Use of the Death Penalty to Further Brutally Quell Popular Uprising’ (16 November 2022) <[https://www.amnesty.org/en/latest/news/2022/11/iran-chilling-use-of-the-death-penaltyto-further-brutally-quell-popular-uprising/>](https://www.amnesty.org/en/latest/news/2022/11/iran-chilling-use-of-the-death-penalty-to-further-brutally-quell-popular-uprising/) accessed 13/10/2023. [↑](#footnote-ref-180)
181. UK Government, ‘UK Imposes Further Coordinated Sanctions on Iranian Regime Officials’ (January 2023) [<https://www.gov.uk/government/news/uk-imposes-further-coordinated-sanctions-on-iranian-regimeofficials#:~:text=The%20UK%20has%20now%20imposed,hold%20the%20regime%20to%20account.>](https://www.gov.uk/government/news/uk-imposes-further-coordinated-sanctions-on-iranian-regime-officials#:~:text=The%20UK%20has%20now%20imposed,hold%20the%20regime%20to%20account.) accessed 25/01/2023. [↑](#footnote-ref-181)
182. UN Resolution s-35/1 adopted on 24th November 2022. [↑](#footnote-ref-182)
183. Schuz [n 2]. [↑](#footnote-ref-183)
184. The Convention, art 20. [↑](#footnote-ref-184)
185. Hamid [n 61]. [↑](#footnote-ref-185)
186. ibid. [↑](#footnote-ref-186)
187. Mobina Jaffer et al, 'Challenges and International Mechanisms to Address Cross-Border Child Abduction' (2015) <[https://sencanada.ca/Content/SEN/Committee/412/ridr/rep/rep13jul15-e.pdf>](https://sencanada.ca/Content/SEN/Committee/412/ridr/rep/rep13jul15-e.pdf) accessed 09/01/2022. [↑](#footnote-ref-187)
188. ibid. [↑](#footnote-ref-188)
189. ibid. [↑](#footnote-ref-189)
190. Jaffer et al [n 190]. [↑](#footnote-ref-190)
191. Judicial Protocol on Children Matters 2003. [↑](#footnote-ref-191)
192. ibid. [↑](#footnote-ref-192)
193. Gosselain [n 131]. [↑](#footnote-ref-193)
194. Boykin [n 168]. [↑](#footnote-ref-194)