

## **4 PAPER BUILDINGS**

### **THE RIGHTS OF THE CHILD IN HAGUE PROCEEDINGS SEMINAR**

**3 CPD – BTM/CHLS**

8<sup>th</sup> December 2016

#### **CHAIR**

**David Williams QC**

#### **SPEAKERS:**

**Teertha Gupta QC  
David Williams QC  
Christopher Hames QC  
Dorothea Gartland  
Michael Gration  
Jacqueline Renton  
Indu Kumar  
Jonathan Rustin**



## **4 Paper Buildings**

1. The Child's voice in habitual residence disputes and children giving evidence.  
**Teertha Gupta QC & Michael Gration**
2. The Child's voice in objections and settlement defences under the Hague Convention 1980.  
**Michael Edwards & Jonathan Rustin**
3. Joinder of children and non-subject children to Hague proceedings.  
**Jacqueline Renton & Indu Kumar**
4. Post final return order – the role of the child – appeal, enforcement and set aside  
**David Williams QC & Dorothea Gartland**
5. Speakers Profiles
6. Members of Chambers



## **Section 1**

The Child's voice in habitual residence disputes and children giving evidence.

**Teertha Gupta QC & Michael Gration**

## **The child's voice in habitual residence disputes, and children giving evidence**

Teertha Gupta QC  
Michael Gration

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## **The importance of habitual residence**

- Jurisdiction pursuant to:
  - Brussels iia
  - The 1996 hague convention
  - The family law act 1986
- The operation of the 1980 hague convention

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## **SOME RECENT DECISIONS**

- A v A and another (Children: Habitual Residence) (Reunite International Child Abduction Centre and others intervening) [2013] UKSC 60, [2014] AC 1 ('A v A').
- In re L (A Child) (Custody: Habitual Residence) (Reunite International Child Abduction Centre intervening) [2013] UKSC 75, [2014] AC 1017 ('Re KL');
- In re LC (Children) (Reunite International Child Abduction Centre intervening) [2014] UKSC 1, [2014] AC 1038 ('Re LC');
- In re R (Children) (Reunite International Child Abduction Centre and others intervening) [2015] UKSC 35, [2016] AC 76 ('Re R'); and
- Re B (A child) (Habitual Residence: Inherent Jurisdiction) [2016] UKSC 4, [2016] 2 WLR 557 ('Re B').

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## The current approach

- The Majority judgment in Re B is of real significance, and can be read as a significant departure from the previous law:
  - It is comparatively recent, certainly it is the most recent authoritative statement as to the proper approach to determination of a child's habitual residence;
  - It focuses upon the loss and subsequent acquisition of habitual residence, and the factors to be taken into account;

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## The current approach (cont.)

- The majority judgment involves particular focus upon the 'transfer' of habitual residence;
- It was held that it would be highly unlikely (or, to use the term adopted in certain parts of the judgment, exceptional) for a child to have no habitual residence; AND
- In that regard it is very different in its approach to the earlier authorities on habitual residence, and even to the decision of the supreme court in a v a, as followed in the subsequent cases mentioned previously

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## The 'test'

•See para. 45:

"I conclude that the modern concept of a child's habitual residence operates in such a way as to make it highly unlikely, albeit conceivable, that a child will be in the limbo in which the courts below have placed B. The concept operates in the expectation that, when a child gains a new habitual residence, he loses his old one. Simple analogies are best: consider a see-saw. As, probably quite quickly, he puts down those first roots which represent the requisite degree of integration in the environment of the new state, up will probably come the child's roots in that of the old state to the point at which he achieves the requisite de-integration (or, better, disengagement) from it."

•However it remains a factual test, reliant upon consideration of all of the circumstances of the case, in order to determine whether the child has achieved "*some degree of integration by the child in a social and family environment*"

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### **The child's voice, and the impact of the child's position**

- It is now well established that it is the position of the child that is most relevant when determining a child's habitual residence
- Further, it is well established that the child's state of mind, and the child's own explanation of their state of mind, is a factor to be taken into account in appropriate cases – see *Re LC*

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### **The child's voice, and the impact of the child's position (Cont.)**

- Does the approach taken in *Re B* place a greater focus upon the child's position and, where appropriate, the child's own expressed perception?
- Arguably, yes – if it is a transference, a see saw that moves from one end resting on one patch of ground, seamlessly to its other end touching down on another, the child's own perception may be of fundamental importance either in hastening the tilt, or slowing it or perhaps even stopping it

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### **How is the child's voice heard in relation to their habitual residence?**

- By way of a CAFCASS report
- By adducing contemporaneous documents, e.g. posting on social media, diary entries, etc.
- By evidence from others to whom the child has expressed a view, whether contemporaneously or subsequently
- By separate representation
- By the child giving evidence (whether separately represented or, in appropriate cases, without separate representation – see *Cambra v Jones* (Contempt Proceedings: Child joined as party) [2014] EWHC 913 (Fam), [2015] 1 FLR 263, paras 10, 14)

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WHAT IS the focus of any such enquiry?

- The focus must be on the matters raised within the relevant authorities, including the European authorities
- Whether the child has achieved "*some degree of integration ... in a social and family environment*"
- Objective and subjective markers
- Matters that weigh in favour or against, 'balanced' against each other in order to see whether the see saw tips on its fulcrum

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### Principles in relation to children giving evidence

- There is no authority as to the proper approach to the question as to whether or not a child should give evidence in a 1980 Hague Convention context
- There are, however, cases about children giving evidence generally which may be applicable to this question.
- Most notably, *Re W (Children) (Abuse: Oral Evidence)* [2010] UKSC 12

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### The approach taken in *Re W*

- i) The fair balance between Article 6 rights and the Article 8 rights of the perceived victim may mean that in care proceedings a child should not be called to give evidence but that outcome, (ie that a child should not give evidence), is a result of the balancing exercise and not a presumption or even a starting point.[22]
- ii) The essential test is whether justice can be done without further questioning of the child [30]
- iii) The court weighs two considerations:
  - a) The advantages that the child giving evidence will bring to the determination of the truth (Limb 1).
  - b) The damage giving evidence may do to the welfare of this or any other child (Limb 2).

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### The approach taken in Re W – Limb 1

- i) *Limb 1: The fair and accurate determination of the truth* [25]
- a) The issues it is necessary for the court to decide
  - b) The quality of the evidence already available, including whether there is enough evidence to make the findings without the child being cross examined
  - c) Whether there is anything useful to be gained by oral evidence in circumstances where the child has not made concrete allegations
  - d) The quality of any ABE interview and the nature of the challenge; the court will not be helped by generalised accusations of lying or a fishing expedition. Focused questions putting forward an alternative explanation for certain events may help the court to do justice
  - e) Age and maturity of the child and the length of time since the events

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### The approach taken in Re W – Limb 2

- ii) *Limb 2: Risk of harm to the child* [26]
- a) Age and maturity of the child and the length of time since the events.
  - b) The child's wishes and feelings about giving evidence. An unwilling child should rarely if ever be obliged to give evidence and, where there are parallel criminal proceedings, the child having to give evidence twice may increase the risk of harm.
  - c) The level of support the child has and the views of the Guardian and those with parental responsibility.
  - d) The fact that the family court has to give less weight to the evidence of a child who is not called may be damaging to the child.
  - e) The court is entitled to have regard to the general understanding of the harm that giving evidence may do to a child as well as features peculiar to the child and case under consideration. The risk, and therefore weight, will vary from case to case.

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### The application of Re W in Hague convention cases

- Per Munby P in *Re F* [2016] EWCA Civ 546:  
*"41. It is apparent that in relation to all these matters there has been a sea-change in attitudes over the last decade and more, even if on occasion practitioners and the courts have been and still are too slow to recognise the need for change or to acknowledge the pace of change. Moreover, and I wish to emphasise this, the process of change continues apace.*  
*42. In April 2010, "Guidelines for Judges Meeting Children who are Subject to Family Proceedings" were issued by the Family Justice Council with the approval of Sir Nicholas Wall P: [2010] 2 FLR 1872. In December 2011, and following the decision of the Supreme Court in *In re W*, the Family Justice Council issued Guidelines, endorsed by Sir Nicholas Wall P, on "Children Giving Evidence in Family Proceedings:" [2012] Fam Law 79. More recently, the whole topic, with other related matters, has been considered by the Children and Vulnerable Witnesses Working Group which I established under the Chairmanship of Russell and Hayden JJ in May 2014. Their interim report was published in July 2014 (see [2014] Family Law 1217) and the final report in February 2015 (see [2015] Family Law 443). The Family Procedure Rules Committee is currently considering the extent to which, given limited resources, the recommendations of the Working Group can be fully implemented. Whatever the outcome of that discussion, it is plain that the further changes in our approach to these matters which are now widely acknowledged require to be implemented, and do sooner rather than later.*  
*43. One thing is quite clear: that proper adherence to the principles laid down in *In re W* will see ever increasing numbers of children giving evidence in family proceedings."*

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### **How does this all work in practice?**

The stone family...

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## **Section 2**

The Child's voice in objections and settlement defences under the Hague Convention 1980.

**Michael Edwards & Jonathan Rustin**

## The child's voice in objections and settlement defences under the Hague Convention 1980

Jonathan Rustin | [jmr@4pb.com](mailto:jmr@4pb.com)

Michael Edwards | [me@4pb.com](mailto:me@4pb.com)

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## Objections

- Defence led by the voice of the child
- Radical re-appraisal in 2015
- Wide use of discretion

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## Objections

1. Article 13
  - Objections
  - Age and maturity
  - Discretion
2. Voice of the child in objection defences
3. Tips and Traps

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## Article 13

"The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views."

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## Article 13 – 3 stage inquiry

- 1) whether the child objects to being returned
- 2) whether the child is of sufficient age and maturity for the court to take account of its objections; and
- 3) whether the court should exercise its discretion to order a return

(per Baker J in [WF v FJ, BJ & RF \(Child's Objection\) \[2010\] EWHC 2909 \(Fam\)](#), [\[2011\] 1 FLR 1153](#))

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## The child objects

• In [Re K \(Abduction: Case Management\) \[2011\] 1 FLR 1268](#), Thorpe LJ observed that 'wishes and feelings' and 'objections' are not one and the same:

"There must be a very clear distinction between the child's objections and the child's wishes and feelings. The child who has suffered an abduction will very often have developed wishes and feelings to remain in the bubble of respite that the abducting parent will have created, however fragile the bubble may be, but the expression of those wishes and feelings cannot be said to amount to an objection unless there is a strength, a conviction and a rationality that satisfies the proper interpretation of the Article."

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## Age and maturity (Pre-2015)

- In the case of *Re T (Abduction: Child's Objections to Return)* [2000] 2 FLR 192, Ward LJ suggested that a discrete finding as to 'age and maturity' was needed, before considering whether it was appropriate to take account of the child's views, which required the court to ascertain the strength and validity of the child's views, in relation to which four matters should be considered:

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## Age and maturity (Pre-2015)

- (a) What is the child's own perspective of what is in her interests, short, medium and long term? Self-perception is important because it is her views which have to be judged appropriate.
- (b) To what extent, if at all, are the reasons for objection rooted in reality or might reasonably appear to the child to be so grounded?
- (c) To what extent have those views been shaped or even coloured by undue influence and pressure, directly or indirectly exerted by the abducting parent?
- (d) To what extent will the objections be mollified on return and, where it is the case, on removal from any pernicious influence from the abducting parent?

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## Age and maturity (post 2015)

- In the case of *Re M (Republic of Ireland) (Child's Objections) (Joinder of Children as Parties to Appeal)* [2015] 2 FLR 1074, Black LJ observed at [69]:

"the position should now be, in my view, that the gateway stage is confined to a straightforward and fairly robust examination of whether the simple terms of the Hague Convention are satisfied in that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of his or her views. Subtests and technicality of all sorts should be avoided. In particular, the *Re T* approach to the gateway stage should be abandoned."

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## Age and maturity (post 2015)

- The *Re M* approach has been expressly acknowledged and approved in *Re U-B (Abduction: Objections to Return)* [2015] EWCA Civ 60, [2015] 2 FLR 1382 (see in particular [51, 52]).
- Black LJ also confirmed in *Re F (Child's Objections)* [2015] EWCA Civ 1022 at [33] that this approach should discourage any "over prescriptive or over intellectualised approach" and instead requires a "straightforward" analysis of the simple question: 'does the child object to being returned to his or her country of habitual residence?' Whether a child objects is a question of fact to be analysed on the evidence [35].

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## Age and maturity

- There is no threshold below which a child is not sufficiently mature; it is for the court to determine the attributes of the child and the nature of his objections to return (*Re W (Abduction: Acquiescence: Children's Objections)* [2010] 2 FLR 1150, [37])
- In *Re W (Abduction: Child's Objections)* [2010] 2 FLR 1165, the Court of Appeal upheld Black J's decision at first instance to take account of the view of a child who was aged **5 years 11 months** when interviewed by Cafcass and 6 years and 1 month at the date of the decision.
- There is no reported authority in which the views of a younger child have been taken into account for the purposes of the child's objections defence.

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## Take into account

- In relation to the meaning of the phrase 'take into account', Wilson LJ in *Re W (abduction: child's objections)* [2010] EWCA Civ 520 stated that the phrase:
- "...means no more than what it says so, albeit bounded of course by considerations of age and degree of maturity, it represents a fairly low threshold requirement. In particular it does not follow that the court should 'take account' of a child's objections only if they are so solidly based that they are likely to be determinative of the discretionary exercise which is to follow" (Paragraph 24 at p.1273).

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## Discretion

- In [Re M \(Abduction: Zimbabwe\) \[2007\] UKHL 55](#), at [46], Baroness Hale described the exercise of discretion where a child's objection defence has been established:

"...Once the discretion comes into play, the court may have to consider the nature and strength of the child's objections, the extent to which they are "authentically her own" or the product of influence of the abducting parent, the extent to which they coincide or are at odds with other considerations which are relevant to her welfare, as well as the general Convention considerations referred to earlier. The older the child, the greater the weight that her objections are likely to carry. But that is far from saying that the child's objections should only prevail in the most exceptional circumstances."

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## Discretion – person vs country

- Where a child's objection to returning arises from a desire to remain with the abducting parent, little or no weight is given to the child's views [\(A v A \(Child Abduction\) \[1993\] 2 FLR 225\)](#)

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## Discretion - Age

- Where older children are concerned, in [Re G \(Abduction: Children's Objections\) \[2010\] EWCA Civ 1232](#), it was held that courts have to consider the implementation of a judgment for return and should be alive to the difficulties of implementation where the subject of the return order is an "articulate, naturally determined and courageous adolescent" [21].

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## Discretion - Siblings

- Discretion should have been exercised so as to avoid splitting younger siblings from their older siblings who objected to return ([Zaffino v Zaffino \(Abduction: Child's Views\) \[2006\] 1 FLR 410](#)).
- Due to an exceptionally close relationship between siblings, the Courts have found that splitting objecting and non-objecting siblings would create an 'intolerable situation' under Article 13(b) ([Re T \(Abduction: Child's Objections to Return\) \[2000\] 2 FLR 192](#)).

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## Objections: How to hear the child?

- Cafcass officer (wishes and feelings report)
- Writing a letter to the court
- Meeting a judge
- Separate representation

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## Objections: When to hear the child

- Article 11.2 of BIIa places a positive duty upon the courts to hear the child in Hague Convention cases.
- Hague Convention proceedings need to be concluded within six weeks and consequently the Court of Appeal has held that that at the first directions hearing there should be an enquiry into whether and how the child's wishes and feelings should be placed before the court. ([Re F \(abduction: child's wishes\) \[2007\] EWCA Civ 468, \[2007\] 2 FLR 697](#)).

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### When will the court direct separate representation?

• In abduction proceedings, due to their summary nature, the child will rarely be joined as a party. In [Re D \(Abduction: Rights of Custody \[2007\] 1 FLR 961, HL](#), Baroness Hale stated at [60] that:

“The most common method is therefore an interview with a Cafcass officer, who is not only skilled and experienced in talking with children but also, if practicing in the High Court, aware of the limited compass within which the child’s views are relevant in Hague Convention cases. In most cases, this should be enough. In others, and especially where the child has asked to see the judge, it may also be necessary for the judge to hear the child. **Only in a few cases will full scale legal representation be necessary. But whenever it seems likely that the child’s views and interests may not be properly presented to the court, and in particular where there are legal arguments which the adult parties are not putting forward, then the child should be separately represented.**”

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### When will the court direct separate representation?

• The court must balance the need for separate representation against the welfare interests of the child.

• In [Ciccione v Ritchie \(No 1\) \[2016\] EWHC 608 \(Fam\)](#) per MacDonald J:

“The court must not, of course, have regard simply to the age of a child in deciding whether the child’s best interests are met by being separately represented. The court has to, and does, balance against the benefits of representation the adverse effect of allowing the child to descend into the arena.” [56]

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### Tips and Traps

- 1) Consider whether it is necessary to ascertain the wishes and feelings of the child early
- 2) Recite the decision not to direct a Cafcass report
- 3) Direct Cafcass in a way that does not lead the child
- 4) Remember the distinction between objecting to a person and objecting to a country
- 5) Avoid encouraging Litigants in Person to case build when identifying their defence(s)

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## Settlement

- The most '*child-centric*' of all child abduction cases
- Link to child objections cases
- Separate representation a matter of '*routine*'?

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## Settlement

1. Article 12
  - Settlement
  - Discretion
  - Relevance of voice of the child
2. *How* the voice of the child is heard in settlement cases
3. Settlement under BIIa and the 1996 HC

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## Article 12

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, **a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.**

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, **unless it is demonstrated that the child is now settled in its new environment.**

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## Considerations under Article 12

1. Is settlement made out?
  - a. Have 12 months passed since abduction/retention?
  - b. Is the child settled?
2. Discretion

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## Stage 1: Is settlement made out?

- Date of abduction/retention
- Question of pure fact
- Resolve through oral evidence if needed

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## Is the child settled?

- Older authorities:
  - *Re N (Minors)(Abduction)* [1991] 1 FLR 413
  - *Re C (Child Abduction: Settlement)* [2006] 2 FLR 797
- **Relevant date**, date of issue: *Re N (Minors)(Abduction)*
- **Physical element**: being established in a community and environment
- **Emotional element**: does the present situation have a 'security and stability'

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### The voice of the child (1)

- *Cannon v Cannon* [2005] 1 FLR 169
- No 'equitable tolling' (US approach)
- But, Thorpe LJ: '***In cases of concealment and subterfuge the burden of demonstrating the necessary elements of emotional and psychological settlement is much increased. The judges in the Family Division should not apply a rigid rule of disregard but they should look critically at any alleged settlement that is built on concealment and deceit especially if the defendant is a fugitive from criminal justice.***'

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### The voice of the child (1)

- *Re LC (Reunite: International Child Abduction Centre Intervening)* [2014] UKSC 1
- Lord Wilson:
  - 'Integration' and 'settlement' are analogous concepts
  - In both cases, older children may be able to contribute relevant evidence not easily given by either parent
  - Evidence of state of mind is relevant

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### Stage 2: Discretion

- Highly unlikely that the courts will return a settled child
- No reported cases
- *F v M and N (Abduction: Acquiescence: Settlement)* [2008] 2 FLR 1270  
Suspended return order

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## But, discretion *does* exist

- *Re M (Zimbabwe)* [2007] UKHL 55
- Policy aims of the Convention:
  - Swift return of abducted children
  - Deterring abduction
  - Comity
  - Courts of originating state are best placed to determine welfare
- Policy aims carry less weight in settlement cases: aims can no longer be achieved

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## The voice of the child (2)

- Discretion is '*at large*'
- Welfare considerations carry more weight
- Role of Cafcass in assessing child's welfare
  - More than just wishes and feelings
  - Broader remit for Cafcass

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## *Re M Zimbabwe* (2007) UKHL 55

- Joining children in every case would send the wrong message to children
- But *not* in settlement cases
- Baroness Hale: '*These are the cases in which the separate point of view of the children is particularly important and should not be lost in the competing claims of the adults. If this were to become routine, there would be no additional delay.*'

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### Settlement under BIIa

- Article 10, BIIa
- Retention of jurisdiction after abduction/retention until:
  - Parties acquiesce; or
  - 12 months have passed and the child is **settled**
- Article 7, 1996 Hague Convention

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## **Section 3**

Joinder of children and non-subject children to Hague proceedings.

**Jacqueline Renton & Indu Kumar**

## Joinder of children and non-subject children in Hague Convention 1980 proceedings

Jacqueline Renton  
Indu Kumar



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## The voice of the child: the international instruments.....

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### Article 11(2) of BIIR

When applying Articles 12 and 13 of the 1980 Hague Convention, it shall be ensured that the child is given the opportunity to be heard during the proceedings unless this appears inappropriate having regard to his or her age or degree of maturity.



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## **Article 24 of Charter of Fundamental Rights of European Union**

The rights of the child

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.
3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

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## **Article 12 of UNCRC**

Every child has the right to say what they think in all matters affecting them, and to have their views taken seriously.



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## **Joinder of subject children**



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### **Statutory regime**

- Rule 16.2 FPR 2010 – best interests test
- PD 16A – helpful cross-check

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### **The case law in respect of joinder of subject children.....**

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### **Re D (Abduction: Rights of Custody) [2006]** **UKHL 51**

- Hague Convention 1980 application issued by F who sought the return of the child to Romania.
- Child was 4 at the time of his removal to this jurisdiction by M. By the time the case got to the House of Lords, the child was 8 years old. The delay was caused as a result of an article 15 request to the Romanian courts, and then expert evidence being ordered in England as a result of the English court determining it was not bound by the article 15 determination.
- The High Court ordered the child's return.
- The Court of Appeal refused the child's application for joinder but did order a Cafcass report. The Cafcass report was clear that the child strongly objected to return.
- The House of Lords refused to order the child's return.

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• **Baroness Hale’s speech was seminal as regards the importance of hearing the voice of the child:-**

*“Especially in Hague Convention cases, the relevance of the child’s views to the issues in the case may be limited. But there is now a growing understanding of the importance of listening to the children involved in children’s cases. It is the child, more than anyone else, who will have to live with what the court decides. Those who do listen to children understand that they often have a point of view which is quite distinct from that of the person looking after them. They are quite capable of being moral actors in their own right. Just as the adults may have to do what the court decides whether they like it or not, so may the child. But that is no more a reason for failing to hear what the child has to say than it is for refusing to hear the parents’ views.”: [57]*

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• **Baroness Hale also made clear that:-**

- Article 11(2) of BIIR makes clear that the court must give the child an opportunity to be heard, unless this appears inappropriate given the child’s age and degree of maturity. The presumption is therefore that the child should be heard. BIIR should apply, by analogy, to all Hague Convention 1980 not just those that fall specifically under BIIR.
- Hearing the child is not to be confused with giving effect to the child’s views.
- Children should be heard more frequently than they have been to date.
- The abducting parent cannot represent the child’s views. If a child’s views are the same as those of an abducting parent, then it will be assumed that they are not authentically the child’s views or given little weight. This issue can be circumvented by hearing separately from the child.

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- There are a number of ways of hearing the voice of the child:-

- (1) Cafcass report
- (2) Meeting with the judge
- (3) Separate representation

- Only in a few cases will (3) be appropriate. Separate representation will be important where the child’s views and interests will not properly be represented without their own voice, in particular where there are legal arguments to run on behalf of the child that are not being put forward by the adults.
- The test of exceptionality does not apply to separate representation
- The court must consider the issue of the voice of the child at the earliest available opportunity.

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**Re M (Abduction: Zimbabwe) [2007] UKHL 55**

- Hague Convention 1980 application issued by F who sought the return of the children to Zimbabwe.
- The children were joined at the House of Lords stage and had their own views as regards a return to Zimbabwe. The children were clear they did not want to return.
- The court went on to order a non-return of the children.
- Baroness Hale at [57] addressed the issue of separate representation of the children:-

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- *"As pointed out in Re D, it is for the court to consider at the outset how best to give effect to the obligation to hear the child's views. We are told that this is now routinely done through the specialist CAFCASS officers at the Royal Courts of Justice. I accept entirely that children must not be given an exaggerated impression of the relevance and importance of their views in child abduction cases. To order separate representation in all cases, even in all child's objections cases, might be to send them the wrong messages. But it would not send the wrong messages in the very small number of cases where settlement is argued under the second paragraph of Art 12. These are the cases in which the separate point of view of the children is particularly important and should not be lost in the competing claims of the adults.*

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*If this were to become routine, there would be no additional delay. In all other cases, the question for the directions judge is whether separate representation of the child will add enough to the court's understanding of the issues that arise under the Hague Convention to justify the intrusion, the expense and the delay that may result. I have no difficulty in predicting that in the general run of cases it will not. But I would hesitate to use the word 'exceptional'. The substance is what counts, not the label."*

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**Re LC Reunite: International Child Abduction Centre  
Intervening) [2014] UKSC 1**

- F's appeal in respect of 4 children who were wrongfully retained in this jurisdiction, having moved to Spain for a short period of time prior to the retention (by agreement of the parties, as found by the court at first instance)
- In the UKSC, the court considered the role of the children's views as regards the issue of habitual residence under article 3 of Hague Convention 1980. This issue was important and the subject of an appeal by F and the eldest child, T as although the Court of Appeal had ordered a non-return, M then applied for the return of the children under article 11(7) of BIR. M's return application could only be struck out if the non-return was under article 3, not article 13.
- UKSC allowed the appeal (and remitted the case to the High Court for that court to determine the issue of habitual residence.)

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- As regards the issue of joinder (T having appealed out of time the first instance courts refusal to join her to the proceedings), the UKSC determined that T should have been joined to the first instance proceedings.
- The UKSC reiterated that the threshold criterion for considering whether or not to join a child to Hague Convention 1980 proceedings is the 'best interests' statutory test under rule **16.2 of FPR 2010**. If the court decides that it is in the child's best interests to be joined, then only at that stage is the court's discretion open as to whether or not to join a child.
- **PD16A** – helpful reference (even if not specific PD for Hague proceedings).
- It remains necessary for a child to be represented by a Guardian in Hague Convention 1980 proceedings.
- A solicitor can act as a Child's Guardian.

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- It may be helpful in some cases for children to be joined to Hague Convention 1980 proceedings where there is an issue as regard habitual residence and an elder child of appropriate maturity may be able to contribute relevant evidence not easily given by either of his/her parents about his / her state of mind during the period in question. To this end, habitual residence issues are somewhat analogous to article 12 / settlement cases.
- The Practice Direction 16A on joinder of children relates to all private law children disputes and is not specifically focused on Hague Convention 1980 proceedings, albeit it can be used in such proceedings.

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**Cicccone v Ritchie (No 1) [2016] EWHC 608 (Fam)**

- Hague Convention 1980 proceedings concerning 15 year old child of Madonna and Guy Ritchie. M sought the return of the child to New York, U.S.A
- At a first hearing, the court had to determine the child's application for joinder, the child having spoken to a solicitor prior to M issuing proceedings, and having made an application for joinder through his solicitor and counsel.
- The court joined the child, and reviewed the jurisprudence in respect of joinder and noted as follows:-

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- The importance of listening to children involved in children's cases (**Re D (A Child) [2007] 1 AC 619.**)
- Only in a few cases will party status for a child be necessary. In most cases an interview of the child by a Cafcass officer will suffice, such an officer being skilled and experienced in talking with children (**Re D (A Child) [2007] 1 AC 619.**)
- Party status should be given to children where there are legal arguments not being put forward by the adult parties (**Re M and Another (Children)(Abduction: Rights of Custody) [2008] AC 1288.**)
- The test for granting party status to a child in proceedings is whether it is in the child's best interests to do so (**Re LC (Reunite: International Child Abduction Centre Intervening) [2014] AC 1038.**)

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- Granting a child party status may result in delay adverse to the child's welfare, particularly in relation to proceedings under the Hague Convention 1980 (**Re LC (Reunite: International Child Abduction Centre Intervening) [2014] AC 1038.**)
- The child can contribute relevant evidence on the issues of habitual residence and settlement when raised as defences to an application under the Hague Convention 1980 (**Re LC (Reunite: International Child Abduction Centre Intervening) [2014] AC 1038, Cannon v Cannon [2005] 1 WLR 32.**)
- Party status can allow the child to emerge from the proceedings with the knowledge that his or her position has been independently represented and advanced to the judge (**Mabon v Mabon [2005] 2 FLR 1011.**)

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- Adopting a directly confrontational stance toward a parent in proceedings can prove damaging to the family relationships (**Re LC (Reunite: International Child Abduction Centre Intervening) [2014] AC 1038**).
- Denying a child the knowledge of and participation in continuing proceedings may risk emotional harm to that child (**Mabon v Mabon [2005] 2 FLR 1011**).
- The process of reporting does not allow a child to actively engage in proceedings. A reporting officer may not be able to elicit a child's views through questioning and will not be able to give the child's response to evidence and submissions as they are presented (**Re C (Abduction: Separate Representation of Children) [2008] 2 FLR 6**).

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### **Re H [2016] EWCA Civ 988**

- Wardship case involving application by F for child to be 'returned' to Pakistan. Child removed from Saudi Arabia to England by M without F's consent. Child had lived in Pakistan prior to living in Saudi Arabia.
- Cafcass report ordered.
- At the final hearing, the parties entered into a consent order for return.
- M then went on to apply to set aside the consent order. M's application was refused.
- M then appealed to C of A. Child also appealed (out of time), the child being joined to appeal.

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- C of A criticised the judge who endorsed the consent order for not considering of her own motion whether the child should be separately represented before the consent order was endorsed by the court. C of A said that the judge should have adjourned the proceedings to allow for the child to be separately represented.
- **Important reminder** – the court's independent duty to consider whether a child should be joined (applies to all children proceedings, including Hague proceedings.)

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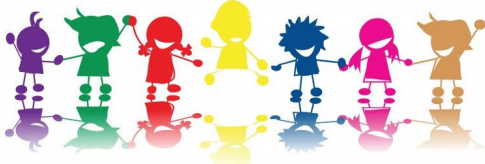
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## Joinder of non-subject children



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## Statutory regime

• **Rule 12.3 of FPR 2010** which states that respondents to 1980 Hague Convention proceedings shall be:-

- 'the person with whom the child is alleged to be;
- any parent or guardian of the child who is within the United Kingdom and is not otherwise a party;
- any person in whose favour a decision relating to custody has been made if that person is not otherwise a party; and
- any other person who appears to the court to have **sufficient interest** in the welfare of the child.'

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- It is debatable whether or not **Rule 12.3 of FPR 2010** is the test for joinder of non-subject children, or **Rule 16.2 of FPR 2010** (as per joinder of subject children).....

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**The case law in respect of joinder  
of non-subject children.....**

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**W v W (Abduction: Joinder as Party) [2010] 1 FLR 432–  
narrower interpretation of “sufficient interest in the welfare  
of the child”**

•Baker J determined that the reasoning of Sir Mark Potter (the then President) in *S v B (Abduction: Human Rights)* [2005] 2 FLR 878 was highly persuasive as regards his interpretation of **Rule 6.5(e) of FPR 1991**.

•**Rule 6.5(e) of FPR 1991** made clear that a defendant to an application under the Child Abduction and Custody Act 1985 shall be: “any other person who appears to the court to have a sufficient interest in the welfare of the child.” As a consequence, to be entitled to be joined as a mandatory defendant (now respondent), an applicant must establish that he / she is directly concerned with the welfare of the subject child in the sense that they have: (1) provide care for the child and / or (2) have a continuing or potential interest in the provision of care for the child or (3) have some legal or practical responsibility for the child’s welfare.

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- Baker J felt this definition was not too narrow and was *capable of encompassing everyone, or nearly everyone, who is likely to be able to demonstrate an interest in the welfare of the child sufficient to be heard on the question whether to order a return of the child to the country from which he has allegedly been wrongfully removed.*

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**Re M (Republic of Ireland) (Child's Objections) (Joinder of Children as Parties to Appeal) [2015] EWA Civ 26**

- Black LJ commented, *obiter dictum* (and without hearing full legal argument) that:-
  - The court has power to join a non-subject child by virtue of **Rule 16.2 of FPR 2010** if such joinder is in the child's best interests
  - Inclined not to accept the argument that **Rule 16.2 of FPR 2010** only applies to subject children.
  - In any event, the court has a general power under **Rule 12.3 of FPR 2010** to make any person a party.

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**Re S Child Abduction - Joinder of sibling - Child's Objections) [2016] EWHC 1227 (Fam)**

- Cobb J summarised the two "threshold tests" applicable to such an application under **Rule 12.3 of FPR 2010** and **Rule 16.2 of FPR 2010**, and determined that while the provisions of **PD16A** are relevant to the latter, they are not directly applicable to the issue of joinder of a non-subject child, albeit some of the content will be apposite.
- Cobb J makes clear that it would be a 'rare case' where a non-subject sibling of a subject child does not have a 'sufficient interest' in the welfare of the subject child:-
  - siblings usually have 'real and mutual' **article 8 of ECHR 1950 rights**.
  - Value to a young person in participation (Mabon v Mabon [2005] 2 FLR 1011);
  - Article 12 of UNCRC 1989

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**Things to consider re joinder applications: tactics and presentation**




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**1. Consider presentation of the joinder application:-**

- How has the child ended up at the panel solicitor?
- Should the other side be notified before a joinder application is made?
- What is the rationale / driving force behind the joinder application?
- Be careful to avoid any perception that the respondent has 'engineered' the situation in order to bolster up their case alone.
- If you are respondent, be careful in how you marshal your position re any joinder application that is mounted.
- Consider the timing of any application carefully – at the start of the proceedings? After the Cafcass report? Etc.

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**2. Consider what the child's joinder ADDS to the proceedings:-**

- Consider factors in **7.2 of PD16A of FPR 2010**, eg:-  
Are there separate legal arguments that can only be run by the child? Does the child have a different stand point to that of the respondent?
- In the case of joinder of non-subject child, is that child a protective favour to the subject child (more than, or instead of, the respondent)?
- Does the joinder of the child add enough to the court's understanding to warrant the delay / cost / intrusion?

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**3. Consider whether the child's right to enfranchisement outweighs:-**

- Any potential harm to the child of being embroiled in proceedings (See Lord Wilson's caution in **Re LC [2014]** at [48])
- Any potential delay to proceedings, bearing in mind the summary process and 6 week rule.

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**Should Elizabeth be joined to the proceedings?**

ARGUMENTS FOR	ARGUMENTS AGAINST
Elizabeth is of an age where her voice should be heard. She is already embroiled in the parental conflict; joinder will not be harmful to her.	Involving Elizabeth in the dispute in this way will not be in her best interests and will embroil her in the parental conflict.
Elizabeth is one of the 3 most significant attachment figures in the children's lives alongside their parents	Elizabeth is not likely to express a view any different to Angelina.
Having regard to the age gap between the siblings (in particular Elizabeth and the twins), it seems likely that Elizabeth has played a protective role.	Elizabeth will not necessarily not return to U.S.A if her siblings are returned, and Angelina returns with them. Her stance is tactical posturing.
Elizabeth is expecting her own child and will not return to U.S.A. This runs the risk of the family unit being fractured. A breach of Elizabeth's, the children's and Angelina's article 8 ECHR 1950 rights.	Elizabeth's voice could be heard by way of her filing and serving a statement, as part of Angelina's evidence. There is no need for her to be joined as well.

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## **Section 4**

Post final return order – the role of the child – appeal, enforcement and set aside.

**David Williams QC & Dorothea Gartland**

## **Post final return order – the role of the child –enforcement, set aside and appeal**

### **Introduction**

- 1) In this Section we shall consider a smorgasbord of issues which might arise after the making of a final order. We consider it in the context of a return order having been made but the appeal and set aside aspects could arise as well on a non-return as a return order.

### **Tipstaff Orders**

- 2) Although the making of Tipstaff orders has received some attention over last couple of years it has generally been in relation to
  - (a) Procedure, and
  - (b) Pre-final hearing, where the court is seeking to secure the presence of the children.
- 3) The Court gave a stern warning to practitioners and judges about the approach to the grant of Tipstaff orders at the outset of proceedings in *Re A (A Child)* [2016] EWCA Civ 572 23.6.2016
  - a) What is required, in *every* Hague case, is a careful analysis, based on solid evidence, of exactly what the risks are in the particular case; and what level of protection is required in order to manage those risks – Why is a location order needed? Why is a collection order needed? Why is a passport order needed? Why are any of these orders needed against anyone other than the abducting parent? The evidence in every Hague case must also explain, in particular, why the identified risks are such as to require a without notice application.
  - b) If a location order is sought evidence must be produced to demonstrate that the applicant does not know and is unlikely to be able expeditiously to establish the whereabouts of the respondent or the children. If a passport order is sought the applicant must produce evidence demonstrating the existence of sufficient flight risk (see below) to warrant such an order.
  - c) A collection order will only be justified if the applicant produces clear evidence that unless an order for the children's collection is made they will

face real peril such that not to remove them would expose them to greater harm than making the order.

- 4) What about as a means of enforcement though? One is considering the forcible removal of a child from a parent into the custody of an officer of the court with a view to onward passage to another parent or into the interim care of a public authority. This is a draconian step.
- 5) It has been said that in the context of enforcement the welfare of the child is not paramount. Re S (Brussels II: Recognition: best interests of child) (No 1) and (No 2) [2004] 1 FLR 571 and [2004] 1 FLR 582. However the best interests of the child must be a 'primary consideration' in accordance with Art 3.1 UNCRC and/or Art 24 EU CFR. In ZH v (Tanzania) (FC) v Secretary of State for the Home Department [2011] UKSC 4 [2011] 2 AC 166 the UKSC said that Art 3.1 UNCRC is a binding obligation and that a child's best interests shall be paramount when decisions directly affect the child's upbringing and a primary consideration when decisions indirectly affect a child (§26.) In H(H) v Deputy Prosecutor of the Italian Public, Genoa (Official Solicitor Intervening) (2013) 1 AC 338 at para155 the UKSC confirmed that any decision concerning a child must be taken in compliance with Article 3.1 UNCRC and that Article 8 rights must be interpreted through the "prism" of Article 3.
- 6) Lord Kerr in R (JS) v Work and Pensions (2015) 1 WLR 1449 §108 set out how in practice best interests as a primary consideration was taken into account:

*"However those passages do show in my view that the evaluation needs to consider, where relevant, the interests both of children in general and of those directly affected by the action. It also needs to indicate the criteria by which the "high priority" given to children's interests has been weighed against other considerations. In so far as that evaluation shows conflict with the best interests of the children affected, it needs either to demonstrate how that conflict will be addressed, or alternatively what other considerations of equal or greater priority justify overriding those interests."*

- 7) If one also has to look at the proportionality of removal of the child then the approach set out by the UKSC in Zoumbas v Secretary of State for the Home Department [2013] 1 WLR 3690 §10-13 may be of some assistance

*"(1) The best interests of a child are an integral part of the proportionality assessment under article 8 of the Convention; (2) in making that assessment, the best interests of a child must be a primary consideration, although not always the only primary consideration; and the child's best interests do not of themselves have the status of the paramount consideration; (3) although the best interests of a child can be outweighed by the cumulative effect of other considerations, no other consideration can be treated as inherently more significant; (4) while different judges might approach the question of the best interests of a child in different ways, it is important to ask oneself the right questions in an orderly manner in order to avoid the risk that the best interests of a child might be undervalued when other important considerations were in play; (5) it is important to have a clear idea of a child's circumstances and of what is in a child's best interests before one asks oneself whether those interests are outweighed by the force of other considerations; (6) to that end there is no substitute for a careful examination of all relevant factors when the interests of a child are involved in an article 8 assessment; and (7) a child must not be blamed for matters for which he or she is not responsible, such as the conduct of a parent."*

- 8) A Collection Order should not be the knee-jerk response to non-compliance with a return order. It might be the course which has to be adopted but the effect on the child needs to be balanced with the policy of upholding the order of the court.
- 9) The age of the child might be critical. In the 'Cambra-v-Jones' litigation the two youngest were returned to Spain under a collection order. They were taken by the father from the care of the local authority. However the two older children refused to go with him and social workers refused to force them and intervened to terminate the father's attempt to drag one of them from the centre.

### Seeing the Child

- 10) In Re J (Abduction: Children's Objections) [2011] EWCA Civ 1448 [2012] 1 FLR 457 the Court of Appeal emphasised that the judge seeing the child might assist in making an order enforceable. The judge should in some circumstances consider this of her own motion.

*Return orders in respect of a boy on the threshold of escape from the court's Convention jurisdiction and determined to fight enforcement need to be very carefully thought through by any trial judge. There are enough incidents in*



*the report of the distress and general mayhem caused by the making of return orders that were foreseeably bound to provoke dramatic scenes. In these cases an option open to the judge is a meeting at which practicalities, consequences and reassurances can be ventilated. The judge sits above the family turmoil. The judge's authority can be an influence for acceptance. Importantly a meeting gives the judge an opportunity directly to assess where the return order will lead if enforcement will be resisted. Dramatic (and by no means unknown) scenes such as the pilot refusing to take off without the children disembarking or children barricading themselves and threatening suicide cause profound damage to the principal actors and a great deal of disturbance to others in the cast or in the wings.*

*All these reflections reinforce the message that in the present case the judge erred in not at least raising with the parties the need for him to meet the children face to face.*

### **Committal**

- 11) There have been several decisions over the last year on committals. Almost all have reiterated the need for diligent compliance with FPR 37 and PD37A
- 12) In *L (A Child)* [2016] EWCA Civ 173 the Court of Appeal allowed an appeal against committal because
  - (a) Of a lack of clarity about what the committal was for – was it breach of a collection order or giving untruthful evidence at an earlier hearing? He had not been afforded the right to silence
  - (b) It had not been proved he had been served with the order
  - (c) The penal notice on the order appeared on the 5<sup>th</sup> page.
- 13) Reminding counsel and solicitors of their duty to assist the court, particularly when considering procedural matters where a person's liberty is at stake, Mrs Justice Theis sets out a 'useful checklist' at paragraph 78:
  - (a) There should be complete clarity at the start of the proceedings as to precisely what the foundation of the alleged contempt is: contempt in the face of the court, or breach of an order.
  - (b) Prior to the hearing the alleged contempt should be set out clearly in a document or application that complies with FPR rule 37 and which the person accused of contempt has been served with.
  - (c) If the alleged contempt is founded on breach of a previous court order, the person accused had been served with that order, and that it contained a penal notice in the required form and place in the order.

- (d) Whether the person accused of contempt has been given the opportunity to secure legal representation, as they are entitled to.
- (e) Whether the judge hearing the committal application should do so, or whether it should be heard by another judge.
- (f) Whether the person accused of contempt has been advised of the right to remain silent.
- (g) If the person accused of contempt chooses to give evidence, whether they have been warned about self-incrimination.
- (h) The need to ensure that in order to find the breach proved the evidence must meet the criminal standard of proof, of being sure that the breach is established.
- (i) Any committal order made needs to set out what the findings are that establish the contempt of court, which are the foundation of the court's decision regarding any committal order.

14) In *Cherwayko v Cherwayko (No 2)* (Contempt, contents of application notice) [2015] EWHC 2436 (Fam) Parker J considers the procedural requirements of committal applications and the powers of the court to remedy defects. Significant points include

- (a) Parker J reviewed the law on particularisation of committal applications at [55] to [71] and [75] to [80]. Her Ladyship confirmed that an alleged contemnor must be informed of the allegations against them with sufficient particularity, and the test laid down by Nicholls LJ (as he was) is still good law: 'would the alleged contemnor, having regard to the background against which the application is launched, be in any doubt as to the substance of the breached alleged'? [84]. Provision of particularisation of allegations in an attached affidavit is insufficient, and the application itself must include the pleaded assertions. There is an important distinction between the charges made and the facts supporting them. Attached evidence is to be used to prove the facts relied on to make out those assertions in the notice [87].
- (b) Waiver of defect  
While an attached affidavit could not provide the particularisation required of a notice, it could justify the waiver of a defect [90]. Parker J held that waiver is now based on the interest of justice and whether the alleged contemnor would suffer an injustice or prejudice. There is no longer a threshold of exceptionality, and the court has to ask itself 'did the alleged contemnor have enough information to meet the charge' [88]?
- (c) Postscripts  
Parker J provided a brief guide to suitable practice on what information should be included in a committal notice itself at [136], including

guidance as to when reciting the order/undertaking breached will be enough on its own, and when further detail will be required.

- (d) A warning was also provided in relation to the drafting of undertakings. Her Ladyship recommended that while drafting could not provide for all eventualities, clarifying the purpose of a provision and providing for obvious potential breaches would be prudent [137].

15) In *Y v Z* [2016] EWHC 3987 (Fam) Bodey J adopted the approach outlined by Cobb J in *Sanchez v Oboz and Oboz* [2015] EWHC 235 (Fam). In that Cobb J set out a checklist of nine points in respect of which the court needs to be satisfied when dealing with applications in the absence of the respondent.

16) He also made some general observations about the nature of committal proceedings and why it would be unusual to proceed in the absence of a Defendant..

- i) Committal proceedings are essentially criminal in nature, even if not classified in our national law as such (see *Benham v United Kingdom* (1996) 22 EHRR 293 at [56], *Ravnsborg v. Sweden* (1994), Series A no. 283-B); in a criminal context, proceeding with a trial in the absence of the accused is a course which will be followed only with great caution, and with close regard to the fairness of the proceedings (see *R v Jones (Anthony)* [2003] 1 AC 1, approving the checklist provided in *R v Jones*; *R v Purvis* [2001] QB 862);

- ii) Findings of fact are required before any penalty can be considered in committal proceedings; the presumption of innocence applies (*Article 6(2) ECHR*). The tribunal of fact is generally likely to be at a disadvantage in determining the relevant facts in the absence of a party;

- iii) The penalty of imprisonment for a proven breach of an order is one of the most significant powers of a judge exercising the civil/family jurisdiction; the respondent faces the real prospect of a deprivation of liberty;

- iv) By virtue of the quasi-criminal nature of committal process, *Article 6(1)* and *Article 6(3) ECHR* are actively engaged (see *Re K (Contact: Committal Order)* [2002] EWCA Civ 1559, [2003] 1 FLR 277 and *Begum v Anam* [2004] EWCA Civ 578); *Article 6(1)* entitles the respondent to a "a fair and public hearing"; that hearing is to be "within a reasonable time";

- v) *Article 6(3)* specifically provides for someone in the position of an alleged contemnor "to defend himself in person or through legal assistance of his own choosing", though this is not an absolute right in

the sense of "*entitling someone necessarily to indefinite offers of legal assistance if they behave so unreasonably as to make it impossible for the funders to continue sensibly to provide legal assistance*" (per Mance LJ (as he then was) in *Re K (Contact: Committal Order)* (reference above)). The respondent is also entitled to "*have adequate time and the facilities for the preparation of his defence*" (Article 6(3)(b)).

#### 15) The nine point guidance

- i) Whether the respondents have been served with the relevant documents, including the notice of this hearing;
- ii) Whether the respondents have had sufficient notice to enable them to prepare for the hearing;
- iii) Whether any reason has been advanced for their non-appearance;
- iv) Whether by reference to the nature and circumstances of the respondents' behaviour, they have waived their right to be present (i.e. is it reasonable to conclude that the respondents knew of, or were indifferent to, the consequences of the case proceeding in their absence);
- v) Whether an adjournment for would be likely to secure the attendance of the respondents, or at least facilitate their representation;
- vi) The extent of the disadvantage to the respondents in not being able to present their account of events;
- vii) Whether undue prejudice would be caused to the applicant by any delay;
- viii) Whether undue prejudice would be caused to the forensic process if the application was to proceed in the absence of the respondents;
- ix) The terms of the '*overriding objective*' (*rule 1.1 FPR 2010*), including the obligation on the court to deal with the case 'justly', including doing so "*expeditiously and fairly*" (*r.1.1(2)*), and taking "*any ... step or make any... order for the purposes of... furthering the overriding objective*" (*r.4.1(3)(o)*).

17) The failure to comply with procedural requirements may very often lead to the over-turning of a finding on appeal. Mr Hammerton eventually secured a finding in the ECtHR that his Art 6 rights had been infringed.

### Impossibility of Performance

18) The Court of Appeal dealt with the issue of impossibility of performance in *Re J (Children)* [2015] EWCA Civ 1019. The Court of Appeal rejected the father's argument that return orders created a strict liability to comply. The burden remained on the applicant to prove that it had been possible for the mother to comply with the return order. Given the child's evidence was that there was nothing her mother could have done to make her return the mother could not be in breach. The Court of Appeal expressed doubt about the President's approach to 'best endeavours' orders; he suggested no committal could ever ensue on such orders. *Al-Azzawi v Secretary of State for the Home Department* [2008] EWCA Civ 1139, *L-W (Children) (Enforcement and Committal: Contact)*, *Re* [2010] EWCA Civ 1253, [2011] 1 F.L.R. 1095 and *K (A Child) (Return Order: Failure to Comply: Committal: Appeal)*, *Re* [2014] EWCA Civ 905, [2015] 1 F.L.R. 927 considered

### Joinder of Child

- 19) In *Cambra v Jones* (Contempt Proceedings: Child Joined as Party) [2014] EWHC 913 (Fam) [2015] 1 FLR 263 the President joined a 16 year old subject child to proceedings to commit the mother. The principal points are
- 20) The court should be cautious about giving even a teenage party status, particularly taking into account the damage that might thereby be done to family relationships, but the decision was dependent upon the circumstances of the particular case. In this case the court could not ignore the reality that the two older children had for some time been drawn into the parents' battles, at home and in court; it was hard to imagine that matters could get any worse by giving the eldest child party status.
- 21) In the case of articulate teenagers, the right to freedom of expression and participation outweighed the paternalistic judgment of welfare, applying *Mabon v Mabon and Others* [2005] EWCA Civ 634, [\[2005\] 2 FLR 1011](#). It was overwhelmingly clear that in this case the eldest child's best interests were served by enabling her to participate in proceedings which, whether or not they engaged her Art 8 European Convention rights, affected her very profoundly, and in which she was very anxious to participate. There were, in addition, powerful arguments in favour of the view that the forensic process would be assisted by the eldest child's participation as a party rather than as a mere witness,
- 22) If and to the extent that the eldest child's Art 8 European Convention rights were engaged, not only at the sentencing but at all stages of the committal proceedings, that would carry with it the important procedural right to be involved in the decision-making process as a whole, although not necessarily any right to be represented, or the right to party status. In many contexts, effective representation required neither party status nor even representation.

#### Child giving evidence

- 23) Subsequently in *Cambra-v-Jones and Jones* [2014] EWHC 2264 (Fam) the President heard evidence from the subject child whose compelling account led him to conclude that there was nothing the mother could have done to make her return; likewise her younger brother.
- 24) In *Re F (Children)* [2016] EWCA Civ 546 the court upheld an order for the summary return to Hungary of three children who had been unlawfully removed. It reiterated the principle in *W (Children) (Family Proceedings: Evidence)*, *Re* [2010] UKSC 12, [2010] 1 W.L.R. 701, namely that there was no longer a presumption against children giving evidence in family proceedings. Practitioners and courts had been too slow to recognise the need for change: proper adherence to the principles laid down in *W (Children)* would mean that there were likely to be more cases in future where children would give evidence.

## **The Role of Cafcass**

25) If Cafcass have reported the obvious first port of call if a child refuses to comply with a return order or the abductor refuses to return will be Cafcass. Regrettably Cafcass have been slow to take up the baton on behalf of children and so separate representation via solicitors has become more common. Examples include

- (a) Re LC (Reunite: International Child Abduction Centre Intervening) [2014] UKSC 1 [2014] 1 FLR 1486, where the 13 year old contacted Cafcass after the return order was made but was told there was nothing that could be done. She instructed solicitors who appealed and in due course the Supreme Court allowed the appeal. Along the way Cafcass were invited to represent the younger children in the appeal and did so.
- (b) Re H [2016] EWCA Civ 988. Cafcass were notified of the fact that M had appealed and it was suggested they might apply to join on behalf of the child. They did not and the child saw a solicitor who applied to join. The appeal was allowed – largely on the child's submissions.

### Joinder to main suit

- 26) The children in the 'Cambra-Jones' litigation were represented by Cafcass for a period. The Court of Appeal had refused their appeal and application for joinder but at the remitted hearing after they had been seen again by Cafcass Theis J joined them and they were represented by Cafcass. On the committal the elder child went back to her solicitors after Cafcass again declined to get involved. This time she was successful.
- 27) The test for joinder remains the same: FPR 16.2.

### Joinder of Child on Appeal

- 28) The Court of Appeal in **re M (Children) (Abduction: Child's Objections) [2015] EWCA Civ 26, [2015] 3 WLR 803** and judgment of Black LJ sets out at paragraphs 139-157 the approach to the joinder of a child for the first time at appellate stage. When this issue arises for the first time at the Court of Appeal stage, it is not the FPR which apply but the CPR. There is no equivalent provision in the CPR to FPR 16.2 which provides that the court may only make a child a party if it considers it is in the child's best interests to do so.
- 29) CPR rr 19.1 and 19.2 provide:
- "19.1 Any number of claimants or defendants may be joined as parties to a claim.
- "(1) This rule applies where a party is to be added or substituted except where the case falls within rule 19.5 (special provisions about changing parties after the end of a relevant limitation period).
- "(2) The court may order a person to be added as a new party if— (a) it is desirable to add the new party so that the court can resolve all the matters in dispute in the proceedings; or (b) there is an issue involving the new party and an existing party which is connected to the matters in dispute in the proceedings, and it is desirable to add the new party so that the court can resolve that issue.
- "(3) The court may order any person to cease to be a party if it is not desirable for that person to be a party to the proceedings.
- "(4) The court may order a new party to be substituted for an existing one if— (a) the existing party's interest or liability has passed to the new party; and (b) it is desirable to substitute the new party so that the court can resolve the matters in dispute in the proceedings."
- 30) Rule 52.1(3) defines "appellant" and "respondent" for the purposes of Part 52 as follows:
- "(d) 'appellant' means a person who brings or seeks to bring an appeal; (e) 'respondent' means – (i) a person other than the appellant who was a party to the proceedings in the lower court and who is affected by the appeal; and (ii) a person who is permitted by the appeal court to be a party to the appeal..."



- 31) In **re M** above, the judgment goes on to explain that there is no guidance in the CPR as to when a person should be permitted by the appeal court to be a party to the appeal and no guidance to assist with the application of a child who wishes to participate in the appeal. Black LJ repeats the observation made by her in **re LC** (in the Court of Appeal), that welfare considerations are “by no means out of place” but that this does not mean that they are determinative and there is no best interests threshold as there is in the FPR. The judgment records that Lord Wilson JSC referred to the guidance in Practice Direction 16A of the FPR in Re LC in the Supreme Court stating (para 50) *“it is not focused on Convention proceedings but much of it is directly apposite to them.”*
- 32) The judgment in **re M** also highlights that there is no equivalent in the CPR to the provisions of the FPR which require or permit a guardian to be appointed for a child. At para 150 the Black LJ suggests *“it may be that the provision in CPR r52.10(1) whereby, in relation to an appeal, the Court of Appeal has all the powers of the lower court, would provide a basis for the appointment of a guardian.”* Before concluding that *“Adequate protection for the child’s interests on an appeal can generally be achieved in any event by means of a litigation friend appointed in accordance with CPR Pt 21.”* Whilst guidance on how the role of a litigation friend on an appeal in a Hague Convention case is not readily apparent, the Court was reassured by the fact that in **re M** the children had the benefit of an extremely dedicated and skilful solicitor who was appointed their litigation friend and Black LJ concludes her exploration of this issue by noting at para 154 *“This sort of arrangement may often commend itself where the question of joining children at the appeal stage arises.”*
- 33) A child who has not been represented at first instance is not inhibited in the Grounds they raise on appeal.
- (a) In **Re LC** they were able to appeal about the failure to join them earlier without criticism. The father had not appealed Cobb J’s refusal to join at an interim hearing
  - (b) In **Re H** the child was able to appeal the original ‘consent’ return order which the mother could not do.

#### Set Aside

- 34) In **Re F (A Child) (Return Order: Power to Revoke) 2014] EWHC 1780 (Fam) [2014] 1 WLR 4375** Mostyn J held he had power to revoke the order for return of a child to Italy under the 1980 Hague Convention (the original order having been made by Russell J as a Deputy High Court Judge, and the Mother’s subsequent

appeal to the Court of Appeal having been unsuccessful). The Mother filed a report (SJE) from an adult psychiatrist and relied on this as a change in circumstances sufficiently material to justify the setting aside of the return order.

35) FPR rule 4.1(6) provides: *"A power of the court under these rules to make an order includes a power to vary or revoke the order."* And at para 23 Mostyn J held *"in my judgment, the provisions ..empower this court, provided that either non-disclosure or a significant change of circumstances is demonstrated, to make an order revoking the original order."*

In **Re C (Abduction: Setting Aside Return Order: Remission) [2012] EWCA Civ 1144, [2013] 1 FLR 403** the Court of Appeal set aside a return order to Canada obtained by a father in respect of a 15 year old girl who had changed her mind less than a week following a hearing at which her parents had agreed that she would return to Canada voluntarily. The case was remitted for trial to the Family Division. McFarlane LJ concludes the Court of Appeal judgment at para 16 stating *"there is surely a need for the father to consider whether that course [seeking a new order for return] will do more damage than good to his relationship with N. A better course may be for the parents to agree arrangements and allow N, as she develops in maturity, to make up her own mind as to where she goes and, if that is to Canada, no doubt the father will be very pleased to renew his relationship with her there on that voluntary basis."*

In **re H [2016] EWCA Civ 988** (cited above), the Court of Appeal set aside orders made for return of the child to Pakistan and remitted the case for trial with consideration for the Secretary of State for the Home Department to be invited to join the new proceedings. The failure to join the child a critical feature of the successful appeal with Black LJ giving the judgment of the Court and stating at para 52 *"In view of the fact that by then A had been granted asylum, which added a layer of complexity to the case, I have no doubt at all that provision should have been made for A to be separately represented at that hearing...the case was one of significant difficulty and A had a standpoint which was quite distinct from the mother's, both factors which FPR 2010 PD16A indicates may justify the making of an order making the child a party."*

### **Enforcement of Foreign Orders**

#### **US custody order – how to enforce:**

36) In **re L (A Child) (Custody: Habitual Residence) (Reunite International Child Abduction Centre Intervening) [2013] UKSC 75, [2013] 3 WLR 1597** the Supreme Court held that it had power under the inherent jurisdiction to order the return of

the 7 year old Texan child to Texas, despite a finding that the child had acquired habitual residence in England. The child was the subject of a US custody order that the Father sought to enforce and if unable to establish that the child was habitually resident in the US immediately before the removal (pursuant to Article 3 of the Convention), he pursued his application under Article 18 of the Convention which provides that its provisions on return of children *"do not limit the power of a judicial or administrative authority to order the return of the child at any time."*

37) Baroness Hale in the judgment of the Court states at para 28

*"The High Court has power to exercise its inherent jurisdiction in relation to children by virtue of the child's habitual residence or presence here: Family Law Act 1986, sections 2(3) and 3(1). The welfare of the child is the court's paramount consideration: Children Act 1989 section 1(1). But this does not mean that the court is obliged in every case to conduct a full blown welfare based inquiry into where the child should live. Long before the Hague Convention was adopted, the inherent jurisdiction was used to secure the prompt return of a child who had been wrongfully removed from his home country: see **In re J (A Child) (Custody Rights: Jurisdiction) [2006] 1 AC 80**, paras 26-27, and the cases cited therein. Furthermore, it has long been established that, in the interests of international comity, the existence of an order made by a foreign court of competent jurisdiction is a relevant factor. As the Judicial Committee of the Privy Council put it in the Canadian case of McKee v McKee [1951] AC 352, 364:*

*"One it is conceded that the Court of Ontario had jurisdiction to entertain the question of custody and that it need not blindly follow an order made by a foreign court, the consequence cannot be escaped that it must form an independent judgment on the question, though in doing so it will give proper weight to the foreign judgment. What is the proper weight will depend on the circumstances of each case."*

38) If the child is habitually resident or present in England the court may have jurisdiction pursuant to B11a or the FLA 1986. That jurisdiction is a paramount welfare jurisdiction and although, as a matter of comity, the English court should be slow to make orders which directly conflict with pre-existing orders made in any friendly foreign state, where no reciprocal enforcement instrument applies the court must apply paramount welfare: *McKee v McKee [1951] AC 352, [1951] 1 All ER 942*, PC; *J v C [1970] AC 668*; *Re G (a minor) (enforcement of access abroad) [1993] Fam 216, [1993] 3 All ER 657*, CA. This may be in a fairly robust way, as

described in *Re J (child returned abroad: Convention rights)* [2005] UKHL 40, [2005] 2 FLR 802 (non-Convention summary return cases) or it may involve a much fuller welfare enquiry akin to that which would be undertaken in a domestic case. All will depend on the circumstances of the individual case.

#### BIIa/1996 enforcement

- 39) BIIa takes precedence over the 1980 Hague Abduction Convention insofar as it concerns matters governed by BIIa. However, this does not mean an application under the 1980 Hague Convention for return cannot be heard simultaneously with an application to enforce an order under BIIa, but the enforcement application must be determined first: *ET v TZ* (recognition and enforcement of foreign residence order) [2013] EWHC 2621 (Fam), [2014] 2 FLR 373; *JRG v EB* (abduction: Brussels II Revised) [2012] EWHC 1863 (Fam), [2013] 1 FLR 20. The 1996 Hague Convention does not affect the 1980 Hague Abduction Convention. The provisions of the 1996 Hague Convention may be used to secure the return of a child: Art 50.
- 40) Thus the holder of an order for 'custody' (or possibly even 'access') can seek to enforce that order to secure the return of the child in tandem with a 1980 Hague Abduction Convention application.
- 41) For a detailed account of the law and practice see Rayden and Jackson, 'Relationship Breakdown, Finances and Children' Chapter 47.
- 42) The 1996 Convention applies to Albania, Armenia, Australia, Denmark, Dominican Republic, Ecuador, Georgia, Lesotho, Monaco, Montenegro, Morocco, Norway, Russian Federation, Serbia, Switzerland, Ukraine, Uruguay
- 43) An order must be enforced unless a 'defence' under Art 23 BIIa or 1996 HC can be established. The issue that will usually arise on an application to enforce a foreign order will therefore be whether a defence is made out.
- 44) Art 23 BIIa and Art 23 1996 HC are in substantially the same terms

#### **Article 23 Grounds of non-recognition for judgments relating to parental responsibility**

*A judgment relating to parental responsibility shall not be recognised:*

- (a) *if such recognition is manifestly contrary to the public policy of the Member State in which recognition is sought taking into account the best interests of the child;*

- (b) *if it was given, except in case of urgency, without the child having been given an opportunity to be heard, in violation of fundamental principles of procedure of the Member State in which recognition is sought;*
- (c) *where it was given in default of appearance if the person in default was not served with the document which instituted the proceedings or with an equivalent document in sufficient time and in such a way as to enable that person to arrange for his or her defence unless it is determined that such person has accepted the judgment unequivocally;*
- (d) *on the request of any person claiming that the judgment infringes his or her parental responsibility, if it was given without such person having been given an opportunity to be heard;*
- (e) *if it is irreconcilable with a later judgment relating to parental responsibility given in the Member State in which recognition is sought;*
- (f) *if it is irreconcilable with a later judgment relating to parental responsibility given in another Member State or in the non-Member State of the habitual residence of the child provided that the later judgment fulfils the conditions necessary for its recognition in the Member State in which recognition is sought, or*
- (g) *if the procedure laid down in Article 56 has not been complied with.*

45) The wording of BIIa, Art 23 appears to be mandatory – a judgment shall not be recognised.

46) Article 23(a) represents 'a very high bar'.

- *Re S (Brussels II: recognition: best interests of child) (no 1)* [2004] 1 FLR 571: 'an order which is so contrary to the welfare of the child concerned';
- *W v W (residence: enforcement of order)*<sup>3</sup> 'a very high degree of disparity between the orders effects if now enforced and the child's current welfare interests';
- *LAB v KB (abduction: Brussels II revised)* [2004] 1 FLR 571: '... the consequences of recognition would have to be of the utmost seriousness';
- *MD v CT (parental responsibility order: recognition and enforcement)* [2015] 1 FLR 213;
- *Re D (recognition and enforcement of Romanian order)* [2015] 1 FLR 1272.

In *P v Q* Case C-455/15 PPU the Court of Justice of the European Union considered the meaning of 'manifestly contrary to public policy'.

47) In *Re D (international recognition) (a child)* [2016] EWCA Civ 12 it was accepted that the child had not in fact had an opportunity to be heard and that the court had not considered whether to give the child the opportunity although at para 42 the court recognised that there were variations of approach and that differences should not undermine the principle of recognition and enforcement. The Court of Appeal identified the fundamental principle as that the court itself had to ask and answer the question of 'whether, and if so how, the child's voice was to be heard?' The Court of Appeal recognised<sup>1</sup> there might be good reasons for not ascertaining their wishes and feelings (which the Court of Appeal concluded was identical to hearing their voice) and a reasoned decision not to hear their voice ought not to lead to the conclusion that the failure to hear it was in breach of fundamental principles of procedure in England. The Supreme Court hinted that the decision of the Court of Appeal may have been expressed in wider terms than they would have endorsed but this was no more than an observation in their judgment striking out the appeal: *In the Matter of D (A Child)* [2016] UKSC 34.

48) The service exception is established if three conditions are met:

- (i) it was given in default of appearance; and
- (ii) the person was not served with the document instituting the proceedings or an equivalent in sufficient time and in such a way as to enable that person to arrange for his defence; and
- (iii) that person has not accepted the judgment unequivocally.

See *MD v CT* (parental responsibility order: recognition and enforcement) [2014] EWHC 871 (Fam), [2015] 1 FLR 213. The underlying purpose of the provision is the safeguarding of a defendant's right to a fair hearing and his/her rights of defence. Default of appearance is not established merely by not being present. Appearance has the technical meaning of having filed a formal document with the court<sup>1</sup>. So if a party has entered an appearance by filing an acknowledgment or other document or has in fact appeared at a hearing it is likely he will be taken to have appeared for the entirety of the proceedings. An Annex II certificate stating the judgment was not given in default of appearance is not binding on the requested court. If valid service has not taken place then recognition will be refused. A certificate of service from the requesting state is binding on the issue of whether valid service according to national law occurred<sup>1</sup>. It is for the person seeking the enforcement to prove that the documents served were those instituting the proceedings or equivalent<sup>2</sup>. If valid service has taken place it then has to be established whether in all the circumstances the defendant had sufficient time to arrange for his defence. In *Re D (international recognition)*<sup>3</sup> the Court of Appeal (applying ECJ cases) held that this required a case-specific evaluation of all the circumstances of the case, which might include their own conduct and whether they had taken reasonable steps in relation to a nominated service address to make sure they received documents served there.

- 49) Both the Court of Appeal and Jackson J in *Re D (international recognition)* concluded that Art 23(d) added little to Art 23(c). It appears probable that it is intended to cover an individual who, although a holder of parental responsibility, was not a party to the proceedings and who is not within the ambit of Art 23(c).
- 50) BIIa recognises that when a child moves from one Member State to another substantive jurisdiction over the child will move to the new Member State of habitual residence. That being so, the courts of that Member State may be seised of an application in respect of the child and may make orders which 'conflict' with or have the effect of altering an order made in the former country of habitual residence. Article 23(e) therefore reflects the child's best interests that an order should not be enforceable when the court which is most 'proximate' to him in time and jurisdiction has made a later order based on an assessment of his 'up to date' best interests.
- 51) A judgment given on this appeal may only be contested in accordance with the procedure in the Member State which has been notified to the European Commission<sup>1</sup>; in England and Wales a party is limited to a single further appeal on a point of law to the Court of Appeal<sup>2</sup>. This procedure was notified to the European Commission on 1 November 2004. FPR 2010, Pt 30 does not apply to an appeal to the Court of Appeal<sup>3</sup>. The Supreme Court struck out an appeal from the decision of the Court of Appeal in *Re D (International Recognition) Re D (A Child)* [2016] UKSC 34

David Williams QC  
Dorothea Gartland

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## **Section 5**

Speakers Profiles



## Teertha Gupta QC

“He’s charm personified, is fantastic with clients and is very friendly. He’s also a brilliant strategist and tactician.”

Chambers and Partners 2017

### Experience

Year of Call: 1990

Year of Silk: 2012

### Practice Areas

- International Children Law
- Private Children Law
- Public Children Law

### Dispute Resolution

- Collaborative Law
- Early Neutral Evaluation
- Mediation

### Direct Access

Direct Access

### Awards



### Education

Mill Hill School, London  
Leeds University  
Inns of Court School of Law.

### Languages

Conversational Bengali

### Appointments

Deputy High Court Judge 2016  
Recorder (Civil, Crime and Family) 2009



## Profile

Teertha has been a barrister for 24 years and was appointed Queen's Counsel in March 2012 as a specialist Family practitioner in International Family Law, namely the international relocation of children, cross-border parental abduction, and representing adults where there are allegations of forced marriage or of being stranded abroad by the other spouse. International jurisdictional instruments and treaties (such as The Human Trafficking Convention 2005, The Hague Conventions and Brussels II Revised) as well as 'fact finding' in hotly contested domestic private and public law matters are also his forte. Teertha's work is mainly in the Royal Courts of Justice in London: in the High Court and in the Court of Appeal. He has been involved in 6 full appeals in the UKSC/House of Lords and counting and has also made oral submissions in the ECJ.

Before he took silk, Teertha won two of the most prestigious awards at the Family Bar namely Chambers and Partners Family Junior of the Year in 2008 and in 2011 he won the Jordan's Family Law Barrister of the Year Award 2011 (at the time he was the only junior to be shortlisted in a field of Queen's Counsel).

In his first year of silk Teertha has already successfully led in the UK Supreme Court (*Re T Children* [201] UKSC 36 for CAFCASS). He is a senior trial advocate. Because of the confidential nature of his work he cannot name his private clients but he advises and represents people and children from all different walks of life, as well as institutions and charities (the latter pro bono). Advising in consultation on the law, the likely outcomes (which sometimes involves robust advice) and tactics are his routine work. Many of his private law cases involve parties of high net worth and hence a general understanding of the financial issues is vital but this is not Teertha's established specialism – he is often brought in to conduct the litigation and orchestrate decisions over the children or jurisdiction in such cases and to 'dovetail' with the ancillary relief teams.

Teertha has been the Advocate to the Court as instructed by the Attorney General (*Re S a child* [2008] EWHC 3013 (Fam) and intervening on behalf of the Attorney General in *MA* and *JA* and *The Attorney General* [2012] EWHC 2219 (Fam)).

Teertha has been interviewed on Radio Four: Face the Facts and Law in Action.

<http://www.bbc.co.uk/programmes/b0117wq5>

[http://news.bbc.co.uk/1/hi/programmes/law\\_in\\_action/3965871.stm](http://news.bbc.co.uk/1/hi/programmes/law_in_action/3965871.stm)

Teertha has spoken in the House of Commons and was named by Lord Lester in the House of Lords as one of the four senior pro bono lawyers behind the Forced Marriage Civil Protection Bill which became a statute in 2007. <http://www.publications.parliament.uk/pa/ld200607/ldhansrd/text/70126-0001.htm>

Teertha also sits as a part time Circuit Judge (a Recorder) in the Criminal and Civil courts as well as in the Family courts- this experience helps him to understand the judicial thought process and what it is that judges may find relevant, when he is presenting a case as a senior barrister. Teertha also conducted many Criminal jury trials in the 1990's, for example at the Old Bailey and this experience has proved most useful when cross-examining, as senior trial counsel, in the Family Courts.

Teertha has trained as a mediator and a collaborative lawyer. His aims are to be cost effective; to provide knowledgeable, unstuffy, straight forward advice; to try avoid litigation where possible and finally but most importantly in Court: to represent his clients persuasively and fearlessly.

## Memberships

Barristers Benevolent Association  
Inner Temple

Family Justice Council (Diversity sub-committee)

FLBA

Barrister of the Eastern Caribbean Supreme Court, British Virgin Islands Circuit

Member of The British Association of Sports Lawyers

Fellow of International Academy of Family Lawyers

## Directories

Focuses on international children disputes, both public and private, many of which involve forensic investigation. He is universally commended for his personable advocacy style and his prowess in the courtroom.

Strengths: "He's charm personified, is fantastic with clients and is very friendly. He's also a brilliant strategist and tactician."

### **Chambers & Partners 2017**

#### **Band 1**

One of the most eminent silks for cross-border children matters, and has a particular reputation for his work in child abduction. Sources consistently praise his friendly and approachable manner, and admire his technical abilities.

Strengths: "A great tactician when it comes to international children work." "Clients absolutely love him. He's very friendly and they all report back they have massive confidence in him and really feel he's listening to them."

### **Chambers & Partners 2016**

#### **Band 1**

"He has an incredible ability to strategise the case from start to finish, and he sees unique angles and nuances."

### **Legal 500, 2016**

#### **Top Tier**

A widely respected barrister who deals with the most complex and testing multi-jurisdictional matters. Child abduction cases are his strong suit.

Expertise: "A very smooth operator with gallons of charm and a great mind to match." "We appreciate Teertha's considerable experience and his ability to understand the nuances of each specific case and advise accordingly. He is both approachable and pragmatic, and clients always warm to him."

### **Chambers & Partners 2015 - Band 1**

'He combines knowledge and acumen with personal charm and the ability to think outside the box - a one-off.'

### **The Legal 500, 2015**

Teertha Gupta QC 'Charming and ferocious at the same time.'

### **The Legal 500, 2014**

Has thrived since taking silk in 2012 and is highly respected for his work on cross-jurisdictional children cases.

Expertise: "A joy to work with, he's knowledgeable and so very on the ball. He focuses on issues in order to ensure he gets a result for the client." "He's always available to talk and is very innovative in his solutions to problems."

Recent work: Appeared on behalf of CAFCAS in the Supreme Court in Re: T. He successfully persuaded the Law Lords that the Court of Appeal was wrong in its analysis that costs follow the event in care cases.

**Chambers & Partners 2014 - Band 1**

Recommended as a Leading Silk in the area of Children law

**The Legal 500, 2013**

Teertha Gupta QC is an “exceptional advocate” whose ascension to silk in 2012 was, in the eyes of market observers, richly deserved. His principal area of focus is international children cases. Recent matters have included S (Wardship: Stranded Spouses), a case concerning a bride brought to the UK to marry a British citizen, who was then drugged and abandoned in Pakistan without a passport after giving birth.

**Chambers & Partners 2013**

International child abduction specialist Teertha Gupta QC’s recent QC appointment is ‘a formal confirmation of a standard that he has worked to for many years now’.

**The Legal 500, 2012**

Teertha Gupta is held in extremely high regard for his children work: “He is a solid advocate and the go-to junior for all international children work.” International child abduction and relocation matters are his forte, and solicitors flock to him as he has “not only first-class legal expertise, but also a delightful and charming style.”

**Chambers and Partners 2012 - Band 1**

Teertha Gupta is the ‘leading child abduction junior at the family Bar’

**The Legal 500 2011 - Top Tier**

Teertha Gupta is a premier junior for international children work. “He has an approachable and relaxed manner and knows exactly what he is doing,” sources say. They comment admiringly that “charm allied to brains always makes for a potent combination.”

**Chambers & Partners 2011 - Band 1**

Teertha Gupta represents a recent excellent hire for the set. Noted for his encyclopaedic knowledge of the law and his interest in abduction and forced marriage, he is “an enthusiastic and thoroughly committed lawyer who gives it his all every time.

**Chambers & Partners 2010 - Band 1**

Teertha Gupta was voted as ‘Family Junior Barrister of the Year’

**Chambers & Partners Bar Awards 2008.**

Recommended as a Leading Family Junior

**The Legal 500, 2010**

Teertha Gupta is, like Setright, mightily impressing peers and clients with his expert understanding of international child abduction, forced marriages and matters relating to stranded spouses. Widely regarded as ‘one of the leading juniors,’ he has ‘courage and tenacity when faced with the toughest challenges’.

**Chambers & Partners 2009 - Band 1**

Recommended as a Leading Family Junior

**The Legal 500, 2009**

Described as ‘the cat’s whiskers’ by opposing counsel for his combination of ‘sophisticated legal knowledge, good cross examination and effective case presentation’, Gupta spends much of his time on cross border disputes regarding children. In addition he has established himself as one of only a tiny handful of experts in the niche area of international forced marriages.

#### **Chambers & Partners 2008**

Gupta’s practice is heavily built on this topic and also child abduction cases. Clients find him ‘professional and expeditious’ singling him out as a ‘barrister who is going places’.

#### **Chambers & Partners 2007**

Gupta is a great favourite of the Home Office-Foreign Office’s Forced Marriage Unit and is known for both his accessibility and his ‘unflinching devotion to the cause’.

#### **Chambers & Partners 2006**

Teertha Gupta is ‘a rising star in international abduction work’.

#### **The Legal 500, 2008**

Teertha Gupta is highly recommended in forced marriage and child abduction matters.

#### **The Legal 500, 2007**

Teertha Gupta is widely viewed as the leading junior in forced marriage cases and is also highly recommended for his expertise in child abduction matters.

#### **The Legal 500, 2006**

## **Cases**

08/09/2016	Re R (Children) (2016)	Alex Verdan QC Teertha Gupta QC Christopher Hames QC Dorothea Gartland	AC9701613
09/06/2016	Re F (Children) (2016)	Henry Setright QC Teertha Gupta QC Christopher Hames QC	[2016] EWCA Civ 546
20/05/2016	Re Z (A Child) (2016)	Teertha Gupta QC Dorothea Gartland Andrew Powell	[2016] EWHC 1191 (Fam)
22/03/2016	Sutton London Borough Council v (1) MH (2) RH (3) NH (2016)	Alex Verdan QC Teertha Gupta QC Robin Barda	[2016] EWHC 1375 (Fam)
04/12/2015	In the matter of J (a child)	Henry Setright QC Teertha Gupta QC David Williams QC Michael Gration Jacqueline Renton Michael Edwards	[2015] UKSC 70
01/04/2015	Re J (A Child) (1996 Hague Convention) (Morocco) (2015)	Henry Setright QC Teertha Gupta QC Jacqueline Renton	[2015] EWCA Civ 329

22/03/2015	AR v RN (Scotland) [2015]	Teertha Gupta QC Michael Gration	[2015] UKSC 35; [2015] 2 FLR 503
04/12/2014	Re S (A Child) (Abduction: Hearing The Child) sub nom AM v AS (2014)	Henry Setright QC Teertha Gupta QC Francesca Dowse Michael Gration	[2014] EWCA Civ 1557
26/11/2014	SP (Father) v (1) EB (Mother) & (2) KP (Through her Guardian Mr John Power) (2014)	Teertha Gupta QC Mark Jarman	[2014] EWHC 3964 (Fam)
08/09/2014	F (No 2 Welfare - Approved) [2014]	Henry Setright QC Teertha Gupta QC	[2014] EWFC 34
15/08/2014	P v (1) D (2) X (3) Y (4) Z (2014)	Teertha Gupta QC Sam King Hassan Khan Andrew Powell	[2014] EWHC 2355 (Fam)
12/06/2014	Re F (A Child) [2014]	Henry Setright QC Teertha Gupta QC David Williams QC	[2014] EWCA Civ 789
01/05/2014	Re KP (A Child) (2014)	Teertha Gupta QC David Williams QC Mark Jarman Michael Edwards	[2014] EWCA Civ 554
15/01/2014	Re LC (Children) (2014)	Henry Setright QC Teertha Gupta QC David Williams QC Christopher Hames QC Jacqueline Renton	[2014] UKSC 1
04/12/2013	Re KL (A Child) [2013]	Henry Setright QC Teertha Gupta QC Michael Gration Michael Edwards	[2013] UKSC 75
15/08/2013	Re LC (Children) (2013)	Henry Setright QC Teertha Gupta QC David Williams QC Christopher Hames QC Michael Edwards	[2013] EWCA Civ 1058
26/07/2013	NN v ZZ & Ors [2013]	Teertha Gupta QC Michael Edwards	[2013] EWHC 2261 (Fam)
16/07/2013	DL (Appellant) v EL (Respondent) & (1) Reunite International Child Abduction Centre (2) Centre for family law and practice (Interveners) (2013)	Henry Setright QC Teertha Gupta QC David Williams QC Michael Gration Michael Edwards	[2013] EWCA Civ 865
05/02/2013	I (A Child) & J (A Child) [2013]	Teertha Gupta QC	[2013] EWCA Civ 259

30/01/2013	In the matter of (1) RAI (2) MI (Children) sub nom AI v MT (2013)	Henry Setright QC Marcus Scott-Manderson QC Teertha Gupta QC	2013 EWHC 100 (Fam)
23/01/2013	Re H (A Child) & The United Mexican States (Intervener) (2013)	Henry Setright QC Teertha Gupta QC Hassan Khan	AC9501919
05/12/2012	Re O (A Child) (2012)	Teertha Gupta QC	[2012] EWCA Civ 1576
27/07/2012	MA v JA and the Attorney General [2012]	Teertha Gupta QC	[2012] EWHC 2219 (Fam)
25/07/2012	T (Children) [2012]	Teertha Gupta QC Charles Hale QC Rebecca Foulkes Dorothea Gartland	[2012] UKSC 36
28/05/2012	H (A Child) [2012]	Teertha Gupta QC Andrew Powell	[2012] EWCA Civ 913
10/06/2011	Re E (Children) [2011]	Baroness Scotland QC Henry Setright QC Teertha Gupta QC David Williams QC	[2011] UKSC 27
10/03/2011	JK v KC (2011)	Teertha Gupta QC	[2011] Fam Law 1204; [2011] EWHC 1284 (Fam)
14/02/2011	DB v (1) ZA (2) RA (By his Guardian Judith Bennett-Hernandez) & (1) Metropolitan Police Service (2) Croydon London Borough Council (Interveners) (2011)	Teertha Gupta QC	[2011] EWHC 277 (Fam)
06/10/2010	Chief Constable and AA v YK & 5 ORS	Henry Setright QC Teertha Gupta QC Michael Gration	[2010] EWHC 2438 (Fam)
13/08/2010	F v J [2010]	Marcus Scott-Manderson QC Teertha Gupta QC	[2010] EWHC 2909 (Fam)
25/06/2010	Re S (Wardship) (2010)	Teertha Gupta QC	[2011] 1 FLR 305 : [2010] Fam Law 1074 ; [2010] EWHC 1669 (Fam)
01/12/2009	Re I (A Child) (2009)	Henry Setright QC Teertha Gupta QC	[2009] UKSC 10
30/10/2009	K v K (2009)	Teertha Gupta QC	[2010] 1 FLR 1295 : [2010] Fam Law 8 : [2009] EWHC 2721 (Fam)

11/09/2009	H v (1) M (2) H (A Child by her Guardian Sarah Vivian) (2009)	Teertha Gupta QC	[2010] 1 FLR 598 : [2010] 2 FCR 433 : [2009] Fam Law 1123 : (2009) 153(37) SJLB 36 : [2009] EWHC 2280 (Fam)
26/06/2009	RS v (1) KS (2) LS (By his Guardian) (2009)	Teertha Gupta QC	[2009] EWHC 1494 (Fam)
23/06/2009	Re P-J (Children) (2009)	Teertha Gupta QC	[2009] EWCA Civ 588
16/06/2009	Re S (A Child) (2009)	Teertha Gupta QC	[2009] EWCA Civ 993
27/03/2009	A (Applicant) v H (Respondent) & (1) Registrar General for England & Wales (2) Secretary of State for Justice (Interveners) (2009)	Henry Setright QC Marcus Scott-Manderson QC Catherine Wood QC Teertha Gupta QC	[2010] 1 FLR 1; [2009] EWHC 636 (Fam)
11/02/2009	Re H (Abduction) [2009]	Teertha Gupta QC Mark Jarman Ruth Kirby	[2009] 2 FLR 1513; [2009] EWHC 1735 (Fam)
10/12/2008	Re S (Care: Jurisdiction) (2008)	Marcus Scott-Manderson QC Teertha Gupta QC Mark Jarman	[2008] EWHC 3013 (Fam); (2009) 2 FLR 550
14/11/2008	S v Slough Borough Council & Ors (2008)	Alex Verdan QC Henry Setright QC Marcus Scott-Manderson QC Teertha Gupta QC Mark Jarman	[2008] EWHC 3013 (Fam)
22/10/2008	EM (Lebanon) v Secretary of State for the Home Department (2008)	Teertha Gupta QC	[2008] UKHL 64; (2008) 3 WLR 931 : (2009) 1 All ER 559 : (2008) 2 FLR 2067 : (2009) HRLR 6 : (2009) UKHRR 22 : Times, October 24, 2008
15/08/2008	Re RD (2008)	Marcus Scott-Manderson QC Teertha Gupta QC Cliona Papazian	(2009) 1 FLR 586
28/07/2008	Re RC and BC (2008)	Teertha Gupta QC	(2009) 1 FLR 574
08/07/2008	Re S (A Child) (2008)	Teertha Gupta QC	[2008] EWCA Civ 951
24/04/2008	SB v RB (Residence; Forced Marriage: Childs Best Interest) (2008)	Teertha Gupta QC	(2008) 2 FLR 1588
15/04/2008	Re B (A Child) sub nom RB v (1) FB (2) MA (2008)	Teertha Gupta QC	[2008] 2 FLR 1624; [2008] EWHC 1436 Fam



14/04/2008	R v P (2008)	Teertha Gupta QC	[2008] EWHC 737 (Fam); (2008) 2 FLR 936
14/03/2008	MC (Claimant) v SC (Defendant) & CC & ORS (CHILDREN) (Interveners) (2008)	Teertha Gupta QC David Williams QC	[2008] EWHC 517 (Fam); [2008] 2 FLR 6
12/12/2007	AD v (1) CD (2) AD (2007)	Teertha Gupta QC	[2007] EWCA Civ 1277; (2008) 1 FLR 1003 : Times, January 9, 2008
05/12/2007	MM v VM (AKA VRM) (2007)	Henry Setright QC Marcus Scott- Manderson QC Teertha Gupta QC David Williams QC	[2007] UKHL 55 (2008); 1 AC 1288 : (2007) 3 WLR 975 : (2008) 1 All ER 1157 : (2008) 1 FLR 251 : Times, December 6, 2007
02/08/2007	Re C (Costs: Enforcement of Foreign Contact Order) (2007)	Teertha Gupta QC	[2008] 1 FLR 619; [2007] EWHC 1993 (Fam)
14/06/2007	M v M (2007)	Teertha Gupta QC Judith Murray	[2007] EWHC 1404 (Fam); [2007] 2 FLR 1010
24/11/2006	Re S (Practice: Muslim Women Giving Evidence) (2006)	Teertha Gupta QC	(2007) 2 FLR 461; [2006] EWHC 3743 (Fam)
16/11/2006	Re D (A Child) (2006)	Henry Setright QC Marcus Scott- Manderson QC Teertha Gupta QC	[2006] UKHL 51; (2007) 1 AC 619 : (2006) 3 WLR 989 : (2007) 1 All ER 783 : (2007) 1 FLR 961 : Times, November 17, 2006 : Independent, November 21, 2006
09/11/2006	Re ML & AL (Children) (Contact Order: Brussels II Regulation) (2006)	Teertha Gupta QC	[2006] EWHC 3631 (Fam)
20/10/2006	Re D (Paternity)	Jonathan Cohen QC Teertha Gupta QC Lucy Cheetham	FLR 2007 2 26
29/09/2006	Re ML & AL (Children) (Contact order: Brussels II Regulation) (2006)	Teertha Gupta QC	[2006] EWHC 2385 (Fam)
05/07/2006	NS v MI (2006)	Teertha Gupta QC	(2007) 1 FLR 444; [2006] EWHC 1646 (Fam)
06/06/2006	Re EC (A Child) (2006)	Henry Setright QC Teertha Gupta QC	(2007) 1 FLR 57 : [2006] EWCA Civ 1115; Times, July 19, 2006
15/12/2005	Re SA (Vulnerable adult with capacity: marriage)	Teertha Gupta QC	[2005] EWHC 2942 (Fam)

03/02/2005	Re SK (2005)	Teertha Gupta QC	(2006) 1 WLR 81 : (2005) 3 All ER 421 : (2005) 2 FLR 230 ; [2004] EWHC 3202 (Fam)
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## David Williams QC

“He is completely meticulous and is an extremely able advocate. One of the best Hague Convention specialists.”  
Chambers & Partners 2017

### Experience

Year of Call: 1990

Year of Silk: 2013

### Practice Areas

- International Children Law
- Private Children Law

### Dispute Resolution

- Early Neutral Evaluation
- Mediation

### Direct Access

Direct Access

### Awards



### Education

LLB

### Languages

Conversational French

### Appointments

Recorder 2015

Trustee of Children and Families Across Borders

### Profile

With over 24 years experience behind him David is a specialist family law barrister with particular expertise in children cases with an international dimension. Leave to remove, jurisdictional disputes, abduction and enforcement issues are areas of expertise but David also acts in private law disputes and has a particular interest in cases where there are psychological issues, such as personality disorders and



parental alienation. David can also handle the financial dimension of family breakdown. With the ever-growing trend of cross-border movement of children who are the subject of child protection enquiries David has also developed considerable experience of public law cases where either jurisdiction is in issue or where a cross-border placement is anticipated.

His approach combines rigorous analysis and preparation and an emphasis on seeking a consensual resolution where practical with a robust presentation of the case when agreement proves impossible.

David was called to the Bar in 1990 and for the first 10 years practiced in family, crime and personal injury cases. During this time he gained extensive trial experience (including successful defences at the Old Bailey) dealing with the most serious cases including fraud, rape, serious brain injury and sexual abuse. In 2000 David moved to 4 Paper Buildings and began to specialise in Family Law. He was appointed Queens Counsel in March 2013. He has considerable experience in cases where expert evidence whether medical, legal, accountancy or otherwise is involved.

Over the last 14 years at 4 Paper Buildings David has developed a practice which covers all aspects of family law; in particular relating to children. David has particular expertise in and advises and appears on behalf of clients in the following categories of cases,

- relocation (permanent and temporary and internal),
- disputes about who children should live with and other private law disputes, in particular but not limited to those with a psychological component or some international dimension.
- jurisdictional conflict cases – covering children and divorce,
- reciprocal enforcement of orders and mirror orders
- incoming and outgoing abductions (Hague and non-Hague),
- international aspects of public law cases, in particular issues connected with placements of children abroad,
- Forced marriage and stranded spouse cases,

David also has experience of and can act in a wide range of other family cases including adoption, financial remedies, recognition of foreign divorces, surrogacy, 1984 MFPA cases for financial remedies after a foreign divorce.

He has particular experience in the operation of BIR and other European Regulations, the 1980 and 1996 Hague Conventions and other international instruments. His practice has given him wide experience in the laws of many other countries, in particular countries where Sharia law applies. He is a Member of the International Academy of Matrimonial Lawyers and through this and his practice he has extensive contacts with family lawyers from a wide range of other countries.

In the last 4 years he has appeared in the only two cases from England to be referred to the Court of Justice of the European Union (Mercredi-v-Chaffe and E-v-B) and the first child abduction case to be heard by the UK Supreme Court (Re E). He was awarded the Chambers and Partners Family Junior of the Year award in October 2011 and nominated for the Family Law International Family Lawyer award in October 2013.

However David's practice is far from exclusively about international cases. He is regularly instructed in sensitive or complex private law cases, whether it concerns child arrangement orders, or specific issues relating to education or health. He has a particular interest in cases where parental alienation, personality disorders or substance misuse are involved.

David is also a qualified mediator, including being trained in and being approved by the Ministry of

Justice to conduct Mediation Information and Assessment meetings. He is able to mediate in not only in children cases but also in finance cases and indeed all issues cases. These will usually be conducted as a sole mediator but in accordance with the Hague Mediation Good Practice Guide David will co-mediate on abduction and on some re-location cases. For abduction and relocation cases David has arrangements with two mediators who have legal aid mediation contracts and so there is the opportunity to co-mediate these cases under legal aid cover.

David acts for parents and children, for local authorities and for charities and his practice covers most tribunals from the Central Family Court to the ECHR. He represented the Applicant father in the Court of Justice of the European Union in 2010 and 2014 and acted for the Plaintiff father in the House of Lords in *Re M* in 2007. He appeared for the Respondent mother in *Re E* in the UK Supreme Court in 2011 and was instructed as part of a team to file an amicus brief in the United States Supreme Court. In 2002 he appeared for the Applicant in the ECtHR when that Court held that the UK was in breach of the ECHR in respect of its treatment of trans-sexuals. He regularly appears in the Court of Appeal and has appeared in many other reported cases with an international dimension. David has an interest and particular experience in representing children in cases with an international dimension. He has been active in ensuring that an appropriate balance is struck in allowing their voice to be heard whilst seeking to protect them from adult disputes. He appeared in the leading cases in this field including *Re M* (in the House of Lords) *Re C* (Abduction: Separate Representation of Children) [2008] 2 FLR 6 and *Re J* (Abduction: Children's Objections) [2012] 1 FLR 457.

As a result of his extensive experience he has been instructed to act in other countries as an expert on English family Law. Prior to being called to the Bar he worked for the Legal Services Commission for three years and he is committed to ensuring that publicly funded clients are able to compete on a level playing field.

David is a Consultant Editor of the [International Children Law Information Portal](#) and a Contributing Author to [Butterworth's Family Law Service](#).

David lectures and writes regularly. He is currently presenting a series of lectures to the Judicial College on international issues in public law cases having previously presented seminars to High Court and Court of Appeal judges on the 1996 Hague Convention and habitual residence. Other recent lectures include 'Where shall we divorce dear?', 'Family Fortune: an international family in breakdown', a seminar with the English Central Authority,. In April 2013 he made a presentation on Preliminary References to the CJEU to Italian, Bulgarian, Croatian and Slovenian family judges at the European Research Academy. He spoke at the Centre for Family Law and Practice Inaugural Conference on International Family Law and regularly presents lectures and webinars on relevant topics. He has had articles published in International Family Law, Family Law, New Law Journal and others.

David is a member of the Professional Conduct Committee of the Bar Standards Board.

His other interests include membership of the Society of Labour Lawyers, of which he is a member of the Executive Committee and Chair of the Family Law Group. Cycling, vintage motorbikes and history keep him out of trouble at weekends. He is the Labour Party Parliamentary Candidate for Wycombe

Blog: <http://childabduction-dw.blogspot.com/>

## **Memberships**

Family Law Bar Association

International Academy of Family Lawyers

Alternative Dispute Resolution Group  
Bar Pro Bono Unit  
Inner Temple

## Directories

A leading silk widely respected for his knowledge regarding complex applications of the Hague Convention. He has appeared in both the Supreme Court and the ECJ.

Strengths: "He is completely meticulous and is an extremely able advocate. One of the best Hague Convention specialists."

Recent work: Engaged in a Supreme Court case seeking to establish a new legal framework for the exercising of wardship jurisdiction based upon the nationality of a child.

**Chambers & Partners, 2017**

'A master in his field'

**Legal 500, 2016**

Known for his willingness to push the boundaries of international private law children work. He is "respected for pursuing novel points of law and not taking the easy route."

Strengths: "He is brilliant with clients, very calm and very insightful, and has an encyclopaedic knowledge of children law. He is a very good advocate." "He is just extraordinarily brilliant at international cases, and thinks outside the box."

Recent work: Involved in Re E, the first Hague Convention case to have gone to the Supreme Court. The Court gave a judgement on the 'best interest' aspects of the convention.

**Chambers & Partners 2016**

**Band 1**

'He is a fearless advocate, and has a wonderful manner with clients which always puts them at ease.'

**The Legal 500, 2015**

A specialist in international law relating to children, who is particularly strong on complex cross-border abductions and relocation cases involving both Hague and non-Hague jurisdictions.

Expertise: "He is just superb. He's got a very good manner with clients and solicitors, and when it comes to overall tactical skills he's very good."

Recent work: Was instructed in the first appeal to the Supreme Court in a Hague Convention case relating to the 'best interests' of children under Article 13.

**Chambers & Partners 2015**

Has established himself as a go-to advocate for Hague Convention matters, and is particularly noted for his strengths in cases involving abductions and reciprocal enforcement.

Expertise: "A favourite for complex jurisdictional disputes, he knows the technical issues really well."

Recent work: Successfully handled a case in the Court of Appeal regarding the proper interpretation of 'habitual residence' in Hague Convention cases.

**Chambers & Partners 2014**

New silk David Williams QC combines 'a cerebral approach with encyclopaedic knowledge of both

domestic and European points of law.’  
Recommended as a New Silk in the area of Children Law  
**Legal 500, 2013**

David Williams has a fine reputation in the field of international children law, and tackles cases relating to Hague and non-Hague Convention abductions, reciprocal enforcement and relocation. Sources note his immense “enthusiasm and vigour” when tackling cases, and agree that he is a “very impressive and knowledgeable leading junior in abduction,” who is “excellent with clients.”

**Chambers & Partners 2013**  
**Band 1**

Recommended as a Leading Family Junior in **The Legal 500, 2012**

The “extremely hard-working” David Williams, meanwhile, is praised as “one of the best junior child abduction barristers in the country.” He garners plaudits.

**Chambers and Partners 2012**  
**Top Tier**

David Williams is a ‘recognised expert’  
**The Legal 500, 2011**

David Williams, who has an ever-growing reputation for Hague Convention work.  
**Chambers and Partners 2011**

The ‘insightful’ David Williams ‘really knows his stuff’.  
**The Legal 500, 2010**

David Williams, a lawyer who has carved a niche for himself in Hague Convention matters. Williams has a large number of reported cases under his belt and is known his “extreme perspicacity.”  
**Chambers and Partners 2010**

Recommended as a Leading Family junior in **The Legal 500, 2009**

David Williams is recommended for his burgeoning International child abduction practice. He is praised for his “calm and efficient” demeanor and his “sensitivity to clients’ needs.”  
**Chambers & Partners 2009**

David Williams... ‘comes highly recommended’.  
**Legal 500, 2008**

## Cases

20/10/2016	Re R (Final) (2016)	David Williams QC Charles Hale QC Jacqueline Renton Matthew Persson	[2016] EWCA Civ 1016
11/10/2016	Re H (A Child) (2016)	Henry Setright QC David Williams QC Brian Jubb Jacqueline Renton	[2016] EWCA Civ 988

13/04/2016	In the matter of N (Children) [2016]	Henry Setright QC Michael Gration David Williams QC Jacqueline Renton Michael Edwards	[2016] UKSC 15
08/04/2016	Re Z (Recognition of Foreign Judgments) [2016]	Henry Setright QC David Williams QC Michael Gration	[2016] EWHC 784 (Fam)
21/03/2016	Cicccone v Ritchie (No 2) [2016]	Alex Verdan QC Henry Setright QC David Williams QC Jacqueline Renton Michael Gration	Cicccone v Ritchie (No 2) [2016] EWHC 616 (Fam)
04/02/2016	In the matter of B (A child) [2016]	David Williams QC Henry Setright QC Alistair G Perkins Michael Gration Dorothea Gartland Michael Edwards Hassan Khan	[2016] UKSC 4
03/02/2016	Cicccone v Ritchie (No 1) [2016]	Henry Setright QC David Williams QC Michael Gration Jacqueline Renton	[2016] EWHC 608 (Fam)
03/02/2016	D (A Child) (International Recognition) [2016]	Henry Setright QC David Williams QC Michael Gration Jacqueline Renton	[2016] EWCA Civ 12
04/12/2015	In the matter of J (a child)	Henry Setright QC Teertha Gupta QC David Williams QC Michael Gration Jacqueline Renton Michael Edwards	[2015] UKSC 70
14/10/2015	Re F (Child's Objections) (2015)	David Williams QC Jacqueline Renton	[2015] EWCA Civ 1022
07/10/2015	Re J (Children) (2015)	Christopher Hames QC David Williams QC Laura Morley	[2015] EWCA Civ 1019
06/08/2015	Re B (A Child) (Habitual Residence: Inherent Jurisdiction) (2015)	David Williams QC Alistair G Perkins	[2015] EWCA Civ 886
14/07/2015	Re K (1980 Hague Convention) (Lithuania) (2015)	David Williams QC Christopher Hames QC Hassan Khan	[2015] EWCA Civ 720
06/02/2015	Re U-B (A Child) (2015)	David Williams QC Jacqueline Renton	[2015] EWCA Civ 60



04/02/2015	IS (A ward by her friend Nina Lind Hansen) v (1) DBS (2) JS (2015)	David Williams QC	[2015] EWHC 219 (Fam)
29/07/2014	Re H (Jurisdiction) (2014)	David Williams QC	[2014] EWCA Civ 1101
09/07/2014	Cambra v Jones & Jones [2014]	David Williams QC Christopher Hames QC Laura Morley	[2014] EWHC 2264 (Fam)
20/06/2014	Re B (A Child) (2014)	David Williams QC Alistair G Perkins	[2014] EWCA Civ 843
12/06/2014	Re F (A Child) [2014]	Henry Setright QC Teertha Gupta QC David Williams QC	[2014] EWCA Civ 789
19/05/2014	Re G (A Child) (2014)	David Williams QC	[2014] EWCA Civ 680
16/05/2014	LC v RRL & Others [2014]	Henry Setright QC David Williams QC Christopher Hames QC Jacqueline Renton	[2014] EWFC 8
01/05/2014	Re KP (A Child) (2014)	Teertha Gupta QC David Williams QC Mark Jarman Michael Edwards	[2014] EWCA Civ 554
31/03/2014	Tomas Palacin Cambra v (1) Jennifer Marie Jones (2) Jessica Maria Palacin Jones (2014)	David Williams QC	[2014] EWHC 913 (Fam)
15/01/2014	Re LC (Children) (2014)	Henry Setright QC Teertha Gupta QC David Williams QC Christopher Hames QC Jacqueline Renton	[2014] UKSC 1
15/08/2013	Re LC (Children) (2013)	Henry Setright QC Teertha Gupta QC David Williams QC Christopher Hames QC Michael Edwards	[2013] EWCA Civ 1058
23/07/2013	Re A (Children) (2013)	Marcus Scott-Manderson QC David Williams QC Cliona Papazian	AC9101290
16/07/2013	DL (Appellant) v EL (Respondent) & (1) Reunite International Child Abduction Centre (2) Centre for family law and practice (Intervenors) (2013)	Henry Setright QC Teertha Gupta QC David Williams QC Michael Gration Michael Edwards	[2013] EWCA Civ 865
22/01/2013	Re Y (A Child) (2013)	Henry Setright QC David Williams QC	AC9601636

03/12/2012	J (Habitual Residence) (2012)	David Williams QC	[2012] EWHC 3364 (Fam)
07/11/2012	Re J (Children) [2012]	Henry Setright QC David Williams QC Christopher Hames QC	[2012] EWCA Civ 1511
05/07/2012	JRG v EB [2012]	David Williams QC	[2012] EWHC 1863 (Fam)
02/12/2011	AJ (Appellant) v JJ (First Respondent) & (1) KK (2) JAJ (3) JUJ (By Their Solicitor NH) (Interveners) (2011)	David Williams QC Mark Jarman Michael Gratton	[2011] EWCA Civ 1448
10/10/2011	Re H-K (Children) (2011)	Henry Setright QC Marcus Scott-Manderson QC David Williams QC Mark Jarman	[2011] EWCA Civ 1100
10/06/2011	Re E (Children) [2011]	Baroness Scotland QC Henry Setright QC Teertha Gupta QC David Williams QC	[2011] UKSC 27
01/04/2011	Re E (Children) sub nom (1) KE (2) TB (Appellants) v SE (Respondent) & (1) Reunite (2) Aire Centre (Interveners) (2011)	Henry Setright QC David Williams QC	[2011] EWCA Civ 361
24/03/2011	Re X (2011)	David Williams QC	Document No. AC9401023
17/03/2011	Barbara Mercredi V Richard Chaffe (2011)	Henry Setright QC Marcus Scott-Manderson QC David Williams QC	[2011] 2 FLR 515 : [2011] 2 FCR 177 : [2011] Fam Law 584 : (2011) 108(13) LSG 21;[2011] EWCA Civ 272
22/12/2010	Mercredi v Chaffe	Marcus Scott-Manderson QC David Williams QC	
27/05/2010	Re A (Children) (Abduction: Interim Powers) sub nom EA v (1) GA (2) Westminster City Council (3) Salford City Council (2010)	Henry Setright QC David Williams QC	[2011] 1 FLR 1; [2010] EWCA Civ 586; Times, June 16, 2010
14/05/2010	Re U (Abduction: Nigeria) [2010]	Henry Setright QC David Williams QC	[2010] EWHC 1179 (Fam); [2011] 1 FLR 354
10/12/2009	W v W (2009)	David Williams QC Jacqueline Renton	[2010] 1 FLR 1342 : [2010] Fam Law 228 : (2010) 154(1) SJLB 28 : [2009] EWHC 3288 (Fam)

03/12/2009	Re R (A Child) sub nom DE L v H (2009)	David Williams QC Charles Hale QC	[2010] 1 FLR 1229 ; [2010] Fam Law 328 ; [2009] EWHC 3074 (Fam)
03/12/2009	De L v H [2009]	David Williams QC Charles Hale QC	[2009] EWHC 3074 (Fam); [2010] 1 FLR 1229
21/08/2009	LAB v KB (Abduction: Brussels II Revised) [2009]	David Williams QC	[2009] EWHC 2243 ; [2010] 2 FLR 1664
29/01/2009	K v K (2009)	David Williams QC Hassan Khan	[2009] EWHC 132 (Fam)
20/10/2008	Re Z (Abduction)	David Williams QC	[2008] EWHC 3473 (Fam); [2009] 2 FLR 298
30/09/2008	A v B (Abduction: Declaration)	David Williams QC	[2008] EWHC 2524 (Fam)
20/06/2008	Re E (Abduction: Intolerable Situation)	Henry Setright QC Marcus Scott-Manderson QC David Williams QC Hassan Khan Rebecca Foulkes	2008] EWHC 2112 (Fam); [2009] 2 FLR 485
22/05/2008	B T v J R T (2008)	David Williams QC	[2008] EWHC 1169 (Fam); [2008] 2 FLR 972
14/03/2008	MC (Claimant) v SC (Defendant) & CC & ORS (CHILDREN) (Intervenors) (2008)	Teertha Gupta QC David Williams QC	[2008] EWHC 517 (Fam); [2008] 2 FLR 6
05/12/2007	In re M and another (Children) (Abduction:Rights of Custody)	Marcus Scott-Manderson QC David Williams QC	[2007] 3 WLR 975
05/12/2007	MM v VM (AKA VRM) (2007)	Henry Setright QC Marcus Scott-Manderson QC Teertha Gupta QC David Williams QC	[2007] UKHL 55 (2008); 1 AC 1288 : (2007) 3 WLR 975 : (2008) 1 All ER 1157 : (2008) 1 FLR 251 : Times, December 6, 2007
14/09/2007	Re L (Abduction: Consent)	David Williams QC	[2008] FLR (forthcoming. [2007] EWHC 2181 (Fam)
14/09/2007	Re L (Abduction: Consent) (2007)	David Williams QC	[2008] 1 FLR 914; [2007] EWHC 2181 (Fam)
12/09/2007	Re M (Children) (2007)	Marcus Scott-Manderson QC David Williams QC	[2007] EWCA Civ 992

14/08/2007	Re A, HA v MB (Brussels II Revised: Article (11)7 Application) (2007)	Marcus Scott-Manderson QC Kate Branigan QC David Williams QC	[2007] EWHC 2016, [2008] 1 FLR 289 : Times, November 2, 2007
12/01/2007	Mubarak-v-Mubarik	David Williams QC	[2007] 2 FLR 364
02/03/2005	X v X (Crown Prosecution Service Intervening)	David Williams QC Christopher Hames QC	[2005] 2 FLR 487
11/07/2002	I v United Kingdom	Michael Sternberg QC David Williams QC	[2002] 2 FLR 518
19/07/2001	Re B (Disclosure to other Parties)	David Williams QC	[2001] 2 FLR 1017

## Christopher Hames QC

“He’s easy to work with, relentless in court, fearless, incredibly knowledgeable and very persuasive. A superb advocate.”

Chambers & Partners 2017



### Experience

Year of Call: 1987

Year of Silk: 2015

### Practice Areas

- Financial Remedies
- International Children Law
- Private Children Law

### Dispute Resolution

- Collaborative Law
- Early Neutral Evaluation

### Direct Access

Direct Access

### Education

LLB Hons (Sheffield)

Qualified Collaborative Lawyer

### Profile

Christopher has developed a specialist family law practice dealing mainly with difficult international issues. He acts in cases involving both children and finance.

His work covers:

- Hague Convention and non-Hague abduction of children
- Jurisdictional disputes involving divorce and finance
- Wardship involving abduction, the stranding and abandonment of parents and forcible separation of children from parents
- Matrimonial finance particularly cases with an international element, third party interests or criminal confiscation/restraint orders
- Permanent and temporary external and internal relocations of children

- BIIR applications
- Schedule 1 and TOLATA cases
- International adoption, particularly to USA

## Memberships

Family Law Bar Association  
 Affiliate Member of Resolution  
 Inner Temple  
 Reviewer for Bar Pro Bono Unit

## Directories

Has a notable international children practice and deep expertise in matters concerning the application of the Hague Convention. His growing financial practice sees him representing high net worth individuals in divorce proceedings.

Strengths: "He's easy to work with, relentless in court, fearless, incredibly knowledgeable and very persuasive. A superb advocate."

Recent work: Acted in *Cambra v Jones*, a case concerning the failure to return two children to Spain under the Hague Convention.

### Chambers & Partners 2017

Has taken silk this year as a result of his work handling international family law on both the financial and private children side. He is a lawyer who displays forcefulness and tenacity.

Strengths: "He is a master strategist, and has a great analytical mind. He's very eloquent in his advocacy, and is really formidable, ruthless."

### Chambers & Partners 2016

Maintains a strong private law children practice, and works in cases relating to residence, relocation and abduction in both Hague and non-Hague jurisdictions.

Expertise: "Brilliant for complex, difficult cases. Great on the attention to detail, he's very thorough, good with clients and highly personable."

Recent work: Instructed before the High Court in a case pertaining to the abduction of five children by their father.

### Chambers & Partners 2015

Maintains a fine track in cases concerning cross-jurisdictional issues, child abduction, adoption, abandoned spouses and lawful relocation.

Expertise: "Has excellent knowledge of all areas of family law matters."

Recent work: Recently handled child abduction proceedings in the High Court involving five children, three of whom were returned to Spain.

### Chambers & Partners 2014

Christopher Hames focuses his international family law practice on cases concerning child abduction, relocation and cross-jurisdictional disputes. Commentators note that "he cuts straight through to the issues" of the most complex of cases.

### Chambers & Partners 2013

Christopher Hames comes highly recommended for his expertise in cross-jurisdictional children expertise. Sources say: “He is a very safe pair of hands and is excellent with clients.” Hames is much in demand.

### **Chambers and Partners 2012**

Christopher Hames is highly regarded for cross-jurisdictional children work.

### **Chambers and Partners 2011**

Christopher Hames, who is praised for his handling of Children Act matters.

### **Chambers and Partners 2010**

## **Cases**

08/09/2016	Re R (Children) (2016)	Alex Verdan QC Teertha Gupta QC Christopher Hames QC Dorothea Gartland	AC9701613
28/06/2016	JB v D (2016)	Christopher Hames QC	[2016] EWHC 1607 (Fam)
09/06/2016	Re F (Children) (2016)	Henry Setright QC Teertha Gupta QC Christopher Hames QC	[2016] EWCA Civ 546
10/03/2016	Re G (A Child) (2016)	Christopher Hames QC	AC9601905
07/10/2015	Re J (Children) (2015)	Christopher Hames QC David Williams QC Laura Morley	[2015] EWCA Civ 1019
14/07/2015	Re K (1980 Hague Convention) (Lithuania) (2015)	David Williams QC Christopher Hames QC Hassan Khan	[2015] EWCA Civ 720
27/01/2015	Re M (Republic of Ireland) (Child’s Objections) (Joinder of Children as Parties to Appeal) [2015]	Christopher Hames QC Ruth Kirby Dorothea Gartland	[2015] 2 FLR 1074; [2015] EWCA Civ 26
09/07/2014	Cambra v Jones & Jones [2014]	David Williams QC Christopher Hames QC Laura Morley	[2014] EWHC 2264 (Fam)
21/05/2014	B v B [2014]	Christopher Hames QC	[2014] EWHC 1804 (Fam)
16/05/2014	LC v RRL & Others [2014]	Henry Setright QC David Williams QC Christopher Hames QC Jacqueline Renton	[2014] EWFC 8
10/04/2014	TF v PJ [2014]	Henry Setright QC Christopher Hames QC Michael Gratton	[2014] EWHC 1780 (Fam)

13/03/2014	Re F (A Child) (2014)	Henry Setright QC Christopher Hames QC Michael Gration	[2014] EWCA Civ 275
10/03/2014	Rubin v Rubin [2014]	Christopher Hames QC	[2014] EWHC 611 (Fam)
15/01/2014	Re LC (Children) (2014)	Henry Setright QC Teertha Gupta QC David Williams QC Christopher Hames QC Jacqueline Renton	[2014] UKSC 1
21/08/2013	HM Solicitor General committal to prison of J. Jones for alleged contempt of Court	Christopher Hames QC	[2014] 1 FLR 852; [2013] EWHC 2579 (Fam)
15/08/2013	Re LC (Children) (2013)	Henry Setright QC Teertha Gupta QC David Williams QC Christopher Hames QC Michael Edwards	[2013] EWCA Civ 1058
23/05/2013	LCG v RL [2013]	Henry Setright QC Christopher Hames QC Michael Gration	[2014] 1 FLR 307; [2013] EWHC 1383 (Fam)
10/04/2013	CB v CB [2013]	Christopher Hames QC	[2014] 1 FLR 663; [2013] EWHC 2092 (Fam)
26/11/2012	VK v JV [2012]	Christopher Hames QC Hassan Khan	[2013] 2 FLR 237; [2012] EWHC 4033 (Fam)
07/11/2012	Re J (Children) [2012]	Henry Setright QC David Williams QC Christopher Hames QC	[2012] EWCA Civ 1511
16/02/2011	Re O (Children)	Christopher Hames QC	[2011] 2 FLR 1307 : [2011] 1 FCR 363 : [2011] Fam Law 452 : (2011) 108(9) LSG 19; [2011] EWCA Civ 128
24/06/2009	Re K (Children) (2009)	Marcus Scott-Manderson QC Christopher Hames QC	[2010] 1 FLR 782; [2009] EWCA Civ 986
12/02/2009	Stodgell v Stodgell (2009)	Christopher Hames QC	[2009] EWCA Civ 243; (2009) 2 FLR 244
10/12/2008	T v (1) B (2) Revenue & Customs Prosecutions Office (2008)	Christopher Hames QC	[2008] EWHC 3000 (Fam); (2009) 1 FLR 1231
04/10/2006	Re P (Children) (2006)	Christopher Hames QC	[2006] EWHC 2410 (Fam)
02/03/2005	X v X (Crown Prosecution Service Intervening)	David Williams QC Christopher Hames QC	[2005] 2 FLR 487



22/07/2002	Re MCA; HM Customs and Excise Commissioners and Long v A and A	Christopher Hames QC	
18/04/2002	(1) HM Customs & Excise (2) Richard Long v (1) MCA (2) JMA : JMA v MCA & Richard Long (Intervenor) (2002)	Christopher Hames QC	[2002] EWHC 611 (Admin); (2002) 2 FLR 274
20/07/2000	Re R (Children) (Sexual Abuse: Standard of Proof)	Christopher Hames QC Cliona Papazian	[2001] 1 FCR 86

## Dorothea Gartland

“She is a tenacious advocate who readily gets to grips with tricky, gritty cases. She is particularly recommended for her work with alternative family structures.”

Chambers & Partners 2017

### Experience

Year of Call: 2004

### Practice Areas

- Court of Protection - Vulnerable Adult
- International Children Law
- Private Children Law
- Public Children Law

### Dispute Resolution

- Collaborative Law
- Early Neutral Evaluation
- Mediation

### Direct Access

Direct Access

### Education

Cambridge University MA Modern Languages

CPE London Metropolitan

BVC ICSL

### Languages

French and German

### Appointments

Deputy District Judge (Civil) South Eastern Circuit 2015

Management committee of GALOP

### Profile

Dorothea specialises in the law relating to children.

In private law work Dorothea is regularly instructed in cases with an international dimension where parents are seeking to relocate to another jurisdiction or opposing an application to permanently remove a child from this jurisdiction. Her private law work includes intractable contact disputes and cases



concerning alleged parental alienation.

Dorothea's practice also involves child abduction and she has been involved in decisions which have clarified the law in this area, for example Re B [2016] UKSC 4 and Re M [2015] EWCA Civ 26.

A further area of her international private law work is in the area of surrogacy and parental order applications involving s.54 of the HFEA 2008.

Her practice covers all areas of legal parenthood involving adoption and surrogacy and she has experience of representing those involved in difficult situations concerning recognition of parental status. Over the last year Dorothea has also represented fertility clinics in cases concerning applications for declarations of parentage arising out of issues of legal parenthood under the HFEA 2008 in particular the series of cases before the President of the Family Division in In the matter of HFEA 2008 (Cases A,B,D,E,F,G and H Declaration of Parentage) [2015] EWHC 2602

She has particular experience of cases which begin as private law proceedings and where local authorities become involved.

In public law work Dorothea is regularly instructed on behalf of Local Authorities, parents and the children's representatives in the most serious types of care proceedings involving findings of child sexual exploitation, serious injury and sexual abuse. She has a particular interest in questions of determination of the Court's jurisdiction in public law cases with an international dimension.

She is instructed to appear at all levels of Court and has been involved in several cases in the Supreme Court.

Dorothea sits as a Deputy District Judge on the South Eastern Circuit.

### **Memberships**

Family Law Bar Association  
Association of Lawyers for Children  
Inner Temple  
Affiliate Member of Resolution

### **Directories**

Private and public law lawyer focusing on complex children issues, domestically and abroad. She is noted in particular for her expertise in cases involving issues of parentage.

Strengths: "She is a tenacious advocate who readily gets to grips with tricky, gritty cases. She is particularly recommended for her work with alternative family structures."

Recent work: Represented the intervener Health Trust Barts in a case in which the applicant sought a declaration of parentage that he was the father of the child his partner had conceived at a fertility clinic.

### **Chambers & Partners 2017**

'She has a human touch while being professional and formidable in court.'

### **The Legal 500, 2016**

'She is extremely diligent, getting immediately stuck into heavyweight, complex cases.'

### **The Legal 500, 2015**

‘A safe pair of hands in heavyweight, demanding and complex cases.’ Recommended as a Leading Junior in the area of Child Law

**The Legal 500, 2014**

Recommended as a Leading Junior in the area of Child Law

**The Legal 500, 2013**

Dorothea Gartland possesses ‘considerable intellectual acumen, and is extremely thorough’.

**The Legal 500, 2012**

## Cases

13/09/2016	Re O (Human Fertilisation & Embryology Act 2008) (2016)	Dorothea Gartland	[2016] EWHC 2273 (Fam)
08/09/2016	Re R (Children) (2016)	Alex Verdan QC Teertha Gupta QC Christopher Hames QC Dorothea Gartland	AC9701613
05/07/2016	D v D (Fertility Treatment: Paperwork Error) [2016]	Dorothea Gartland	[2016] EWHC 2112 (Fam)
20/05/2016	Re Z (A Child) (2016)	Teertha Gupta QC Dorothea Gartland Andrew Powell	[2016] EWHC 1191 (Fam)
04/02/2016	In the matter of B (A child) [2016]	David Williams QC Henry Setright QC Alistair G Perkins Michael Gration Dorothea Gartland Michael Edwards Hassan Khan	[2016] UKSC 4
12/01/2016	Re F & M (Children) (Thai Surrogacy) (Enduring family relationship) [2016]	Dorothea Gartland	[2016] EWHC 1594 (Fam)
13/11/2015	AR v AS (2015)	Mark Jarman Dorothea Gartland	[2015] EWHC 3440 (Fam)
11/09/2015	In the matter of HFEA 2008 (Cases A, B, C, D, E, F, G and H Declaration of Parentage) [2015]	Dorothea Gartland Andrew Powell	[2015] EWHC 2602 (Fam)
25/03/2015	Re S (A Child) (2015)	Cyrus Larizadeh QC Dorothea Gartland	[2015] UKSC 20
13/02/2015	X (Applicant) v Y (Respondent) & St Bartholomew’s Hospital Centre & for reproductive medicine (CRM) (Intervener) & CAFCASS Legal (Advocate to the court) (2015)	Dorothea Gartland	[2015] EWFC 13

27/01/2015	Re M (Republic of Ireland) (Child's Objections) (Joinder of Children as Parties to Appeal) [2015]	Christopher Hames QC Ruth Kirby Dorothea Gartland	[2015] 2 FLR 1074; [2015] EWCA Civ 26
30/10/2014	Re MA [2014]	Dorothea Gartland	[2014] EWHC 3448 (Fam)
25/07/2012	T (Children) [2012]	Teertha Gupta QC Charles Hale QC Rebecca Foulkes Dorothea Gartland	[2012] UKSC 36
09/12/2011	LA v (1) X (2) T (3) R (Respondents) & (1) DJ (2) PJ & SJ (Interveners) (2011)	Dorothea Gartland	[2012] 2 FLR 456 : [2012] Fam Law 392; [2011] EWHC 3401 (Fam)
12/10/2011	Re PW (2011)	Dorothea Gartland	[2011] EWHC 3793 (Fam) [2013] 1 FLR 96 : [2012] Fam Law 387

## Michael Gration

“Unflappable and brilliant with clients and judges alike, he has knowledge, subtlety and a highly persuasive style of advocacy. Truly an expert within a highly specialised field, he knows how to pitch a case in a way that is far above his year of call.”

Chambers & Partners 2017  
Band 1

### Experience

Year of Call: 2007

### Practice Areas

- Court of Protection - Vulnerable Adult
- International Children Law
- Private Children Law

### Awards



**Family Law**  
*Awards* **2012**

YOUNG BARRISTER  
OF THE YEAR

Shortlisted for the  
CHAMBERS  
UK BAR  
AWARDS  
2015



### Education

Bar Vocational Course, Inns of Court School of Law 2006-2007  
LLB (Hons) Brunel University, 2005

### Profile

Michael specialises in cases involving the international movement of children, appearing regularly in the High Court and the Court of Appeal in cases involving (but not limited to) Hague and non-Hague abduction, jurisdictional disputes, the recognition and enforcement of orders (pursuant to Brussels II revised and the 1996 Hague Convention), relocation (both internal and external) and forced marriage.

Over the past four years Michael has appeared in most of the leading cases in the field of international

family law. He has represented parties (including parents, children and non-Governmental organisations) in the Court of Appeal and the UK Supreme Court in cases involving a diverse range of issues from the human rights implications of government immigration policy (R (on the application of Quila and another) and R (on the application of Bibi and another v Secretary of State for the Home Department [2011] UKSC 45) to jurisdictional issues concerning children and the application of the 1980 Hague Convention (In the matter of A (Children) (AP) [2013] UKSC 60, In the Matter of KL (A Child) [2013] UKSC 75, In the matter of LC (Children) [2014] UKSC 1 and Re K (A Child) [2014] UKSC 29).

In addition to his domestic practice, Michael has appeared before the European Court of Human Rights and the Court of Justice of the European Union. His cases before those courts include:

- Ferrari v Romania (Application No. 1714/10), in which Michael appeared on behalf of the applicant, successfully arguing that in failing to enforce an order made pursuant to the 1980 Hague Convention the Romanian authorities had breached the father's Article 8 rights.
- X v. LATVIA (Application no. 27853/09), where Michael was one of a team instructed by the reunite International Child Abduction Centre to intervene in the proceedings.
- E-v-B; Case C-436/13, in which Michael represented the father in the leading case on prorogation of jurisdiction pursuant to Brussels IIa

He has also been part of a team representing an intervening party before the United States Supreme Court (Lozano v Alvarez – appeal judgment at 697 F.3d 41 (2d Cir. 2012)).

A full list of Michael's reported cases can be accessed via the link at the top of the page.

## Memberships

FLBA  
ALC

## Directories

Family junior fast developing a strong children practice with a focus on complex abduction cases. He has appeared before the Supreme Court and the ECHR despite his relatively junior level of call.

Strengths: "Unflappable and brilliant with clients and judges alike, he has knowledge, subtlety and a highly persuasive style of advocacy. Truly an expert within a highly specialised field, he knows how to pitch a case in a way that is far above his year of call."

Recent work: Represented an appellant father who had sought the summary return of his child to Morocco.

## Chambers & Partners 2017 Band 1

'His written work is outstanding and his oral advocacy skills appear effortless; an undoubted silk in the making.'

## Legal 500, 2016

Sources are quick to point out his "encyclopaedic knowledge" and sharp legal mind. He specialises in international children matters and is "undoubtedly a junior of choice for cross-border work."

Strengths: "He is a very, very talented junior. He's like a computer as he remembers absolutely everything. Judges love him because he's a very, very good advocate and he knows the law inside out."

## Chambers & Partners 2016

A rising presence among juniors at the Family Bar who handles complex international children law cases, including those concerning abductions, relocations and forced marriages in Hague and non-Hague jurisdictions.

Expertise: “He is a towering presence, both literally and figuratively, who is very strong on jurisdictional points and has a very good client manner.”

#### **Chambers & Partners 2015**

Continues to go from strength to strength in the children law arena and is being increasingly sought after to handle cases concerning international abduction, international and domestic relocation, and forced marriage.

Expertise: “He has a quality of practice that is well beyond his call. He is loved by judges, is a delightful opponent and is forensically really mature.”

Recent work: Acted for the biological mother in connection with a case concerning two children conceived by insemination by an anonymous donor during the parties’ lesbian relationship. During the course of the proceedings that followed, the shared residence order previously granted to the non-biological mother had been discharged. The mother appealed, and the order was overturned.

#### **Chambers & Partners 2014**

Michael Gration has an increasing profile in the children law arena, handling international cases including Hague and non-Hague abduction and complex forced marriage cases. Sources suggest that he is “a star in the making.”

#### **Chambers & Partners 2013**

## **Cases**

24/08/2016	B (A Minor: Habitual Residence) [2016]	Michael Gration	[2016] EWHC 2174 (Fam)
03/08/2016	Al-Jeffery v Al-Jeffery (Vulnerable adult; British citizen) [2016]	Henry Setright QC Marcus Scott-Manderson QC Michael Gration	[2016] EWHC 2151 (Fam)
27/06/2016	In the Matter of D (A Child) (2016)	Henry Setright QC Michael Gration	[2016] UKSC 34
13/04/2016	In the matter of N (Children) [2016]	Henry Setright QC Michael Gration David Williams QC Jacqueline Renton Michael Edwards	[2016] UKSC 15
08/04/2016	Re Z (Recognition of Foreign Judgments) [2016]	Henry Setright QC David Williams QC Michael Gration	[2016] EWHC 784 (Fam)



21/03/2016	Ciccone v Ritchie (No 2) [2016]	Alex Verdan QC Henry Setright QC David Williams QC Jacqueline Renton Michael Gration	Ciccone v Ritchie (No 2) [2016] EWHC 616 (Fam)
04/02/2016	In the matter of B (A child) [2016]	David Williams QC Henry Setright QC Alistair G Perkins Michael Gration Dorothea Gartland Michael Edwards Hassan Khan	[2016] UKSC 4
03/02/2016	Ciccone v Ritchie (No 1) [2016]	Henry Setright QC David Williams QC Michael Gration Jacqueline Renton	[2016] EWHC 608 (Fam)
03/02/2016	D (A Child) (International Recognition) [2016]	Henry Setright QC David Williams QC Michael Gration Jacqueline Renton	[2016] EWCA Civ 12
04/12/2015	In the matter of J (a child)	Henry Setright QC Teertha Gupta QC David Williams QC Michael Gration Jacqueline Renton Michael Edwards	[2015] UKSC 70
03/07/2015	AB v AB (2015)	Michael Gration	[2015] EWHC 2422 (Fam)
22/03/2015	AR v RN (Scotland) [2015]	Teertha Gupta QC Michael Gration	[2015] UKSC 35; [2015] 2 FLR 503
12/02/2015	Sanchez v Oboz and Oboz [2015]	Michael Gration	[2015] EWHC 235 (Fam)
04/12/2014	Re S (A Child) (Abduction: Hearing The Child) sub nom AM v AS (2014)	Henry Setright QC Teertha Gupta QC Francesca Dowse Michael Gration	[2014] EWCA Civ 1557
13/11/2014	SB v MB (Costs) [2014]	Henry Setright QC Charles Hale QC Michael Gration	[2014] EWHC 3721 (Fam)
16/10/2014	AA v TT (2014)	Mark Jarman Michael Gration	[2014] EWHC 3488 (Fam)
19/08/2014	Re M-D (A Child) (2014)	Paul Hepher Michael Gration	[2014] EWCA Civ 1363
15/05/2014	In the Matter of K (A Child) (Northern Ireland) [2014]	Michael Gration	[2014] UKSC 29

05/05/2014	Re K (A Child) (2014)	Henry Setright QC Michael Gration	[2014] UKSC 29
10/04/2014	TF v PJ [2014]	Henry Setright QC Christopher Hames QC Michael Gration	[2014] EWHC 1780 (Fam)
25/03/2014	MD v CT (2014)	Michael Gration	[2014] EWHC 871 (Fam)
13/03/2014	Re F (A Child) (2014)	Henry Setright QC Christopher Hames QC Michael Gration	[2014] EWCA Civ 275
04/12/2013	Re KL (A Child) [2013]	Henry Setright QC Teertha Gupta QC Michael Gration Michael Edwards	[2013] UKSC 75
09/09/2013	In the matter of A (Children) (2013)	Alex Verdan QC Baroness Scotland QC Alistair G Perkins Hassan Khan Michael Gration Jacqueline Renton Rachel Chisholm	[2013] UKSC 60
16/07/2013	DL (Appellant) v EL (Respondent) & (1) Reunite International Child Abduction Centre (2) Centre for family law and practice (Interveners) (2013)	Henry Setright QC Teertha Gupta QC David Williams QC Michael Gration Michael Edwards	[2013] EWCA Civ 865
23/05/2013	LCG v RL [2013]	Henry Setright QC Christopher Hames QC Michael Gration	[2014] 1 FLR 307; [2013] EWHC 1383 (Fam)
23/01/2013	DL v EL (Hague Abduction Convention – Effect of Reversal of Return Order on Appeal) [2012]	Henry Setright QC Michael Gration	[2013] EWHC 49 (Fam)
07/11/2012	Re G (Children) (2012)	Joy Brereton Michael Gration	[2012] EWCA Civ 1434
11/07/2012	Re C (A Child) (2012)	Michael Gration	[2012] EWCA Civ 1144
02/12/2011	AJ (Appellant) v JJ (First Respondent) & (1) KK (2) JAJ (3) JUJ (By Their Solicitor NH) (Interveners) (2011)	David Williams QC Mark Jarman Michael Gration	[2011] EWCA Civ 1448
28/11/2011	J v J (Relinquishment of Jurisdiction) (2011)	Henry Setright QC Ruth Kirby Michael Gration	[2012] 1 FLR 1259 ; [2012] Fam Law 399; [2011] EWHC 3255 (Fam)

12/10/2011	(1) Diego Andres Aguilar Quila & Amber Aguilar (2) Shakira Bibi & Suhyal Mohammed (Appellants) v Secretary of State for the home department (Respondent) & (1) Advice on individual rights in Europe (Aire Centre) (2) Southall Black Sisters & Henna Foundation (Intervenors) (2011)	Henry Setright QC Michael Gration	[2011] UKSC 45; [2012] 1 AC 621 : [2011] 3 WLR 836 : [2012] 1 All ER 1011 : [2012] 1 FLR 788 : [2011] 3 FCR 575 : [2012] HRLR 2 : [2011] UKHRR 1347 : 33 BHRC 381 : [2012] Imm AR 135 : [2011] INLR 698 : [2012] Fam Law 21 : (2011) 108(41) LSG 15 : (2011) 155(39) SJLB 31 : Times, October 20, 2011
21/12/2010	Aguilar Quila and Amber Aguilar (2) Bibi and Mohammed (Appellants) V Secretary of State for The Home Department (Respondent) & (1) Advice on individual rights in Europe (Aire Centre) (2) Southall Black Sisters and Henna Foundation (Intervenors) (2010)	Henry Setright QC Michael Gration	[2010] EWCA Civ 1482
06/10/2010	Chief Constable and AA v YK & 5 ORS	Henry Setright QC Teertha Gupta QC Michael Gration	[2010] EWHC 2438 (Fam)
23/11/2009	B v I (Forced Marriage)	Michael Gration	[2010] 1 FLR 1721 : [2010] Fam Law 348
05/03/2009	C v H (Abduction: Consent) (2009)	Michael Gration	[2009] EWHC 2660 (Fam) (2010) 1 FLR 225

## Jacqueline Renton

“She is brilliant on children law and holds herself extremely well in court against much more senior barristers.”

Chambers & Partners 2017 – Band 1

### Experience

Year of Call: 2007

### Practice Areas

- International Children Law
- Private Children Law

### Direct Access

Direct Access



### Awards



### Education

Private International Law Course, The Hague Academy of International Law, Den Haag 2007

Bar Vocational Course, Inns of Court School of Law, 2007

Diploma in Law, City University, 2006

BA (Hons) Theology and Politics, University of Bristol, 2005

Queen Mother Scholarship, Middle Temple, 2006

Queen Mother Scholarship, Middle Temple, 2005

### Profile

Jacqueline is a Family Law Practitioner who has a specialist interest and experience in the field of international children law. Over the years, Jacqueline has appeared in a significant number of the most important decisions in this jurisdiction (and abroad) in relation to the development of the law in this field. Running alongside her international practice, Jacqueline also has a substantial practice in private children law disputes. Jacqueline appears regularly in the High Court, and has also appeared in the Court of Appeal and the UK Supreme Court.

Jacqueline's practice encompasses international child abduction (Hague and non-Hague), the recognition and enforcement of foreign orders (under BII(bis) and 1996 Hague Convention), jurisdictional disputes, international contact disputes, relocation (external and internal) and domestic cases concerning child arrangements.

Jacqueline is ranked in Band 1 (Family: Children) in the Chambers & Partners Guide 2016.

To date, Jacqueline has appeared in the following reported cases in this jurisdiction:-

- W v W [2010] 1 FLR 1342
- Re H and L [2010] 1 FLR 1229
- MA v DB [2011] 1 FLR 724
- EF v MGS [2011] EWCH 3139 (Fam)
- SJ & Anor v JJ & Anor [2011] EWHC 3450 (Fam)
- Z (A Child) [2012] EWHC 139 (Fam)
- A v T [2011] EWHC 3882 (Fam)
- SJ v JJ [2012] EWHC 931 (Fam)
- R v A [2013] EWHC 692 (Fam)
- Re F (Relocation) [2012] EWCA Civ 1364
- The matter of A (Children) (AP) [2013] UKSC 60
- C v D [2013] EWHC 2989
- ET v TZ [2013] EWHC 2621 (Fam)
- Re F (Abduction: Consent) [2014] EWHC 484 (Fam)
- Re N (A Minor) [2014] EWHC 749 (Fam)
- Re LC (Reunite:International Child Abduction Centre Intervening) [2014] UKSC1
- Re LC (Habitual Residence: Grave Risk of Harm) [2015] 1 FLR 1019
- LC v RRL & Others [2014] EWFC 8
- Re R (A Child: Habitual Residence) (2014) [2014] EWCA Civ 1032
- MD v AA & Another [2014] EWHC 2756 (Fam)
- Re MM (A Child: Relocation) [2014] EWFC B176
- Re U-B (Abduction: Objections to Return) [2015] 2 FLR 1382[2015] 2 FLR 1382
- IB v MM [2015] EWHC 1502 (Fam)
- Re B [2015] EWHC 2047 (Fam)
- Re C (A Child) (2015) [2015] EWCA Civ 988
- AT v SS (2015) [2015] EWHC 2703 (Fam)
- Re F (Child's Objections) (2015) [2015] EWCA Civ 1022
- Re J (Jurisdiction: Abduction) [2015] UKSC 70
- Re D (A Child) (International Recognition) [2016] EWCA Civ 12
- Ciccone v Ritchie (No 1) [2016] EWHC 608 (Fam)
- Ciccone v Ritchie (No 2) [2016] EWHC 616 (Fam)
- In the matter of N (Children) [2016] UKSC 15
- K v K (Appeal: Excessive Costs) [2016] EWHC 2002 (Fam) [2016] 1 FLR 170
- Re H (A Child) [2016] EWCA Civ 988
- Re R (Final) [2016] EWCA Civ 1016
- Re Alcott [2016] EWHC 2413 (Fam)
- Re Alcott [2016] EWHC 2414 (Fam)

Jacqueline has also filed two amicus curiae briefs in the Supreme Court of the United States of America:-

- Abbott v Abbott [2009] (judgment in USSC 17th May 2010)
- Chafin v Chafin (Case no. 11-1347)

Jacqueline was shortlisted as "Young Barrister of the Year" at Jordans Family Law Awards 2012 and as "Legal Commentator of the Year" at Jordans Family Law Awards 2013.

Jacqueline's lectures in this jurisdiction and abroad, and was recently asked to speak at the European

Chapter of IAML. Jacqueline also writes articles on a regular basis, including the “International Children Law Update” for Family Law Week.

Prior to coming to the bar, Jacqueline represented Bristol University and Middle Temple in both national and international debating competitions and was England’s Representative on World Debating Council in 2005 and 2006. She was ranked 21st in the world and was an Octo-Finalist at the World University Debating Championships 2005. Jacqueline also lectured on Islamic family law.

## Memberships

Family Law Bar Association  
Middle Temple  
Association of Lawyers for Children

## Recommendations

“I have had the pleasure of working with Jacqueline on many international child abduction cases and I have always been impressed by her integrity and the quality of her work. She is a skillful advocate with an encyclopaedic knowledge of her chosen field and I have no hesitation in recommending her.”

Mark Kosmin-Barr

## Directories

Focuses her specialised children practice on sophisticated conflicts centring on jurisdiction, relocation and abduction. She regularly appears in the High Court and the Supreme Court.

Strengths: “She is brilliant on children law and holds herself extremely well in court against much more senior barristers.”

**Chambers & Partners 2017 - Band 1**

‘She is a pocket battleship, out-manoeuving and out-gunning opponents.’

**The Legal 500, 2016**

Widely regarded as one of the rising stars of private children work, she often handles cases with an international element. Her peers value the enthusiasm and maturity she brings to her practice.

Strengths: “Really hard-working, very bright and extremely knowledgeable. She’s got an aura of being a lot more senior than she is. She is going to be one of the big names in family law.”

**Chambers & Partners 2016 - Band 1**

Has a specialised private law children practice dealing with cross-border disputes pertaining to international custody and abductions.

Expertise: “A ball of energy who is going to go far. She’s certainly doing work well above her call, and is one of the leading people on abduction outside of silk.” “Jacqueline’s appreciation and understanding of the complexities of child abduction cases ensure quick and client-focused outcomes.”

Recent work: Represented the mother in a wardship dispute concerning children who were wrongfully retained in Russia by their father.

## Chambers & Partners 2015

Seen as a rising star in cross-jurisdiction children matters, and has been frequently sought after to handle cases relating to child abduction, relocation and international custody/access.

Expertise: “She has an excellent practice and is wise beyond her years of call.”

## Chambers & Partners 2014

## Cases

20/10/2016	Re R (Final) (2016)	David Williams QC Charles Hale QC Jacqueline Renton Matthew Persson	[2016] EWCA Civ 1016
11/10/2016	Re H (A Child) (2016)	Henry Setright QC David Williams QC Brian Jubb Jacqueline Renton	[2016] EWCA Civ 988
29/09/2016	Re Alcott (2016)	Jacqueline Renton	[2016] EWHC 2414 (Fam)
27/09/2016	Re Alcott (2016)	Jacqueline Renton	[2016] EWHC 2413 (Fam)
13/04/2016	In the matter of N (Children) [2016]	Henry Setright QC Michael Gration David Williams QC Jacqueline Renton Michael Edwards	[2016] UKSC 15
21/03/2016	Ciccone v Ritchie (No 2) [2016]	Alex Verdan QC Henry Setright QC David Williams QC Jacqueline Renton Michael Gration	Ciccone v Ritchie (No 2) [2016] EWHC 616 (Fam)
03/02/2016	Ciccone v Ritchie (No 1) [2016]	Henry Setright QC David Williams QC Michael Gration Jacqueline Renton	[2016] EWHC 608 (Fam)
03/02/2016	D (A Child) (International Recognition) [2016]	Henry Setright QC David Williams QC Michael Gration Jacqueline Renton	[2016] EWCA Civ 12
04/12/2015	In the matter of J (a child)	Henry Setright QC Teertha Gupta QC David Williams QC Michael Gration Jacqueline Renton Michael Edwards	[2015] UKSC 70
16/11/2015	L (Grave risk of harm) (Children’s objections) [2015]	Andrew Powell Jacqueline Renton	[2015] EWHC 3300 (Fam)

14/10/2015	Re F (Child's Objections) (2015)	David Williams QC Jacqueline Renton	[2015] EWCA Civ 1022
29/09/2015	AT v SS (2015)	Jacqueline Renton	[2015] EWHC 2703 (Fam)
13/08/2015	Re N (Children) (2015)	Jacqueline Renton	AC9601862
29/07/2015	Re C (A Child) (2015)	Jacqueline Renton	AC9101402
15/07/2015	J v (1) C (2) B (2015)	Jacqueline Renton	[2015] EWHC 2047
01/04/2015	Re J (A Child) (1996 Hague Convention) (Morocco) (2015)	Henry Setright QC Teertha Gupta QC Jacqueline Renton	[2015] EWCA Civ 329
06/02/2015	Re U-B (A Child) (2015)	David Williams QC Jacqueline Renton	[2015] EWCA Civ 60
04/02/2015	Re MM (A Child: Relocation) [2014]	Jacqueline Renton	[2014] EWFC B176
31/07/2014	MD v (1) AA (2) DD (By his Children's Guardian) (2014)	Jacqueline Renton	[2014] EWHC 2756 (Fam)
22/07/2014	Re R (A Child: Habitual Residence) (2014)	Henry Setright QC Mark Jarman Jacqueline Renton	[2014] EWCA Civ 1032
16/05/2014	LC v RRL & Others [2014]	Henry Setright QC David Williams QC Christopher Hames QC Jacqueline Renton	[2014] EWFC 8
12/03/2014	Re N (A Minor) [2014]	Jacqueline Renton	[2014] EWHC 749 (Fam)
25/02/2014	Re F (Abduction: Consent) [2014]	Jacqueline Renton	[2014] EWHC 484 (Fam)
15/01/2014	Re LC (Children) (2014)	Henry Setright QC Teertha Gupta QC David Williams QC Christopher Hames QC Jacqueline Renton	[2014] UKSC 1
30/09/2013	C v D [2013]	Jacqueline Renton	[2013] EWHC 2989 (Fam)
09/09/2013	In the matter of A (Children) (2013)	Alex Verdan QC Baroness Scotland QC Alistair G Perkins Hassan Khan Michael Gration Jacqueline Renton Rachel Chisholm	[2013] UKSC 60
24/10/2012	Re F (Child) (2012)	Jacqueline Renton	[2012] EWCA Civ 1364; 2013] 1 FLR 645 : [2012] 3 FCR 443 : [2013] Fam Law 37 : (2012) 156(41) SJLB 31
02/03/2012	SJ v JJ [2012]	Jacqueline Renton	[2012] EWHC 931 (Fam)



02/02/2012	Z (A child) [2012]	Jacqueline Renton	[2012] EWHC 139 (Fam)
09/12/2011	A v T [2011]	Jacqueline Renton	[2011] EWHC 3882 (Fam)
18/11/2011	EF v MGS [2011]	Jacqueline Renton	[2011] EWHC 3139 (Fam)
16/11/2011	Sj and Another v Jj and Another [2011]	Jacqueline Renton	[2011] EWHC 3450 (Fam)
27/05/2010	MA v DB (2010)	Jacqueline Renton	[2011] 1 FLR 724 : [2010] Fam Law 1161
10/12/2009	W v W (2009)	David Williams QC Jacqueline Renton	[2010] 1 FLR 1342 : [2010] Fam Law 228 : (2010) 154(1) SJLB 28 : [2009] EWHC 3288 (Fam)

## Michael Edwards

“A rising star with a packed diary of complicated children cases. He’s a bright, well prepared and thoughtful advocate.”  
Chambers & Partners 2017

### Experience

Year of Call: 2010

### Practice Areas

- Financial Remedies
- International Children Law
- Private Children Law
- Public Children Law

### Direct Access

Direct Access

### Education

University of Bristol, History (BA Hons) (First Class, placed first in year overall)  
Awarded the Gardenhurst Prize and Graham Robertson Scholarship  
City University, GDL (Distinction)  
BPP Law School, BVC (Very Competent)  
Exhibition Award and Poland Prize (Inner Temple)

### Profile

Michael is a specialist in international children law, particularly child abduction, leave to remove and jurisdictional disputes. He regularly appears in the High Court and has appeared in the Court of Appeal and Supreme Court.

Michael also acts in complex child protection cases. He is currently instructed with Alex Verdan QC to represent a local authority in the Independent Inquiry into Child Sexual Abuse ('the Goddard Inquiry').

In February 2016, Michael was appointed to the Attorney General's C Panel of Junior Counsel to the Crown. He is the only family practitioner to be appointed to the C Panel.

Michael also has a niche specialism in child protection in sport.

International:

Michael has appeared as junior counsel in a number of international cases in the Supreme Court, including:

- Re KL (A Child) [2013] [2013] UKSC 75



- Re J (A Child) [2015] UKSC 70
- Re B (A Child) [2016] UKSC 4
- Re N (Children) [2016] UKSC 15 [2016] 1 FLR 170 And in the Court of Appeal:
- Re LC (Children) [2013] EWCA Civ 1058
- Re KP (A Child) [2014] EWCA Civ 554 He appears on a daily basis in the High Court. He successfully represented the father in an application to take his children to Jordan against the mother's objections in AB v TB (Temporary Removal to Jordan) [2014] EWHC 4663 (Fam), and appeared in 'stranded spouse' proceedings in NN v ZZ & Ors [2013] [2013] EWHC 2261 (Fam).

#### Child protection:

Michael has particular expertise in care proceedings with an international element, particularly Article 15 transfers, habitual residence disputes and placements abroad under Article 56 (BIIa).

Michael has appeared in a number of high profile child protection cases, including:

The Goddard Inquiry – representing a local authority with Alex Verdan QC in the investigation into allegations against Lord Greville Janner

Ben Butler case – representing the local authority with Alex Verdan QC following the death of Ellie Butler. The case generated significant media interest:

Re A (Death of a Baby) [2011] EWHC 2754 (Fam) (with Alison Grief QC)

A Local Authority v DB & Others [2013] [2013] EWHC 4066 (Fam) (with Alison Grief QC)

#### Private law

Michael advises and appears on behalf of parents and children in disputes about children's upbringing, especially relocation cases. He has appeared in a number of 'intractable hostility' cases and where one parent has made allegations of violence and sexual abuse against the other.

#### Financial remedies:

Michael is developing a strong financial practice, covering the full range of applications including finance for children under Schedule 1, disputes between former cohabitants, and all financial applications on divorce, whether domestic or with an international aspect.

#### Sports law:

Michael has expertise in child protection in sport. He holds BASL post-graduate certificate in sports law from the British Association for Sport and Law (BASL) and lectures in child protection on the BASL course.

#### Other experience:

In 2014, Michael was awarded a Pegasus Scholarship from the Inner Temple to work in Sarajevo, Bosnia, for a human rights charity, TRIAL. He spent three months working on war crimes trials with a particular focus on sexual violence cases. He continues to assist TRIAL from London.

Michael previously worked in the Office of the Prosecutor at the International Criminal Tribunal for the Former Yugoslavia in The Hague.

Michael represented the Bar of England and Wales in the Lawyers' Cricket World Cup in Delhi in October 2013.

### Memberships

Family Law Bar Association

## Directories

Children law junior with a growing practice, who has handled a number of highly complex abduction cases in the Court of Appeal and the Supreme Court. His public law practice consists of the most sensitive and severe cases concerning matters such as infant death and abuse.

Strengths: "A rising star with a packed diary of complicated children cases. He's a bright, well prepared and thoughtful advocate."

### Chambers & Partners 2017

Draws glowing reports from peers, who regard him as someone with "a bright future." He has a broad-based practice that takes in private and public children law proceedings, including those with an international element.

Strengths: "It is unusual for such a young advocate to be instructed in cases so complex. He is instructed because he can be trusted, has a very strong intellect, and has a capacity for compassion."

### Chambers & Partners 2016

## Cases

13/04/2016	In the matter of N (Children) [2016]	Henry Setright QC Michael Gration David Williams QC Jacqueline Renton Michael Edwards	[2016] UKSC 15
04/02/2016	In the matter of B (A child) [2016]	David Williams QC Henry Setright QC Alistair G Perkins Michael Gration Dorothea Gartland Michael Edwards Hassan Khan	[2016] UKSC 4
04/12/2015	In the matter of J (a child)	Henry Setright QC Teertha Gupta QC David Williams QC Michael Gration Jacqueline Renton Michael Edwards	[2015] UKSC 70
19/02/2015	AB v TB (Temporary Removal to Jordan) [2014]	Michael Edwards	[2014] EWHC 4663 (Fam)
01/05/2014	Re KP (A Child) (2014)	Teertha Gupta QC David Williams QC Mark Jarman Michael Edwards	[2014] EWCA Civ 554
06/12/2013	A Local Authority v DB & Others [2013]	Alison Grief QC Cyrus Larizadeh QC Michael Edwards	[2013] EWHC 4066 (Fam)

04/12/2013	Re KL (A Child) [2013]	Henry Setright QC Teertha Gupta QC Michael Gration Michael Edwards	[2013] UKSC 75
15/08/2013	Re LC (Children) (2013)	Henry Setright QC Teertha Gupta QC David Williams QC Christopher Hames QC Michael Edwards	[2013] EWCA Civ 1058
26/07/2013	NN v ZZ & Ors [2013]	Teertha Gupta QC Michael Edwards	[2013] EWHC 2261 (Fam)
16/07/2013	DL (Appellant) v EL (Respondent) & (1) Reunite International Child Abduction Centre (2) Centre for family law and practice (Intervenors) (2013)	Henry Setright QC Teertha Gupta QC David Williams QC Michael Gration Michael Edwards	[2013] EWCA Civ 865
13/10/2011	C (Care: Contact)	Ruth Kirby Michael Edwards	[2012] 2 FCR 325; [2011] EWCA Civ 1774
14/07/2011	Re C (Children) (2011)	Mark Jarman Michael Edwards	[2011] EWCA Civ 1230

## Indu Kumar

### Experience

Year of Call: 2012

### Practice Areas

- Court of Protection - Vulnerable Adult
- Financial Remedies
- International Children Law
- Private Children Law
- Public Children Law

### Qualifications

BPTC- Very Competent  
LLB (Hons) Law

### Education

University of Warwick  
BPP Law School, London (BPTC)

### Languages

Conversational Punjabi and Hindi

### Profile

Indu is building a practice in all areas of family law. She joined chambers after successful completion of her pupillage under the supervision of Dorothea Gartland, Stephen Lyon and Mark Jarman.

Prior to commencing pupillage, Indu worked as a Family Paralegal for Practical Law, where she helped to establish the family service. She also volunteered for Just for Kids Law as a legal caseworker in the Education and Community Care department.

Indu's previous voluntary experience includes acting as an Immigration Tribunal Friend assisting litigants in person and as an English Teacher, working at a school and an orphanage in Siem Reap, Cambodia.

### Memberships

Young Resolution



## Jonathan Rustin

### Experience

Year of Call: 2013



### Qualifications

BA (Hons) English Language & Literature  
Post Graduate Certificate of Education  
Graduate Diploma in Law  
Bar Professional Training Course

### Education

University of Oxford, St Edmund Hall  
Canterbury Christ Church University  
BPP Law School

### Languages

French (Conversational)

### Profile

Jonathan is building a practice in all areas of family law. He joined Chambers after successful completion of his pupillage under the supervision of Sam King, Jacqueline Renton and Nicholas Fairbank. During pupillage, Jonathan has gained experience in financial remedies, and public, international and private children law work, appearing before various levels of court, including the High Court. He has co-written a chapter in Rayden and Jackson on 'Relationship Breakdown, Finances and Children' and an International Children Law Update in Family Law Week.

Prior to pupillage, Jonathan worked at Just for Kids Law as a Paralegal in the Education and Community Care department. He assisted young people in various matters including obtaining accommodation and support from local authorities, acting in school exclusion cases, and securing appropriate provision for children with special educational needs. Jonathan also volunteered weekly at Willesden County Court, representing litigants in person in private family law proceedings.

Before studying law, Jonathan completed the two-year Teach First Leadership Development Programme,

designed to address educational disadvantage by placing top graduates in challenging UK schools. For two years, Jonathan worked, trained and qualified as a teacher, teaching English to 11-18 year olds.





## **Section 6**

Members List

## Barristers

4 Paper Buildings is 'one of the best family law sets', and one of the few chambers in London that has real strength in depth in children law as well as family finance work. It is also adept at handling cases with an International dimension, and Court of Protection work, meaning 'there is a good barrister available for all types of family disputes'. The Legal 500, 2014

### Barristers



Alex Verdan QC  
Call: 1987 | Silk: 2006  
Head of Chambers



Jonathan Cohen QC  
Call: 1974 | Silk: 1997



Kate Branigan QC  
Call: 1985 | Silk: 2006



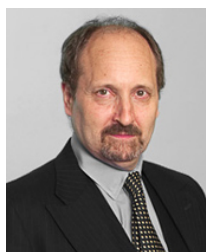
Henry Setright QC  
Call: 1979 | Silk: 2001



Marcus Scott-Manderson QC  
Call: 1980 | Silk: 2006



Jo Delahunty QC  
Call: 1986 | Silk: 2006



Michael Sternberg QC  
Call: 1975 | Silk: 2008



Catherine Wood QC  
Call: 1985 | Silk: 2011



Rex Howling QC  
Call: 1991 | Silk: 2011



Teertha Gupta QC  
Call: 1990 | Silk: 2012



David Williams QC  
Call: 1990 | Silk: 2013



Charles Hale QC  
Call: 1992 | Silk: 2014



Christopher Hames QC  
Call: 1987 | Silk: 2015



Alison Grief QC  
Call: 1990 | Silk: 2015



John Tughan QC  
Call: 1991 | Silk: 2015



Cyrus Larizadeh QC  
Call: 1992 | Silk: 2016



Brian Jubb  
Call: 1971



Alistair G Perkins  
Call: 1986



Amanda Barrington-Smyth  
Call: 1972



Robin Barda  
Call: 1975



Dermot Main Thompson  
Call: 1977



Jane Rayson  
Call: 1982



Mark Johnstone  
Call: 1984



Elizabeth Coleman  
Call: 1985



Stephen Lyon  
Call: 1987



James Shaw  
Call: 1988



Mark Jarman  
Call: 1988



Sally Bradley  
Call: 1989



Barbara Mills  
Call: 1990



Joy Brereton  
Call: 1990



Joanne Brown  
Call: 1990



Sam King  
Call: 1990



David Bedingfield  
Call: 1991



Michael Simon  
Call: 1992



Justin Ageros  
Call: 1993



Rob Littlewood  
Call: 1993



Paul Hepher  
Call: 1994



Cliona Papazian  
Call: 1994



Judith Murray  
Call: 1994



Ruth Kirby  
Call: 1994



Nicholas Fairbank  
Call: 1996



Justine Johnston  
Call: 1997



James Copley  
Call: 1997



Oliver Jones  
Call: 1998



Lucy Cheetham  
Call: 1999



Hassan Khan  
Call: 1999



Cleo Perry  
Call: 2000



Harry Gates  
Call: 2001



Rebecca Foulkes  
Call: 2001



Rhiannon Lloyd  
Call: 2002



Kate Van Rol  
Call: 2002



Katie Wood  
Call: 2001



Ceri White  
Call: 2002



Matthew Persson  
Call: 2003





Dorothea Gartland  
Call: 2004



Francesca Dowse  
Call: 2004



Greg Davies  
Call: 2005



Samantha Woodham  
Call: 2006



Laura Morley  
Call: 2006



Nicola Wallace  
Call: 2006



Michael Gratton  
Call: 2007



Jacqueline Renton  
Call: 2007



Henry Clayton  
Call: 2007



Andrew Powell  
Call: 2008



Chris Barnes  
Call: 2008



Sophie Connors  
Call: 2009



Joanne Porter  
Call: 2010



Michael Edwards  
Call: 2010



Harry Nosworthy  
Call: 2010



Rachel Chisholm  
Call: 2010



Jonathan Evans  
Call: 2010



Julia Townend  
Call: 2011



Zoe Taylor  
Call: 2011



Indu Kumar  
Call: 2012



Jonathan Rustin  
Call: 2013



Pippa Sanger  
Call: 2015

## Door Tenants



Baroness Scotland QC  
Call: 1977 | Silk: 1991



Professor Marilyn  
Freeman PhD  
Call: 1986



Paul Hopkins QC  
Call: 1989 | Silk: 2009



Sarah Lewis  
Call: 1995



Elizabeth Couch  
Call: 2003

## Pupils



Charlotte Baker  
Call: 2014



Adele Cameron-  
Douglas  
Call: 2015



Abigail Bridger  
Call: 2016