

## Seeking Safety Across Borders:

*Battered Women's  
Experiences with the  
Hague Convention  
in American Courts*

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& Jeffrey L. Edleson, PhD**  
*UC Berkeley*

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## History of the Hague DV Project

- Difficult case in Seattle
- Seattle University's Access to Justice Institute
- OCVA grant



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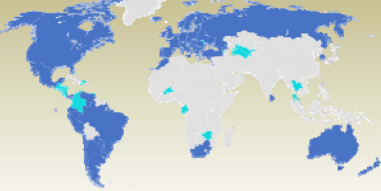
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## Increasing Cases

- Increasing number of signatories and parties to the convention
- U.S. has highest number of cases worldwide
- Most U.S. cases involve Latin America or Europe



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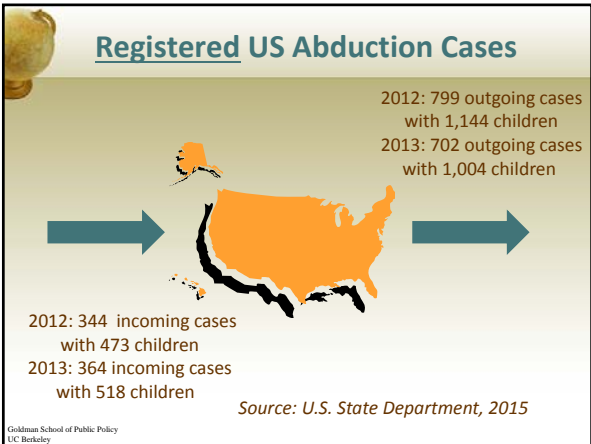
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### Most Frequent Outgoing

2012		2013	
• Mexico	416	• Mexico	326
• Canada	49	• Canada	50
• UK	40	• UK	32
• Peru	27	• Honduras	18
• Germany	25	• Germany	25
• Columbia	25	• Columbia	24

<http://travel.state.gov/content/childabduction/english/legal/compliance/statistics.html>

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### Most Frequent Incoming

2012		2013	
• Mexico	167	• Mexico	158
• UK	36	• Canada	44
• Canada	33	• UK	24
• Germany	16	• Germany	22

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## Administrative Process

- U.S. authorizing legislation: ICARA
- Each country must designate a **central authority**.
- US State Department
  - Office of Children's Issues



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## Key Defenses

- 12: Settled in a new place
- 13: Child is mature and objects
- 13a: Parent consents
- 13b: Grave risk of physical or psychological harm or places child in an intolerable situation
- 20: Violation of a child's human rights

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## Article 13b

- If there is *grave risk* that returning the child would expose her or him to physical or psychological harm or otherwise place the child in an intolerable situation. Or if the child is of sufficient maturity and objects to the return.

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### From Hague Convention Authorities

69% of  
"Taking  
Parents"  
Worldwide  
were Mothers

> 50% of  
Children are  
Returned to  
Left Behind  
Parent

*Source: Lowe, 2011*

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Most  
Taking  
Parents  
are  
Mothers

➔

Many  
Children  
Return  
to  
Fathers

➔

Domestic  
Violence  
  
?

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### DV & Parental Child Abduction

- **Agopian (1981):** result of pre-existing conflict, entire chapter on FV
- **Grief & Hegar (1993):** 3 of 5 types=violence
- **Sagatun-Edwards et al. (2000):** mother abductors more likely abused, fathers abusers, mother abductors given custody
- **Chiancone, Girdner, and Hoff (2001):** 90% left-behind parents' /others' lives threatened
- **Lowe et al. (2011):** 68% of "takers" worldwide were mothers

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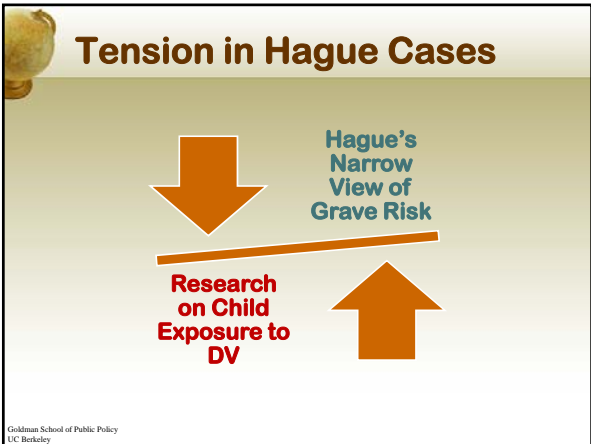
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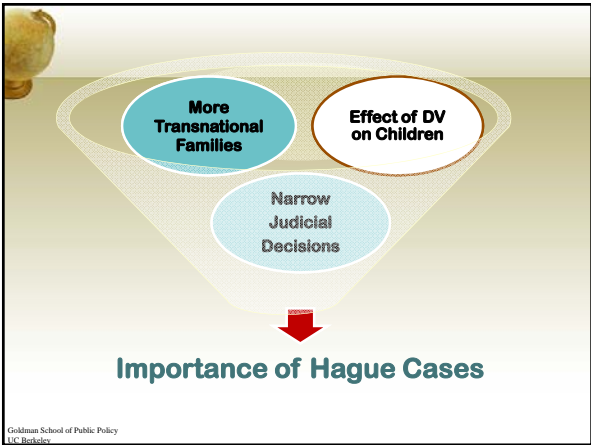
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**BATTERED WOMEN, THEIR CHILDREN, AND INTERNATIONAL LAW**

The Unintended Consequences of the Hague Child Abduction Convention

Taryn Lindhorst and Jeffrey L. Edleson

Lindhorst, T. & Edleson, J.L. (2012). *Battered mothers, their children and international law: The unintended consequences of the Hague Child Abduction Convention*. Boston, MA: Northeastern University Press.

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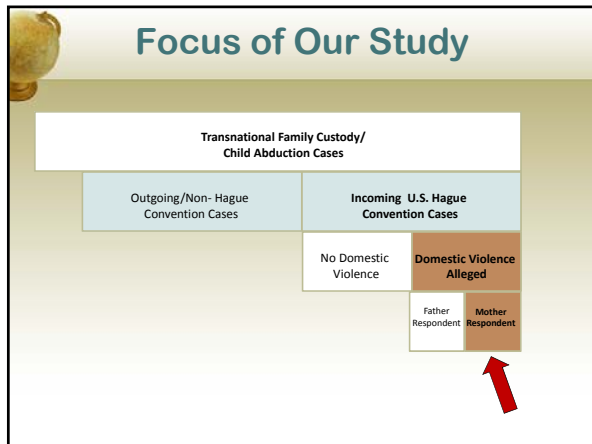
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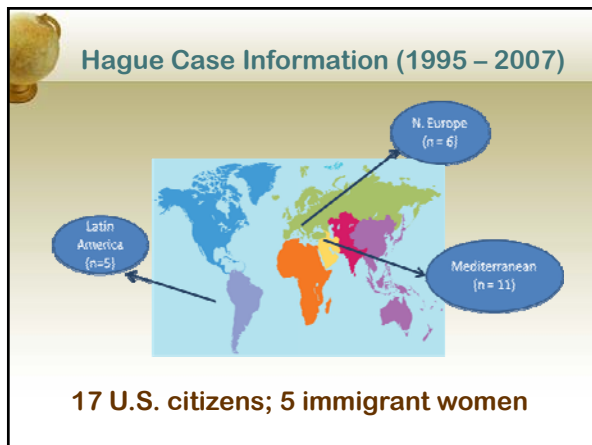
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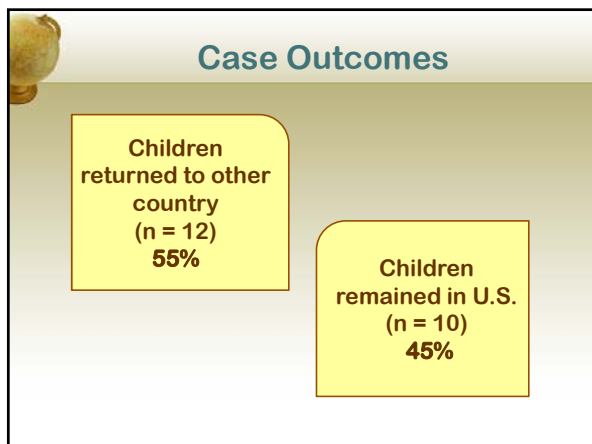
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### Hague Outcomes & Violence

Case Outcome	Battered Mother AND Child	Battered Mother ONLY	Emotional Terrorizing	Unclear Abuse
Child remained in US with Mother	6	2	1	1
Child returned to other country with Father	2	8	1	1
Total	8	10	2	2

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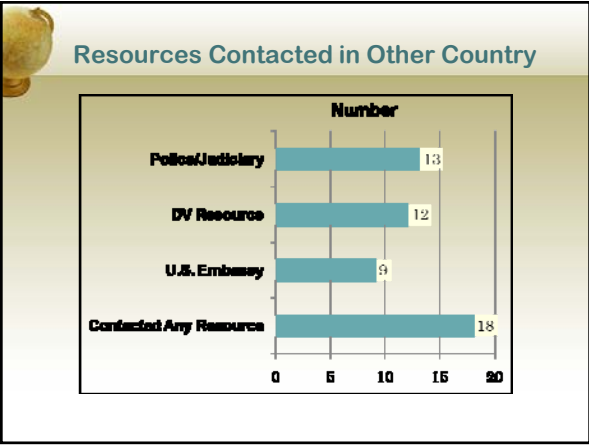
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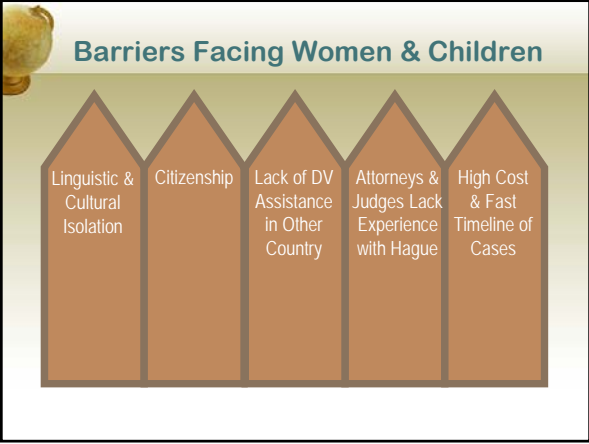
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### Latina Women Immigrant & Asylum

Two Latina mothers pursued asylum due to domestic violence.

Judges ruled in favor of allotting time for the resolution of the asylum question and rejected the Hague petition

This asylum option was not available to the mothers who are US citizens as their immigration status was never in question

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### Key Take-Aways

- Mothers and their children experience significant & severe DV
- Women have access to few resources in other country or U.S. to support their safety
- When women experience battering, but not their children, their children are more likely to be returned
- More children returned to abusive father (regardless of DV presence or severity)

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### What Can We Do?

- Recognize DV as a Risk to Children and Mothers
- Revise ICARA, Hague protocols
- Educate Mothers about Transnational Issues
- Ensure Mother and Children's Safety if Returned
- Provide Support & Resources to Mothers
- Educate Lawyers & Judges

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## OVW Technical Assistance grant

- Bench guides for judges
- Practitioners' guide for attorneys representing mothers
- Website for 24/7 information
- Training for judges, attorneys, advocates and expert witnesses

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**The Hague Convention on the Civil Aspects of International Child Abduction in Cases Involving Allegations of Domestic Violence**  
A Minnesota Bench Guide  
*October 2011*

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## HagueDV.org

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The Hague Domestic Violence Project

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Our Staff and Volunteers

Special Thanks

Mothers

**The Hague Domestic Violence Project**

**The History of The Hague Domestic Violence Project**

Assistant Dean Susha Shetty and Social Welfare Dean Jeffrey Edleson, two key participants in this Project, worked together years ago on a Hague Convention case where domestic violence was an issue. The myriad issues that arose out of this experience inspired Susha to create The Hague Domestic Violence Project. First started at Seattle University School of Law's

**Why this Project?**

We are a team of individuals from various professional backgrounds who are dedicated to creating a comprehensive resource that will enable mothers, domestic violence advocates, attorneys and judges to better process their cases for Hague Convention cases in the United States' legal system.

**Recent Reports**

Final Report of HagueDV research to the USDOJ

Printed questions for the Hague and DV at the U.S. Supreme Court

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