

Issues and Challenges of International Family Relocation (summary)

Takami HAYASHI

Professor of Law, Doshisha University

After the dissolution of their relationship, it is not unusual for one parent to move to a new region with their child. The relocating parent may seek career opportunities, lifestyle changes, or support from his or her relatives. However, a parent and a child moving to another State may negatively affect the relationship, legal and otherwise, between the child and the parent left behind; this can give rise to a fresh round of disputes between the parents.

Some jurisdictions (including Japan) have no clear rules for relocation and others, such as England and Australia, have explicit rules for relocating legally with minor children—in particular specifying when it is time to involve the courts. Even though they have clear provisions, judges often face difficulties in relocation disputes. When one parent does not agree with the relocation plan of the other parent, it may be up to a judge to decide between their conflicting interests by considering what is best for the child. Different approaches to this issue of family relocation have been implemented around the world. Therefore, it is said that family relocation is one of the most difficult issues in family law and international family law.

Moreover, a connection has been noted between international family relocation and the Hague Convention of October 25, 1980 on the Civil Aspects of International Child Abduction (hereinafter referred to as the “Child Abduction Convention”). A family relocation from a contracting party of the Child Abduction Convention to another contracting party is legally subject to the Convention. As a result, international relocation issues are attracting more attention. The Hague Conference did not realize that international family relocation issues are closely related to child abduction at the time of legislation of the Child Abduction Convention. However, it perceived a connection between them around 2000. Since then, it has dealt eagerly with international family relocation issues in several committees.

Compliance with contact agreements or contact orders after relocation to another State may play an important role in relocation disputes. This article gives an overview of the institutions to respect and enforce the contact orders made by the State of origin in the des-

tination State.

Based on the above-mentioned study, the author indicates the need for appropriate provisions in legal procedures for relocation with a child in Japanese Family law. In addition, the author considers the possibility of joining the Hague Convention of October 19, 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, which supports and reinforces the Child Abduction Convention.