The child's voice in cases of cross-border parental child abduction

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To discuss:

- Voice and choice under classical Islamic law
- The child's voice: Examples from the study
- Abductee's views on participation in decision-making
- Outcomes of cases & Conclusion

The importance of listening to children in classical Islamic law – voice and choice

- Differences between domestic custody disputes in Islamic law countries and international parental child abduction disputes
- How does the positive domestic law position play out for *internationally abducted* children in the study?

Voice of the abducted child: Sara

"My uncle that day kept saying to me "oh we're going to take you out to Pizza Hut and to bowl, we're going to buy you some clothes" and I was really excited about it, to be able to get out. Then, later on, he called me into his room, and he said I want to let you know there are some people coming today and if they ask you anything, say that you're really happy to be with your dad. I remember when they came, I think there was an Arabic lady and a man, and they asked me a few questions, they didn't ask me as directly as 'are you happy', but they asked me a few different questions. I remember the thing that they asked me which I found most difficult to answer was what do you do in your day and I remember thinking I don't even know what to say to that, because what do I do? Because there wasn't anything to do. I remember part of the hardest thing about it was the fact that there was absolutely nothing to do. I didn't speak any Arabic at the time and all the TV was in Arabic, everyone was speaking in Arabic all the time. There were loads of kids about all my cousins and stuff, but no one was really watching or looking after me."

Voice of the abducted child

AIDAN:

"They asked me if I would like to stay or go to my mum, but it was not really a free choice because at this moment my father was going to be in jail because of this story. And my [paternal] family and everyone told me if I go back to mum, they [Western authorities] will send my father to jail, and I can never see him again. So I have to stay for many reasons, and when I will be 18, I can go where I want. So I didn't feel at this moment that I really had a choice."

HARRIS:

"I think it would have been interesting for me if I was spoken to more about what's exactly going on and you know, but I wasn't asked, I wasn't told about what was going on. For me, nobody really explained it to me. Maybe it would have had a different outcome, or maybe it wouldn't have been. Maybe then I would've wanted to go home [England]."

Abductees' views on participation:

1.CHILDREN SHOULD HAVE A CHOICE

"I think it should be up to the child. I would have made a choice to come here [return to the UK], and I think it would have been better for me. But it could be a happy medium for the child to decide. Like during the school year I can stay with mum, but during the summer I can see dad, you know. You should give them [children] options, not just say "you're going to stay here, and this is better for you!"

2.CHILDREN ARE MADE TO FEEL POWERLESS IN THE ABDUCTION SITUATION

"That was my coping mechanism, to suppress it, I became very introvert, you know when I was young, very closed off because I wouldn't trust and wouldn't open up to people. Maybe those are all the results of the trauma. I had no power; there was nothing I could do you know, so there was no point in doing anything."

3.CHILDREN SHOULD BE SUPPORTED BY THE STATE TO ADVANCE THEIR ARTICLE 12 CRC RIGHTS

"My father didn't let anyone ask me what I wanted because he thinks I don't know what's right for me. If they cared about me, the government in England should work hard and make contact with me and ask what I want, and what I need."

"I was born in England; I lived in England until I was seven and whether I liked it or not, I should have been in England. You know I could have had a really bad relationship with my mum, I could've hated her, but I still should've been in England, and I think the UK government should've helped more."

Outcomes of cases and Conclusion

OUTCOMES FOR 54 CHILDREN

- 3 returned with the assistance of the States' rulers
- 31 remain living in the Islamic law country (57.4%).
- 21 abductees returned to the UK (38.8%). Of these 21, four returned once aged 18 and over and the remaining 17 who returned were aged below 18 at the time of return.
- Of the four abductees who were aged over 18, two males could legally leave independently as adults. The remaining two returnees were female; one returned with the abducting father's consent to attend university in the UK. The fourth, aged nineteen, was allowed by her abducting father to return to the UK after several unsuccessful attempts to escape.
- Of the 17 returnees aged below 18, seven returned with the abducting father's agreement, two children escaped at the age of 14 and 15, and two were re-abducted by their left-behind mothers. Two children were able to return after the abducting father returned to the UK and later obliged with the High Court order for the children's return to England. One child returned as a result of family mediation.

CONCLUSION

The combination of the participatory requirement in objection cases under Hague, coupled with more routine 'listening' to children in domestic Islamic law proceedings, could provide a stronger package of support for children.