

GLOBALARRK'S NO NONSENSE GUIDE

MOVING ABROAD: KNOW BEFORE YOU GO!

There is one thing that most people don't know about moving abroad with your children: If the relationship breaks down, or if one of you wants to stay and the other wants to go home... you might not be allowed to return to live in your home country with your child/ren until they are at least 16 years old.

International law states: when you arrive in a new country with the intention of staying, the 'Habitual Residence' of your child shifts to the new country very quickly. So unless the other parent gives you permission to take your children back home, you will need to apply to the LOCAL court to override this. It doesn't matter if all the family are of the same nationality, where the child/ren were born or if you are fleeing partner violence. By law you must stay put and wait for the local court to decide if you can go home with the children.

Check out this UK government advice (pg 5):

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/640699/Going_to_Live_Abroad_web180817.pdf

How long does this process take?

Usually a 'Leave to Remove' or 'Relocation' application takes between 1-5 years, and the success rate is around 50% depending on the country and situation.

Being 'stuck' in a foreign country is tough:

Being 'stuck' far from home, away from a support network is challenging especially if you're also dealing with other challenges such as poverty, visa restrictions, language barriers, isolation, depression, legal abuse and domestic violence.

What if you just take your children home?

The 'left behind' parent can invoke **The Hague Convention on the Civil Aspects of International Parental Child Abduction**. This means the 'taking' parent will be accused of Child Abduction which can have serious legal consequences. There have been cases where parents have been sent to prison for child abduction under separate kidnapping criminal charges.

What can parents do to protect themselves?

Before making the move you and your partner must make agreements that cover all the possible scenarios. The key question to ask is: **Will we both return to this country OR will one be able to return with the children?** In addition, how long will the agreement be valid for? It is VITAL to make these decisions BEFORE moving abroad, and then to make an appointment with with an experienced International Family Lawyer or mediator to formally record the decisions in a Memorandum of Understanding. If you make an agreement you do need to make sure that this is converted into an open document that can be used in court. If you cannot come to an agreement about what you'd do if things don't work out, you might want to reconsider moving in the first place. As one of our stuck mums said:

"There's a lot to be said for staying put. You've got your family, your friends, your job and you know where you are"



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Preventing international custody disputes and reducing their devastating impact on children

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