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# MEDIATING INTERNATIONAL CHILD ABDUCTION CASES: THE HAGUE CONVENTION

Michele Merritt\*

## I. INTRODUCTION

*Mediating International Child Abduction Cases: The Hague Convention*<sup>1</sup> is the seventh book in the Hart Publishing series “Studies in Private International Law.”<sup>2</sup> The book is authored by Sarah Vigers, an experienced international family law attorney and former lawyer for the “Permanent Bureau of the Hague Conference on Private International Law.”<sup>3</sup> After working in international family law for a number of years, Vigers decided to pursue an LLM. at the University of Aberdeen.<sup>4</sup> Her graduate thesis on mediating child custody disputes under the Hague Convention was recommended for publication and is the basis for this volume.<sup>5</sup>

Unlike the other works from this series, *Mediating International Child Abduction Cases: The Hague Convention* is the only volume with a focus on mediation.<sup>6</sup> This work does not focus on the mediation process itself; rather it explores the reasons why mediation should be a more widely embraced practice under the Hague Convention. Vigers argues that mediation, in context of child custody and family disputes, helps to open the lines of communication between the parties and foster lasting agreements.<sup>7</sup>

Though narrow in scope, this work is broadly applicable, particularly due to its discussion of the use and effectiveness of mediation efforts in child custody disputes. If nothing else, this book is an enjoyable read for any lawyer, mediator or individual interested in international law, family law, mediation, or the Hague Convention. This book could easily be read in an afternoon, as it is a manageable ninety-five pages. Vigers also carefully crafts specific sections of this book for a Convention audience, making this work practical for use within the Convention context.

## II. SUMMARY

*Mediating International Child Abduction Cases: The Hague Convention* consists of six chapters, the first of which introduces the reader to the purpose, structure and scope of the book.<sup>8</sup> Chapters Two through Four focus on addressing three key questions: “What is Convention mediation; how can a mediation process fit within the urgent time constraints of the Convention and its regional application in the [European Union]; and why offer mediation in Convention

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<sup>1</sup> SARAH VIGERS, *MEDIATING INTERNATIONAL CHILD ABDUCTION CASES: THE HAGUE CONVENTION* (2010).

<sup>2</sup> *Id.* at i.

<sup>3</sup> *Id.* at iiv.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> VIGERS, *supra* note 1, at ii.

<sup>7</sup> *Id.* at 64–65.

<sup>8</sup> *Id.* at 1–9.

cases?”<sup>9</sup> These three chapters offer the most significant research and theories, useful to both international and family law attorneys, as well as mediators under the Hague Convention.

Chapter Five is interesting in its own right, as it presents a unique perspective into the role of the child in the mediation process.<sup>10</sup> Though this chapter seems somewhat unrelated to the author’s thesis, Vigers expertly crafted a natural transition for the reader that beautifully incorporates the chapter into the broader framework of the book. Vigers concludes in the sixth and final chapter by reiterating her hope for this work: that it will be interesting and enlightening for both attorneys and mediators, while encouraging the use of mediation under the Hague Convention as an effective means of dispute resolution.<sup>11</sup>

### III. CHAPTER 1: INTRODUCTION<sup>12</sup>

The introductory chapter of this book provides the reader with a road map of the upcoming chapters. Vigers provides details of how she conducted her research and why she chose to research the topic of mediation under the Hague Convention. She explains that mediation is often recommended as a method of resolving international custody disputes under the Convention, but is rarely utilized in practice.<sup>13</sup> As a professional in this field, Vigers witnessed this phenomenon first hand and wrote this book to “offer a response to some of the perceived barriers to the use of mediation in the Convention context.”<sup>14</sup>

Chapter One also provides the reader with some basic background information about the Hague Convention, including the operative language of Article I.<sup>15</sup> Vigers assists the reader’s understanding of Article I by breaking it down into its key components and explaining the significance of the section in the framework of mediation.<sup>16</sup>

This early analysis of the Hague Convention becomes a helpful point of reference for the reader as the book progresses into more complex material. In general, this chapter is important because it sets the stage for the chapters that follow. Vigers provides the reader with enough information to see the big picture, which makes the research and theories presented in subsequent chapters much easier to understand.

### IV. CHAPTER 2: WHAT IS CONVENTION MEDIATION?<sup>17</sup>

In Chapter Two, Vigers explains that one of the factors preventing the more widespread use of mediation under the Hague Convention is that “there is [no] clear understanding of what mediation is” or how mediation works in conjunction with applying the Convention.<sup>18</sup> This lack of clarity has led to confusion over when and how mediation should be utilized in Convention

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<sup>9</sup> *Id.* at vii.

<sup>10</sup> *Id.* at 76–90.

<sup>11</sup> VIGERS, *supra* note 1, at i–iiiiv.

<sup>12</sup> *Id.* at 1.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 3.

<sup>15</sup> *Id.* at 7.

<sup>16</sup> VIGERS, *supra* note 1, at 7–9.

<sup>17</sup> *Id.* at 10.

<sup>18</sup> *Id.*

cases. Vigers argues that this clouded definition has prevented mediation from being fully developed as a means of alternative dispute resolution under the Convention.<sup>19</sup>

#### A. “Definitional Difficulties”<sup>20</sup>

To help develop a cohesive definition of “Convention mediation,” Vigers begins by making a distinction between mediation, arbitration and voluntary resolution meetings.<sup>21</sup> She argues that “mediation” is a term that has developed an incredibly vague definition and has come to encompass “any process which promotes agreement between the parties with the assistance of a third party.”<sup>22</sup> In the context of the Hague Convention and family law, mediation takes on three forms: “informal negotiations; the court process; and formal non-adversarial processes.”<sup>23</sup>

In the first form, informal negotiations, assistance is offered by a third party who is often not a trained mediator and is not bound to follow any particular set of rules or guidelines in conducting the proceeding.<sup>24</sup> Unlike other forms of mediation, informal negotiations can even occur in the absence of one of the disputing parties.<sup>25</sup> Court processes, on the other hand, involve litigating or adjudicating the dispute; however, in the early pre-trial stage, judges actively assist in negotiations between the parties in an effort to reach a mutually agreeable resolution.<sup>26</sup> The third form of mediation, formal non-adversarial process, also involves a neutral third party; however, this third party is expertly trained in mediation.<sup>27</sup>

Under the Hague Convention, “mediation” has been used to describe several different assisted dispute resolution processes.<sup>28</sup> Vigers attributes much of this confusion to the definitional variations of the member states and the lack of a clear mediation process under the Convention.<sup>29</sup> Vigers suggests the following working definition: “Mediation is a voluntary and confidential process through which parties can reach their own agreements, which are not legally binding. Mediation is undertaken with the assistance of a trained and qualified mediator who is impartial, independent and neutral.”<sup>30</sup> Vigers believes this definition is “broad enough to encompass many different styles of mediation . . . yet narrow enough to ensure clarity of understanding.”<sup>31</sup>

After providing the reader with a working definition of “mediation,” Vigers explains the significance of the mediation process itself by noting that, though a clear definition of mediation is necessary to encourage the more widespread use of the process under the Convention, mediation requires the support of the legal system to be effective.<sup>32</sup> In other words, for mediation to work successfully, there must be a solid foundation of law and procedures that govern

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 11.

<sup>21</sup> VIGERS, *supra* note 1, at 11.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> VIGERS, *supra* note 1, at 11.

<sup>27</sup> *Id.* at 12.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 19.

<sup>31</sup> VIGERS, *supra* note 1, at 19.

<sup>32</sup> *Id.* at 20.

mediation proceedings.<sup>33</sup> Though the Hague Convention itself provides support for mediation, “[c]ontracting States must also ensure that their domestic framework for handling Convention applications is adequate to support mediation.”<sup>34</sup> Without both domestic and international support, mediation as an alternative dispute resolution process loses its effectiveness.<sup>35</sup> Unfortunately, domestic support of the States has been a source of some problems for mediation under the Convention. The States contracted under the Hague Convention are diverse and vary in terms of culture, tradition and economic development, which Vigers argues has contributed to the sporadic use of mediation in Convention cases.<sup>36</sup>

To conclude this section of Chapter Two, Vigers provides the reader with a clear and concise summary of the mediation process under the Convention. She details step-by-step how a mediation proceeding should operate under the Convention, from the initial interview to the final agreement.<sup>37</sup> This practical illustration aids the reader in visualizing the mediation process and understanding the significance of the material presented in the beginning of the section.

## **B. “Place in the Procedure”<sup>38</sup>**

This section of the book seems to be aimed towards a Convention audience. Vigers provides the reader with a great deal of Convention information, some of which becomes repetitive. For this reason, this author chose to consolidate certain subsections and highlight the arguments with a more universal application.

After Vigers establishes a general definition of “Convention mediation,” she moves on to describe where mediation fits in the Convention procedure.<sup>39</sup> Vigers argues that mediation should be viewed as an alternative to the court hearing, not a precursor.<sup>40</sup> In explaining this position, Vigers makes an important distinction between these two options; mediation is a voluntary substitute for a hearing, but is not equivalent to a court hearing.<sup>41</sup> Parties are not forced to develop agreements in mediation.<sup>42</sup> In the event that an agreement cannot be reached, the case is simply referred to the court for a hearing.<sup>43</sup> Conversely, the court’s ruling from the hearing requires the parties’ strict compliance; failure to obey the ruling would be contempt of court.<sup>44</sup>

Many States have recognized that mediation and the court hearing process can work together to create a more efficient process.<sup>45</sup> In these States, mediation serves as the first step to the hearing process, and parties are only granted hearings in the event mediation fails.<sup>46</sup> Vigers

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> VIGERS, *supra* note 1, at 21–22.

<sup>37</sup> *Id.* at 23–24.

<sup>38</sup> *Id.* at 24.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 25.

<sup>41</sup> VIGERS, *supra* note 1, at 27.

<sup>42</sup> *Id.* at 28–29.

<sup>43</sup> *Id.* at 28.

<sup>44</sup> *Id.* at 28.

<sup>45</sup> *Id.* at 29–30.

<sup>46</sup> VIGERS, *supra* note 1, at 30.

advocates that a similar policy, making mediation a mandatory precursor to a court hearing, would also be effective under the Convention.<sup>47</sup>

### C. Conclusion

Chapter Two provides the reader with a useful analysis of the term ‘mediation’ in the context of the Hague Convention. Although the definitional section seemed redundant at times, Vigers successfully conveyed to the reader that ‘mediation’, as currently defined under the Convention, takes on a number of different forms. Unlike the previous chapter, this chapter seemed to be directed to Hague Convention scholars or members; Vigers placed considerable emphasis on identifying the flaws of the current system and crafting a recommended remedy for issues discussed. Though the broad applicability of this chapter may be limited, the manner in which Vigers wrote the chapter allowed the common reader to easily follow along.

## V. CHAPTER 3: “HOW CAN A MEDIATION PROCESS FIT WITHIN THE CONSTRAINTS OF THE CONVENTION?”<sup>48</sup>

In Chapter Three, Vigers focuses on how mediation can be effective in the context of the Hague Convention.<sup>49</sup> She explains that mediation must be tailored to work within the limitations of the Convention for it to be implemented successfully.<sup>50</sup> To explain this position, Vigers begins by addressing the need for specialization among Convention mediators.<sup>51</sup> She then moves on to discuss how the challenges of the Convention can be successfully addressed by mediation.<sup>52</sup>

### A. “Convention Mediation as a Specialism”<sup>53</sup>

Mediation under the Hague Convention is unique from other traditional forms of mediation because it operates under a number of strict limitations.<sup>54</sup> According to Vigers, mediating disputes under these circumstances requires experience and specialization.<sup>55</sup> There are currently three models for specialized convention mediation. The first model takes place in the state of refuge, and involves the use of expertly trained State mediators.<sup>56</sup> The second approach is a “bi-national co-mediation model” in which two trained mediators are used, one from each State party to the dispute.<sup>57</sup> The final model is “a ‘mediation based approach’ where all relevant

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<sup>47</sup> *Id.* at 30–31.

<sup>48</sup> *Id.* at 33.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> VIGERS, *supra* note 1, at 33.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 33–34.

<sup>56</sup> VIGERS, *supra* note 1, at 34.

<sup>57</sup> *Id.*

professionals are expected to view the application against the backdrop of mediation and to consider how mediation might assist the parties.”<sup>58</sup>

Most experts agree that the best model for Convention mediation is the first model because it is the most practical, efficient and cost-effective of the three models presented.<sup>59</sup> Vigers dismisses the third model as unworkable because it is viewed against a traditional mediation backdrop, which is completely unlike Convention mediation.<sup>60</sup> The second model’s bi-national co-mediation approach seems like a workable option to ensure neutrality; however, Vigers argues that this model’s focus on protecting neutrality is unnecessary.<sup>61</sup>

In explaining her position, Vigers reminds the reader of two main facts: first, mediators are required to be neutral, which eliminates the need for additional protections; second, mediators merely manage the process, it is the parties who hold the decision making power.<sup>62</sup> Supporters of the co-mediator approach contend that, having a mediator from each state party to the dispute ensures knowledge of the domestic legal system in both states.<sup>63</sup> Again, Vigers rejects this argument, “where detailed legal advice is required to assist the parents’ discussions this should be sought from a lawyer or through the Central Authority and fed-back into mediation.”<sup>64</sup> In other words, it is not the job of the mediators to provide the parties with legal advice.<sup>65</sup>

## **B. “Responding to Specific Challenges”<sup>66</sup>**

According to Vigers, there are three issues that arise with the application of Convention mediation.<sup>67</sup> “Firstly, questions of jurisdiction and applicable law; secondly, the extent of the scope of Convention mediation; and thirdly, the interaction between mediation and the court process.”<sup>68</sup> Vigers address each of these issues in turn, describing how specialization and training of mediators mitigates these problems.

With regard to jurisdiction and applicable law, Vigers explains that the source of this issue may be over the misunderstanding of what mediation really is in the Convention context.<sup>69</sup> Mediators should remind the parties that Convention mediation is completely unlike a Convention court hearing.<sup>70</sup> In a hearing, the court is bound by procedural and substantive laws in creating an order. Conversely, in mediation, the substantive laws of the State are not controlling.<sup>71</sup> The parties themselves decide which substantive law to apply to their mediated

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<sup>58</sup> *Id.* at 35.

<sup>59</sup> *Id.* at 38.

<sup>60</sup> *Id.* at 36

<sup>61</sup> VIGERS, *supra* note 1, at 36.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> VIGERS, *supra* note 1, at 39.

<sup>67</sup> *Id.* at 40.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> VIGERS, *supra* note 1, at 40.

agreement.<sup>72</sup> This freedom is only limited by procedural safeguards within the Convention, which prevent parties from signing away their legal rights or obligations.<sup>73</sup>

The second issue that arises under Convention mediation is its scope.<sup>74</sup> Mediators in Convention child abduction disputes deal with a broad range of issues, ranging from custody to support.<sup>75</sup> Vigers argues that dealing with these issues requires Convention mediators to gain specialized training.<sup>76</sup> Experienced and properly trained mediators are better able to recognize and avoid mediating issues that are beyond the scope of the Convention, such as property division and divorce.<sup>77</sup>

The final issue discussed by Vigers is the relationship between mediation and the courts.<sup>78</sup> This is one issue that is difficult to resolve, as failed mediation attempts necessarily turn to the court system for resolution.<sup>79</sup> Because mediation processes are confidential and the scope of mediation is broader than the Convention hearings, these two processes must be treated as independent from one another.<sup>80</sup> As such, professionals working within the constraints of the Convention need to be aware of the differences between these two processes.<sup>81</sup>

After having established the issues specialization would address, Vigers moves on to also point out the benefits of a uniform process for dealing with cases under the Convention. Vigers argues that a uniform procedure mandating the use of mediation as a first step would help to expedite proceedings, giving the parties a chance to come to a mutually agreeable solution without the burden or expense of litigating their dispute before a court.<sup>82</sup>

### C. Conclusion

In this chapter, Vigers goes into great detail discussing the effect a uniform procedure would have on Convention mediation.<sup>83</sup> Unfortunately, as the chapter progressed these points felt drawn out, causing the reader to become lost in the minute details of the Convention application process. Unlike the previous chapters, which flow smoothly from section to section, the heavy use of subsections leave this chapter feeling fragmented. The overarching theme of the subsections becomes lost at various points, forcing the reader to refer back to the beginning of the chapter to understand the context of Vigers arguments. Summarizing the key points from the chapter and consolidating the subsections would remedy this problem and make for a much easier read.

Vigers seemed to use this chapter as a vehicle for putting forth a recommended mediation plan for Convention authorities. Much of the information provided by Vigers in this chapter seems geared to a “Convention” audience, which may explain Vigers’s unique organization of this chapter. Experts working under the Hague Convention may find Vigers layout and

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<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at 41.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> VIGERS, *supra* note 1, at 41.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at 42.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> VIGERS, *supra* note 1, at 42.

<sup>82</sup> *Id.* at 42–52.

<sup>83</sup> *Id.* at 42–57.



breakdown of information useful in drafting a uniform procedure for mediation under the Convention.

## **VI. CHAPTER 4: “WHY MEDIATE IN CONVENTION CASES?”<sup>84</sup>**

In Chapter Four, Vigers seeks to explain why mediation should be implemented in child abduction cases arising under the Hague Convention.<sup>85</sup> The main goal and purpose of this chapter is to “promote a greater use of mediation in Convention cases by highlighting how it can add value to the current regime.”<sup>86</sup>

Vigers breaks this chapter into two main parts; the effectiveness of mediation in addressing current concerns arising from the Convention; and the usefulness of mediation in rebuilding the relationships between the disputing parties.<sup>87</sup> By separating her arguments, Vigers is able to “offer a response to some of the perceived barriers to the use of mediation in the Convention context,” which is a main goal of this work.<sup>88</sup> This structure also aids the reader in understanding the crux of Vigers arguments and the practicality of their application in Convention cases.

### **A. “Responding to Concerns Surrounding the Operation of the Convention”<sup>89</sup>**

Vigers begins this chapter by providing the reader with a brief background of the Hague Convention and the reasons behind its formation.<sup>90</sup> At the time the Convention was created the drafters operated under the belief that “abductors were generally non-custodial fathers removing children from the primary caretaker mothers” and that such actions were not in the best interest of the child.<sup>91</sup> Therefore, the Convention sought to prevent the abducting parent from benefiting from their wrongful act and mandated the child return to their home State and their primary caretaker until the Convention process concluded.<sup>92</sup>

However, since the creation of the Convention, there has been a significant rise in the number of primary caretaker mothers acting as abductors.<sup>93</sup> This shift has created a number of problems under the Convention because returning the child to the home State may compete with the goal of returning custody to the primary caretaker.<sup>94</sup> Given the focus of the Convention is to serve the child’s best interests, this provision has become the topic of much debate among Convention scholars.<sup>95</sup>

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<sup>84</sup> *Id.* at 61.

<sup>85</sup> *Id.*

<sup>86</sup> VIGERS, *supra* note 1, at 61.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* at 3.

<sup>89</sup> *Id.* at 61.

<sup>90</sup> *Id.* at 61–64.

<sup>91</sup> VIGERS, *supra* note 1, at 62.

<sup>92</sup> *Id.* at 63.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.* at 64.

Vigers suggests that the incorporation of mediation in Convention litigation process would “[allow] the parents to consider the best ultimate option for the child.”<sup>96</sup> Mediation opens the lines of communication and encourages the parties to cooperate in creating a custody arrangement that best serves their child’s interests.<sup>97</sup> Vigers does acknowledge that this type of mediation may not be possible in all situations.<sup>98</sup> Some cases, such as those involving domestic violence, may not be suitable for mediation due to fear, anger or an imbalance of power between the parties.<sup>99</sup>

## **B. Value of Mediation**

One of the main pieces of data cited by Vigers in support of Convention mediation is the long-term satisfaction of the participants with the process.<sup>100</sup> In general, parties who were able to successfully mediate their disputes were more satisfied than parties who chose to litigate their dispute.<sup>101</sup> To further support her argument, Vigers states, “There is greater adherence to agreements which are generally more durable, and mediation can reduce conflict and improve communication, promoting continuing agreement as opposed to litigation which can be conflict enhancing.”<sup>102</sup> Encouraging a positive co-parenting relationship is beneficial to both parties as well as the child, which is in keeping with the mission and purpose of the Convention.<sup>103</sup>

## **C. Conclusion**

This chapter provided the reader with a great deal of information regarding the history of the Hague Convention and the context in which disputes most often arise. Many unanswered questions that the reader was left with after the first half of the book were answered in this chapter. Unlike Chapter Three, the sections in this chapter were concise, fluid and well written. Chapter Four also most directly addresses the premises of Vigers arguments presented in the earlier chapters. By saving the information presented in this chapter until this point in the book, Vigers is able to present her arguments to a more educated reader, who is able to follow the reasoning and logic behind her contentions.

## **VII. CHAPTER 5: “THE VOICE OF THE CHILD”<sup>104</sup>**

Unlike the previous chapters, which focused on Convention mediation, Chapter Five focuses on the subject of the dispute -- the child. The main question Vigers seeks to address is, “whether and how to hear a child in Convention court proceedings?”<sup>105</sup> In this Chapter Vigers

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<sup>96</sup> VIGERS, *supra* note 1, at 65.

<sup>97</sup> *Id.* at 64–65.

<sup>98</sup> *Id.* at 67.

<sup>99</sup> *Id.* at 67–68.

<sup>100</sup> *Id.* at 72.

<sup>101</sup> VIGERS, *supra* note 1, at 72.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* at 73.

<sup>104</sup> *Id.* at 76.

<sup>105</sup> *Id.*

argues that “the voice of the child can be heard in Convention mediation” and “that the views of the child can be better taken into account through mediation.”<sup>106</sup>

#### A. “The Voice of the Child in Mediation”<sup>107</sup>

The role of the child’s voice in mediation varies by State. Vigers presents two primary models currently in use: the “child-focused” model, where the child is not heard; and the “child-inclusive” model, where the child’s voice is encouraged and incorporated into the proceedings.<sup>108</sup> There are numerous arguments in support of each of these approaches. Proponents of the “child-focused” model argue that children should not be involved in the mediation process in an effort to protect the interest of the child.<sup>109</sup> Proponents of the “child-inclusive” model, on the other hand, argue that exclusion of the children from the process is “overly paternalistic.”<sup>110</sup> Furthermore, empirical research on this subject showed that the involvement of the child in mediation helped the disputing parents focus on creating an amicable agreement to best serves the child’s needs.<sup>111</sup> Though this may encourage mediators to suggest involving the child in the process, it does not change the fact that “there is no requirement to hear a child in mediation” and the decision of whether to involve the child in the proceedings belongs solely to the parents.<sup>112</sup>

In the Convention setting, children are still rarely involved in mediation proceedings.<sup>113</sup> However, there has been some support for involving children in the mediation process, provided they are of an age and maturity where they can adequately express themselves.<sup>114</sup>

Vigers suggests a three-prong approach for ensuring the child’s voice is heard in Convention mediation cases.<sup>115</sup> The first prong is to create some sort of “mechanism specifically for Convention applications [that] allows the voice of the child to be heard within the appropriate context.”<sup>116</sup> The second prong is to have the child interviewed by a neutral third party, who then prepares a report on the child’s views.<sup>117</sup> The last prong is to explain the outcome of the proceedings to the child in a way the child can understand.<sup>118</sup> Vigers argues that this three-prong model creates a workable third option for involving the child in the mediation process. This option, in theory, should satisfy the critics of both the child-focused and child-inclusive models as it permits the child to be heard, but in a controlled and limited fashion.<sup>119</sup>

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<sup>106</sup> VIGERS, *supra* note 1, at 76.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.* at 77.

<sup>110</sup> *Id.* at 78.

<sup>111</sup> VIGERS, *supra* note 1, at 79.

<sup>112</sup> *Id.* at 77.

<sup>113</sup> *Id.* at 86.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.* at 88.

<sup>116</sup> VIGERS, *supra* note 1, at 88

<sup>117</sup> *Id.* at 89.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.* at 90–91.

## B. Conclusion

In this chapter, Vigers sought to bring attention to the fact that children are often key players in Convention cases, but their parents and the system often silence their voices. Vigers provided the reader with a background and summary of the role of children in traditional mediation and under the Convention. Through the presentation of empirical research, Vigers informed the reader of the strengths and weaknesses of the two main models for including children in Convention mediation. The manner in which the material was presented allowed the reader to follow along with Vigers logic in creating a third option for hearing children in Convention cases.

Though this chapter seemed directed towards a Convention audience, and would no doubt be useful to Convention attorneys, Vigers research and theories could also have a broader application in the field of family law. Should the ‘third option’ Vigers suggests be successful in the Convention setting, it may also be a viable means of incorporating the voice of the child into domestic family mediation.

## VIII. CONCLUSION

The concluding chapter of this book focuses on Vigers hope and aspirations for her work.<sup>120</sup> Vigers’ goal in writing this work was to address the issues keeping parties from utilizing mediation in the Convention setting. Given the lack of risks, and number of benefits mediation offers, she hopes she was able to prompt more widespread use of mediation as an alternative dispute resolution tactic.

The series editors describe this work as “short but beautifully crafted,” which is an excellent characterization of this piece.<sup>121</sup> Though certain chapters of the book seemed policy driven and aimed towards a ‘Convention’ audience, Vigers manages to provide the reader with an in-depth look into the complexities of the Convention process. Each chapter of this work addressed a specific issue, which aided Vigers in achieving her goal of exploring and countering the alleged barriers to Convention mediation.<sup>122</sup>

In writing this volume, Vigers concentrated on international child abduction within the context of The Hague Convention and disputes arising under the European Union. By narrowing the scope of this work, Vigers left some questions unanswered; such as the effectiveness of Convention mediation in child abduction cases outside of the European Union. Vigers’ limited scope left the door open for other researchers to investigate the effectiveness of Convention mediation in broader range of international disputes. As a whole, Vigers was successful in creating an interesting and accessible read, which provides a fascinating glimpse into the cross-disciplinary impact of The Hague Convention and the usefulness of mediation as an alternative dispute resolution tactic.

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<sup>120</sup> *Id.* at 92–95.

<sup>121</sup> VIGERS, *supra* note 1, at vii.

<sup>122</sup> *Id.* at 3.