

Relocation Following Parental Separation: International Research, Policy and Practice

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Relocation disputes are widely regarded internationally as one of the most difficult and controversial issues in family law. This article outlines the legal context governing relocation disputes in New Zealand and briefly reviews the research literature on the impact of parental separation and relocation. The key findings are then set out from a three-year study (2007 to 2009) with 100 New Zealand families where one parent had sought to relocate with their child(ren), either within New Zealand or internationally. Interviews were conducted with 114 parents and 44 children and young people from these families about their experiences. The article concludes by traversing the efforts being made in the international legal policy context to adopt a more consistent approach to relocation disputes in common law jurisdictions.

■ **Keywords:** Relocation, parental separation, family law

Introduction

Relocation disputes are widely regarded as one of the most difficult and controversial issues in family law internationally (Thorpe, 2010). They arise when, following parental separation or divorce, the resident (or a shared care) parent seeks to relocate with the children and that move will have a significant impact on the contact the children will have with their other parent. In recent years these disputes have prompted greater domestic and international attention due to the higher rates of relationship breakdown, increased population mobility and debate about whether the courts should allow or restrict relocations.

This article outlines the legal context governing relocation disputes in New Zealand and then briefly reviews the research literature on the impact of parental separation and relocation. Children whose parents seek to relocate experience the ‘double whammy’ of both parental separation and relocation (either concurrently or following a delay), so it is important to consider both contexts when legal disputes arise. I then set out the key themes that emerged from our three-year study (2007 to 2009) with 100 New Zealand families where one parent had sought to relocate with their child(ren) either within New Zealand or internationally (Taylor, Gollop, & Henaghan, 2010a). With my colleague, Megan Gollop, we conducted interviews with 114 parents and 44 children and young people from these families about their experiences. The article concludes by traversing the efforts being made in the international legal policy context to

adopt a more consistent approach to relocation disputes in common law jurisdictions.

Family Law in New Zealand

The Family Court was introduced in New Zealand in 1981 and provides a range of dispute resolution processes including counselling, counsel-led mediation and defended hearings for parents in dispute over their children’s care (Boshier, Taylor, & Seymour, 2011; Taylor, 2006a). Most private family law disputes are resolved by the parents themselves reaching agreement or through legal negotiation, counselling or mediation. Around 6 per cent of applications to the Family Court are determined by a judge, and they are assisted in this task through the appointment of lawyers to represent children and the availability of specialist psychological, social work, medical and cultural reports.

The Care of Children Act 2004 which took effect on 1 July 2005 significantly modernised the law governing guardianship, day-to-day care (formerly ‘custody’) and contact (formerly ‘access’) and placed much greater emphasis on respecting children’s right to participate. Section 6

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considerably widened the requirement for the Family Court to provide reasonable opportunities for children to express their views and for these views to be taken into account by the Court:

In proceedings involving the guardianship of, or the role of providing day-to-day care for, or contact with, a child; . . . a child must be given reasonable opportunities to express views on matters affecting the child; and any views the child expresses (either directly or through a representative) must be taken into account.

This new world-leading statutory provision dispensed with the traditional 'age and maturity' criteria in s23(2) of the Guardianship Act 1968, changed 'wishes' to the broader concept of 'views', and now requires the Court to take any of the child's expressed views into account regardless of the age of the child. However, the child's views are not determinative, but rather contribute to the weight of evidence considered by the judge. The Principal Family Court Judge considered that the Care of Children Act 2004 'represents an unmistakable shift towards the recognition of greater rights for children and allows for their greater input into decision-making processes' (Boshier, 2009).

Section 7 of the Act provides for the appointment of a Lawyer for the Child in private law proceedings. When appointed, that lawyer must meet with the child unless there are exceptional circumstances (s7(3)). The lawyer's primary role now is to provide independent representation and advice to the child. He or she has a duty to put before the Court the views of the child (usually via a written report) and can call and cross-examine the parties and any witnesses. Following the Court decision, the lawyer must explain the effect of any parenting order to the child in a way that the child can understand (s55(4)). The child also has a right of appeal (s143(3)).

Since the Care of Children Act took effect, judicial meetings with children have become increasingly common and 'an invaluable part' of the judges' 'toolbox' (Boshier, 2009). Some judges engage in a 'meet and greet' role with the child, while most others use the opportunity to directly hear the child's views and to better understand the child as a person. The child's lawyer will usually also be present. Judges have received skills-based training in child interviewing techniques and report very positively about their experiences of meeting with children.

Children's participation in Alternative Dispute Resolution (ADR) processes still remains relatively uncommon in New Zealand, despite its more widespread use overseas. Yet child-inclusive ADR processes have the potential to benefit so many more children whose parents are in dispute over their post-separation care. Just one child-inclusive mediation model has been empirically piloted in New Zealand (Goldson & Taylor, 2009). However, consequential amendments to the Care of Children Act 2004, as a result of the 2008 passage of the Family Court Matters Bill, do now allow for the inclusion of children in counselling and mediation.

While their implementation was stalled due to the lack of re-sourcing during the economic recession, the current reform of the Family Court by the Government has foreshadowed interest in child-inclusive/family-facilitated dispute resolution processes as a means of better assisting parents to reach agreement without the need for litigation over their children (Ministry of Justice, 2011; Office of the Minister of Justice, 2012; Family Court Proceedings Reform Bill, 2012).

The Statutory Context Governing Relocation Disputes Between Parents

In New Zealand, relocation law applies to proposed moves within and between provinces of New Zealand, as well as to proposed international moves. The child's welfare and best interests are the paramount consideration and there is no presumption for or against relocation in statute or in the case law. Guardians must agree on a change of the child's residence that may affect the child's relationship with their parents or guardians (s16(2)(b) Care of Children Act 2004). If they cannot agree, permission for the proposed relocation must be obtained from the Family Court by an application under s47(1)(a) of the Care of Children Act 2004 for a parenting order with a condition that the child may move, or by an application under s44 for the Court to resolve a dispute between guardians. This approach contrasts with the situation in England/Wales where permission is required only for international relocations or where a Court has made a prohibited steps order. Moves within the United Kingdom are usually regarded as the prerogative of the parent who is primarily caring for the child. Clear policy differences are thus evident between these jurisdictions. In England/Wales, applicants are more routinely granted permission to relocate based on the likely effect of a 'refusal of the application on the mother's future psychological and emotional stability' (*Payne v Payne* [2001], para 32 per Thorpe LJ). A different approach has occurred in recent times when relocation disputes have arisen in the context of shared care (Freeman & Taylor, 2011). Conversely, in New Zealand the courts have tended to refuse more applications as they work through a broader range of statutory principles to take account of the child's relationship with others and their current environment (Taylor, et al., 2010a). The success rates of relocation applications to the New Zealand Courts have been analysed annually since the late 1980s (Taylor, et al., 2010a), and the importance of the six principles set out in s5 of the Care of Children Act 2004 as relevant to a child's welfare and best interests have also been affirmed by the NZ Supreme Court in its decision of *Kacem v Bashir* [2010].

The effects of parental separation on children

There is now a substantial body of research examining the impact of parental separation on children. Several early

reviews of the research evidence have concluded that parental separation does pose a risk to children's well-being (Amato & Keith, 1991; Rodgers & Pryor, 1998). However, while short-term distress at the time of the separation is common, long-term negative outcomes are only experienced by a minority of children whose parents separate. These children, however, have approximately twice the risk of having adverse outcomes than those children from intact families (Rodgers & Pryor, 1998). Essentially, the majority of children from separated families do not experience long-term negative outcomes, but as a group, children whose parents have separated or divorced are more likely than those from intact families to have poorer outcomes.

The contemporary approach is more concerned with evaluating which factors contribute to poorer outcomes for children and which ones act as buffers or protective mechanisms – a risk and resilience perspective (Kelly & Emery, 2003), that views parental separation as a stressor for children. It is now also widely recognised that separation and divorce is not a discrete event but rather an ongoing process of family transition and adjustment which children and young people negotiate (Rodgers & Pryor, 1998). As such, the impact of separation on children and their adjustment to it is also an ongoing process with 'multiple changes and potential challenges for children' (Kelly & Emery, 2003). It is the presence of unalleviated or multiple stressors that can increase the risk of adverse outcomes for children (Kelly & Emery, 2003) with the number of stressors that children experience predicting their post-separation well-being and adjustment (Amato, 2000).

Many such stressors have been identified including: inter-parental conflict, loss of important relationships, economic hardship, poor parental adjustment and parenting competence, remarriage or repartnering, and stressful or negative life experiences, such as the initial separation, moving, or changing schools. Protective factors that can moderate these risk factors include: support from family and friends, the child's coping skills and resilience, therapeutic support, competent parenting, contact with non-resident parents, diminished inter-parental conflict, the quality of the parent-child relationship, and parents' ability to co-parent authoritatively (Amato, 2004). It is therefore the particular combination of risk and protective factors in each child's individual situation that will determine how their parents' separation will initially impact on them and will then affect their adjustment and well-being over time.

Relocation as a risk factor following parental separation

One particularly significant risk factor for children following their parents' separation is relocation. Residential mobility is often an inevitable consequence of relationship breakdown, with divorced parents being far more likely to shift and to change residences more often than those who re-

main married (Austin, 2008). However, children tend to act as anchors in their separated parents' movement decisions. So while moving is common, the distance is usually restricted to enable each parent to continue playing a role in their child's life (Smyth, Temple, Behrens, Kaspiew, & Richardson, 2008). Legal disputes over relocation therefore arise when the distance is much greater and will affect the child's ability to easily retain contact with their non-moving parent.

While there is a substantial research literature on the effects of residential mobility on children in intact families and following parental separation, the findings are somewhat mixed (Horsfall & Kaspiew, 2010). Some studies reveal beneficial effects of relocating while others report negative outcomes for children (Taylor & Freeman, 2010). The research in this field is highly diverse and negative outcomes associated with relocation may be explained by other factors that lead to frequent residential mobility (Taylor & Freeman, 2010).

Overall, research findings indicate heightened risk for a child who relocates, particularly when there have been multiple moves and changes to family structure (Kelly, 2009), which can increase or exacerbate the instability and disruption created by parental separation (Austin, 2008; Waldron, 2005). The risk of negative outcomes can be mediated by such factors as moving due to family disruption, a negative parental attitude towards the move, the number of moves and their frequency, the distance moved and the existence of multiple stressors (Humke & Schaefer, 1995). Whether relocation will have a positive or negative impact on a child depends on many variables (Gindes, 1998), and will be determined by the combination of risk and protective factors present in each individual case (Austin, 2008). The principles and factors to be taken into account are generally identified in various statutes, case law, professional commentaries and custody evaluation protocols (see, for example, Duggan, 2007). However, no research has yet been conducted to specifically identify the key risk and protective factors which can account for individual differences in outcomes for children who relocate after their parents' separation or who are the subject of a relocation dispute (Freeman & Taylor, 2011).

Qualitative research on relocation following parental separation in New Zealand

Our qualitative research project (2007–2009) was the first conducted in New Zealand (Taylor, et al., 2010a), and amongst the first worldwide (Behrens, Smyth, & Kaspiew, 2009; Freeman, 2009; Parkinson, Cashmore, & Single, 2010), to explore family members' perspectives on post-separation relocation disputes within the Family and Appeal Courts. One hundred New Zealand families were recruited through family lawyers, newspaper articles and advertisements, and word of mouth. The participants comprised 114 parents (73 mothers and 41 fathers; in

14 families both parents took part), and 44 children (23 girls and 21 boys) from 30 of the 100 families. The parents were interviewed twice, separated by 12–18 months, and the majority of the children were interviewed at the time of their parent's first interview. The interviews were transcribed and a content analysis of the transcripts was undertaken to identify common themes.

New Zealand parents' perspectives on relocation disputes

At the time of the initial interview over half (52 per cent) of the adult participants were resident parents (50 mothers, nine fathers); and just over a quarter (28 per cent) were the contact parent (eight mothers, 24 fathers). Ten parents (9 per cent; eight mothers, two fathers) had a split care arrangement whereby one parent had the day-to-day care of one or more children and the other parent had the day-to-day care of the other children in the family. Seven per cent of the parents interviewed shared the care of their children with their ex-partner (four mothers, four fathers). Five of the participants (three mothers, two fathers) had children who were living independently at the time of the interview, but they had previously been the contact parent (3 per cent) or the resident parent (2 per cent). In nearly three-quarters (73 per cent) of the families the resident parent had moved.

Just over half (51 per cent) of the families had their relocation disputes determined by the Family Court, or the High Court on appeal, with five families having involvement with an overseas court, and a further 6 per cent of the families having their relocation attempt stopped through the granting of a non-removal order by the Family Court. Approximately one-third (34 per cent) of the families reached agreement by consent after consulting their lawyer or undergoing Family Court conciliation (counselling/mediation) or without any legal involvement at all.

The retrospective nature of our study allows a more longitudinal view of patterns of mobility within post-separation families and reveals the complex and diverse nature of relocation issues in the New Zealand context. Within our sample it was not possible to simply categorise families as those where the proposed relocation had either been allowed or declined, and whether the proposed move had occurred or not. Twelve different relocation sequences emerged which expanded beyond the more standardised patterns of successful or unsuccessful applicants and opposers (Taylor, Gollop, & Henaghan, 2010b). Not all of our families actually disputed and/or legally challenged a proposed relocation, there were multiple relocations within some families (either proposed or actual, some opposed and some not), and in several families both parents relocated. Within our sample it is therefore evident that a relocation 'dispute' is not a discrete, one-time-only event, but is instead illustrative of an ongoing process of family post-separation transition(s). Many families described

non-opposed relocations before the disputed move, and the families' situations did not always remain static after the relocation in issue was resolved, sometimes impacting on the durability and enforcement of court orders. For example, amongst those families where the relocation proceeded and one parent moved with the children there were instances where:

- the other parent subsequently also moved to be in the same location as their children;
- the other parent subsequently moved elsewhere;
- the resident parent moved again to another location with the children;
- the move was only temporary due to work or study opportunities;
- the intact family had relocated without the father prior to the separation and the mother and children subsequently remained in the new location, but the father did not also relocate and remained in the original location;
- the relocating parent eventually returned with the children to live back in the original location;
- the care of the children was split between both parents, resulting in some siblings relocating and others not;
- children were involved in international child abductions or were unilaterally relocated without the consent or prior knowledge of the other parent (and in some cases the children themselves);
- after a unilateral move the parent was ordered back and either returned with the children, or the children returned but the parent did not;
- both parents moved to new locations at the time of the separation;

Hence it was not always the resident parent and the children who moved, sometimes the entire family (both parents and children) moved, the mother or father moved (with or without the children), or it was the children (some or all) who moved while the parents did not.

There were several instances where a resident or shared care mother moved *without her children* after the Family Court declined her application to relocate, granted a non-removal order, or ordered her back following a unilateral move. In these 12 families this meant that the care of the children was reversed, with the father becoming the resident parent. In several troubling cases the father had undertaken only a limited parenting role prior to this change of day-to-day care, had sometimes not sought, wanted or expected the full-time responsibility for his children, and was living with a new partner and step-children. The children were therefore removed from their mother's primary care (when she opted to proceed with her relocation) and placed with their father (sometimes in a new locality) in a relatively unfamiliar blended family. It was not surprising that five of these situations broke down within a two-year period and

the children were eventually returned to their mother's care. The distress and trauma described to us by the parents and children involved was most anguishing.

Amongst those families where a relocation application had been declined, or the relocation did not proceed, one-third had parents who had another attempt at relocating which was sometimes successful and sometimes not. Occasionally, the original opposer subsequently relented and allowed his ex-partner to relocate with the child(ren) without any further legal intervention. Six cases involved appellants (three mothers and three fathers) appealing the Family Court decision to allow or decline the relocation. These cases were characterised by either an international element, multiple relocations or changes of care arrangements within the family.

Other key themes that emerged from our 114 parent interviews included:

- The role of non-removal orders in contributing to a rapid deterioration in inter-parental relationships and the instigation of litigation over the proposed relocation.
- The impact of being required to live in a defined locality following an unsuccessful relocation application. Mothers generally described this as an infringement of their civil rights even though they could understand why their child's relationship with the other parent was being prioritised at this time. Most mothers anticipated 'biding their time' and making a further application to relocate when their child was older (and therefore more likely to have greater weight accorded to their views by the court) and was facing a school transition anyway (e.g., moving from intermediate to secondary school).
- The impact that the relocation had brought to the lives of left-behind parents and their extended family. Many fathers spoke of the uncertainty and distress they experienced when they first became aware their ex-partner planned to move away with the children. This feeling of devastation was further magnified if her application to the Family Court to relocate was successful and the father-child contact arrangements had to then significantly change due to the geographical distance between homes. Fathers sometimes felt like expendable accessories in their children's lives and spoke movingly of the changed (usually more distant/less involved) nature of their relationships with their relocated children. They were also very concerned about the way the relocation could severely affect the children's relationship with their paternal extended family members.
- Where lawyers and the Family Court had been involved in a relocation dispute, many parents expressed strong dissatisfaction about the delays they faced and the expenses (especially legal fees) they incurred. Some parents experienced serious financial impediments (including mortgage sales) as a result of their litigation. Most parents found the court process highly stressful and disliked having their lives kept on hold for so long while a decision was reached. They also reported dissatisfaction with the detrimental impact the adversarial nature of the proceedings had on their relationship with their ex-partner.
- Some children were enduring lengthy car, bus, ferry or unaccompanied plane trips to remain in contact with their non-resident parent. The cost of contact (petrol, fares) sometimes led to changes over time as parents found themselves unable to afford the trips and either reduced their frequency or altered the mode of travel.
- Generally children and non-resident parents preferred regular face-to-face visits or telephone contact rather than 'virtual' communications. However, parents found email and texting a useful and less intrusive means of keeping in touch with their ex-partner. We found little use of webcams, Skype and MSN – although where these were successfully used the parents mostly reported great satisfaction with them. Some, however, found such contact to be superficial in nature. Yet other parents reported that technology can be just another 'weapon' to frustrate an ex-partner and children (for example, through a refusal to purchase/connect the equipment, or through such close surveillance of its use that the children felt they had little privacy to communicate freely with their other parent). Texting could be a welcome means of older (usually teenage) children and non-resident parents keeping in touch – the child's mobile phone enabled contact to be more independent since it no longer needed to be mediated by the resident parent. However, some other resident parents refused to allow their child to utilise the mobile phone given to them by their other parent or insisted that the non-resident parent ring/text them first before contacting the child.
- Parental attitude and ability to co-parent was critical to the success or otherwise of post-separation/post-relocation care and contact arrangements. While relocation disputes were clearly emotionally distressing for the parents we interviewed, we were heartened by the positive examples many gave us about the strategies they used to manage the sometimes significant geographical distance between them. Each parent's willingness to recognise and encourage their child's relationship with the other parent was a powerful influence on the degree of co-operation that existed following the relocation dispute and its impact on the child. Where parents could be creative in promoting and maintaining direct (face-to-face visits) and indirect means of contact (e.g., reading story books to their children over the phone; marking a calendar with the child so they knew when the next visit/phone call would be; allowing children the flexibility to contact their non-resident parent whenever they wished) then relocation could be a more positive experience.

New Zealand children and young people's perspectives on relocation

Most existing research on the impact of parental separation and relocation on children has not directly engaged with those most directly affected – the children themselves. Our study was therefore novel in contributing this significant new perspective, although an Australian research team (Parkinson et al., 2010) has subsequently overcome their initial difficulty in recruiting children during the first wave of their research with Australian families experiencing relocation disputes and have been able to interview more children during their second and third follow-up interviews with the parents in their sample. The 44 children and young people (23 girls and 21 boys), from 30 of the 100 families in our New Zealand study, ranged in age from 7.6 to 18.1 years (mean age = 12.1 years). It should be noted that the parents of children who had had a particularly difficult and/or traumatic family experience regarding the relocation dispute did not tend to give consent for their children to participate in our study – although they did speak articulately to us, during their own interview, about the impact of the relocation dispute and outcome on their children. Hence, the 44 children we interviewed were likely to have been a more well-adjusted group.

The interviews ascertained the children's views on their:

- current and past contact and residence arrangements and how they felt about these;
- knowledge of and involvement in the relocation decision;
- experience with and understanding of any professionals involved;
- experiences of moving if applicable;
- advice to other children and parents in similar circumstances.

Three quarters of the children had experienced a residential move as a result of a relocation issue or dispute emerging in their family; while the remaining 25 per cent had not (Gollop & Taylor, 2012). For seven of the 33 children who had moved, the move was not permanent. For those children who had moved, seven had memories of an international move. Several children had had multiple relocations (some which did not impact on their contact with their other parent) and seven had had several multiple international relocations – either moving to or from New Zealand more than once. At the time of their interview, the majority (91 per cent) of the children had a parent who lived in a different country, city or town to themselves, with 9 per cent living in the same location as both of their parents (either the proposed relocation had not proceeded, or in some cases the non-resident parent followed their children or the resident parent and/or children had returned). Ten children (from seven families) had parents who lived in a different country.

Three themes dominated the children's accounts – the importance of family and friends; the importance of being consulted and listened to; and children's resilience and ability to adjust to family transitions (Gollop & Taylor, 2012).

The importance of family and friends. Moving to be with extended family was regarded as a positive aspect of moving, while shifting away from a parent and wider family members, and missing them, was considered one of the hard things about moving. Similarly, saying goodbye to friends was the most common difficulty the children reported when they moved to a new location. Being able to maintain these friendships was valued, while making new friends was a significant factor in helping the children and young people settle in after a move. The children told us that getting involved in sports and extra-curricula activities was a good way of making new friends.

- * *I half wanted to go and I half wanted to stay. Cos I wanted to stay at my school. I love my school.* (Luke, aged 8)
- * *It was the first time I saw my Dad cry. . . . He wasn't very happy.* (Bridget, aged 13)
- * *I was really upset. Mum said, 'well, we're moving to [city]' and I just burst into tears. I want to stay here. I cried cos I'm going to miss all my friends.* (Libby, aged 9)

Most of the children were satisfied with the contact they had with the parent they did not live with – a few would have liked more contact or for their parents to live closer together, but the distance and in some cases infrequent face-to-face contact was something the children appeared to grow accustomed to. Some children travelled extensive distances in order to have contact but they did not really complain about this, and just got used to it. Quite a few of the children did make use of technology (such as texting, email, Skype, MSN) to maintain contact with their non-resident parent between visits, but many described problems with it which was a source of frustration and could mean the communication became superficial between them. Face-to-face contact was generally preferred.

- * *My conversations with him now are so brief. 'Hello Dad, how are you?'. 'School work going well?'. 'Yes, what are you doing?' 'Homework.' 'Okay, bye.' That was the ritual, the telephone conversation.* (Nina, aged 13)
- * *It's more light and fluffy. We don't really talk about anything, any actual problem. . . . If you really talk to him, face to face it's better.* (Christine, aged 17)

The children gave mixed accounts about how the relocation impacted on their relationships with their contact parent. Some thought it had made no difference, while a few thought the relationship had become more distant and less parental. Several children had distant, difficult or strained relationships with their contact parent but this appeared to be due to factors independent of the relocation, such as the contact parent's behaviour or failure to maintain regular contact.

However, for the most part, the relocation did not appear to change the existing nature of the parent-child relationship in a detrimental way and in some instances, for children who had more fraught relationships with their contact parent, the relationship had actually improved due to the move. Only a small number of children were having no contact at all with their non-resident parent and this had also been the case prior to the relocation.

- * *He doesn't really have any control over us any more. So he's kind of a bit taken aback when he finds out the changes [in us]. . . . Not like a parental relationship anymore because they're not there. Like you know how parents are there 24/7, watching, kind of control you. There's nothing like that anymore, like it's completely different.* (Olivia, aged 15)

The importance of being consulted and listened to. The children's experiences of the legal processes were mixed. Some liked their lawyers, while others did not feel their lawyer had listened to them or accurately reported their views. Those who spoke about the Family Court had a reasonably correct understanding of its role in the decision-making process. In accordance with previous research (Taylor, 2006b), having a say and being listened to was important to the children and young people. Those who had had a say and contributed to the relocation decision valued this opportunity. Those who had not, or who had felt they were not listened to, were unhappy about this.

Children's resilience and ability to adjust to family transitions. The children understood and appreciated why their resident parent wished to relocate, but also empathised with the parent who would be left behind. Generally, the prospect of moving was regarded positively. The children spoke of being excited and happy to be moving, seeing it as an adventure, with new experiences and opportunities.

- * *It was an adventure. I was definitely excited.* (Will, aged 17)
- * *It was real good cos I was travelling across the world. One time we stopped off in LA and did the whole Disneyland thing, which was awesome. And you can go the other way through Singapore and get to see all these different countries.* (Fraser, aged 16)

However, they did acknowledge the negative aspects – moving away from friends and family, the nervousness of starting a new school and having to make new friends. For the most part, the children and young people were relatively happy, well-adjusted and satisfied with how things had worked out for them and their families. This is not to say that the relocation experience was not initially difficult or traumatic for some, but rather there was the sense that they had adjusted and become accustomed to their new situations. This was particularly true of those children for whom the relocation issue had occurred some years previously where the passage

of time was probably a factor in the positive nature of their adjustment.

- * *I kind of get a city life and a country life – a bit of both.* (Helen, aged 11)
- * *I don't mind the travel. You get used to it after a while.* (Emily, aged 11)
- * *She'd pick us up on Friday and we'd like be in the car most of the afternoon. We'd go to sleep straight away as soon as we got home because it was dark. And then on Sunday it was pack our stuff and go. So it was like one day we saw Mum.* (Paul, aged 15)
- * *Dad used to come down so that was real cool. Big surprise cos Mum never told us. . . . then Dad turned up outside the door so it was really cool. I went and stayed in a motel with him. I did lots of stuff with him so that was real fun.* (James, aged 12)

The international legal policy context

The international jurisprudence regarding relocation/parental mobility cases indicates the vexing nature of this area of family law. In most Western jurisdictions the court's paramount consideration is the child's welfare or best interests. While some adopt a more neutral, all-factor approach, others have a presumption either in favour of, or against, relocation. The approach taken to determining the child's best interests also varies depending on whether the courts consider that children are more likely to attain their potential when they are in the care of a happy, well-functioning primary parent or benefit from security and stability in their existing environment where they can easily maintain relationships with both of their parents: Over recent years, as cross-border disputes have become more frequent within the courts, specific efforts have been made to achieve greater international consistency in the resolution of relocation disputes. In summary, these include:

The International Family Justice Judicial Conference for Common Law and Commonwealth Jurisdictions, 4–8 August 2009, hosted by Lord Justice Thorpe, Head of International Family Justice for England and Wales, at Cumberland Lodge, Windsor, England. Forty-two judges and several academics participated from 23 jurisdictions. One of the Conclusions and Resolutions related to relocation:

8. The search for common principles to be applied in the judicial resolution of relocation disputes in the best interests of the children concerned be pursued both nationally and internationally. Participating jurisdictions shall use their best efforts to ensure such disputes are resolved in a timely fashion. More research and longitudinal studies should be carried out into the impact of relocation decisions on the children and parents concerned, whether relocation is permitted or not (including comparative studies as to the impact of the non-custodial parent's decision to relocate).

The International Judicial Conference on Cross-Border Family Relocation, 23–25 March 2010, hosted by the Hague Conference on Private International Law and the International Center for Missing and Exploited Children, with the support of the US Department of State, in Washington DC, USA. The conference aimed to develop a better understanding of the dynamics of relocation and the factors relevant in judicial decision making, to explore the possibility of developing a more consistent judicial approach towards relocation cases, and to examine the potential for closer international judicial co-operation in such cases. The *Washington Declaration on International Family Relocation* recorded the agreements the judicial delegates reached (see http://www.hcch.net/upload/decl_washington2010e.pdf; Freeman & Taylor, 2011).

The International Child Abduction, Forced Marriage and Relocation Conference, 30 June to 2 July 2010, hosted by the Centre for Family Law and Practice at London Metropolitan University, England. The Conclusions and Resolutions were agreed to by 150 participants from 18 jurisdictions (see <http://www.londonmet.ac.uk.flp/conferencepapers>).

The Relocation Working Group, convened in 2012 by Lord Justice Thorpe, comprises legal practitioners and academics from England/Wales and New Zealand who are collaborating to develop guidance on the most effective means of adopting a consistent international approach. The Working Group is building on the qualitative research findings from New Zealand (Taylor, et al., 2010a), England (Freeman, 2009) and Australia (Behrens et al., 2009; Parkinson et al., 2010); the research on New Zealand caselaw adjudication trends undertaken by Professor Mark Henaghan (2011); and Dr Robert George's doctoral research (2010), and subsequent Nuffield-funded study. In addition, the Working Group is mindful of the work currently being conducted to develop Relocation Advisory Guidelines in Canada (Bala & Wheeler, 2012). The Working Group's findings contributed to a Relocation Discussion Forum at the 2nd International Family Law and Practice Conference, Parentage, Equality and Gender, hosted by the Centre for Family Law and Practice at London Metropolitan University from 3–5 July 2013.

Conclusion

This article has traversed many of the current research and policy developments relating to relocation disputes within the family law system, both within New Zealand and internationally. It is exciting to acknowledge the potential for empirical research (particularly when it also includes children's perspectives), case law analyses, and collaborative interdisciplinary efforts across jurisdictions, to help strengthen and guide future relocation law and dispute resolution processes so as to better advance the welfare, rights and best interests of children.

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