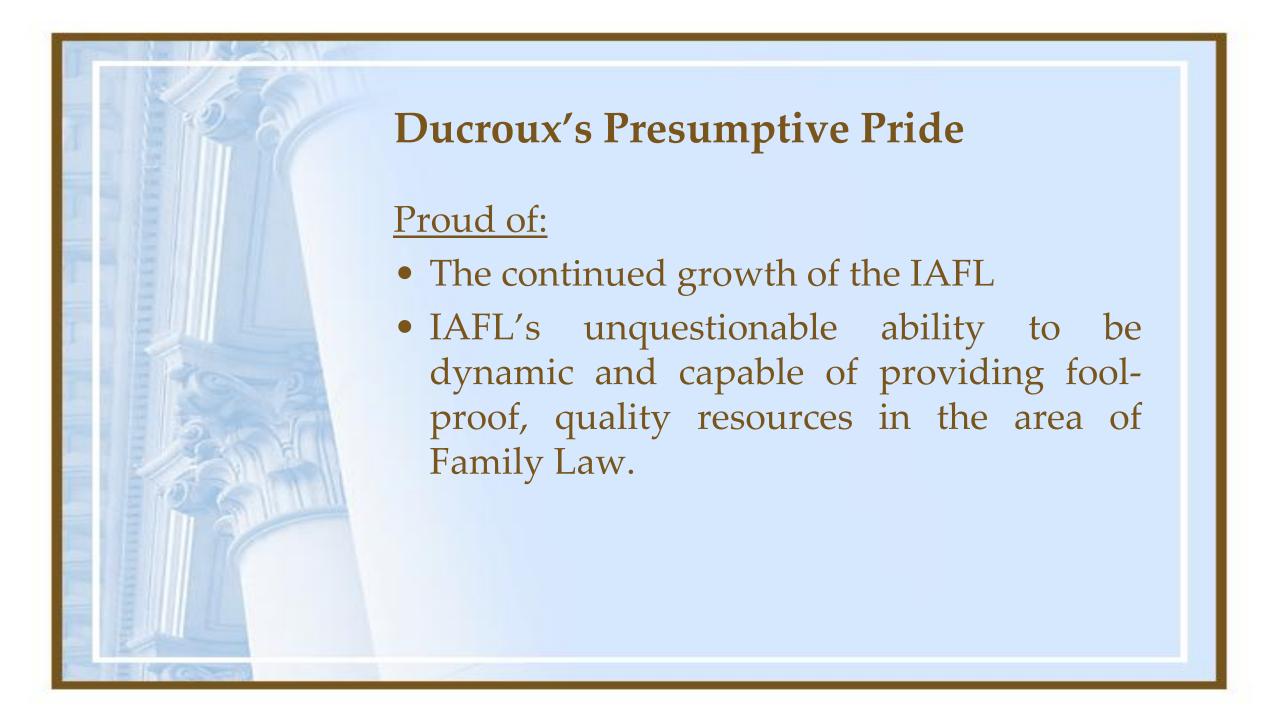




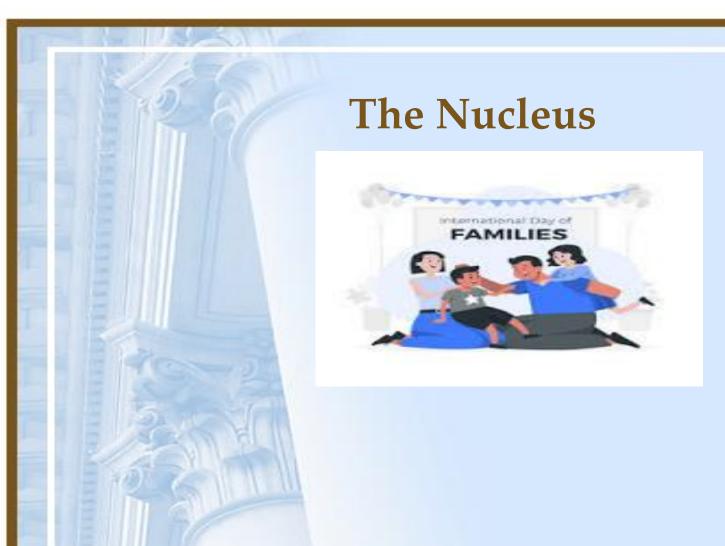


- Highly regarded
   Fellow of the IAFL
- President of the IAFL's European Chapter: 1994 – 1996
- Skilled professional in international Family Law, inclusive personality, almost the 1<sup>st</sup> female president of the IAFL



### My Perspective of the IAFL...

- The IAFL has an enviable reputation of being a leading organization that "connects colleagues, cultivates knowledge and creates solutions".
- You continue to unite the best family lawyers from across the world to discuss matters that ultimately affect the core of society in each and every jurisdiction: THE FAMILY
- Tremendous privilege.







# WHO IS JAMAICA'S CHILDREN'S ADVOCATE & NATIONAL RAPPORTEUR ON TRAFFICKING IN PERSONS?

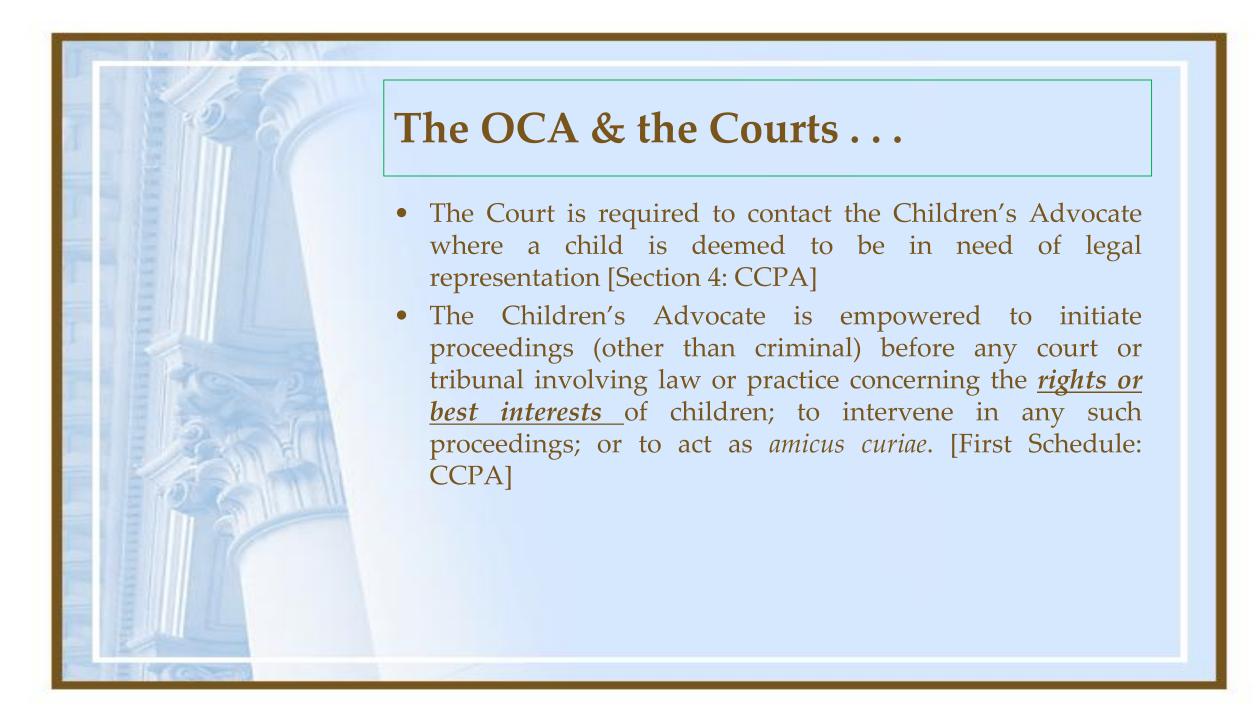


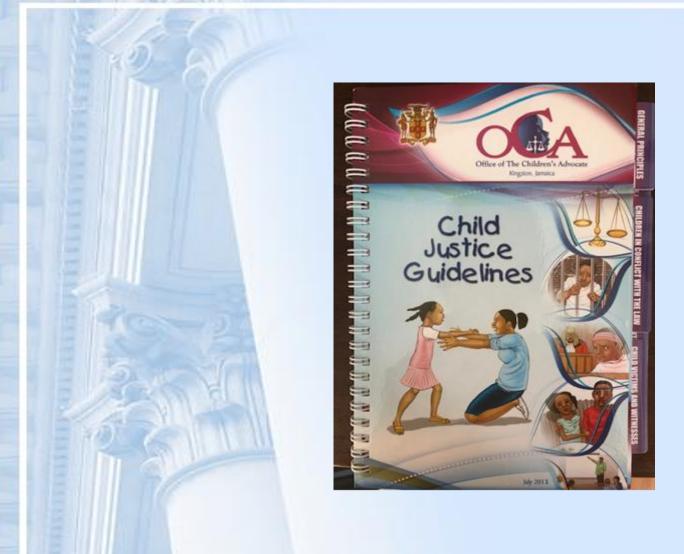
### **Establishment of the OCA**

- The Children's Advocate is a Commission of Parliament
- 1st established in February 2006
- Mandate: to enforce & protect the rights of children and to promote their best interests {Ombudsman-like role}
- Reviews laws, policies & practices <u>and</u> services provided by relevant (government) authorities
- Gives advice to Parliament, any Minister of Government, or relevant authority on matters that impact upon children
- Investigates reports against relevant authorities alleged to have breached a child's rights or adversely affected his/her best interests.

### Snapshot of the CA's Role...

- Children's Advocate = independent monitoring authority + investigator + legal advocate + child rights promoter + Government adviser on all matters related to children.
- The Advocate is a Commission of Parliament & is mandated by statute to protect and enforce the rights and best Interests of children.
- Provision of legal representation for children [Court, tribunals, criminal investigations, civil proceedings, inter alia] to secure redress.
- Whether those in conflict with the law or those who are victims/witnesses in criminal proceedings
- In civil matters
- Non-court and non-adversarial proceedings





- Issue guidance on best practice in relation to any matter concerning the rights or best interests of children
- The CJGs establish standards that guide judges, prosecutors, the police & other stakeholders in the justice system to adopt child appropriate strategies based on their rights & best interests.



• The Children's Advocate is also classified by statute as a Judge of the Supreme Court and for special statutory hearings considering allegations of breach of a child's rights and/or best interests, has the authority to exercise similar powers as it relates to the summoning of witnesses for examination upon oath, issuing subpoenas for the production of documents and arriving at findings having weighed the evidence provided at such a hearing.





- Cabinet Decision No. 3/15 (19.01.2015
- The National
  Rapporteur was
  appointed by the
  Cabinet on
  10.03.2015[1st in LAC
  Region]
- Office became operational in April 2016





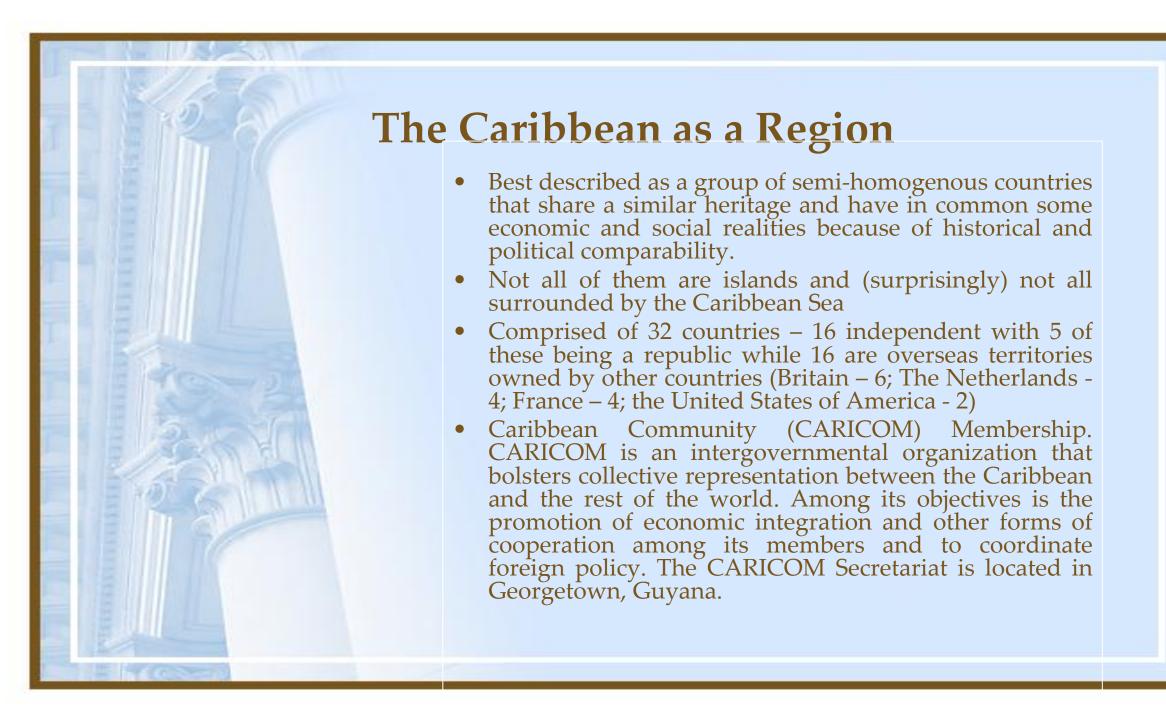








- Located in the Western Hemisphere
- South of North America, East of Central America and just north of South America.





### Which Hague Convention?

- Of the 2 Hague Conventions on the Civil Aspects of International Child Abduction, territories within the Region have only become Contracting Parties to the 1980 *Convention*.
- CARICOM has strongly encouraged membership throughout the Region seen as a useful vehicle to promote cross-border cooperation & facilitate the swift return of a child who has been wrongfully removed or retained, in contentious cases. Also because of strong commitment in the Region to the UNCRC.
- Caribbean has historically been a 'high-transit' area with migration being a consistent feature. Emigration – huge diaspora communities; Immigration – foreign consultants, missionaries, professionals, academics etc.

### Applicability of the 1980 Convention in the Region Only 9 of the 32 countries within the Region have become **Contracting Parties:** The Bahamas Barbados Belize Cuba Dominican Republic – Member of the Hague Conference Guyana Jamaica St. Kitts and Nevis Trinidad and Tobago

# • The 1980 Convention applies to five (5) other territories in

• The 1980 Convention applies to **five (5)** other territories in the Region by virtue of it being extended to them in their capacity as territorial units, i.e. Caribbean territories that are still owned by other countries that can make decisions of a geo-political or administrative nature on behalf of the territory that they own.

Four being United Kingdom territories:

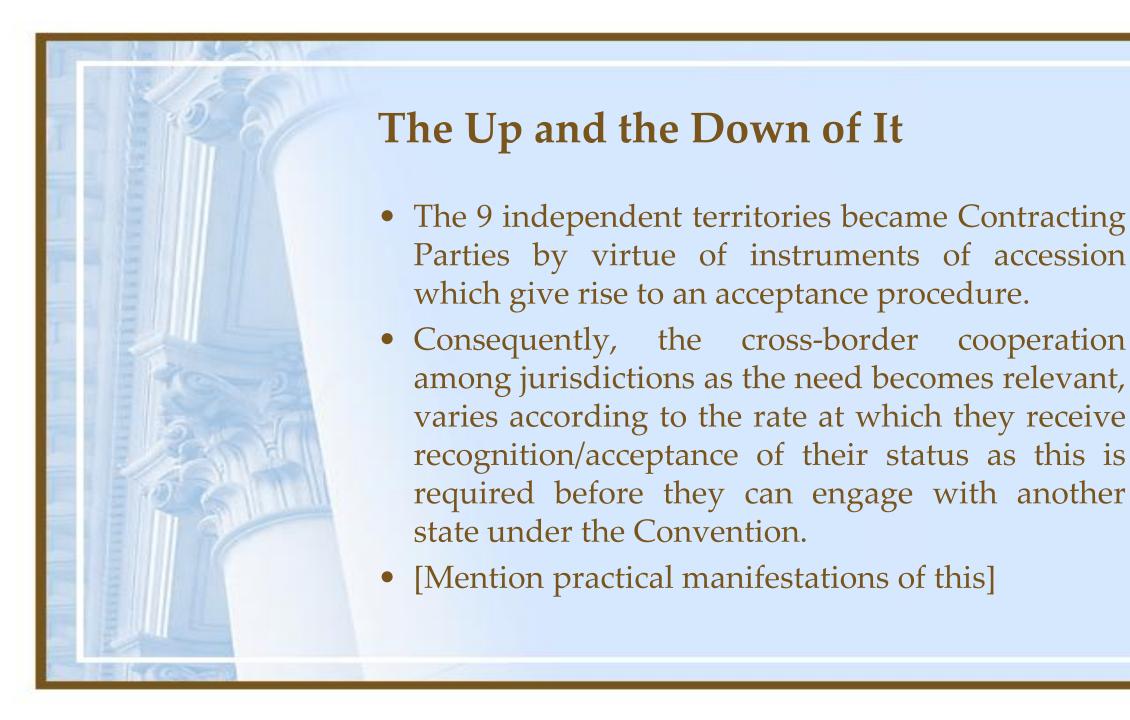
- Anguilla
- Bermuda
- The Cayman Islands
- Montserrat

The fifth being a Dutch owned territory:

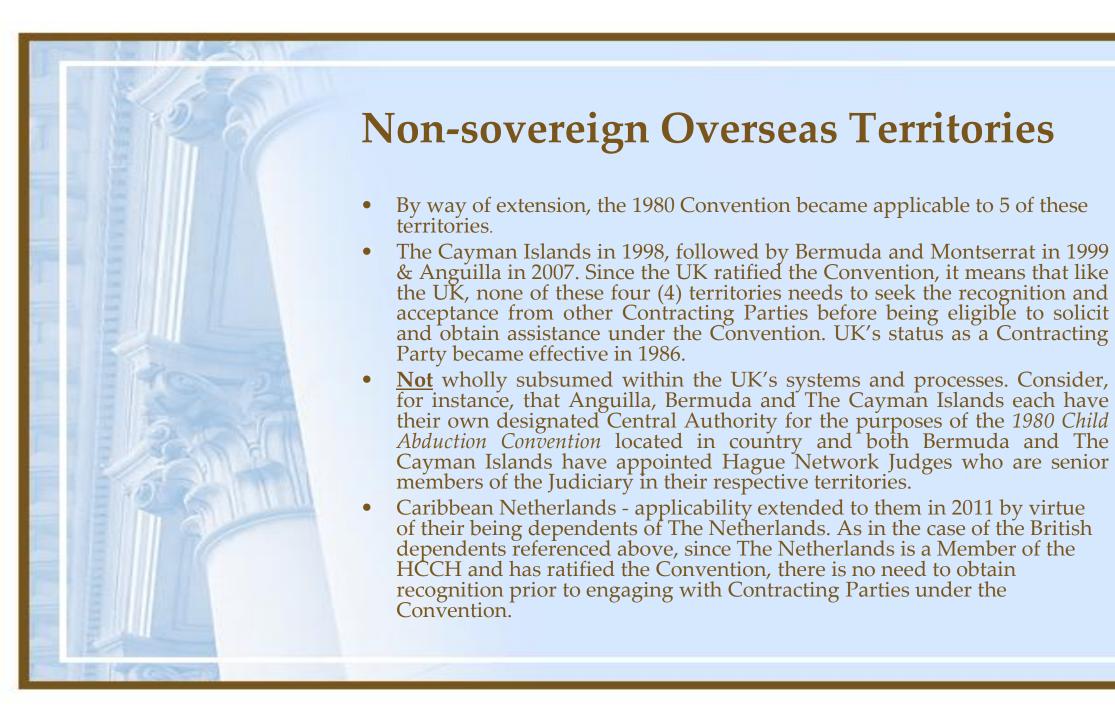
• The Caribbean Netherlands (Bonaire, Saba & Sint Eustatius)

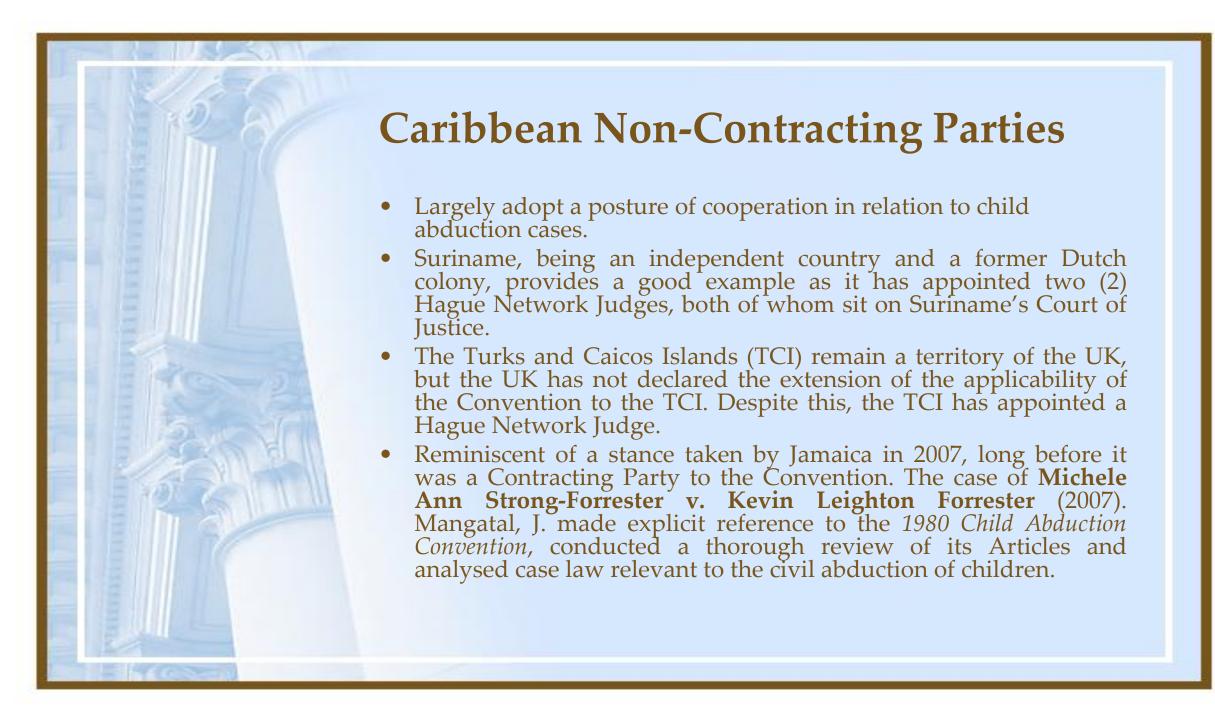


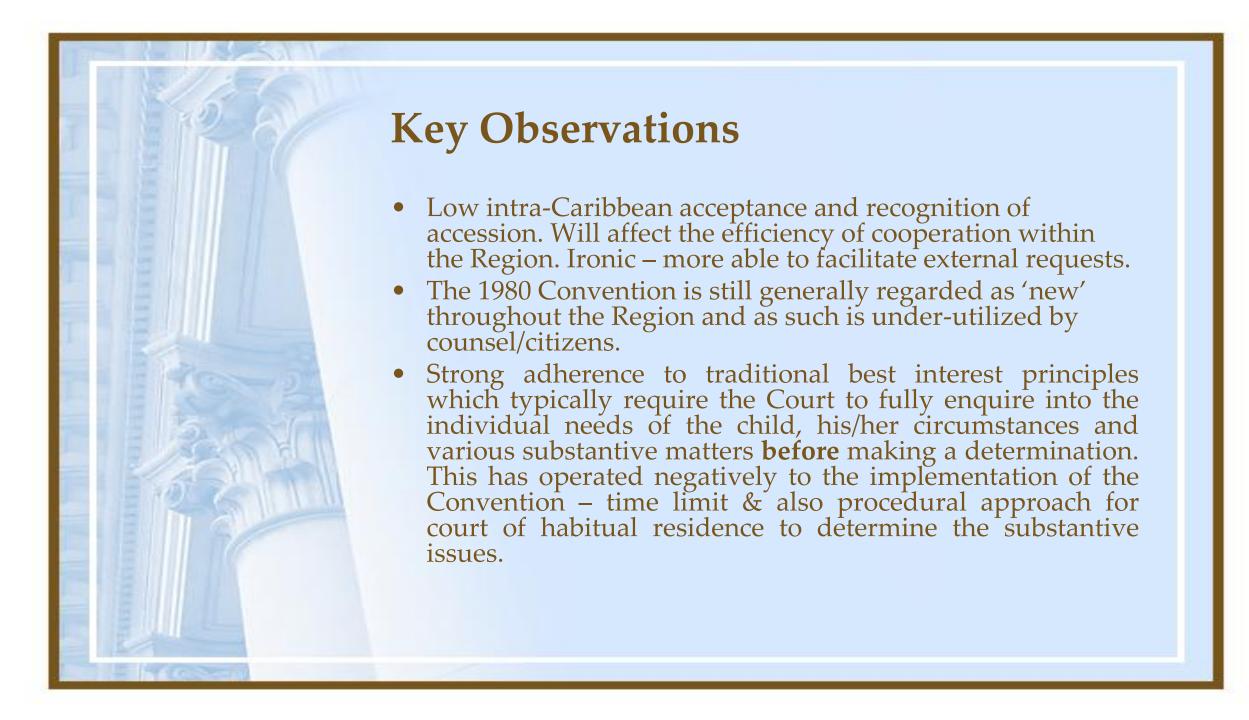


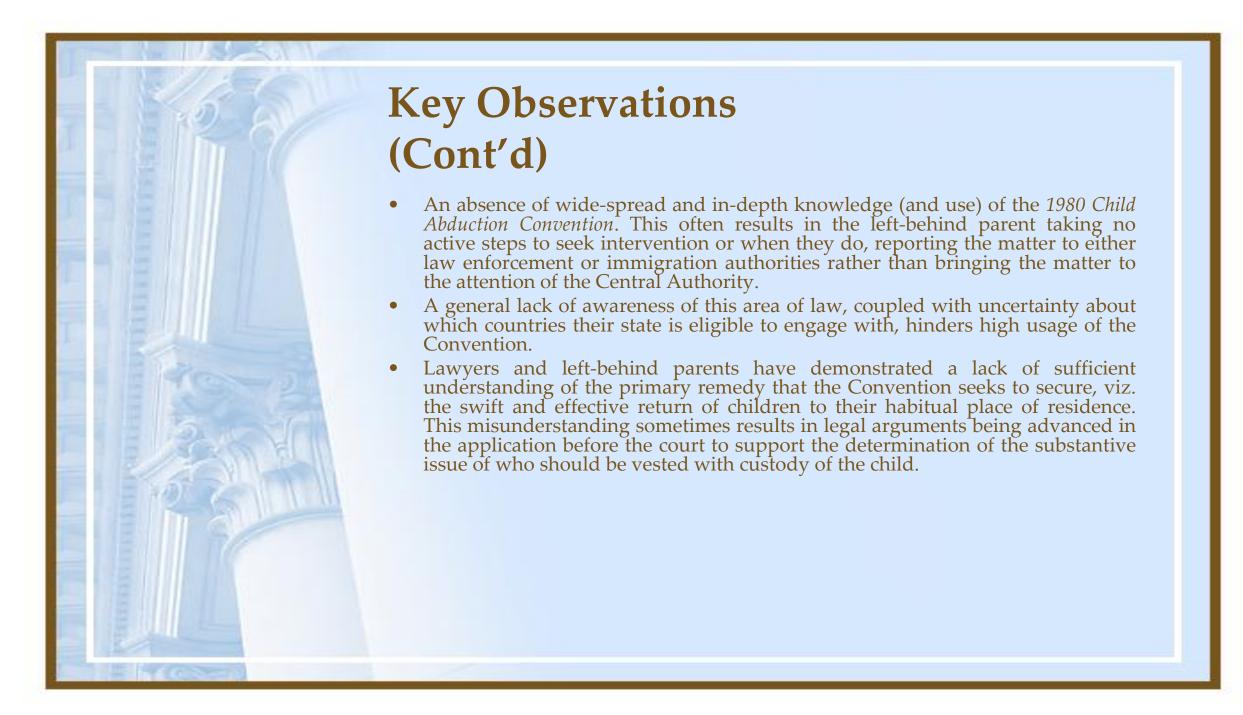


CONTRACTING PARTY	# OF COUNTRIES ACCEPTED BY	# OF COUNTRIES IT HAS RECOGNIZED	HOW MANY ARE CARIBBEAN?
The Bahamas (1994)	78	45	4 (accepted by); 3 (recognized by it)
Barbados (2019)	8	0	
Belize (1989**)	55	28	2; 2
Cuba (2018)	13 [2019 – 2021]	0	0
Dominican Republic (2004)	58	2	2
Guyana (2019)**	10	0	0
Jamaica (2017)	22	0	0
St. Kitts & Nevis (1994)	37	0	1
Trinidad & Tobago (2000)	52	6	1









## **Key Observations** (Cont'd)

- Inordinate delays which are a systemic feature of court and judicial processes prejudice the determination of an application within the six week timeline stipulated by the Convention. For example, though the Hague Network Judge may be aware of the importance of timelines, others within the system may not be so acquainted; this impacts on suitable ancillary arrangements which are required to ensure that these applications are given priority in the court's calendar.
- Resistance by some Central Authorities (CA) to entertain an application where the taken child is in their jurisdiction and has dual citizenship, one of them being citizenship in the country the child has been taken to. Arguments about the constitutionality of the application have been raised, even though, *prima facie*, the child was taken from his country of habitual residence and the assistance is not provided in a timely manner, if at all. Another example of CA resistance was the misinterpretation that since the taking person was an aunt, and not a parent the Convention would not apply.

# **Key Observations** (Cont'd)

- Despite having acceded to the Convention, many of the territories have not established local frameworks to support its implementation. Additionally, the pace of applying to be recognized and accepted as a Contracting Party does not seem to be as assiduous as it should be in order to expand the efficacy and use of the Convention.
- Many would-be applicants find the cost to pursue the matters prohibitive, even with state assisted legal representation.





### Recommendations (Cont'd)

### Improved Work Process Flows in the Courts

- Procedural reforms and proactive case management practices which allow for decisions to be taken within Article 11's timeline requirement of six weeks.
- The concentration of jurisdiction in child abduction cases and the reliance of Judges on existing models of good practice may prove beneficial to developing a consistent approach by Courts across the Region.

