I am Marianne Souquet, an independent mediator in Southern France. I am also the French representative of AIFI, association for Francophone professionals working with separated families.

As I said, I work independently, contrary to my colleagues at this table, which is supposed to be “the must” to practice mediation, as independence is part of the ethics of mediation. The challenge we are facing though, particularly in international family mediation, is that it requires a partnership between different actors working with the families (judges, lawyers, central authorities, social workers and services, psychologists, mediators, diplomats, to name a few). At the same time, professionals have to preserve their independence and their own specificities, and respect confidentiality for the sake of the families. And this is actually one of the main purposes of AIFI.

Working together requires an understanding of the goals, principles and methods of each professional. Let me give you an example: I was in the midst of a mediation between a Peruvian mother who lived in France and a British father who lived in England. The father came to France every other week for a few days to visit their two-year-old daughter. It was decided with the parents and myself that some of the meetings would be in France when the father came for visits, and some through Skype. One of the lawyers wrote to the judge to complain about the mediation being done through Skype! Obviously this lawyer did not know much about cross-border mediation, while I assumed she knew about it. If we had a conversation before, this would have been avoided.

This is part of the complexity of the task. In international family mediation, there are many actors helping the families, and I have noticed that parents in these difficult situations don’t really mind who helps them. They just want to find a way out of the difficult situation. This is why I am really happy to be here and thank ISS and the Hague Conference very much for having organized this conference and workshop.

Challenges we are facing in international family mediation

In international family mediation, we face quite a few challenges, due to the situations. I will name the main ones.

The first challenge we face with mediation is that it is difficult for the persons involved to enter mediation, for several reasons. The first reason is that it is not our first instinct to sit down and talk with our “worst enemy”, so to speak. When we are in conflict the archaic zones of our brain are triggered (the reptilian and limbic brains), and we temporarily loose some of our higher human functions. We are thus more likely to react as animals, with what is called the three “F” responses: Fight, Flight or Freeze, when mediation actually requires to stop and talk.

The second reason is that mediation is not well known, especially in the case of cross-border conflicts and child abduction. We have to find ways of disseminating information about international family mediation, and this includes professionals that would refer clients...
to mediation such as lawyers, social workers, psychologists and doctors. Some of them are still hesitant about mediation because it is supposedly too long, and risky as far as the respect of laws.

The third reason can be the cost of mediation, but that depends on the country, as I believe it is free in some places. In France, mediation is not free, and the cost varies, according to income, and whether people go to a non-profit organization or to an independent mediator. Legal aid by the courts is possible if a judge orders mediation.

Most of these issues are similar in domestic family mediation, but in international family mediation, every aspect is amplified because of the unique characteristics of the situations: geographical distance, language and cultural differences, various judicial systems, intense emotions, including fear, and the involvement of numerous actors (diplomacy, justice, medias, for example).

Thus the second challenge we face in international family mediation is distance: mediation is an encounter, and in international family mediation, that encounter most often happens online, through Skype, for example. This brings up several questions: how is online communication different from direct, face-to-face communication, especially in terms of the expression of emotions and creation of a climate of trust? I noticed that people were more reasonable, which you think could be an advantage, but I don’t think so because the expression of emotions is an important leverage in mediation. It also takes more time to help people build or re-build a trusting relationship.

The use of Skype also raises the question of confidentiality: is there someone else in the room with one of the parents? Same question if a child is invited in mediation. How to be assured that the child is on his own during the session? Communication through e-mail, between sessions, is also more frequent in international family mediation. Again this raises the question of confidentiality because correspondence can be intercepted. Actually, I once did a mediation that did not end with an agreement, and the partner of one of the parties intercepted all the e-mails and tried to use them against the other party and the mediator.

The third challenge we face is dealing with emotions: in international family mediation, most of the time emotions are heightened by stress. The fear of child abduction or counter-abduction is always present, and the risk of rupture in a parent-child relationship is also very high, making it more difficult to help parents rebuild a trusting relationship.

Finally, the fourth challenge I could have started with is dealing with differences. There are more differences between the persons involved in international family mediation than in any other kind of mediation.

First, the language can be different, and a decision must be made about which language will be used in mediation. Very often, one person feels at a disadvantage because he or she is not as fluent in the language used as the other one. Sometimes the presence of an interpreter may be necessary, a situation requiring the mediation process to be adapted.

Second, an asymmetry is present, most of the time: one of the persons is in his or her own country, and thus understands the rules, the social codes, of that country. The other person is a foreigner, and thus less familiar with the country. The mediator must take great care so as to remaining impartial.

Mediators have to watch for their own cultural biases. Mediation itself brings its own culture of democracy and equitable relationships. But what happens when we work with people from a traditional culture, with traditional families? In those situations, we may need to adapt our language, our methodology, and our attitude. For instance, we might address values more than emotions.

Because of all these challenges, international family mediation requires specific abilities,
and thus training, for the mediators. This is one of the aspects we have discussed in our workshop.

Yes there are lots of challenges, and you must be thinking, is it worth it? Of course, my answer is yes!

**Benefits of mediation for all actors**

Mediation offers a safe space, a personal space, where parents can discuss all issues they need to discuss. It is like a bubble where “weapons” can be put down to develop a constructive conversation. The mediator manages the process and offers a framework for these discussions to take place outside the pressures of family, friends justice, diplomacy and even media.

The goal is for parents to build or re-build a constructive parental relationship in the best interest of their children and to make decisions on their own for their children. It is a learning process: they learn how to make parental decisions by themselves for the future. It is a long-term affair.

Sometimes mediation can just help parents accept a judge’s decision. For instance, I did a custody issue mediation where one of the parties had appealed a decision of the court; the work chosen by the parents was to discuss about how they would apply the decision whatever it would be.

Mediation can also help set up concrete plans, and work on small steps. For instance, there was a case where the father moved back to England with his three children and the mother stayed back in France, effectively losing access to her children, contrary to the judge’s order. Through mediation they were able to organize the mother’s first visits with her children in a very detailed way. This kind of work cannot be done at the lawyer’s office, because only one party is present, or with a judge because there is not enough time. And ultimately, it is the parents’ role to organize their children’s lives.

Furthermore, mediation can help rebuild parent-child relationships. In fact, very often the judge orders visits but those orders are not carried out, as in the case cited just before. Mediation can even play a role in the prevention of child abduction, because the fear of child abduction can be discussed.

With mediation, we will take the time needed to reach an agreement. I have noticed that international family mediation usually takes more time than domestic mediation, sometimes lasting over a year. That said, if there is little time because for instance one of the parents has to leave the country, mediation sessions will be done in a few or even one day. We call them “marathon” mediations. For instance, a mother who lived in Scotland had filed for child retention and came to France to see her child. We did the mediation in one day at that time. Of course, it is not ideal, because most parents need some time between sessions to think things through. But, mediator and parents both have to adapt to the situation. It can be helpful too when parents have to comply to court time limits according to the convention of the civil aspects of international child abduction.

The key word here is adaptability without compromising the principles of mediation – namely, voluntary participation and decision-making, confidentiality and independence of the process, and the best interest of the child.
So mediation is above all a benefit for the children and the family as a whole, if we manage to work within networks with all actors involved. Again we have to learn to know each other, to trust each other, to understand what part plays each professional. We expect parents to cooperate; we have to lead the way! Of course it raises the question of confidentiality, but confidentiality is about the content of mediation not about its methodology.

It can be also a benefit for other actors. In my practice, almost all international situations are referred by lawyers who practice international family law. It seems important to them for relationship issues to be dealt with in another space, and that parents find reasonable agreements. For social workers who work mainly with one parent, the one in the country they are, mediation offers a support for the parent who has lost custody of the child or does not have access to the child. For judges, international family mediation can be preventive, to avoid child abduction or counter-abduction, or curative. Moreover mediation offers a help to the whole family because mediators work in a systemic way.

Cooperation with Central Authorities

As for Central Authorities, I believe we have to do the same: cooperate! This is what we are doing right at this time. You are a main actor in cross-border parental separations. And we need to meet in our own countries to get to know each other better, and to have discussions on how we can articulate our interventions in the most efficient way for the families.

We had one meeting in Paris with the Central Authority and over twenty international family mediators. We were able to share about the way we work with families, and about the situations we thought would be good to refer to mediation. It is a good start, and I believe we need to continue to work together, especially regarding the prevention of child abduction.

As a matter of fact, in cases of child abduction or retention parents were referred to me by the French central authority, but never in parental disputes over custody or contact. And I would like for that to change because prevention is where mediation works best. We have to be creative in our ways of working together. A colleague of mine had an idea: have someone from the Central Authority present at the beginning and at the end of mediation. Further more we need your help for recognition of parental agreements in both countries, which can still be a problem.

As there are more and more international separations, we all have to work together, understand and accept our different professional cultures. Three key words: prevention – dialogue – adaptability.

Thank you for your attention!