



DEPARTMENT OF STATE

STATEMENT

OF

SUSAN S. JACOBS

SPECIAL ADVISOR FOR CHILDREN'S ISSUES

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, AND

HUMAN RIGHTS

HEARING

ON

IMPROVING IMPLEMENTATION OF THE HAGUE CONVENTION ON

THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

JULY 28, 2011

Chairman Smith, Ranking Member Payne, and distinguished Members of the Committee — Thank you for the opportunity to address you today regarding international parental child abduction (IPCA), a matter of critical concern affecting the well-being of many children and families.

The State Department values the ongoing interest and support on this issue from Members of Congress. Congressional oversight of IPCA cases strengthens the U.S. government's message to foreign courts and central authorities in long-standing abduction cases. The Department of State appreciates the considerable efforts of Chairman Smith and the interest from Ranking Member Payne, as well as the many Members who advocate in support of their constituents affected by IPCA and parental child abduction in general. This issue is a high priority for the U.S. government; we must work as a team to ensure it is and remains a similarly high priority for other governments.

The issue of parental child abduction is deeply important to Secretary Clinton, who demonstrated her commitment to children by appointing me as her Special Advisor on Children's Issues last year. In this position, I routinely provide analysis and policy recommendations to the Secretary and Bureau of Consular Affairs. I strenuously encourage countries to join the 1980 Hague Convention on the Civil Aspects of International Child Abduction (the Convention) and recommend resources that can assist them. I work in concert with the Office of Children's Issues (CI), which supports me and the State Department's efforts to increase the number of children returned to their parents and to create safeguards that will minimize the risk of IPCA.

International parental abductions are a tragedy that affects American families both in the United States and overseas. When a parent flees with a child across an international border, the parent is committing a federal crime that has long-term consequences for both parents and children, even when cases are resolved. Children involved in IPCA cases are at risk for serious emotional and psychological problems. Left-behind parents confront unfamiliar legal, cultural, and linguistic barriers; suffer emotional trauma; and face significant and long-term financial stress to reunite with their children. CI is fully committed to serving left-behind parents and children who are the victims of IPCA.

On behalf of Secretary Clinton, I travel and regularly speak at conferences and hold meetings with government officials, parents, and non-governmental organizations (NGOs) to further the Secretary's agenda in resolving child abduction cases and encourage more countries to join the Convention. Last October, we organized an important meeting with foreign Ambassadors from the Asia-Pacific region, including Japan, to encourage them to join the Convention. We are planning a similar meeting with African region countries later this year. We strive every day to prevent children from being abducted and to bring them home safely. We accomplish this by using all of the Department's diplomatic tools and through the in-depth expertise of our staff in CI.

Working with our embassies and consulates, law enforcement agencies, and foreign central authorities, CI assisted in the return of more than 600 children to the United States during 2010. During the same period, our office also facilitated the return of 155 children from the United States to their countries of habitual residence under The Hague Convention. Over the past several years, we are proud to report the number of returns has increased, with over 30 percent more children returned in 2010 than in 2008. Currently in 2011, returns are up by another 30 percent compared with the same period in 2010. A table describing this is attached.

Yet every day we receive new reports on abductions. In 2010, CI received reports of 1,490 children abducted by a parent from the United States to a foreign country. We are also aware of 389 children abducted in a foreign country by a parent and brought to the United States in 2010.

The Role of CI

The Bureau of Consular Affairs created CI in 1994 with a staff of four officers focused specifically on intercountry adoption and IPCA. In 2008, the staff grew to 18 employees. Today, CI is one of the largest offices in the Bureau of Consular Affairs, with more than 100 employees in four divisions covering adoptions, incoming and outgoing abductions, abduction prevention, training, and outreach. The increase in staffing, sadly, reflects the increase of IPCA cases over the past several years. The growth of the office has enabled us to broaden our prevention activities, ensure consistently high standards of service, improve training, and engage more vigorously with other countries. It has also allowed us to monitor and improve our own compliance with the Convention. Please refer to the attached table.

The 1980 Hague Abduction Convention

The U.S. government believes the most effective tool for left-behind parents seeking to reunite their families is the Convention. This multi-lateral international treaty provides a civil mechanism to return children who are wrongfully removed from or retained outside of their country of habitual residence. Proceedings under the Convention do not decide custody, but provide a framework for determining in which country the custody decision should be made. Each Convention partner country establishes a central authority, which cooperates with other central authorities in Convention countries, to assist in the potential resolution of child abduction cases. Last year, more than 60 percent of children returned to the United States came from Convention partner countries. For this reason, it is our stated policy to strongly encourage other countries to join the Convention. I have personally encouraged senior officials in Japan, Korea, India, Jordan, and Egypt to join the Convention.

The Convention, although a successful operating agreement, is not a perfect instrument. Fostering compliance with the treaty is an ongoing challenge. Some countries devote inadequate resources to their central authorities, and this makes the timely processing of cases difficult. The courts in some countries misunderstand the legal framework of the Convention. Judges may improperly treat a Hague hearing as a custody decision, while the Convention mandates the custody be determined by the proper jurisdiction. Similarly, other countries may show bias toward their own nationals in their legal decisions, especially when the abducted children are dual nationals. Lengthy judicial and appeals processes also contradict the principles of the Convention, which calls for expeditious proceedings. In some countries, simply locating missing children remains a serious obstacle to resolving cases because a Convention proceeding cannot be requested until the children are located. Even when the outcome is favorable and results in a Hague return order, enforcement is not always automatic, and the child's return can be delayed by multiple appeals or undertakings that impose unrealistic conditions on the return.

For countries seeking to comply with the Convention, the U.S. Central Authority, in coordination with our treaty partners and The Hague Conference on Private International Law, offers legal and infrastructure technical assistance and guidance. We sponsor judicial seminars on the Convention in partner countries across the globe. Over the last few years, the Department has participated in judicial conferences and met with officials from, among others: Argentina,

Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, France, Guatemala, Honduras, Israel, Malta, Mexico, Nicaragua, Panama, Paraguay, Spain, the Bahamas, Trinidad and Tobago, and Venezuela.

I am pleased that the efforts to increase our engagement with other countries are successful, especially in Convention partner countries that have been cited repeatedly in our compliance reports to Congress. In Mexico, we see marked improvement in the ability of the Mexican government to locate and return missing children. CI is meeting regularly with our Mexican counterparts to encourage and support their progress. Overall, 15 percent more children were returned to the United States from Mexico in 2010 than in 2009. This positive trend has continued in 2011, with 121 abducted children being returned from Mexico since the start of the year, a 35 percent increase over the same period in 2010.

Brazil is another country cited repeatedly in recent compliance reports. However, Brazil has made some progress. In May 2011, one child was returned to the United States in a court-ordered return under the Convention and one more child is scheduled to travel at the end of July 2011. Eight other children have returned from Brazil this year through voluntary arrangements reached by the parents, often through mediation. During my trip to Brasilia in May 2011, we formed a U.S.-Brazil working group on children's issues. We will host the first meeting in Washington August 29, 2011, which will cover a range of issues—from reviewing individual cases and sharing best practices on judicial training to bilateral efforts to encourage other countries to join the Convention.

We intensively engaged with the Swiss Central Authority about our concern that Swiss judges were ruling against left-behind fathers and denying returns in cases where the United States was clearly the habitual residence. The result of our increased communication resulted in the resolution of our common cases. In two of four cases, the Swiss court ordered a return. In one case, the court ordered access and in another case, the parents are working on mediated agreement. Our engagement has greatly improved our partner relationship with Switzerland.

We have also cited Bulgaria in our reports to Congress. We have worked to provide assistance as Bulgaria revises its domestic child welfare laws. CI officials traveled to Sofia in September 2011, and just last week, we hosted meetings with a group of Bulgarian judges. We are pleased with the improved communication and relationships we are developing with Bulgaria.

In cases where countries are not members of the Convention, CI officers work with parents to understand what their options are in the foreign legal system or, if they prefer, with the U.S. criminal justice system. These cases are protracted and challenging. However, we have many examples of successful cases that highlight how the Department of State can play an invaluable role in helping left-behind parents understand foreign laws and their options. CI can coordinate assistance across many U.S. and foreign government and law enforcement agencies and ensure case developments are communicated efficiently and clearly. CI can also connect parents with social service resources and take all possible actions to monitor and protect the welfare of the abducted children.

In the Philippines, CI and the Embassy worked with local social services and judicial authorities to help a left-behind mother address child abuse allegations, pursue recognition of her U.S. sole custody order in the Philippines, and in the end, obtain a Philippine court order awarding her custody of her two children. The children returned to the United States with their mother in June 2011.

Another very dramatic case involved a child retained in Iraq. The CI officer coordinated with U.S. law enforcement to locate the taking father in a remote part of the country. Under CI's guidance, Department officials working at the Provincial Reconstruction Team in Erbil were able to negotiate the child's return through local officials. Once the return was agreed upon, a consular officer working in Vienna traveled to Baghdad, escorted the child to Austria, and provided refuge until the child's mother arrived to reunite with him.

Prevention and Assistance

Clearly, the most effective method of resolving IPCA is prevention. CI continues to develop programs and outreach to prevent abductions through increasing awareness of IPCA, and assisting left-behind parents in new and ongoing cases. Our prevention staff works with Passport Services to administer the Children's Passport Issuance Alert Program (CPIAP), an information system built into our passport database to prevent abductions. This program enables parents to register their U.S. citizen children in the Department of State's Passport Lookout System before an abduction occurs. If a passport application is submitted for a child who is registered in CPIAP, the Department contacts and alerts the parent. Since its inception in 2003, we have enrolled over 63,000 children into CPIAP.

Our prevention unit also works intensively with law enforcement and parents to educate the public about the criminal nature of IPCA. Prevention officers train law enforcement and consular personnel to recognize and respond to signs of suspected IPCA. In emergency situations, prevention officers coordinate with the Department of Homeland Security and the FBI to try to halt abductions in progress.

More broadly, we are utilizing social media, such as Twitter (@ChildrensIssues) and Facebook to help educate the public about our work. We are redesigning our website to simplify and streamline access to information about our services. In conjunction with National Missing Children's Day, CI initiated a month-long prevention campaign on Twitter and on our website to familiarize U.S. citizens with our work. The Secretary released a video message to raise awareness to the plight of missing children and our efforts to combat IPCA. Many of our embassies posted the video message on their websites and hosted their own events with foreign government officials. We believe that these actions encourage nations to join the Convention and for those who are already members, to work harder on fulfilling their treaty obligations.

Assistance to Left-Behind Parents

In cases where an abduction has occurred, CI officers work closely with our colleagues at embassies and consulates around the world to assist parents to recover their children. Resources are available for left-behind parents to help them understand and navigate the legal and diplomatic process to facilitate their child's return. These materials are accessible online or by phone and provided regardless of a parent's immigration status, English-language capability, or financial situation. Individuals can obtain information on our website (travel.state.gov) or through our 24-hour toll-free number (888-407-4747). We provide lists of attorneys in the United States and abroad, a language line for parents who do not speak English, law enforcement liaison services, and victim assistance. We are available to respond to emergencies 24 hours a day, seven days a week, worldwide.

The Department of Defense and IPCA

We recognize that military service members and their children have particular vulnerabilities to parental child abduction given their frequent deployment overseas. In response, CI is collaborating with the Department of Defense (DoD) to raise awareness of this problem among members of the Armed Services. We are working with the DoD Family Service Centers and Family Advocacy Program, and are training Judge Advocate General personnel to educate them about IPCA and its effects on active duty military families as well as to prevent IPCA.

Our collaboration has resulted in successful resolutions. In one case, a military officer retained his three children in Germany, even though a U.S. court ordered the children's return. CI and U.S. Consulate Frankfurt coordinated with DoD in Washington and with the command at the military installation where the officer was assigned to detain the father, allowing the children to be returned to the United States. In countries where the U.S. military presence is large, this collaboration potentially will help prevent military families from becoming the victims of IPCA, and it will facilitate the return of many abducted or wrongfully retained children.

The Hague Network Judges

I would be remiss if I did not acknowledge the efforts of four judges who serve on our Judicial Network, a group formed in June 2008 to promote direct judicial communication and Convention compliance at home and abroad. These judges are:

- The Honorable James Garbolino, Judge (ret.), California Superior Court;
- The Honorable Judith Kreeger, Judge, Circuit Court, Miami-Dade County;
- The Honorable Mary Sheffield, Presiding Judge, 25th Judicial Circuit, Missouri; and
- The Honorable Peter J. Messitte, Senior Judge, United States District Court for the District of Maryland.

These judges have represented the United States at IPCA conferences, facilitated judicial communication in critical cases, and provided their expertise with respect to judicial education. We are grateful to each of them and look forward to continuing this productive partnership.

The Hague Conference

As a member of The Hague Conference on Private International Law, we actively support the activities of the Conference's secretariat, The Hague Permanent Bureau. In June 2011, we participated in The Hague Special Commission meetings regarding the practical operations of the 1980 Abduction Convention and the 1996 Hague Convention on the Jurisdiction, Applicable Law, Recognition, Enforcement, and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (1996 Convention). Such Special Commissions are held every five years and provide an excellent opportunity for member countries to discuss best practices, encourage implementation, and raise new issues. Similarly, these meetings provide an opportunity to encourage other countries to become party to the Conventions. At this year's Special Commission, nearly 300 experts discussed topics of interest, including cooperation among Central Authorities, processing applications for return and access, domestic violence allegations and their effect on return proceedings, direct judicial communication, and the recently drafted guide to good practice for mediation of cross-border family disputes.

Many Convention partners use mediation as an alternative to civil litigation in some parental abduction cases. We are examining what role mediation can play in resolving abductions to the United States. Legal proceedings in this country can be expensive and complicated. Although we are still researching this issue, we believe that high-quality mediation

services may help families avoid drawn-out court battles and create solutions that are beneficial to both children and parents. Mediation may also be an option in non-Hague countries and in some countries where few legal mechanisms may exist for resolving international custody disputes. To address this issue, the State Department solicited proposals from organizations interested in developing mediation programs to use in these countries as well.

On October 22, 2010, the United States signed the 1996 Convention, affirming its commitment to protecting the rights and welfare of children around the globe. The 1996 Convention will complement and help to reinforce the Abduction Convention. It will help to ensure our treaty partners recognize and enforce U.S. custody and visitation orders. Under the 1996 Convention, authority to make child custody decisions lies in the child's place of habitual residence. It also includes special provisions for the protection of runaway children and the cross-border placement of children in foster families or institutional care. Our office looks forward to Congressional input as we move forward in the process to ratify and implement the 1996 Convention.

The Role of Congress

Congressional support remains vital. Current law establishes visa ineligibility for those who abduct or aid in the abduction of children to countries not party to The Hague Abduction Convention. The State Department has proposed legislation to extend this ineligibility for those who abduct or aid abduction to Convention countries as well. We also recommend continued financial support for The Hague Permanent Bureau, which offers critical technical assistance on treaty compliance and trains judges, central authorities, law enforcement officials, attorneys, and social workers on the application of The Hague Convention. The Department welcomes Congressional support as we encourage countries such as Korea and India to join the Convention, and work with Japan both to join The Convention as well as to create legal and administrative structures to implement the treaty.

Conclusion

Mr. Chairman, Mr. Payne, distinguished Members of the subcommittee, since accepting this challenging but rewarding position, I have met with many left-behind parents and I have been deeply moved by their stories. In CI, our committed staff understands the harsh realities and complexities of child abduction matters. They work every day with parents in crisis. They understand IPCA is one of the most stressful and heartrending situations anyone can experience. CI staff is a group of bright, motivated, compassionate, determined professionals who work hard to support parents and seek solutions to the tragedy of international child abduction.

The prevention and prompt resolution of abduction cases are of paramount importance to the United States. We will never forget our duty to serve each of our citizens and most importantly our children.

Thank you. I am pleased to take your questions.