

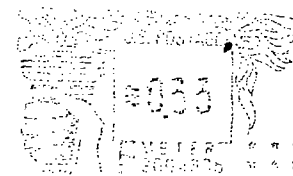
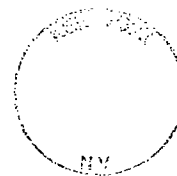
H.S. Reform - Talent Develop
H.S.S

**PHOTOCOPY
PRESERVATION**



A Pearson Company

375 Hudson Street, New York, NY 10014



Wendy Hubbert
Senior Editor
Jeremy P. Tarcher Inc./Putnam
375 Hudson Street 4th Floor
New York, NY 10014

I also have
text of Senate
hearings -
they were just
a little too thick
to include.

General

To: Shirley
From: MaryEllen
Re: International Child Abduction
Date: November 24, 1998

Background

The ease of international travel, relaxed borders in the European community and a rise in the number of bicultural marriages, have all resulted in an escalation of international abductions by noncustodial parents. From the United States alone, it is estimated that between 2,000 and 10,000 children are abducted internationally each year. *by their noncustodial parents* Yet, despite the international nature of these abductions, most child custody disputes remain private legal matters. US laws and court orders are generally not enforceable overseas and entities like the State Department have no jurisdiction.

When a child is abducted overseas they lose not only their custodial parent, their home, their extended family and possibly their religion, they lose their American rights and freedoms. Children may be forced to abandon English, enter into arranged marriages, placed into child labor, or lose their chance for formal education. In the Middle East or Africa, the consequences for female children are compounded by the fact that they may become subject to the practice of female genital mutilation (FGM) which can lead to death, shock, and contribute to the spread of HIV.

To combat the problem of international abduction and meet the needs of parents left behind, 23 nations met in 1976 to discuss passage of an international treaty to deter child abduction. This treaty, now referred to as the Hague Convention, currently has 44 signatories of which the United States is one. It requires immediate return of abducted children to their country of habitual residence. Return of children from countries not party to the Hague, must be resolved through legal proceedings in the country of retention. Currently, the State Department reports that victims of international abductions, to Hague or non Hague countries, can expect to get their children back only 30% of the time.

The Hague Convention

In 1988, the United States Congress ratified the Convention on the Civil Aspects of International Child Abduction (the Hague Convention). *This is* ^{is} a private, civil, legal mechanism available to parents seeking the prompt return of, or access to (visiting rights), abducted children. The Convention provides a mechanism for the return of children sixteen years of age and younger, to their country of habitual residence, and operates as an order of immediate return. The Convention was not designed to hear the merits of individual cases, it instead leaves custody matters to be resolved in the country of return. If proceedings are filed within one year, ~~the judge of the country of retention is mandated to order the child's return to its country of habitual residence.~~ *the judge of the return is mandatory* In the United States, habitual residence has been defined as the place where a child has been physically present for an amount of time sufficient for a child to feel some "degree of settled purpose" in their environs.

Hague Exceptions

Although the Convention does not allow for the contemplation of custody, there are some defenses to a Hague return. If a proceeding is commenced more than one year after the wrongful removal of a child and it can be demonstrated that ^{the} a child is now settled in their new environment, return to country of origin is discretionary. If the party seeking return never actually exercised custodial rights, or if there was consent to remove the child, return of the child may not occur. Under the Convention's Article 13, if return of the child would expose them to "physical or psychological" harm, or if the child objects to their return and is of "such an age of maturity" that it is appropriate to take their view into account, a court has the option of non-return. A child may also be retained if upon return their human rights and fundamental freedoms might be abridged. The intention of Article 13 was for it to be used narrowly. It was not meant to be used to resolve custody per se. In practice it is often used to justify abductors' actions, and is considered to be one of the major loopholes in the treaty.

Problems with the Hague Convention

The purpose of the Hague Convention was to provide a simple and straightforward procedure for a child's immediate return. Different national approaches to implementing the Convention, excessive recourse to loophole clauses, the slowness of procedures, and the lack of legal aid in some countries has meant that in many cases of international abduction, the Convention has failed. In more detail, the larger problems are as follows:

1. *Lack of International Cooperation*- Judicial cooperation between nation states can be highly contentious ~~area~~ as judicial systems lie at the heart of national sovereignty. Pride and nationalism can obscure a ^{national courts} willingness to be limited by international obligations. Furthermore, custody orders made in one country are not binding in others. In some countries, abduction by parents is not viewed as a criminal act.

2. *Level of Court in Which Cases are Heard*- Evidence is accumulating that ^A a major cause for the discrepancy in rates of return among countries is the level of court in which Convention cases are allowed to be heard. When cases are heard centrally by High Court judges, return orders are usually made. When cases are heard by lower court judges, return is less likely. Why? Low level courts are more likely to misinterpret the application of the Convention and view it as an opportunity to hear a case's merits. Often heard in the locale where the abductor lives, and perhaps was raised ~~themselves~~ ^{offer}, these lower courts then go on to hear evidence and take reports from social workers based on information only available in the country of retention ^{as it relates to a child's current envt.}. Investigation into the environment from which the child has been taken is unlikely resulting in an in-built bias for abductors.

3. *Article 13 Loophole*- ^{Article 13 is} ~~Article 13 is generally recognized as the Convention's major loophole.~~ A failure of courts to grasp ^{Article 13 is} ~~that it is~~ a narrowly drawn exception, and not a means to decide cases on their merits, has led to it being used as a means to "legitimize" abductions. In many countries its use is not the exception, but the rule, with the possibility of "psychological" harm being applied to any and all cases.

4. *Delay in Application*- The merit of the Convention is supposed to lie in the speed of its proceedings. Yet, some countries are markedly slow in dealing with Hague applications. This is particularly the case where court proceedings become arguments over custody. Collection of evidence and reports by social workers and psychologists take time. This allows the child more time with an abductor who may be manipulating them to believe that the parent left behind has abandoned them. Passage of time also allows children to become acclimated to their new environments. Acclimatization along with the belief that the custodial parent has abandoned them, makes return to custodial parents more and more difficult, and less and less likely desirable to the child.

5. *Lack of Legal Aid*- The lack of legal aid to parents traveling off their home soil to regain a child's custody is a significant barrier to return. Victims' parents are often unable to bare the costs associated with procedures and may not speak the language or understand the culture and judicial system of the country ^{in which the child has been taken} retaining the child.

Psychological Effects of Abduction

While left behind parents are left to face legal, cultural and linguistic barriers in regaining custody of their children, the abducted child spends more time with their abductor. Often led to believe that the custodial parent no longer cares, has abandoned them, or is perhaps even dead, abducted children may feel anger and despair towards the parent fighting for their return. Parental Alienation Syndrome (PAS), the name given to this phenomena, can actually put children in *fear* of return. Believing the left behind parent has abandoned them, in their minds the abductor is all they have. Assertions by children that they no longer want anything to do with their custodial parent then becomes a major obstacle to return. Requiring children to testify raises the stakes even further, forcing children to bear the responsibility of deciding between mother and father.

State Department Role

The US State Department's Office of Children's Issues (OCI) is designated to provide assistance to the victims of international parental child abductions. Since the late 1970s, OCI has been contacted in the cases of approximately 11,000 American children abducted overseas. While custody cases are essentially private civil matters over which the State Department has no jurisdiction, there are ways in which they can help.

In cases where the Hague Convention applies, the State Department can assist parents in filing applications of return. In non Hague cases they can attempt to locate, visit and report on a child's welfare through consulates abroad. OCI can provide left behind parents with information on the country to which their child has been taken (customs, judicial system) and provide a list of attorneys in that country willing to take American clients. OCI can assist parents in contacting local officials overseas, list children in a passport look out database [to alert the custodial parent of applications for US passports], and alert foreign authorities to evidence of child abuse. The State Department can not re-abduct children, help parents violate host country laws, pay legal expenses or court fees, act as attorneys for the parents, or give refuge to a parent re-abducting.

The Department of Justice

Under the International Parental Kidnaping Crime Act of 1993 (IPKCA), the Department of Justice is responsible for securing the extradition of offenders charged under state or federal law.

~~However, extradition is not an option in all parental kidnaping cases.~~ *however*
Under many older treaties, and in many countries, abduction of a child by his or her parent is not considered a crime. *therefore extradition is not an option.*
~~Furthermore, it is important to note that criminal prosecution and apprehension of an abductor does not necessarily result in the recovery of a child.~~ *also*

In addition to leading the fight for extradition, the Department of Justice substantially funds the National Center for Missing and Exploited Children (NCMEC). Justice also funds training of law enforcement, prosecutors and judges on abduction matters and the Office for Victims of Crime has established a fund to assist parents with travel costs when they recover their children overseas. *State*
The Department has also recently reissued an international parental child abduction guide it is hoping to put in more parents hands over the course of the year.

Finally, *In* January of 1998, the Department created an Interagency Committee to focus on international parental kidnaping and *ok* make recommendations on how the Department can better respond to victims. This committee is ongoing and is addressing a full range of issues. A report on the Committee's activities and recommendations to improve services is expected ~~after the first of next year.~~ *soon.* *check*

The National Center for Exploited and Missing Children (NCMEC)

To aid the State Department in return of internationally abducted children, the National Center for Exploited and Missing Children (NCMEC) set up an International Division in 1995 to handle incoming abduction cases. Since the establishment of this division, approximately 300 cases have resulted in ~~a child's~~ return. The Center staffs a Hotline that can handle more than 140 languages and assigns a worker to every case. These case workers stay with each left behind parent until their child's return.

The American Bar Association (ABA)

To aid in the fight against international child abduction, the ABA is at the forefront of several initiatives. *First*, they have created a Hague Convention curriculum meant to teach present and future attorneys about the intricacies of the treaty. *Second*, they offer several publications that address the laws on international abduction. *And*, they have spearheaded creation of the International Child Abduction Attorney Network (ICAAN) whose mission is to increase legal representation for parents of ~~incoming~~ *incoming to the US* Hague cases.

ICAAN includes a national recruitment campaign for lawyers to take incoming cases pro bono, assistance to lawyers in the form of legal materials and mentors, and the creation of an attorney referral system used by the NCMEC. As the ABA is quick point to point out, ICANN not only helps children, it contributes to the reciprocity between nations on which the Hague treaty depends. It is hoped that by taking cases of foreign nationals whose children have been taken to America, attorneys overseas will be ~~encouraged to take the cases of~~ *take in* Americans whose children have been taken abroad.

Suggestions on Improving the Rate of Return

In a recent Congressional hearing, several suggestions were made to improve the rate of return of internationally abducted children. Several of the suggestions follow:

1. *Urge all nations to ratify the Hague Convention*- Use attaches and consulars abroad to emphasize to all our foreign colleagues the seriousness with which the US takes abduction cases and the need for effective responses in locating children and their abductors.

Most notably missing from the current Convention are countries in the Middle East, Asia and Africa. The effect of so many countries refusing to sign has been to create safe havens for potential abductors.

2. *Make trans-national abduction and retention of children a criminal offense and enforce punishment of this crime*- Encourage all countries, Hague ratifiers or not, to make abduction and retention of children across national boundaries a criminal offense notifiable to Interpol, Europol and national police agencies such as the FBI. In doing so, we will send a strong message to would be abductors- abductor parents will be extradited to face criminal charges in the country from whence they came.

3. *Increase communication across and within countries*- Coordinate action and information among national police agencies and organizations to increase the speed with which children are found and returned. Better educate local and federal law enforcement officials and courts in how to execute Hague proceedings. Have international abduction cases broadcast worldwide via television or radio making it extremely difficult for would be abductors to remain in hiding.

4. *Increase resources ^{at} the national and international levels*- Ask governments to fund information campaigns that make would be abductors aware of the criminal nature of the act, ^{and} direct left behind parents to the proper authorities and legal services. Increase staff and resources at the Hague to maintain a comprehensive database of cases and their conclusions. Have the Hague study individual country's compliance records so country's with low compliance rates can address their need for improvement.

5. *Redraft Article 13*- Redraft in such a way that ~~Article 13's~~ ^{its} use is narrowed to genuinely exceptional circumstances. Also incorporate into it a clause dealing with access- ^{if a court} ~~If a court~~ refuses return, it should automatically provide for enforceable access. ^{in parallel} ~~In parallel~~, provide for strict limitations on the age and circumstances under which children can testify in court.

6. *Address provisions for legal aid*- A common policy should be established by all signatory countries [to provide for legal aid to foreign parents].

7. *Place Hague cases in only the highest courts of a nation*- to ensure more uniform implementation of the treaty and higher rates of return.

Current Events: Recent International Child Abduction Forum

In September, the NCMEC hosted a forum in Arlington to discuss the strengths and weaknesses of the Hague Convention. Catherine Laylle Meyer was co-chair of the forum and spoke of her own two sons abduction. The aim of the forum was to raise public awareness of international abduction and draw up practical measures to stop them. The Forum agreed that the greatest areas of concern were the need for uniform international response, and the Article 13 loophole. The forum participants will be issuing a report with their recommendations to be sent directly to the Hague. Among the participants were a representative from REUNITE (NCMEC's counterpart in England), a member of the Irish Parliament and Representative Ben Gilman (R) of New York.

Signatories to the Hague Convention

Argentina	Australia	Austria	Bahamas	Belize	Bosnia-Herzegovina	
Burkina Faso	Canada	Chile	Columbia	Croatia	Cyprus	
Denamrk	Ecuador	Finland	France	Germany	Great Britain	
Greece	Honduras	Hungary	Ireland	Israel	Italy	
Luxembourg	Macedonia	Mauritius	Mexico	Monaco	Netherlands	
New Zealand	Norway	Panama	Poland	Portugal	Romania	
Slovenia	Spain	St. Kitts/Nevis		Sweden	Switzerland	US
Zimbabwe						

Addendum:

What Parents Should Do in Abduction Cases

If you suspect abduction is possible:

- go to court and take preventive measures (ask courts to seize passports, etc).
- Contact the NCMEC for prevention information

If your child is abducted

- file a police report as soon as possible
- open a case with NCMEC
- notify OCI at the State Department
- notify your local immigration service or if abroad your local U.S. Consulate
- gather all important papers including recent pictures of the child (birth certificate, custody agreements, etc)

Government agencies neither condone or support the use of vigilante organizations to re abduct children.

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

Cases

Divider Title: _____

A few months into the relationship, she convinced him he didn't need to use protection during sex because she used a birth control device. Shortly afterward Villegas was pregnant.

Calling himself a good Christian boy, and at the urging of his parents, Morrison married Villegas in January 1996, three months after the baby was born. Not only was that best for the child, he said, but it would help Villegas obtain her citizenship.

But soon the marriage went south. Morrison would work all day at his new job at the Residence Inn by Marriott in Oxnard. When he would come home, Villegas, now 30, would leave to visit her sister down the street.

She was rarely around, so Morrison would take care of the kids, clean and cook. During one argument, she told him, "Don't make me mad or I'll take the kid and go to Mexico."

But despite the problems, he told her, "We've got to keep the family together."

Dec. 2, 1997, the family shattered.

Morrison received phone calls at work from creditors reporting unusually expensive charges on his four credit cards. Most of it, they said, was spent on stereo and television equipment and jewelry. The charges would grow to more than \$20,000.

Morrison rushed home, where little Ray usually would wait in the window for Daddy to arrive, then would race him to the front door. But there was no sign of the boy.

When he went inside, nobody was home. Villegas' and Ray's clothes were gone. Morrison knew what had happened.

"I was set up," he said.

"She took off with the baby"

He called police, who told him he had to wait 48 hours to file a missing person's report. Then he talked with the District Attorney's Office and officials familiar with international child abduction.

One of the first people he found was Diane Harrison, a case manager for the National Center for Missing and Exploited Children's California branch.

She got right on the case, preparing a poster in Spanish featuring Ray's face and basic information that the organization plastered on businesses throughout Mexico City and at U.S./Mexico border stations.

She also referred Morrison and his parents, Ray Jr. and Joann, to support groups.

"Most parents feel that they're never going to have to deal with this," Harrison said. "It's really overwhelming."

Morrison also got involved with Christopher Lamora, a citizen services officer with the Office of Children's Issues at the U.S. Department of State.

Lamora deals specifically with child abduction to Mexico and is working 125 cases. While he's doing everything he can to ensure Ray's safe return, he's not making Morrison any promises.

"The U.S. Department of State only has so much authority once someone crosses into another country," Lamora said.

In February of this year, two months after Villegas left with Ray, Morrison received a positive review from his bosses at the Marriott. He also got a raise to bump his yearly salary to \$40,000.

One month later, they fired the former employee of the year because he was spending too much time trying to find his child. Marriott officials declined to comment about the dismissal, citing confidentiality.

Morrison soon got a much lower-paying job at Mr. Electric in Ventura. He filed for divorce and stopped the citizenship papers for his wife.

All the while, he was losing weight -- he eventually would shed 50 pounds -- he wasn't sleeping and he smoked frequently. And the creditors kept calling wondering where their money was.

Other cases serve as reminders

Since his case began, area newspapers have carried stories about similar cases that served as bitter reminders to Morrison.

There was Joel Figueroa of Camarillo, who in February gained full custody of his 8-year-old son, four years after his wife abducted the boy and took him to Texas.

There was Robert Decker of Camarillo, whose wife took off with their baby son 18 years ago. Police finally found them earlier this summer, but father and son have yet to reunite.

And there was Paul Marinkovich of Simi Valley, whose wife fled to Sweden in 1996. Authorities have yet to find them, and Marinkovich testified this month in front of the U.S. Senate Foreign Relations Committee, slamming the Swedish and U.S. governments for not doing more.

Morrison also made the news, appearing on the Spanish language news program Primer Impacto, on which his case was spotlighted and aired in the United States and Mexico.

He has a video of the show, which includes home movies of Ray, his smiling face beaming beneath brown hair, riding in a stroller and waving to the camera. When he watches, Morrison waves back at the television.

Near misses

Sept. 26, Morrison received word from Villegas' Ventura relatives that she was at a home in Mexico City. He had the exact location. All he needed was for Mexican officials to go get his son.

He called Lamora in Washington, who phoned the Mexican Central Authority the next morning. For some reason, the child was never picked up.

The same thing has happened at least one other time. From what Villegas' family has told him, she is living at different homes in Mexico City and has relatives helping her and Ray hide from authorities.

Her family is split over what to do, he said. Those in the United States want her to come back because they fear she will go to jail if she doesn't. Those in Mexico want her to stay.

None of Villegas' family was available for comment. Many didn't return phone calls, and her sister Yolanda, who lives in Chula Vista, declined to talk about the case.

No criminal charges have been filed against Villegas, and Deputy District Attorney Denise Payne, who heads the county's child abduction unit, wouldn't comment.

Never giving up

Tears form in Morrison's eyes as he walks into his 2-year-old son's bedroom.

He opens the closet door and holds up Ray's green and white overalls, then points out four wrapped presents for the toddler. He's saving them, even though they're from last Christmas.

He looks through the dresser drawers, where the boy's shirts and pants sit neatly folded. A bookshelf reveals dozens of children's books, a teddy bear and a clock that looks like a lion. A crib is tucked into a corner of the room.

Morrison will save all these things, hoping someday soon his son can enjoy them again.

"I'm going to get him back," he said. "I'm not going to let her get away with

this."

LANGUAGE: English

Copyright 1998 Palm Beach Newspaper, Inc.
The Palm Beach Post

June 14, 1998, Sunday, FINAL EDITION

HEADLINE: SHE JUST WANTS TO SEE HER KIDS AGAIN

BYLINE: Paul Reid, Palm Beach Post Staff Writer

BODY:

Amy Habie has seen her twins, Danny and Alexandra, only once since April 13, 1992. A few cards, an occasional phone conversation, that's it. And on each of the six Mother's Days since they disappeared, no calls, no cards.

They were just 2 when their father, Joey Habie, took them from their Boca Raton home, loaded them onto his private Lear jet in Fort Lauderdale and flew them to his home in Guatemala. And kept them.

The children sleep, eat, play and go to school watched by guards armed with submachine guns. Their mother cannot phone or visit them. Their father is a textile magnate who has bought his children the best protection money can buy.

The moment she knew the kids were gone, Amy Habie's life took a sickening downward turn. Her ride since has been just as stomach wrenching - but for reasons that go far beyond the pain of having nothing but photos and memories of her children.

While virtually all parental kidnappers hide from the law, Joey Habie uses the law as a club.

He is wanted in the United States on charges of parental kidnaping. Miami FBI agent Fred Rivero says he is a prisoner in his own country. But Joey is, in fact, totally free to run his business, enjoy his children and harass Amy. From his mansion in Guatemala, Joey or his proxies have filed 11 lawsuits in Florida and U.S. courts against Amy Habie. All were dismissed either for lack of merit or through default by Joey.

In an April 1996 opinion, the 4th District Court of Appeal, held that "there is only one conclusion that can be drawn from this case, and that is that Mr. Habie intends to use his financial resources to punish not only his former wife, but her lawyers as well."

The opinion went on to castigate Joey Habie's Florida lawyers for filing such suits and stated that the Florida Bar could determine whether any lawyers were being used to "muscle" Amy.

Amy Habie was satisfied with the court's finding but has paid lawyers more than \$ 2 million - almost half her divorce settlement - to defend herself. The money is meaningless, she says. There is no price tag for the cost of lost time.

Each suit Joey files is a numbing reminder of what and who she has lost. Each suit drains her. Each suit appears to be Joey's way of tormenting Amy, says a former cop who tried to track Joey down.

Jose "Joey" Habie is a singular parental kidnapper. Hundreds of children each year are snatched by parents and taken overseas, says Nancy Hammer of the National Center For Missing and Exploited Children in Washington, D.C. Almost 900 kids are being hidden overseas by a parent. Usually the kids and the abducting parent simply disappear.

Joey Habie is the only parental kidnapper Hammer knows of who flaunts his fugitive status. He does it in U.S. and state courts, through the U.S. mail and by selling his textiles in the U.S. through hard-to-trace subsidiary companies.

Money, big money, is the source of Joey Habie's power. The FBI says he is worth more than \$ 600 million, perhaps a billion. His textile companies have annual sales in excess of \$ 80 million.

In fact, his money and power landed him an appointment as special prosecutor in Guatemala. His first official act was to issue a warrant for the arrest of Amy Habie on contempt charges, with attempted murder, adultery and abandonment charges thrown in. Then he asked the U.S. State Department to extradite Amy to Guatemala. It refused.

Meanwhile, he remains wanted in the U.S. on state and federal charges for interstate flight to avoid prosecution and parental kidnaping.

The Palm Beach County Circuit Court found Joey to be so in contempt of U.S. law it levied a \$ 5 million dollar fine against him - \$ 5 million per week as long as he does not return the children. That was in 1994. Neither a penny nor the children have seen U.S. soil since that ruling.

This might look like the all-time championship case of he says/she says, but Joey's letters to Amy, court rulings and investigators tell a story full of ironies. This is a case of a hard working and successful family man, a man who dotes on his children, a highly educated man.

It's the story of a man who wants to punish his ex-wife in the worst way possible.

His ex-wife, Amy Habie, 37, says she wants only one thing, and it's not her children back under the original terms of the divorce agreement that awarded her custodial status. She'll give up her custodial rights in order to just have visitation and a chance to develop some, any kind of relationship with the children.

Amy Habie says:

She doesn't want Joey punished.

She doesn't want his money.

She will drop all charges - and the FBI said that if the charges are dropped, case closed. Even the fines levied against Joey will be rescinded.

All she wants is to be a part-time mother on any terms Joey sets, other than no terms at all, no children at all. No life at all.

They had a life once, Joey and Amy.

They met in Boca Raton just before Christmas 1983. She was Amy Weil then, 22, a Michigan transplant and recent graduate of two master's programs at the University of Florida - business and health administration.

He was 25, held an MBA from Wharton. She was pretty, he handsome. Both smart. Both workaholics.

Four dinner dates in 10 days and they were engaged. On June 30, 1984, they were married.

Joey flew a twin-engine Beechcraft then. In the months before the marriage, he'd fly Amy to Guatemala or fly up to Gainesville to visit her. Amy moved to Guatemala after the wedding. She spoke no Spanish. It was a cultural shock for a Midwestern girl, she says, but she liked the pace of their lives, the demands of business, the 70-hour work weeks.

Joey owned Liztex, the family textile company he had inherited when his father was shot down in the streets of Guatemala City a few years earlier. Nobody knows who shot the senior Habie, but Guatemala can be a dangerous place for people of wealth. Joey surrounded himself and his bride with armed guards. They worked hard, played hard, skiing at Aspen, traveling the Caribbean and Europe.

They split their time between Guatemala and Boca Raton, where they bought a \$400,000 house to be near Amy's mother and Joey's sister.

Life was good. The twins were born November 17, 1989. Life got better, but Amy says she began to realize that Joey ruled his family like he ruled his business. By fear. Amy says he never hit her, but Joey launched various household items in her direction over small transgressions. His black moods and outbursts grew more frequent.

In November 1991, Joey and Amy had a major fight over their miniature schnauzer. The fight escalated overnight into a crisis. The dog had gone blind. Joey wanted to put it down. Amy wanted to save it. Joey left the house and spent the night at his office.

When Amy drove up to the office the next morning, the armed guards at the gate told her she was not welcome. When she persisted, the guards told her Joey had sent word for her to take the children and leave. He didn't want any of them.

That's crazy, she told the guards. She told them she would not leave until Joey spoke to her. Then they shot out the tires on her Mercedes. She drove on rims for about a half mile, ditched the car and called friends for help.

The twins' nanny, Sarah Brown, 65, who now lives in Miami, remembers the day.

"Amy came back from the office crying, very afraid. She had left her car near the office, and friends took her home. She said we had to pack, had to leave on the first flight. She said she was afraid Joey was going to kill somebody."

So, Amy and the twins and Sarah Brown and the blind dog and 18 suitcases of clothes and diapers and toys ended up at U.S. Customs in Miami 12 hours later.

"Joey was a good man," says Sarah Brown. "But, oh my, he had a temper. There always was danger under the surface. When (the guards) shot Amy's car, it was time to go."

After fleeing to Florida from Guatemala, Amy filed for divorce. Within three months - February 1992 - it was final. The deal took only three days to work out. Amy gained custody of the children. Joey was to set up a \$ 3 million trust for the twins' support. Amy got a check for \$ 5 million and the houses in Boca Raton and Colorado.

There was no trial, no trouble. Post-divorce life went smoothly. Briefly.

Joey visited the children soon after the divorce in accordance with the agreement. Money for Amy and the children was in the process of being transferred into U.S. bank accounts. The kids played with their toys on the front lawn, where Amy videotaped them. Life was peaceful.

Then, Amy's trial by ordeal began.

April 13, 1992. Amy was in Colorado. The kids were in Boca Raton with Sarah Brown, and Amy had given Joey permission to see them, even stay at the house if he desired. Joey packed the kids into his car, said they were going to Parrot Jungle in Miami for the day.

By evening they were in Guatemala. Joey called Brown. I have the kids, he said.

Brown called Amy. He took the babies, she said.

Amy called the police.

But parental kidnaping isn't a cut and dried matter. Was Joey within his rights? Was he in criminal or civil contempt of the law? Or neither?

It took two years for the charge of parental kidnaping to be filed and more than two years for the U.S. State Department to ask Guatemala to return the children - and Joey. Guatemala refused.

The FBI continued the hunt. Agent Bill Thurman, now retired, says the FBI was waiting for Joey to take the kids to any one of 48 countries that honored the Hague convention on international child abduction. If he did that, says Thurman, the FBI might have been able to grab the kids.

But Joey never took them to a cooperating country, and the FBI has no jurisdiction in Guatemala.

Instead, Joey, as a newly appointed special prosecutor in Guatemala, asked the U.S. to extradite Amy to his country.

When that failed, he took his case to Amy's neighbors via U.S. mail.

All of her neighbors.

He blanketed the town with fliers. Bulk mail.

The fliers Joey mailed are essentially correct, says Amy. Yes, she had an affair. Yes, she had smoked marijuana, if that's what Joey meant by drug use. Yes, she hired a private investigator to check out the prospects of snatching her kids back from Guatemala. No, she never plotted to kill Joey.

By 1994, any semblance of reason was long gone from Joey's and Amy's story. The fliers were flying, and so were the lawsuits.

From his Guatemalan sanctuary, Joey has used proxies - including his mother - to sue Amy 11 times in state and federal court. Every one of the lawsuits was dismissed, most as groundless. The litigation began just a month after he took the kids and continued through 1997.

Joey sued Amy. He sued Amy's mother. He sued Amy's lawyers. He sued through companies he controlled. His mother sued, claiming she owned companies that Amy had defrauded.

Joey's tactics included having subpoenas issued for everything. He would fax messages by the dozens to Amy and her lawyer, and then subpoena the messages. He sent dozens of overnight air packages containing a single photo of the children to Amy and her lawyers. If they didn't sign and pay for the package, he would claim Amy did not care about the children.

Amy's legal bills mounted. But her faith in the courts remained secure until she began to suspect Joey had gotten to the guardian ad litem appointed to

assess the children's needs.

The court told Joey to pay for the costs of the guardian ad litem, and did he ever - more than \$ 300,000. The court said that was far more than usual in such cases. The guardian asked his brother, a New York psychologist, to produce a report on the children. The report said the kids were better off with Joey.

This was too much for Amy. It was too much for the circuit court judge who dismissed the guardian in June 1993. Judge John L. Phillips' order said, in part, that the actions of the guardian ad litem "smack of overreaching and opportunism in this instance, throwing the office of Guardian Ad Litem into suspicion and disrepute." The court found the guardian ad litem had become "a surrogate for the former husband in this litigation and can no longer be said to be acting solely on behalf of the children, or in their best interests."

So, Joey came at Amy with other tactics:

In his letters to Amy's lead attorney, James Fox Miller (whom Joey addressed as James F--Miller), Joey referred to the April 13 anniversary of the kidnaping as "April Fools Day."

He blanketed Boca with another flier.

He wrote Amy a soothing letter saying it was time to put an end to the fight and reunite the family; he followed up with a letter saying: Some other time.

He poured forth such a stream of legal documents and personal correspondence that Amy needs a walk-in closet to store it all. She keeps the most cynical letters in a thick folder she calls the nasty file.

And Joey kept suing.

Miller, 56, an experienced trial lawyer and former head of the Florida Bar Association, couldn't keep Joey at bay. He'd get one suit dismissed, and within weeks a new one would be filed in another court. So, Miller asked an old law school friend, David Boies, to help.

Boies' specialty is federal racketeering law - under the Racketeer Influenced and Corrupt Organizations Act, known as RICO. That's the law that deals with using the mails, phones and computers to extort, harass, defraud or cause financial ruin. The statutes can be applied in criminal or civil cases.

He currently is a U.S. Justice Department lead lawyer in the Microsoft suit (an anti-trust, not RICO matter). He saw Joey's suits as an inversion of the legal system, an ongoing RICO violation taking place in the very courtrooms dedicated to enforcing those statutes.

Boies sued Joey and Joey's mother, Sara, who had filed some of the suits. He sued Joey's proxies in federal courts in New York and Miami. He claimed they

were trying to destroy Amy financially by abusing the U.S. court system.

He won. In January, a Miami jury found Sara Habie guilty of violating civil RICO law and awarded Amy \$ 21 million in damages. As with other judgments against Joey, this one has gone unheeded and unpaid.

So, Boies says his next step is to squeeze Joey where it hurts - his American sales of textiles.

"If Joey Habie has a nickel in assets anywhere in the United States, we're going to find it and ask that it be seized," says Boies. He's working for Amy pro bono, but with a 30 percent contingency if Joey ever pays his fines.

"I'd make a lot of money, millions, if Joey ever paid," says Boies, "but I'm not doing this for the money. I'm doing it because Joey Habie has dragged our legal system through filth."

After the kidnaping, Amy tried to lead as normal a life as possible. She started a landscape design and maintenance business. She bought some assets from another landscaping business belonging to Scott and Carol Lewis of West Palm Beach. She had not known the Lewises before.

As happens in some business dealings, both parties thought the other party was breaching the contract. Amy and the Lewises took each other to court. She says they broke the non-compete contract; they say she failed to make payments. The case is in progress.

None of their dealings involved Joey or the children. But then, Amy Habie says, something strange happened.

Carol Lewis relayed a message from Joey to Amy. In a November 1997 sworn deposition, Lewis said the message was: "Joe wants Amy to know that he's adopting the children."

The message was as revealing as it was stunning, says Amy. It meant Joey was in touch with Carol Lewis. It had to mean that Joey was in the background of this lawsuit, trying to punish her, Amy feels.

David Boies agreed. He filed a RICO suit against the Lewises in federal court. It is ongoing. He has asked for their phone records to prove his assertion that Joey is coaching them.

Reached by phone, Carol Lewis said, "Amy is a hateful and manipulative person." As for Joey, Joey is not coaching her, helping her or influencing her, Carol Lewis said.

Scott Lewis says Amy's claims that Joey and the Lewises are in league with each other are false.

But Carol Lewis confirmed contact with Joey in her sworn deposition. She confirmed that Joey had faxed to her copies of birthday cards Amy had sent the twins. She said she thinks Amy is trying to alienate the twins from Joey. She and apologized for it.

And Amy Habie? Hateful and manipulative?

Bill Thurman, the former FBI agent, says he's satisfied Amy Habie is nothing more than a woman with the wrong ex-husband. "She's anything but the devil. She's just a good woman who's has been put through hell," he says.

And Joey?

Reached by phone at his Guatemala office, Joey said he had nothing to say until it's over.

When would it be over?

"Some day," he said.

Does he think Amy has a right to a relationship with her children?

"Sure, sure," he said.

Does he know that Amy says all she wants is to see her kids before they're grown?

"Sure," he said.

It's been six years since Danny and Alexandra disappeared. The video Amy made of them on the front lawn and some old photos are all she has left.

She took their cribs from their bedroom a couple of years ago. The twin beds she put in have never been slept in. The walk-in closet is filled with court records and subpoenas. The twins' old toys - infant toys they long since have outgrown - share a shelf with their father's hate mail.

Nowadays, Amy waits for the next lawsuit, the next mass mailing, the latest rumor about herself. Every so often, she watches the old video of the kids playing.

"It's not easy to watch, but it's all I have," she says. "When they're older, they can come here and learn the truth. Even Joey can't stop them from growing up."

LOAD-DATE: June 15, 1998

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

Senate Hearing

Divider Title: _____

Federal News Service
OCTOBER 1, 1998, THURSDAY

HEADLINE: PREPARED TESTIMONY OF CATHERINE MEYER
BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS
INTERNATIONAL CHILD ABDUCTION:
THE USES AND ABUSES OF THE HAGUE CONVENTION
A PERSONAL COMMENTARY

BODY:

My paper is drawn from my personal tragedy and my knowledge of the situation in Britain and in Germany.

In 1984, I married a German doctor, Hans-Peter Volkmann, in London and our first son, Alexander, was born a year later. Volkmann then decided that we should move to Germany for two years. I abandoned my City career to follow my husband, and our second son, Constantin, was born in 1987. But our marriage broke up and in 1992 we legally separated: the children would live with their mother in London and visit their father during their school holidays.

At first, all worked well. The children adapted quickly to their London life. They continued their schooling at the French Lycee and spent holidays with their father in Germany. I struggled to rebuild my career in the City of London so that I could support my children. By 1994 I had managed to obtain a senior position in a Bank and to buy a comfortable apartment for the three of us. On 6 July 1994, the children left for their summer holidays. Without warning, four days before they were due to return to London, their father announced that he was not sending them back to England. He then disappeared with the boys. I had no choice but to apply to the English courts. The High Court of England & Wales ruled that the retention of the children is illegal and ordered their "immediate return" to Britain under the terms of the Hague Convention. Initially, a local German court upheld the English decision. But Volkmann requested half an hour to say good-bye to the boys. My lawyers naively agreed. Taking advantage of this, and in defiance of the court order, Volkm bundled the boys into a car and vanished. The local police were unwilling to help and by the time Court bailiffs were located, it was too late.

The following day, Voilemann lodged an "ex-parte" (i.e. the judges did not inform my side) appeal in the higher court of Lower Saxony, in the nearby town of Celle. Astonishingly, the judges made a provisional ruling in his favor. The children should remain in Germany until the appeal was heard.

When this took place, in October 1994, the Celle court reversed the earlier English and German decisions on the grounds that it was the children's wish to remain in Germany, and that they had been suffering in a foreign environment...especially since German is not spoken at home or at school... The judges ruled that the children had attained an age at which it was appropriate to take their view into account, ...since "a 7 year old child faced with the decision to play judo or football, generally knows which decision to make"...

At the time of the hearing, I had not seen or spoken to my children in over four months and they had been under the sole influence and control of their father. The Celle court decision also meant that all further legal proceedings on custody and access took place -and are still taking place, four years later- on the abductor's home territory. The second consequence was that despite numerous applications to the German court since 1994, I have never been able to see my children alone.

In November 1995, several applications were rejected on the basis that I might reabduct the boys and that they no longer wanted to see me. In December 1995 a further hearing was held in Vetden: access was again denied on the grounds that I could re-abduct the children if we were to spend Christmas together. In January 1996, following a desperate attempt to see my boys in Germany, I was falsely accused by my ex- husband of trying to abduct the children. Despite a police report confirming this was untrue, immediately thereafter and in my absence the court transferred the residence of the children to Germany. Despite every guarantee on my part, including the support of the British Consul General in Hamburg, the fear of abduction was consistently used, over the next few years, to deny me and my parents normal access. In September 1997, Volkmann divorced me. In exchange for giving him custody, it was agreed in court that I should have access to the children on "neutral territory". But when the moment finally came, six long months later, for me to meet my sons in Hamburg, Volkmann backed out at the last moment, stating that it was the wishes of the children not to see me. The judge refused to enforce the access agreement. It was only then that I discovered that while the custody arrangement was enforceable, access was not. (In the UK it is not possible to get a divorce or a custody order without - enforceable access arrangements).

This took place in February of this year. Since then a further application to see my children has been denied on the grounds of "lack of urgency ". Now, I am awaiting another hearing in Germany to which I have been summoned on 25 November.

In the last four and a half years, not only have I never been alone with my children, but I still have no enforceable access rights. In this period, I have been able to spend only 11 hours in the company of my children. (2 visits in December 1994; 1 in October 1995 and 5 more by May 1996 and 1 in February

1998). All were held under the most harrowing conditions: locked in my ex-husband's secluded house and under the supervision of a third party. All were broken off after less than two hours.

So the months pass, the years pass, and my children are growing up without a mother. Before my ex-husband abducted our children, they were allowed to see and love both their parents. Now, they are not.

If anything is trans-national, it is the interests of the children. Sadly, children's issues remain an area where national interest is too often allowed to

assert itself. Cooperation between some Hague Convention countries is practically non-existent. Judges often do not know the treaty well enough to enforce it and nationalism takes precedence over the Hague Convention rules. Has anyone proved that I am an unfit mother? No. Has anyone proved that I do not love my children? No. But, I am nonetheless denied the rights that even women in prison are allowed. My parents have been denied all access as well. My 86-year old father may never live to see to see Alexander and Constantin again. My children will be scarred for life and they may never recover from this experience. They have become confused and angry with me, because they have been told that I have abandoned them. On two occasions, when I saw my sons and told them how happy I was to see them, Alexander replied: "You lie. Daddy told us that you could come and see us whenever you wanted - but you never did". My children, as thousands of others, do not deserve to have their lives destroyed in this way.

II. THE PROBLEM

Most people associate child abduction with countries where laws and customs are very different from ours. But, child abduction within western societies is much more common than supposed and there has been an explosion in the number of incidents since the mid-1970s.

There is an obvious link between this phenomenon and the decline in marriage as a stabilizing factor in our societies. The sharp rise in divorce rates and children born outside marriage provide fertile ground for disputes about custody and access.

At the same time, the problem of child abduction has over the last two decades acquired a new and sometimes insoluble dimension. Staffsties point to an increase in marriage between people of different nationality. This is hardly surprising. With the explosion of international travel and tourism, the social consequences of a global economy, and the increasing irrelevance of national frontiers, especially in Europe, traditional impediments to trans-national marriages have fallen away. But those unions are no less prone to divorce and to quarrels about children.

Whenever marriages break down, a decision has to be taken on where and with whom the children will live. This can be a bitter and contentious business. But when parents of different nationalities involved, disputes over custody and access can be further exacerbated by differences in culture and in the legal systems of the two countries involved. Some of these situations result in cross-frontier abductions by one of the parents. When this happens - in contrast to abduction within a single national jurisdiction - experience shows how difficult it is to secure the safe return of children and to protect them from the psychological damage inflicted by abduction.

Judicial co-operation between states can be a highly contentious area as the recent negotiations on an International Criminal Court have shown. One of the reasons is that judicial systems lie at the heart of national sovereignty. This often inhibits crossborder co-operation, which requires the competence of national courts to be limited by international obligations. The issue of child

abduction is a prime example of the limitations of international co-operation in the judicial area. There are no international conventions regulating custody matters. Every country has its own judicial system. Custody orders made in one country are not necessarily recognized in another. When non-custodial parents abduct their children from the state in which custody has been given (usually heading to their home country), the chances of recovering them through judicial process can be slim. Every year, more and more children find themselves separated in the most harrowing circumstances from one of their parents. The effect on children can be devastating. But the victim parents themselves are also plunged into a bewildering world where helplessness, despair and disorientation compete. The emotional trauma is compounded by the daunting practical obstacles to retrieving the children, or even to going access to them. Simply finding out where to get help can be very difficult. Parents often face unfamiliar legal, cultural and linguistic barriers. Their emotional and financial resources can be stretched to the limit. In the meantime, the abducted child is often led to believe that the victim parent has abandoned it, so leading the child, in its anger and hurt, to assert that it does not want contact with the victim parent. This vicious circle complicates still further a resolution, and will continue to do so until courts recognize that there is such a thing as Parental Alienation Syndrome, PAS. As the years pass, the chances of recovering children before their adulthood become progressively more remote. Many victim parents feel that it would be easier to come to terms with the shock of bereavement than with a situation marked by prolonged uncertainty and anxiety.

Some parents may believe that their actions have an objective justification (e.g. to rescue their children from domestic violence). But a common thread in all too many cases is the sustained, vengeful effort of the abductor to deprive the other parent of contact with the child to the maximum degree possible. The aim is to flee one judicial system, in favor of another - in order to permanently reverse previous custody decisions and destroy the other parent's relationship with the child.

The International Hague Convention on the Civil Aspects of International Child Abduction of 1980 was designed to ensure "the protection of children from the harmful effects of their wrong removal or retention". Should one parent break a custody agreement either by illegally retaining (on an access visit) or abducting a child, the Hague Convention requires its immediate return to the country where the original custody agreement was made.

The purpose of the Hague Convention was to provide a simple and straightforward procedure. In this, it has largely failed. Different national approaches to implementing the Hague Convention, the slowness of procedures, the lack of legal aid in some countries, and the excessive recourse to the loop-hole clause, has meant that most cases of international child abduction remain unresolved. Some children are never located. Others are simply not returned to their country of origin. The exact figures for trans-national child abduction are not known. Many parents are reluctant to go to the central authorities. Others are not even aware of the existence of the Hague Convention. The official figures could well understate the problem. Even so they are alarmingly high. In the United States

alone, the National Center for Missing and Exploited Children reports over 1,000 American cases (on average two children per case) of cross-border abduction every year and the number is growing sharply. In England, Reunite, the National Council for Abducted Children, has recorded a 50% increase since 1995 in the number of children abducted abroad by an estranged parent. In France, a similar upsurge has been recorded. Despite the rapid increase in abduction cases, there is too little awareness of the phenomenon in the governments and legislatures of Convention signatories. Nor is there much awareness among the populations at large. As a result, very little is being done to tackle the issue and to make The Hague Convention work as originally intended.

III. THE HAGUE CONVENTION: WHAT IT DOES AND WHAT IT DOES NOT DO

The Hague Convention on the Civil Aspects of International Child Abduction is an international treaty currently in force between 49 countries.

The objectives of the Convention are "secure the prompt return of the children removed to, or retained in any Contracting state; and to ensure rights of custody and access under the law of the Contracting State are effectively respected in the other Contracting States" (Article 1). The Convention is not concerned with the "best interests of the child", that is to say, with the merits of a custody case. Criticisms or complaints about the custodial parent or the terms of a custody award, are matters to be dealt with by the jurisdiction of the child's habitual residence. The paramount objective of the Hague Convention is to return the child to the country of habitual residence and to confirm that country's jurisdiction.

The Hague Convention provides for a civil proceeding to be brought by the country from which the child was removed or retained. If proceedings are filed within one year, the judge of the country of retention is mandated to order the return of the child to the country of habitual residence. (Return is discretionary if more than one year has elapsed and the child is settled in the new environment). The abducting parent can raise objections to the return. But the intent of the Convention is not to allow these objections except in the most narrowly defined circumstances.

The exception to the requirement for the immediate return of the child to the country of habitual residence is to be found in Article 13 of the Convention.

"The judicial or administrative authority of the requested State is not bound to order the return of the child if' (Article 13b) "there is a grave risk that the child' return would expose him/her to physical or psychological harm or otherwise place the child in an intolerable situation. The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has obtained an age and degree of maturity at which it is appropriate to take account of its views':

A main intention of this article was to draw a clear distinction between a child's objections, as defined in the article, and a child's wishes as commonly expressed in a custody case. This is logical, given that the Convention is not

intended as an instrument to resolve custody disputes per se. It follows, therefore, that the notion of "objections" under Article 13b is far stronger and more restrictive than that of "wishes" in a custody case. A failure by courts to grasp this distinction, and to see it as a key defense against the manipulation of a child by the abductor-parent, is a root cause of the difficulties described below in the implementation of the convention.

To sum up:

1. By allowing an exception, the Hague Convention does not set an absolute rule. Children are not automatically returned.
2. Article 13 in constituting this exception, can offer abductors a way of legitimizing their actions.
3. Whether or not article 13 serves this purpose depends on how the judge interprets its meaning.

IV. THE HAGUE CONVENTION: WHAT HAS GONE WRONG

The discretion given to judges has in practice resulted in a wide variation between signatory states in the outcome of proceedings. The American Bar Association reports that judicial returns vary between 5% and 95% from country to country. Article 13b, originally intended as an exception, has in some countries become virtually the rule. This is jeopardizing the Convention's effectiveness and perverting its original intent.

The exception is made the rule.

Evidence is accumulating that a major cause for the discrepancy in rates of return orders is the level of court allowed to hear Convention cases. When cases are heard centrally by High Court judges, return orders are usually made. But, the system tends to fail, when the courts hearing Convention cases are local family courts without Convention experience. This is particularly significant when Article 13b is raised as an objection.

In England and Wales, Convention cases are exclusively heard centrally by a small number (seventeen at present) of specialist High Court judges. The High courts of England and Wales usually hear cases expeditiously based on paper evidence and without the child's view being heard. Judges usually make a decision quickly to return the children, relying on the foreign court to make a fair decision at any subsequent custody hearing.

The Consultation paper on Child Abduction published in the February 1997 issue of the British Family Law journal reported that in England and Wales, the "consistent approach has been to draw a clear distinction between children's objections under article 13b and children's wishes in ordinary domestic custody case". The English High Court has taken a policy decision to approach Art. 13b with caution (for example against the risk of indoctrination by an abducting parent) and, even if a child were found to object to a return, to refuse a return only in an exceptional case.

Conversely, in countries where Convention cases are first heard in local courts without Convention expertise, the results can be very different. For instance,

in Germany, all Amtsgerichte (small family courts that can be found in towns which have as few as 20,000 inhabitants) have jurisdiction to hear Convention cases. Cases are heard in the locality where the abductor has taken the children (usually his hometown) and it is impossible to change jurisdictions.

The risk here is of inexperienced judges, who may misinterpret the meaning of the Hague Convention. The 1996 Lowe report found that in Germany, no single Amtsgericht court had heard more than one case and that every time that the child's objections were raised as a "defence for abduction or retention, a return order was refused.

A feature of many such cases is that they are allowed to become a discussion on the merits of custody arrangements. Frequently, an abducting parent will, within the framework of Article 13b, level allegations against the other parent and request that oral evidence be heard. Judges, who are inexperienced, treat these Article 13b objections as "a merit of custody" argument. This is exactly what the Convention was supposed to avoid: such considerations are meant to be reserved to the court of the child's habitual residence, which is best placed to decide on questions of custody and access. But local family courts are too often unable or unwilling to uphold the difference between proceeding under the Hague Convention and arguments over custody arrangements. Underlying this is a dismissal of foreign courts.

There is the added risk of a vicious circle, if family court judges are seen to favour local residents. Abductors will be readier to take the law into their own hands, if they believe that their judges will ex-post facto legitimize what they have done.

The Danger of Delay

The merit of the Convention is supposed to lie in the speed of its proceedings. But, some countries are markedly slower in dealing with Hague applications than others. This is particularly the case where, as described above, court proceedings become in reality an argument over custody. (The problem of delay is compounded when cases are first heard in lower courts and appeals can then be lodged in higher courts).

In some countries, the involvement of the local Youth Authority or Social Services, plays a major role in proceedings. Local judges tend to rely on their evidence, and hold up matters by asking to see welfare reports and the children. While in principle this could give a more complete picture of the children's situation, it is nonetheless a major factor for delay. In the meantime the child is more and more under the influence of the abducting parent and further alienated from the absent parent. There is another problem. Youth Authority reports are usually based on information available only in the country of retention and there is little direct investigation in the environment from which the child has been taken. The result, therefore, can be an in-built bias in favour of the abductor. Finally, the passage of time will eventually generate a new argument, which favors abductors, namely that the children are now settled in their new environment and should not be moved yet again.

Perversion of the Convention's intent

In a number of countries, therefore, interpretations of the Hague Convention extend its meaning to encompass in practice an unwarranted jurisdiction in custody matters. Certain consequences flow from this, all of them prejudicial to the victim.

When a child is not returned, the abducting parent has the additional advantage of having subsequent proceedings dealt with in the country of retention rather than the country of the child's habitual residence. Case studies show that these court decisions, dealing with custody and access fights, tend to favour the abducting parent. This, combined with the fact that in some countries (for example in Germany,) judges are reluctant to enforce access orders, results in a situation where a parent is often deprived of all contact with the child, or at best, has contact in only the most harrowing circumstances (e.g. a government office with a third party present). On this interpretation of Article 13, the Hague Convention becomes in effect the instrument of alienation between child and victim-parent - the very opposite of what was intended

Professor Elisa Perez-Vera provided the primary source of interpretation of the Convention in her Report of 1980: "The Convention as a whole rests upon the unanimous rejection of the phenomenon of Illegal child removals and upon the conviction that the best way to combat them at an international level is to refuse to grant them legal recognition, the systematic invocation of the said exceptions, sub--rig the forum chosen by the abductor for that of the child's residence, would lead to a collapse of the whole use of the Convention by dep it of the spirit of mutual confusion".

Child Trauma and Parental Alienation Syndrome

Children who are abducted will have already suffered from their parents separation. But in addition, they will experience the trauma of being suddenly cut off from their familiar environment - from a parent, grandparents, school and friends.

This experience is already bad enough: many children do not understand what is happening or why. But things are often made even worse, when the abducting parent is hiding from the police or taking precautions against re-abduction; when the child realizes that there is a state of war between its parents. The child has already been traumatized by the loss of one parent; its greatest fear becomes that it will lose the other parent. This fear itself then becomes an obstacle to resolving the situation, since it is central to what is known as Parental Alienation Syndrome (PAS).

Studies of PAS have established the severity of psychological damage done to abducted children, suddenly separated from a parent. The studies have also shown how susceptible the child is to being systematically alienated by the abductor-parent from the victim-parent.

This susceptibility bears comparison to the 'Stockholm Syndrome', when hostages start to identify with their captors. In the case of an abducted child the identification will be the stronger, because of the age of the 'hostage' and the child's relationship with the "captor. For fear of losing the abducting parent

as well, the child will not only be eager to please, but ready to believe allegations that it has been abandoned by the victim parent.

This is fertile ground for systematic indoctrination by the abducting parent and/or a professional psychologist. Since under some judicial systems, children - sometimes as young as three - may be required to appear in court, it becomes of paramount importance to abductor- parents that their children say 'the right thing' to judges. This puts an even higher premium on placing psychological pressure on abducted children. The irony- and tragedy- is that the Hague Convention, in judicial systems like these, delivers children into precisely the danger from which it is supposed to protect them. Again Article 13 b is the crux. It can only be invoked if returning the child would expose it to grave risk of 'physical or psychological harm' or place it in an 'intolerable situation'. What greater psychological harm, what more intolerable situation could there be for a child, than to be exposed to systematic indoctrination by one parent against the other; and, worse, to carry the main burden of responsibility in adult court proceedings for deciding between mother and father? When placed in this context 'the will of the children' becomes nothing less than a vehicle for legitimising the actions of the abductor-parent.

Enforcement

Another problem lies in the alarming number of return orders, which have not been enforced. In several Convention countries, abduction is not considered a criminal act. Returns orders are not enforceable. In other countries, the enforcement process can take several months and does not always end in a return order being made. (The case of Tom Silverster -US/Austria - is but one such example).

Legal Aid

The lack of legal aid provisions in some countries is another major problem. Victim parents are often unable to bare the costs associated with these expensive procedures. In England & Wales, for instance, the legal aid provisions are extremely generous. But there should be no reason why each Contracting State should not underwrite the application under the Convention itself. It would also be helpful to judges if they knew that legal aid will be available in the Contract State to a parent whose child the judge is returning under the Convention.

Eighteen years of experience with The Hague Convention leads inevitably to the conclusion that it is a seriously flawed instrument, which at worst prejudices the welfare of abducted and illegally retained children. The heart of the problem lies in the failure of national legal systems to implement the Convention in a uniform fashion, consistent with its spirit. As a result the Convention appears to be no deterrent to child abduction.

It is arguable that, in so far as Article 13 can be exploited to justify abduction or retention, it has made the situation worse. It is also striking that, according to research by Dr. Linda Girdnew, a parent is more likely to secure a return order through a non- Convention proceeding than through a Hague

Convention proceeding (Dr. Girdnew quotes an 80% success rate with the former compared with 33% under the latter).

This is not an argument for dismantling the Hague Convention. It is an argument for improving it. The international community needs an international treaty

based on the rejection of illegal abductions or retentions across frontiers and the need to return children to their usual place of residence. The fact that, as in England & Wales, the Convention can be made to work as intended shows its potential. The task is to come up with remedies to deal with those situations where the Convention does not work.

This task will not be easily or quickly accomplished. That would require the establishment of some kind of supra-national legal body, to which signatory states would defer. That is not going to happen any time soon. The raw material with which we have to work is 52 signatories, with different judicial systems. By definition, as long as this situation remains, the proper implementation of the Hague Convention will depend in large part on a willingness to co-operate in good faith

But there are a number of steps, which 'we can begin to take straightaway and which should set in motion an incremental process of improvement. A Hague Convention Review Conference needs to be called as soon as possible to debate and introduce improvements in the following areas:

1. The Convention should make trans-national abduction and retention of children a criminal offence, notifiable to Interpol, Europol and national police agencies.
2. At the same time, so as to co-ordinate action and information, there should be 'hot lines' between Central Authorities and police; between national organizations, such as NCMEC and Reunite, on the one hand and Central Authorities and police agencies on the other; and between members of the public and national organization.
3. Governments should fund information campaigns to make the public aware of these arrangements.
4. The staff and resources of the Permanent Bureau in The Hague and of Central Authorities should be increased to meet the need for more effective action to tackle international child abduction. In particular the Central Authorities should notify the Permanent Bureau of all abductions or illegal retentions brought to their attention, as well as of the outcome of Hague Convention proceedings on their territories. The Bureau should keep a comprehensive database of these cases.
5. While an exception clause cannot be dispensed with altogether, Article 13 should be re-drafted in a way, which narrows its use to genuinely exceptional circumstances. As currently drafted, it can too easily become the rule and not

the exception.

6. In parallel, strict limitations should be placed on the age and circumstances in which children can be called to appear before the court. As a general rule, since Convention hearings are not about custody, children should not appear in courts at all. To require young children to appear in court and to make a choice between parents is a form of child abuse, inflicting extreme cruelty. The confusion and stress involved are for most children beyond description, and empty the notion of the of the children' of any significance. There may be rare cases when it is important to hear the child at first hand. But no child below a certain age should have to endure this ordeal.

7. Article 13 should incorporate a clause dealing with access provisions. Namely, if a court refuses a return, it should automatically make the necessary provisions for enforceable access rights, with a fair division of travel costs.

8. Article 21 should be entirely revised. Experience has shown that it does not work.

9. Provisions for legal aid should be addressed and a common policy should be established by all signatory countries.

Many of these points were discussed at the recent NCMEC conference on 15 and 16 September 1998. The recommendations which will be put together shortly, cover much of the above ground.

NOTE:

1. This is currently under discussion in Germany and a proposal has been put forward to reduce the number of courts eligible to hear Convention cases (at present more than 300).

Federal News Service

OCTOBER 1, 1998, THURSDAY

HEADLINE: PREPARED STATEMENT OF JANET RENO, ATTORNEY GENERAL
BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS
SUBJECT - INTERNATIONAL PARENTAL KIDNAPING

BODY:

I. INTRODUCTION

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I AM PLEASED TO APPEAR BEFORE THE COMMITTEE TODAY TO ADDRESS THE
IMPORTANT TOPIC
OF INTERNATIONAL PARENTAL KIDNAPING. MR. CHAIRMAN, I WANT YOU TO KNOW
HOW MUCH

I APPRECIATE YOUR FOCUS ON THIS ISSUE FOR IT IS SO IMPORTANT THAT WE DO
EVERYTHING WE REASONABLY CAN TO PROTECT OUR CHILDREN.

I WOULD ALSO LIKE TO THANK YOU, MR. CHAIRMAN, AND THE MEMBERS OF THE
COMMITTEE

FOR GOING FORWARD ON THE RECENT HEARING REGARDING THE MANY IMPORTANT
LAW

ENFORCEMENT TREATIES PENDING BEFORE YOU. WE BELIEVE THAT THESE TREATIES
WILL

SERVE CRITICAL UNITED STATES LAW ENFORCEMENT INTERESTS THROUGH THE
EXTRADITION

AND MUTUAL LEGAL ASSISTANCE MECHANISMS THEY ESTABLISH. MANY OF THOSE
TREATIES

CAN ALSO SERVE US IN THE TOPIC BEFORE YOU TODAY, THE INTERNATIONAL
ABDUCTION OF

A CHILD BY HIS OR HER PARENT.

I UNDERSTAND THE STATE DEPARTMENT HAS TRANSMITTED THE ANSWERS TO YOUR
FOLLOW-UP

QUESTIONS, AND WE HOPE THAT THE SENATE WILL RATIFY THESE TREATIES AS SOON
AS

POSSIBLE.

SOME OF THE MOST DIFFICULT AND CRITICAL CASES OUR LEGAL SYSTEM FACES ARE
THOSE

INVOLVING THE CUSTODY AND WELFARE OF A CHILD. WHEN A PARENT TAKES THE
DRASTIC MEASURE OF REMOVING A CHILD AWAY FROM THE OTHER PARENT, THE
CASES BECOME MORE

COMPLEX AND HEARTBREAKING. ADDRESSING THESE MATTERS IN THE
INTERNATIONAL ARENA IS

USUALLY AN EVEN MORE DIFFICULT TASK BECAUSE WE HAVE FACTORS TO CONSIDER
WHICH WE

MAY NOT BE ABLE TO CONTROL, DUE TO THE SOVEREIGNTY OF FOREIGN STATES. IN A
DOMESTIC ABDUCTION OF A CHILD BY HIS OR HER PARENT, CIVIL ORDERS REGARDING
CUSTODY ARE NOW BY LAW GRANTED FULL FAITH AND CREDIT FROM STATE TO
STATE.

MOREOVER, STATE AND FEDERAL CRIMINAL WARRANTS REACH ACROSS OUR INTERSTATE BOUNDARIES.

IN THE INTERNATIONAL ARENA, CUSTODY ORDERS ENTERED BY STATE COURTS IN THE UNITED STATES ARE NOT ENFORCEABLE OUTSIDE OF THE UNITED STATES.

FURTHERMORE, STATE OR FEDERAL CRIMINAL WARRANTS REACH ONLY AS FAR AS OUR EXTRADITION TREATIES TAKE US

AND AS FAR AS THE DOMESTIC LAW OF OUR EXTRADITION TREATY PARTNER PERMITS. IN BOTH CIVIL AND CRIMINAL PROCESS IN THESE INTERNATIONAL ABDUCTIONS, AS IN MANY MATTERS THAT EXCEED OUR BORDERS, THE REACH OF THE UNITED STATES IS ULTIMATELY

LIMITED BY DECISIONS OF SEPARATE SOVEREIGN STATES AND THEIR INDEPENDENT JUDICIARIES.

ALTHOUGH THE DEPARTMENT OF JUSTICE DOES NOT PLAY A DIRECT ROLE IN THE CIVIL MECHANISMS FOR THE RECOVERY OF CHILDREN INTERNATIONALLY, WE ARE DEEPLY CONCERNED ABOUT THIS PROBLEM AND HOW WE CAN BEST SUPPORT THE DEPARTMENT OF STATE, WHICH HAS THE LEAD IN RECOVERING ABDUCTED CHILDREN. THUS I WANT TO SAY A FEW WORDS

ABOUT THE CIVIL MECHANISMS FOR CHILD RECOVERY, BEFORE MOVING TO THE JUSTICE DEPARTMENT'S ENFORCEMENT AND PROGRAMMATIC ROLE IN INTERNATIONAL ABDUCTION CASES.

II. CIVIL RECOVERY

THE UNITED STATES HAS LONG BEEN A LEADER IN CREATING MECHANISMS FOR THE RETRIEVAL OF CHILDREN ABDUCTED INTERNATIONALLY. THE UNITED STATES AND CANADA WERE INSTRUMENTAL IN THE NEGOTIATION OF THE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION, DONE AT THE HAGUE, OCTOBER 25, 1980 ("HAGUE

CONVENTION".) THIS "HAGUE CONVENTION" PROVIDES FOR THE RETURN OF A CHILD INTERNATIONALLY BY HIS OR HER PARENT, PURSUANT TO AN APPLICATION BY THE LEFT-BEHIND PARENT AND A SUBSEQUENT CIVIL LAWSUIT FILED IN THE COUNTRY WHERE THE CHILD IS LOCATED.

ACCORDING TO THE CONVENTION, A "HAGUE PROCEEDING" DOES NOT DECIDE CUSTODY;

INSTEAD, IT SHOULD, IN MOST CASES, RESULT IN AN ORDER FOR THE "RETURN" OF THE CHILD SO THAT THE PARENTS MAY PURSUE THE RESOLUTION OF CUSTODY AND THE BEST INTERESTS OF THE CHILD IN A CIVIL COURT LOCATED WHERE THE CHILD RESIDED PRIOR TO THE ABDUCTION. IN THE FIRST TEN YEARS OF ITS OPERATION, PROCEEDINGS

UNDER THE HAGUE CONVENTION HAVE RESULTED IN THE RETURN OF OVER 2000 CHILDREN TO THE UNITED STATES. TODAY, 50 COUNTRIES ARE PARTY TO THE CONVENTION.

THE DEPARTMENT OF STATE'S OFFICE OF CHILDREN'S ISSUES IS THE UNITED STATES' CENTRAL AUTHORITY FOR THE ADMINISTRATION OF THE HAGUE CONVENTION. THE DEPARTMENT OF JUSTICE SUPPORTS THIS OFFICE IN ITS ROLE AS THE CENTRAL AUTHORITY, AND COORDINATES WITH IT WHEN A CASE HAS BOTH CIVIL AND CRIMINAL ASPECTS. FURTHER,

THE DEPARTMENT OF JUSTICE SUBSTANTIALLY FUNDS THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN ("NCMEC" OR "THE NATIONAL CENTER"). THE NATIONAL CENTER, UNDER A COOPERATIVE AGREEMENT WITH THE DEPARTMENT OF STATE, PERFORMS CERTAIN FUNCTIONS REGARDING CASES OF CHILDREN "ABDUCTED

TO" THE UNITED STATES.

WHILE THE HAGUE CONVENTION HAS FACILITATED THE RETURN OF MANY CHILDREN TO THE UNITED STATES, AND WHILE IT IS A VAST IMPROVEMENT OVER THE LACK OF ANY INTERNATIONAL INSTRUMENT WHATSOEVER, IT DOES NOT GUARANTEE A SATISFACTORY RESULT IN EVERY CASE FOR EVERY PARENT. IMPLEMENTATION OF THE CONVENTION VARIES AMONG FOREIGN JURISDICTIONS. EVEN IN CASES IN WHICH A LEFT-BEHIND PARENT HAS TIMELY FILED AN APPLICATION, HIRED LEGAL COUNSEL, AND LITERALLY DONE EVERYTHING "RIGHT," THAT PARENT, AND THE UNITED STATES, MAY BE BITTERLY DISAPPOINTED WITH THE RESULT IN A PARTICULAR CASE.

AS A PROSECUTOR, I HAVE HAD THE EXPERIENCE OF A JUDGE OR JURY RETURNING A DECISION WITH WHICH I DID NOT AGREE, WHICH I BELIEVED WAS THE WRONG DECISION. IN THESE HAGUE CASES, AS WELL, THERE MAY BE SOME DECISIONS WHICH WE THINK ARE WRONG. ULTIMATELY THESE DECISIONS, BOTH IN THE UNITED STATES ABROAD, ARE MADE BY

INDEPENDENT JUDICIARIES IN INDEPENDENT SOVEREIGN STATES.

THAT REALITY, HOWEVER, OFFERS LITTLE COMFORT TO THE LEFT-BEHIND PARENTS WHO HAVE SUFFERED THE FRUSTRATION AND ANGUISH OF LOSING CONTACT WITH A BELOVED CHILD--EITHER IN SITUATIONS IN WHICH THE WHEREABOUTS OF THE CHILD ARE UNKNOWN,

OR IN SITUATIONS IN WHICH THE WHEREABOUTS ARE KNOWN, BUT ACCESS IS LIMITED OR DENIED ENTIRELY. MY HEART GOES OUT TO THOSE PARENTS.

THE DEPARTMENT OF JUSTICE WILL CONTINUE TO WORK WITH THE DEPARTMENT OF STATE IN ANY WAY IT CAN TO SUPPORT EFFORTS UNDER THE HAGUE CONVENTION. FURTHER, IN

COUNTRIES THAT ARE NOT PARTY TO THE HAGUE CONVENTION, OUR RESOURCES ARE, THERE TOO, COMMITTED TO ASSIST THESE CHILDREN AND THE LEFT-BEHIND UNITED STATES PARENTS.

III. JUSTICE EFFORTS; CRIMINAL PROCESSES AND EXTRADITION; JUSTICE PROGRAMS

I WOULD NOW LIKE TO BRIEFLY OUTLINE THE JUSTICE DEPARTMENT'S ROLE IN THESE DIFFICULT CASES.

THE TERMS "PARENTAL KIDNAPING" AND "PARENTAL ABDUCTION" HAVE COME TO ENCOMPASS A VARIETY OF SCENARIOS INVOLVING SEPARATION BETWEEN A CHILD AND A LEFT-BEHIND PARENT OR OTHER PERSON WITH CUSTODIAL INTERESTS. THE FACT PATTERNS RANGE FROM A

"WRONGFUL RETENTION" OR "OVERSTAY" OF LAWFUL VISITATION OR CUSTODY, TO AN IMPULSIVE TAKING, TO A KIDNAPING INVOLVING PREMEDITATED FRAUD OR VIOLENCE.

OFTEN, PARTICULARLY IN WRONGFUL RETENTIONS OR OVERSTAYS, THE WHEREABOUTS OF THE PARENT AND CHILD ARE KNOWN; OTHER CASES INVOLVE LAYERS OF FALSE IDENTIFICATION,

FALSE PASSPORTS AND A HELPFUL "UNDERGROUND." IN ADDRESSING THESE CASES OF PARENTAL ABDUCTION, TWO MECHANISMS CAN BE CALLED UPON FOR TWO SEPARATE BUT

RELATED ENDS: FIRST, THE HAGUE CONVENTION OR OTHER CIVIL MEANS FOR RECOVERY OF THE CHILD;

AND, SECOND, CRIMINAL STATUTES FOR PROSECUTION OF THE OFFENDER. THE DEPARTMENT OF JUSTICE CAN HAVE A MORE DIRECT ROLE ON THE CRIMINAL SIDE. WE ARE THE AGENCY CHARGED WITH THE INVESTIGATION AND PROSECUTION OF CRIMES UNDER THE INTERNATIONAL PARENTAL KIDNAPING CRIME ACT OF 1993 (IPKCA);

WE ARE INVOLVED IN THE LOCATION AND APPREHENSION OF ABDUCTING PARENTS CHARGED WITH STATE OR LOCAL OFFENSES WHO ARE ALSO SUBJECT OF A FEDERAL WARRANT FOR UNLAWFUL FLIGHT TO AVOID PROSECUTION; AND, WITH THE DEPARTMENT OF STATE, WE ARE RESPONSIBLE FOR SECURING THE EXTRADITION OF OFFENDERS CHARGED UNDER EITHER STATE OR FEDERAL LAW.

MOST PARENTAL KIDNAPING OR INTERFERENCE WITH CUSTODY CASES ARE CHARGED UNDER STATE LAW. BY COMPARISON, THE NUMBER OF FEDERAL PROSECUTIONS INVOLVING THESE OFFENSES IS MUCH SMALLER. AT THIS TIME, OUR UNITED STATES ATTORNEYS' OFFICES HAVE 26 OPEN CASES INVOLVING PARENTAL KIDNAPING AND 66 MATTERS PENDING INVESTIGATION.

THE FBI REPORTS HAVING OPENED 260 CASES UNDER THE FEDERAL INTERNATIONAL PARENTAL KIDNAPING CRIME ACT (IPKCA) SINCE ITS ENACTMENT IN 1993. IN ADDITION, FROM 1994 TO 1998, THE FBI OPENED OVER 800 CASES TO ASSIST IN LOCATING ABDUCTORS CHARGED UNDER STATE AND LOCAL STATUTES.

I WANT TO MAKE CLEAR THAT THE CRIMINAL PROSECUTION AND APPREHENSION OF ANY ABDUCTOR DOES NOT NECESSARILY RESULT IN THE RECOVERY OF THE CHILD. INDEED, THE CONGRESS, WHEN IT ENACTED THE FEDERAL PARENTAL KIDNAPING STATUTE, NOTED THAT THE HAGUE CONVENTION OUGHT TO REMAIN THE PREFERRED MEANS FOR CHILD RECOVERY.

TWO RECENT FEDERAL CASES ILLUSTRATE THIS POINT. IN BOTH THE AL-AHMAD PROSECUTION IN THE DISTRICT OF COLORADO AND THE AMER PROSECUTION IN THE EASTERN DISTRICT OF NEW YORK, FEDERAL PROSECUTORS APPREHENDED AND OBTAINED CONVICTIONS AGAINST THE ABDUCTING PARENT. HOWEVER, IN BOTH CASES, THE CHILDREN REMAIN IN THE MIDDLE EAST WITH EXTENDED FAMILY WHILE THE ABDUCTOR SERVES THE SENTENCE IMPOSED. AGAIN, IN BOTH THESE CASES, THE DEPARTMENT OF STATE ENDEAVORS TO ASCERTAIN THE WELFARE AND WHEREABOUTS OF THE CHILDREN AND TO ASSIST THOSE LEFT BEHIND.

PROBLEMS WITH EXTRADITION MAY BE ANOTHER REASON THAT CRIMINAL CASES ARE NOT PURSUED. EXTRADITION IS NOT AN OPTION IN ALL PARENTAL KIDNAPING CASES. MANY OLDER "LIST" STYLE EXTRADITION TREATIES-- TREATIES FROM AN ERA WHEN ABDUCTION OF

A CHILD BY HIS OR HER PARENT WAS NOT RECOGNIZED AS A CRIME--ARE NOT INTERPRETED TO ENCOMPASS THIS OFFENSE. FURTHER, SOME COUNTRIES WILL NOT EXTRADITE THEIR NATIONALS. FINALLY, SOME COUNTRIES DO NOT RECOGNIZE SUCH AN ABDUCTION AS A CRIME AT ALL.

WITH THE HELP OF THIS COMMITTEE, WE CAN MAKE PROGRESS IN ADDRESSING THESE PROBLEMS. THE EXTRADITION TREATIES PENDING BEFORE THE COMMITTEE WILL ALLOW FOR EXTRADITION FOR PARENTAL KIDNAPING WHENEVER BOTH COUNTRIES RECOGNIZE THE

OFFENSE AS A CRIME. THIS COMMITTEE ALSO TOOK THE LEAD IN CRAFTING LEGISLATION--S.1266--TO ADDRESS THE PROBLEM OF THE LIMITED INTERPRETATION OF

TERMS UNDER OUR OLDER "LIST" TREATIES. WE APPRECIATE YOUR CONTINUED SUPPORT IN ENSURING THAT OUR EXTRADITION TREATIES WILL ENCOMPASS THE OFFENSE OF PARENTAL KIDNAPING TO THE FULLEST EXTENT POSSIBLE.

IN ADDITION TO ENFORCEMENT EFFORTS, THE DEPARTMENT OF JUSTICE SUPPORTS THE RECOVERY OF CHILDREN INTERNATIONALLY ON A PROGRAMMATIC BASIS. OUR OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, KNOWN AS OJJDP, SERVES A LARGER

AGENDA INVOLVING THE WELFARE OF MISSING AND EXPLOITED CHILDREN, INCLUDING FUNDING MANY ACTIVITIES OF THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN. OJJDP FUNDS TRAINING OF LAW ENFORCEMENT, PROSECUTORS, AND JUDGES ON

DOMESTIC MISSING CHILDREN CASES, RESEARCH PROJECTS, AND THE DISTRIBUTION OF INFORMATION REGARDING THE PREVENTION OF AND RESPONSE TO PARENTAL ABDUCTIONS.

IN ADDITION, OJJDP AND THE OFFICE FOR VICTIMS OF CRIME HAVE ESTABLISHED A FUND TO ASSIST PARENTS WITH TRAVEL COSTS WHEN THEY RECOVER THEIR CHILDREN. THESE FUNDS, ARE ADMINISTERED BY OJJDP IN COORDINATION WITH THE NATIONAL CENTER AND THE OFFICE OF CHILDREN'S ISSUES. BEGINNING THIS YEAR, A REPRESENTATIVE OF THE

OFFICE OF VICTIMS OF CRIME WILL BE PHYSICALLY LOCATED AT THE DEPARTMENT OF STATE, TO ASSIST THAT DEPARTMENT WITH UNITED STATES CITIZENS WHO ARE VICTIMS OF CRIME OVERSEAS, INCLUDING THESE CHILDREN.

IV. INTERAGENCY EFFORTS

MR. CHAIRMAN, WE HAVE BEEN WORKING HARD TO ADDRESS CONCERNS IN THIS AREA. IN JUNE 1997, OJJDP IN CONJUNCTION WITH THE NATIONAL CENTER HELD A PARENTS FOCUS GROUP TO IDENTIFY ISSUES AND NEEDS IN THIS AREA. WE OBTAINED INPUT AND RECOMMENDATIONS FROM STATE AND LOCAL LAW ENFORCEMENT AGENCIES

TO IMPROVE THE HANDLING AND RESPONSE TO INTERNATIONAL ABDUCTION CASES THROUGH A NUMBER OF RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE EFFORTS.

IN JANUARY 1998, WE ALSO CREATED AN INTERAGENCY COMMITTEE TO SPECIFICALLY FOCUS ON INTERNATIONAL PARENTAL KIDNAPING AND HOW WE CAN BETTER RESPOND TO THE VICTIMS

IN THESE CASES, BOTH THE LEFT-BEHIND PARENT AND THE ABDUCTED CHILD. THE COMMITTEE HAS RECEIVED INPUT FROM FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT AGENCIES IN ORDER TO MAKE RECOMMENDATIONS TO IMPROVE THE SERVICES AND SYSTEM

RESPONSE TO PARENTS. AS PART OF THIS EFFORT COMMITTEE MEMBERS HAVE PARTICIPATED IN PARENT FOCUS GROUPS, ATTENDED WORKING GROUP MEETINGS, AND LISTENED DIRECTLY TO THE QUESTIONS AND NEEDS OF LEFT-BEHIND PARENTS. THE WORK OF THIS INTERAGENCY

COMMITTEE IS ONGOING AND IS ADDRESSING THE FULL RANGE OF ISSUES, FROM EFFORTS TO EDUCATE LAWYERS, PROSECUTORS, LAW ENFORCEMENT AND JUDGES ON THE HAGUE CONVENTION

AND INTERNATIONAL CHILD ABDUCTION CASES, THROUGH DETECTION AND RECOVERY, TO PROSECUTION AND PUNISHMENT. THE INTERCHANGE TO DATE HAS HELPED IN COORDINATION

OF THE MANY AGENCIES--LOCAL, STATE, AND FEDERAL--WHICH MAY NEED TO BE INVOLVED IN ANY GIVEN CASE. A REPORT ON THE COMMITTEE'S ACTIVITIES AND RECOMMENDATIONS TO IMPROVE SERVICES AND RESPONSE TO PARENTS AFFECTED BY INTERNATIONAL ABDUCTIONS IS

EXPECTED AFTER THE FIRST OF NEXT YEAR.

I STRONGLY BELIEVE THAT ASSISTANCE AND GUIDANCE WOULD BE OF GREAT BENEFIT BOTH TO LAW ENFORCEMENT PERSONNEL WHO MUST QUICKLY RESPOND THESE CASES AS WELL AS TO LEFT-BEHIND PARENTS IN INTERNATIONAL ABDUCTION CASES.

THEREFORE, I WILL BE ASKING THROUGH THE INTERAGENCY COMMITTEE THAT OJJDP, THE DEPARTMENT OF STATE, AND OTHER ENTITIES, REVIEW THE VALUABLE INTERNATIONAL PARENTAL CHILD ABDUCTION GUIDE RECENTLY RE- ISSUED BY THE DEPARTMENT OF STATE.

THE GOAL OF THIS REVIEW IS TO ENSURE THAT IN ITS NEXT PUBLICATION IT IS MORE USER FRIENDLY AND INCLUDES INFORMATION PROVIDED BY THE PARENTS THEMSELVES.

I WILL ALSO ASK THE COMMITTEE TO EXPLORE WAYS TO INCREASE THE CIRCULATION OF THIS GUIDE. I HAVE LEARNED HOW VALUABLE THIS TYPE OF INFORMATION CAN BE TO DESPERATE PARENTS.

OJJDP'S FAMILY SURVIVAL GUIDE FOR PARENTS OF MISSING CHILDREN, BECAUSE OF ITS CONTENT, HAS BEEN ONE OF THE MOST POPULAR DOCUMENTS EVER PRODUCED BY THE DEPARTMENT OF JUSTICE. THE INTERNATIONAL PARENTAL CHILD ABDUCTION GUIDE, JOINTLY

PRODUCED BY THE JUSTICE AND STATE DEPARTMENTS, IN CONJUNCTION WITH PARENTS, FEDERAL, STATE AND LOCAL LAW ENFORCEMENT AGENCIES, AND OTHER ORGANIZATIONS CONCERNED WITH MISSING CHILDREN, CAN BE A VITAL RESOURCE FOR A PARENT WHOSE CHILD HAS BEEN REMOVED FROM THE UNITED STATES.

V. AREAS FOR RENEWED EFFORTS

WHILE I HAVE ALREADY DESCRIBED EFFORTS THAT ARE ONGOING IN THIS AREA, THE JUSTICE AND STATE DEPARTMENTS ARE, COLLECTIVELY, TAKING A HARD LOOK AT WHAT MORE WE CAN DO. I HAVE DISCUSSED THIS WITH SECRETARY ALBRIGHT.

AMONG THE MANY ISSUES WE ARE ADDRESSING IS THE FUNCTIONING OF THE HAGUE CONVENTION. WHILE ALL AGREE THAT THIS TREATY IS A VALUABLE TOOL FOR THE RECOVERY OF CHILDREN, WE ARE COMMITTED TO MAKING SURE IT WORKS EVEN MORE EFFECTIVELY.

THIS TASK RESTS PRIMARILY WITH THE DEPARTMENT OF STATE. HOWEVER, THE JUSTICE DEPARTMENT CAN ASSIST IN THE EDUCATION AND TRAINING OF LAW ENFORCEMENT AGENTS, PROSECUTORS, PRACTITIONERS AND JUDGES, ALL OF WHOM MUST BECOME MORE FAMILIAR

WITH THE HAGUE CONVENTION. THE OFFICE OF JUSTICE PROGRAMS AND OJJDP ARE EXAMINING HOW WE COULD EXPAND OUTREACH AND EDUCATION PROGRAMS TO TRAIN LAW ENFORCEMENT, PROSECUTORS, JUDGES , AND SOCIAL SERVICES ON INTERNATIONAL PARENTAL KIDNAPING.

TOGETHER WITH THE DEPARTMENT OF STATE, WE ARE REVIEWING HOW BEST TO FOCUS OUR EFFORTS ABROAD. OVER HALF OF ALL FAMILY ABDUCTIONS ARE TO COUNTRIES NOT PARTY TO THE HAGUE CONVENTION. WE NEED TO CONSIDER WHETHER THERE ARE OTHER COUNTRIES WE

SHOULD ENCOURAGE TO JOIN THE CONVENTION. UNITED STATES LAW ENFORCEMENT OFFICIALS LOCATED OVERSEAS, PARTICULARLY OUR FBI LEGAL ATTACHES, CAN HELP

TO EMPHASIZE TO THEIR FOREIGN COLLEAGUES THE SERIOUSNESS WITH WHICH THE UNITED STATES TAKES THESE CASES, AND THE NEED FOR EFFECTIVE RESPONSES IN LOCATING THE CHILDREN AND THE ABDUCTING PARENTS.

ANOTHER AREA FOR ATTENTION IS PREVENTION. EFFORTS MADE IN THE STATE AND LOCAL JURISDICTIONS AS TO THE TYPE OF ORDERS ENTERED REGARDING CUSTODY, THE DISSEMINATION OF INFORMATION REGARDING LEGAL AND PRACTICAL STEPS TO HELP PREVENT ABDUCTIONS, AS WELL AS ADDITIONAL MEASURES, SUCH AS SURRENDER TO THE FAMILY

COURT OF BOTH U.S. AND FOREIGN TRAVEL DOCUMENTS FOR THE CHILDREN, WILL WELL SERVE AS A DETERRENT TO THESE ABDUCTIONS.

ALSO, WE NEED TO MANAGE THESE CASES MORE EFFECTIVELY ON AN INTERAGENCY BASIS AND EXPLORE WAYS TO IMPROVE OUR SYSTEMS FOR KEEPING COMPLETE AND ACCURATE STATISTICS. STATE DEPARTMENT PERSONNEL, FEDERAL AND STATE PROSECUTORS AND INVESTIGATORS, AND CHILD WELFARE AGENCIES NEED TO WORK TOGETHER AND BE BETTER

INFORMED, SO WE MAKE TIMELY AND EFFECTIVE DECISIONS ABOUT THE CIVIL AND CRIMINAL REMEDIES IN THESE CASES, AND IN ORDER TO BETTER RESPOND TO THE LEFT-BEHIND PARENT.

MOREOVER, COORDINATION AT A WORKING LEVEL MUST BE SUPPORTED BY COORDINATION AT A POLICY LEVEL. SECRETARY ALBRIGHT AND I HAVE ASKED OUR SENIOR POLICY STAFF TO

REVIEW SEVERAL POLICY ISSUES REGARDING INTERNATIONAL CHILD ABDUCTION.

ONE ISSUE WE WANT TO REVIEW -- TOGETHER WITH O.M.B. IF APPROPRIATE -- IS THE LEVEL OF

RESOURCES WE CAN AND SHOULD BE DEVOTING TO THESE CASES. WE ALSO NEED TO EXPLORE MAKING BETTER USE OF DIPLOMATIC INITIATIVES AND HOW WE AT JUSTICE CAN SUPPORT STATE IN THESE EFFORTS.

WE ALSO NEED TO REVIEW, AT A SENIOR LEVEL, THE ROLE OF THE NATIONAL CENTER AND, IN PARTICULAR, CURRENT SUGGESTIONS TO EXPAND ITS ROLE IN PREVENTION, CASE MANAGEMENT, CASE PROCESSING, AND SUPPORT TO LEFT-BEHIND PARENTS.

VI. CONCLUSION

THESE CASES PRESENT DIFFICULT CHALLENGES. THE JUSTICE DEPARTMENT IS COMMITTED TO CONTINUE AND TO IMPROVE ITS PARTNERSHIP WITH THE DEPARTMENT OF STATE, AND WITH STATE AND LOCAL AUTHORITIES, TO INSURE THAT EVERY CASE IS ADDRESSED EFFECTIVELY. WHILE THERE CAN BE NO GUARANTEES WE WILL HAVE THE DESIRED

RESULT IN EVERY CASE, WE MUST ASSURE THAT WE HAVE DONE OUR BEST TO RECOVER CHILDREN WRONGFULLY SEPARATED FROM THEIR PARENTS AND TO ENFORCE THE LAWS AND LAWFUL ORDERS OF OUR COURTS.

AGAIN, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THE COMMITTEE CONCERNING THIS MOST IMPORTANT TOPIC.

END

LOAD-DATE: October 2, 1998

Federal News Service
OCTOBER 1, 1998, THURSDAY

HEADLINE: PREPARED STATEMENT OF PAUL MARINKOVICH
BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

BODY:

I wish to thank the Committee for the honor of speaking about America's most precious resource, our children.

My 6-year-old son Gabriel was lost to an act of International Parental Abduction on August 19, 1996. Over the last 773 days I have been engaged in a battle on several fronts for his safe return. As both a father and as an executive director and co-founder of the International Child Rescue League, I find it important to hold the proper context in both my case and interacting with others. Our mission statement is as follows:

By holding the sacred bond of parent and child in its highest regard, we stand for the right of all children to receive the love of both of their parents. We have faith that all parents really want to do what is best for their children, but realize that sometimes decisions are made out of anger rather than love. It is our firm belief that through individual case support of missing and abducted children and by enrolling the people of every nation in the vision, that a miracle is indeed possible. We work toward the day when children everywhere will be blessed with a world in which parental kidnapping is no longer a threat to their growth, development and stability.

I am here today in support of that miracle. One dictionary, defines a miracle as "an event believed to be an act of God or of a supernatural power." I contend that a miracle is a shift in one's perception or their thinking. If we can start to change the way we all think about International Child Abduction then we can indeed create a miracle here today.

Justice Department

Let's first look at the actual act of parental abduction itself and how it relates to children. The National Center for Missing and Exploited Children created a federally funded publication to educate and advise law enforcement officials in their investigation of parental abduction cases called Missing and Abducted Children, Law Enforcement Guide to Case Investigation and Management. It advises law enforcement officers as follows: "the emotional scarring caused by these events requires that officers recognize family

abduction not as a harmless offense where two parents are arguing over who 'loves the child more,' but instead as an insidious form of child abuse."

In 1993, the American people and this Congress spoke their will and passed into law the International Parental Kidnapping Crime Act of 1993. It states, and I quote, "Whoever removes a child from the United States or retains a child outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3

years, or both.

According to a August 31, 1998 newspaper article in the Ventura County Star about my case, Nancy Nayak who is the Assistant Director of the National Center for Missing and Exploited Children, quoted the following. " In 1993 case workers estimated about 10,000 children were abducted in the United States and taken abroad in parental abductions. While the exact numbers can not be determined today, experts acknowledge that it is significantly higher. Also since 1993 only 10 arrest warrants have been filed for these parents and only one has been successfully prosecuted."

I visited Washington D.C. in June of this year and talked to several members of the Senate and Congress. I was told that we are a nation of laws. I also was informed that laws are created more as a deterrent to crime rather than a punishment for crime. It was also explained to me that the stricter a law is enforced, the higher percentage of compliance is achieved. So if strict enforcement of laws are a deterrent to crime, then what type of message is our Justice Department giving the American people by prosecuting only 1/100th of one percent of those who violate the International Parental Kidnapping Crime Act of 1993? How effective of a deterrent to the crime of International Parental Kidnapping is the issuance of a warrant for 1/10th of one percent of those who violate the International Parental Kidnapping Crime Act of 1993?

Is it any wonder that the National Center for Missing and Exploited Children report that International Child Abduction out of the United States has tripled since 1986? While some are quick to point that the rise in international marriages in the United States have fueled this dramatic increase, I believe that some, if not most, of this increase can be directly attributed to the inexcusable disregard for enforcement of the International Parental Kidnapping Act of 1993 by our Justice Department.

In my case after a long emotional and financial drain, I was able to join the ranks of the 1/10th of one percent of the cases that result in a warrant. This was only achieved after a 6 month full background check into my affairs, having to fly my present family out from California to Texas for an FBI interview, drumming up support from my Congressman and local media and thousands of man hours and at least one hundred letters. I believe it was my persistence that persevered and not the willingness of my U.S. Attorney to cooperate.

My son has been abducted into an underground organization in Sweden. I have won my Hague cases in Sweden and have full custody in both the United States and Sweden. The Swedish Government has uncovered conclusive proof that my son was registered in Sweden under a fraudulent birth certificate and a fraudulent United States Passport that was obtained with this fraudulent birth certificate. Both the Swedish Government and myself have provided proof beyond a shadow of a doubt of this action. I have requested that the US. Attorney issue a charge of Passport Fraud to no avail. The evidence is included within the handouts of the written account of my testimony.

The Swedish prosecutor indicated that with an issuance of passport fraud he could expand the search for my son to include obtaining the phone and bank records of those known to be illegally hiding my son. Without the Passport Fraud warrant he will do nothing. He indicated to my attorney, that if the United States is not willing to address this issue then why should the Swedes. His request makes sense. Why should other countries take child abduction seriously if we are not willing to?

If we can prosecute parents who abduct on more than one crime, then we can increase the chances of extradition. If we can have their passports revoked, then we have the possibility of deportation which has worked in the past. If we show these other countries that we are serious by our actions and requests, then they start getting serious about the return of our children. The context very clearly starts here with our own Justice Department. If we don't treat the abduction of our children as a serious matter, then how can we expect those other countries involved to fight for our children's return?

Up until recently, the huddled masses of left behind parents and their abducted children have been isolated in their patient sufferance. Everyday these parents experience the agony only a parent can feel when their child has been stolen away. They become bitter at the indifference they experience from the government officials sworn to uphold the laws of their count'. They have been kept at bay by hundreds, perhaps thousands, of U.S. Attorneys who refuse to issue International Parental Abduction Warrants. How much longer will the United States Judicial System remain deaf to the futile cries of these left behind parents and their abducted children?

The tide is changing. Left behind parents of abducted children are standing up and starting to be heard.

We are crawling out of our isolated existence and realizing that we are not alone. We are now networking together and finding we share a common injustice at the hands of our own Justice Department. It is evident that it is the will of the American people to do something drastic about this growing problem. The miracle we can create today, is for the Justice Department to start taking this crime seriously and to support the wishes of the American people and this Congress by strictly enforcing the International Parental Kidnapping Act of 1993 and start cooperating with parents. Ms. Reno as the Attorney General, you have the unique honor of being part of the growing tide of change and becoming a part of the solution. You have before you, an opportunity' to send out a clear message that the United States is not going to stand for the abduction of children, period.

State Department

In a recent July 30, 1998 article in the Los Angeles Daily Journal (a well recognized legal newspaper) featuring my case, Nancy Nayak from the National Center for Missing and Exploited Children quoted that, 'The Hague process is very lengthy and expensive and at best it can take from 6 months to a year' (not six weeks as quoted by the publication I received from the OCI). She

further states, "Even with the Hague Treaty, the State Department reports there is only a 30 percent chance of getting your child back." Most of that 30 percent are made up of voluntary returns. In some countries, such as Sweden, Germany, and Austria, the return rate is even worse. I was never informed that my chances of getting my son back via the Hague Convention are less than 30 percent. Is that level of return acceptable to the United States?

I can sit here and complain about the Swedish Government who granted the abductor of my son secrecy' protection (the equivalent to our witness protection program) because she presented the Swedish authorities with false documentation and false claims that her life was in danset. I can complain about the lack of police effort in Sweden to find my son, when in fact, he was attending a local public school three blocks from the police station under his correct name and Swedish ID number. I can complain about the releasing of police investigation files to the abductor's attorney detailing the scope and methodology of their search for her I can complain that the Swedish Government financially assists the abductor, who is an American citizen, with legal aid and welfare but yet claims they do not know her location. This is not the forum to complain about Sweden. I have directly confronted the Swedish Government with these issues and will continue to do so. Already, some changes are taking place.

We are here today with many left behind parents questioning the lack of compliance of the Hague Convention by other countries, as we should, but it is equally disturbing that our own State Department Office of Children's Issues is sending a clear message out to all the Central Authorities involved that we are not concerned about our children. This is shown by their lack of return correspondence, their constant turning over of personal, their ridiculously vague and soft treatment of violations by other Central Authorities, their inherent lack of knowledge and training regarding foreign laws, and their overall lack of concern for the parents they are supposed to support. If I use my terribly mismanaged case as a barometer as to how the OCI is doing, then I can't begin to imagine the lack of support other parents with softer voices are receiving from the OCI.

As I understand it, new consular have little formal training in their new' post and are taking on an incredible work load. My consular had three days of on the job training before taking the post over After writing to Mary A. Ryan, the Assistant Director of Consular Affairs about these concerns, she indicated that a consular handles between 140 to 150 cases. It is an impossible workload even for an experienced consular who has been in that post for two years. To turn over that level of workload to an inexperienced person with no formal training is tragic because it concerns the welfare of missing and abducted children and each mistake, each lack of quick action, each unanswered correspondence directly affects a child's life.

The Department is left to relearn the lessons already learned. The price paid for those lessons were the souls and the loss of childhood that the countless numbers of past abducted children have already paid. Now are we to rob countless others again because we simply have an inefficient system of inadequate training that clearly doesn't work? It is perfectly clear to me that we have a very serious problem and it is our children who will once again pay the price. Please name another area within the State

Department that handles a commodity more precious than our children. Other nations look to us for world leadership and to deliver an example in which to follow. It is any wonder that we have such a problem with Hague compliance abroad? If we are sending out a message that we are soft on the international parental abduction of our children, than how can we expect other countries to hold the higher standard necessary to increase returns above 30 percent? Every child who is not returned is subject to a flagrant violation of their human rights. Remember 7 out of 10 children will never see American soil again. Our miracle here is for the United States to stand as a world leader with an aggressive context that we are not going to stand for the abduction of our children. This can be put forth by every State Department official in every, letter and phone call. We must change the way in which we lead the world for the benefit of our children.

Solutions

- 1) We need strict enforcement by the Justice Department of the International Kidnapping Crime Act of 1993.
- 2) We need to educate our U.S. Attorneys about parental abduction and instruct them to take an aggressive stance in prosecuting these cases.
- 3) We need a person in Washington D.C. at the Justice Department's Office of International Affairs who is only in charge of International Parental Kidnapping. They would provide a consistency so that left behind parents can get a universal answer and solution to their problems and strict enforcement can be assured.
- 4) We need to have every international abduction case broadcasted worldwide. In a bold and heroic effort by the International Broadcasting Bureau of the United States Informational Agency, a program is now underway to broadcast our search for these fugitives who have abducted our children. These broadcasts represent a two front war against international abductions and illustrates one attempt of direct action by the United States Government to solve this problem. The first front offers a very real chance to provide the international public with the information needed to affect the successful returns of these abducted children but the second front sets the stage for a much larger picture. These broadcasts will serve as a forum for the United States to deliver how serious they deal with the international abduction of their children. Mr. Charles Goolsby and the International Broadcasting Bureau of the United States Informational Agency is to be commended for their valiant effort towards assisting in the return of these abducted children and should stand as an example for all Justice Department officials everywhere.
- 5) We need to move the Office of Children's Issues from the State Department to the Civil Branch of the Justice Department or to a private organization such as the National Center for Missing and Exploited Children. If that is not possible, we need to at least double the number of consular handling these cases.
- 6) We need to have studies into the individual compliance records of each of the

countries in which we deal with. We absolutely should not pass further treaties with countries who are not currently in compliance with the Hague Convention.

7) We should impose further duty on imports from countries and put that money in a fund to help searching parents in those countries in direct relation to the amount of non-compliance they are exhibiting.

LOAD-DATE: October 2, 1998

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

NCME/P.A.R.E.N.T

Divider Title: _____

**National Center for Missing
and Exploited Children**
(NCME)

>

Transfer interrupted!

Content-Type" CONTENT="text/html; charset=iso-8859-1">

1-800-THE LOST

Services



International Division: Our Goals and Purpose

Our Goals and Purpose

Hague Convention

Where To Go For Assistance

The International Division of the National Center for Missing and Exploited Children (NCMEC) was established in 1995 to handle international abductions, and "incoming" Hague cases transferred from the U.S. Department of State. This includes Hague cases where a child is abducted from a foreign country to the United States and non-Hague cases of children who are abducted to the Middle East, Asia, and Africa.

- International child abduction is a complicated problem.
- Foreign courts often refuse to recognize orders issued by courts in the U.S.
- The Hague Convention on the Civil Aspects of International Child Abduction was established to address this issue.
- According to the treaty, a child who has been wrongfully removed or retained in a ratifying country should be returned to his or her country of habitual residence. The Convention also provides a means for helping parents to exercise visitation rights abroad.
- Countries party to the Convention are expected to assist in the prompt return of an internationally abducted child.
- Custody cases are not subject to the Hague Convention. Custody decisions are to be made in the abducted child's country of habitual residence.
- In 1988 the United States became a ratifying country to the Hague Convention on Civil Aspects of International Child Abduction.
- Presently, 47 countries have ratified the treaty.
- Approximately 300 cases have resulted in children being returned since the establishment of NCMEC's International Division.
- NCMEC encourages all nations to ratify the Hague Convention and join in our efforts to rightfully return these children to their countries.

1-800-THE LOST

Services



International Division

How can I invoke the Hague Convention and receive assistance from the NCMEC International Division?

Our Goals and Purpose
Hague Convention
Where To Go For Assistance

If your child has been abducted from a foreign country, that is a party to the Hague Convention on the Civil Aspects of International Child Abduction, to the United States and you need assistance from the NCMEC International Division, please do the following

- Contact your Foreign Central Authority.
- Submit two completed Hague application forms (one original and one copy), plus two copies of your supporting documents.
- The application form may be photocopied.
- Your Foreign Central Authority will submit your application to NCMEC.
- Type or print all information and provide as much of the information called for as possible. You may use an additional sheet of paper if you need more space.
- If you have further questions about the form, please refer to the text of the Hague Convention. You may also call the National Center for Missing and Exploited Children (NCMEC) at **703-522-9320**, or fax us at **703-235-4067**, or call the Office of Children's Issues (CI) at **202-736-7000**.
- Translating the supporting documents into the official language of the requested country is advised. Translations expedite the overall process. Foreign attorneys and judges act more favorably with such documents. Ask NCMEC or CI for more information about supporting documents.
- The Foreign Central Authority will fax your Hague application to NCMEC at fax number **703-235-4069**. Send originals and supporting documents by mail, overnight delivery, or courier service to

Attn: Nancy Hammer
National Center for Missing and Exploited Children
2101 Wilson Blvd., Suite 550
Arlington, VA 22201-3077
U.S.A.

Our Hotline is staffed with bilingual operators and can handle more than 140 languages through the AT&T Language Line Service.

UK Hotline Number: 0-800-843-5678-1

**U.S., Canada, and Mexico Hotline Number: 1-800-THE-LOST
(1-800-843-5678)**

Belgium Hotline Number: 0800-7-3108

France Hotline Number: 0-800-843-5678-1

The Netherlands Hotline Number: 0900-022-1769

Switzerland: 088-83-7606

NCMEC is available to foreign central authorities from 8 A.M. to 8 P.M., Monday-Friday, and Noon to 8 P.M., Saturday, Sunday, and holidays in the Eastern Standard Time Zone.

Consular Assistance:

Office of Children's Issues (CI).....202-736-7000

Overseas Citizens Services.....fax 202-647-2835

U.S. Department of State

Office of Children's Issues

CA/OCS/CI, Room 4811

Washington, D.C. 20520-4818

Internet Address: <http://travel.state.gov>

U.S. Passport Restrictions:

Office of Passport Policy and Advisory Services....202-955-0377

.....Fax 202-955-0230

Passport Services, Suite 260

U.S. Department of State

1111 - 19th Street, N.W.

Washington, D.C. 20522-1705

P.A.R.E.N.T

**Parents Adocating for Recovery thru Education by
Networking Together**

INTERNATIONAL PARENTAL CHILD ABDUCTION

First on the web: August, 1997

This is Nadia Dabbagh, born in 1990 and kidnapped first to Saudi Arabia and then to Syria in 1992. When her American mother successfully won a Syrian court order affirming her custody, Nadia's father abandoned her there. Syrian officials refuse to return Nadia to her mother. Although she is a U.S. citizen, seven years old, and guilty of no crime, Nadia remains captive in Syria. The authorities there will not tell the U.S. Embassy where she is being held, or by whom. Her father has gone back to Saudi Arabia to avoid the Syrian and U.S. warrants, which the Saudis will not enforce. Nadia has not seen her mother for five years.



UPDATE JANUARY 1998:

AMERICAN CHILD BEING HELD FOR RANSOM BY SYRIAN AUTHORITIES A Syrian source revealed that little Nadia Dabbagh will not be allowed to leave Syria or to have contact with her legal custodial mother. Nadia has been a great source of income to many Syrians over the past several years. Nadia was abandoned in Syria over 2 years ago by her abducting father. The source disclosed that, although the abductor was briefly jailed in Syria, he was able to buy his freedom for the equivalent of \$200,000 (US dollars). He is currently living and working in Kuwait, where other members of his family live. The abductor, Mohamad Hisham Dabbagh has attempted to elude Syrian authorities for years. It is doubtful he will ever return to Syria again. Reports indicate that fourteen members of the kidnapper's family have warrants for their arrest by the Syrian government.

NADIA HAS BEEN A REAL SOURCE OF REVENUE for many involved. Reports indicate that Maureen Dabbagh's attorney in Syria, Mr. Mounir Al-Amoudi, requested that she deposit \$25,000 into a French bank account as a retainer before he would take her case to court during custody litigation. Although Maureen won in the Syrian courts, she was never given her child, nor allowed to see her. In regards to the amount of money both Maureen and the abductor have spent in Syria, a regional source was quoted as saying "money has been raining from heaven."

WHILE Maureen Dabbagh can longer continue to pay Syrian authorities in the hopes of actually having her child returned, she says that she is unsure whether or not she would again pay \$200,000 for the promise of ever seeing her child again. What is certain is that the kidnapping of Nadia Dabbagh has been a generous source of revenue for various Syrian officials.



Nadia Dabbagh at 18 months old, in 1992. Soon after this photo was taken, she was abducted and has not seen her mother or her native country since.

Each year over 350,000 children are abducted by a parent or family member in the United States alone. Of that number, it is estimated that 2,000 to as many as 10,000 children are taken by their non-custodial parent to other countries. This is a worldwide problem and becomes more so every year. Parental kidnapping is a crime. It is child abuse.

- In 1993, the International Parental Kidnapping Crime Act, 18 USC 1204, went into effect in the United States, criminalizing the removal or retention of any child under age 16 from the United States in an effort to prevent the other parent rightful access to the child (i.e. joint custody, visitation, etc.).
- The international community has addressed this problem in several treaties. The Hague Convention on the Civil Aspects of International Parental Child Abduction is a multi-national treaty set in place to return children who have been wrongfully removed. There are currently 44

countries signatory to this treaty. None of those are Middle Eastern or Persian Gulf countries. U.S. participation in the Convention was declared by the Congress and enacted into law as the International Child Abduction Remedies Act, codified at 42 USC 11601.

- The United Nations Convention on the Rights of the Child also calls for the governments which are parties to remedy the incidence of parental abduction. Currently, every country has ratified this treaty except for six. The United States is one of the non-signatories. At the order of President Clinton, Secretary of State Madeline Albright has signed the treaty, but her signature must be ratified by the Senate. Progress is being blocked by conservatives. Contact your senators to ask that this treaty be ratified! (An alternative site to read the Convention is here).

Still, even with these laws and treaties, the problem is getting worse. The ease of international travel, combined with a rise in the number of bi-cultural marriages, has resulted in an escalation of international abductions.

The consequences to the children are far-reaching. Research has shown that children suffer varying degrees of emotional and psychological harm when removed from a parent and denied access to that parent's love, attention, and support. When a child is abducted to a Middle Eastern or Persian Gulf country, the problems become greater. Children taken to these countries are most likely never to be recovered.

The least that a child loses when she or he is abducted is their custodial parent, their home, their friends, extended family, school, personal belongings, and probably religion, and certainly their American freedoms and culture. Children are oftentimes told that their left-behind parent is dead or no longer loves them. Children taken to the Middle East and Persian Gulf countries may be forced to abandon English, enter an arranged marriage, placed into child labor, or lose their chance for a formal education, among other possibilities. They may find themselves abandoned emotionally by their kidnapper, who may give them to female relatives to raise.

The consequences for children of both sexes are severe; for female children, they can be fatal. Although it is a violation of international law, female genital mutilation is still widely practiced throughout the Gulf and Middle East, and can lead to death through shock or sepsis, as well as contributing to the spread of HIV and to reproductive difficulties later in life.

American mothers who have litigated for custody in Islamic courts have been thrown into prison (at least one case in Saudi Arabia) or granted custody but never allowed to see child or enforce the order (Barbara Mezo/Egypt, Maureen Dabbagh/Syria). Warrants for the arrest of the abductors do very little, if anything. The United States has no extradition treaty with Middle Eastern or Gulf Countries. Abductors are basically protected by their host countries, and out of the legal reach of the U.S.

Islamic law **does not** automatically grant fathers custody of their children unless that child is of a certain age. However, in most of the nations which have adopted sharia (traditional Islamic law) as their formal or informal adjudication system, American and European woman are being denied the right to even know where their children are. While the U.S. Department of State has established the Office of Children's Issues to assist left-behind parents, there is little the State Department can do. Parents have now joined together in an effort to bring about greater public awareness and support to the left-behind families, along with many **new** resources.

- THE RECOVERY OF INTERNATIONALLY ABDUCTED CHILDREN: A Comprehensive Guide by Maureen Dabbagh. Published in 1997, the book is an up-to-date history and manual regarding the recovery of children kidnapped to destinations outside the U.S., written by an experienced expert witness and lecturer on the topic. Dabbagh's own two-year-old daughter was kidnapped to Syria in 1992 and abandoned there by her father. This book can be purchased directly from McFarland & Co. Inc., Publishers at 1-800-253-2187. Also available via internet booksellers and in most bookstores by special order if not in stock. ISBN #0-7864-0289-X.

\$42.50 in US currency, 216 pp.

- **P.A.R.E.N.T. Parents Advocating for Recovery thru Education by Networking Together.** Monthly newsletter for left-behind parents seeking to recover their children. Timely articles on law, personal stories, special events, resources, more.... For more info, click here to email [P.A.R.E.N.T.](#) or fax to (757) 497-0042.
- **International Child Abduction Law** by Davis, Rosenblatt, & Galbraith. Information on the contents of a 1993 book by three attorneys on the topic, intended to be a practical guide to the law and the complications that arise after a kidnapping. Concentrates on U.S. and Canadian children. Ordering data is provided, or you can try to locate it through libraries and internet booksellers with the ISBN #0-421-48990-1, \$69.50 in U.S. currency.
- **United Nations Poster Campaign** International Effort to bring individual cases of abduction to the attention of the United Nations on a large scale. Internationally abducted children are featured on these large, full-color posters produced by The Committee for Missing Children at no charge to the searching parent. The campaign involves marching on Washington D.C. and the United Nations at different times during the year. Parents of abducted children interested in having their child featured may contact: [P.A.R.E.N.T.](#)
- **Children's Rights Council - Japan** Reach them by email in English [here](#).
- **Co.M.A.C. Coalition for Missing and Abducted Children** Based in New York, this group has active lobbying efforts, events, and programs. This is an email link only.
- **National Center for Missing and Exploited Children**
- **Business Access Network (BANET) Child Alert** This service allows the parents of missing children to post the name, photo, and other identifying information where browsers can flip through and see if they recognize any of the kidnapped victims. Child Alert is working in conjunction with Operation Child-Safe.
- **Committee for Missing Children** at: 1-800-525-8204.
- **U.S. Department of State Office of Children's Issues** will take questions about international child abduction at 202-736-7000.
- **CyberPages International Inc - Missing Children** CyberPages International sponsors this page, which permits parents to post information and photos of missing children, including stranger abduction as well as parental abduction.
- **Missing Children's Home Page** This is a page based in Minnesota which includes national and international resources as well. It provides an online slideshow of abducted children.
- **Child Quest International** This is the main page for a group whose mission is finding missing children. Their intake page is [here](#).
- **International Child Abduction Remedies -- A Cry For Help** This is an extremely short article by Richard Crouch, an attorney in Arlington, Virginia, on the shortage of attorneys in Virginia to help with these cases. He's done a [longer article](#) at the same site reviewing the Hague Convention in terms that might be easier for most non-lawyers to understand than the language of the Convention itself.
- **ICANN: International Child Abduction Attorney Network** ICANN's purpose is to increase legal representation for parents in cases brought under the Hague Convention on the Civil Aspects of International Child Abduction. The network is being managed by the Parental Abduction Project at the ABA Center on Children and the Law, available by phone at 202-662-1757.

- Hilton House This website is run as a free public service by an attorney from California. It contains decisions of courts worldwide on Hague Convention cases, and of states within the U.S. on the implementation of the model Uniform Child Custody Jurisdiction Act (UCCJA) and the related federal law, 28 USC 1738A. This federal law requires all U.S. states and territories to honor each other's child custody rulings. It does not affect foreign countries.
- The Missing Children's Network Canada A non-profit humanitarian organization based in Montreal, Quebec, Canada whose mission is to assist in the international search for missing children and to educate the public in order to prevent more children from becoming victims of aggression and exploitation.
- FCO: International Child Abduction This is a British page on this issue, titled "International Child Abduction - Advice for Parents" and is meant to address situations when a child been taken or kept overseas without the consent of the custodial parent in circumstances where their consent is required.
- Illinois Interstate and International Custody Disputes FAQ's This is a compilation of Frequently Asked Questions (FAQs) that, although specific to Illinois state law, may help parents in other states understand the mechanics of the interactions between the states, the feds, and the foreign nations in international custody disputes.
- Neighborhood Watch This page contains a newsletter, the second article of which is the description of a 1995 Canadian capture of a U.S. man who had kidnapped his child.
- Child Abduction This is a very nice little page of links to other pages on child abduction, especially international child abduction. Some of those links are in the list above, and some are not. It also has links regarding preventing abduction.

This page is maintained by P.A.R.E.N.T., an unincorporated child advocacy organization. Please contact us to make suggestions or to let us know about dead links! The original page design was donated by Professor Cunnea, who maintains a series of web pages on educational topics and women's legal status on the web.

00004228

visitors since August 17, 1997.

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

State Department

Divider Title: _____

INTERNATIONAL ABDUCTION

Since the late 1970's, the Bureau of Consular Affairs has taken action in over 8,000 cases of international parental child abduction. We also have provided information in response to thousands of additional inquiries pertaining to international child abduction, enforcement of visitation rights and abduction prevention techniques. The Office of Children's Issues works closely with parents, attorneys, other government agencies and private organizations in the United States to prevent international abductions.

Forty-four countries (including the United States) have joined the Hague Convention on the Civil Aspects of International Child Abduction. The Convention discourages abduction as a means of resolving a custody matter, by requiring (with few exceptions) that the abducted child be returned to the country where he/she resided prior to the abduction. In 1996, this office received approximately 700 applications under the Hague Convention. About half involved children abducted from the United States to other countries. Most of the cases involved Mexico, Canada, the United Kingdom, Germany and France.

There are still many countries, however, where the Hague Convention has not been accepted. In the event of an abduction to a non-Hague country one option for a left-behind parent is to obtain legal assistance in the country of the abduction and follow through a court action. Of non-Hague countries, the largest number of cases involved children abducted to Egypt, Japan, Jordan, the Philippines, and Saudi Arabia.

WHAT THE STATE DEPARTMENT

CAN DO:

- In cases where the Hague Convention on the Civil Aspects of International Child Abduction applies, assist parents in filing an application with foreign authorities for return of the child
- In other cases, through our Embassies and Consulates abroad, attempt to locate, visit and report on the child's general welfare
- Provide the left-behind parent with information on the country to which the child was abducted, including its legal system, family laws, and a list of attorneys there willing to accept American clients
- In all cases, provide a point of contact for the left-behind parent at a difficult time
- Monitor judicial or administrative proceedings overseas
- Assist parents in contacting local officials in foreign countries or contact them on the parents behalf
- List the child in a passport look-out database to alert the custodial parent to an application for a U.S. passport.
- Alert foreign authorities to any evidence of child abuse or neglect

CANNOT DO:

- Reabduct the child
- Help a parent to violate host country laws
- Pay legal expenses or court fees
- Act as a lawyer or represent parents in court
- Give refuge to a parent involved in a re-abduction

HOW TO REACH US

If you would like more information, please call 202-736-7000 for information and instructions on how to obtain our publications.

OFFICE OF CHILDREN'S ISSUES

Room 4811

Overseas Citizens Services

Bureau of Consular Affairs

U.S. Department of State

Washington, D.C. 20520-4818

Telephone: 202-736-7000

Fax: 202-647-2835

Autofax: 202-647-3000

Consular Affairs Bulletin Board: 301-946-4400 (modem number)

Internet Address: <http://travel.state.gov>

ABDUCTION - PREVENTION LETTER

To Whom it may concern:

This letter is written to provide information concerning the prevention of international parental child abduction. Since the late 70's, the Office of Overseas Citizens Services in the Department of State has taken action in over 7,000 cases of international parental child abduction, including wrongful removals of children and wrongful retentions after court-ordered visitation. We also have provided information in response to thousands of additional inquiries pertaining to international child abduction, enforcement of visitation rights, and abduction prevention techniques. Our office works closely with parents and attorneys in the United States to prevent international abductions and the pain and suffering they bring to the victims, both the children and their left-behind parents.

By law, our consular officers overseas do not have the authority to take custody of American children and return them to parents in the United States. Therefore, it is important to prevent an international parental abduction from ever occurring. If you believe your child is a potential victim of international parental abduction, we suggest that you immediately put in place some of the preventative measures available.

If you do not already have a custody order, file the necessary legal papers to obtain one. Enlist the assistance of an attorney for this. If you cannot afford an attorney, you may qualify for reduced legal aid, or may be eligible to seek assistance from a local law school clinic. You should request the court to prohibit the removal of the child from the U.S. and to order the child's other parent to surrender any passports (U.S. or foreign) that may have been obtained for the child. You may also wish to ask the court to limit or restrict unsupervised visitation with the child's other parent.

You should forward a copy of your custody order to the Passport Services Office of the U.S. Department of State and ask them not to issue a passport to your child without your permission. Your child may be a citizen of another country as well, and as such could travel abroad on a foreign passport. Issuance of a foreign passport is a matter within the control of the particular country involved, and the U.S. Government has no role in a foreign country's decision to issue a passport to its citizen. Therefore, you may wish to send a certified copy of your custody order to that country's embassy in the U.S. requesting that they too not issue a passport without your permission. However, they are under no obligation to honor your request.

The Hague Convention on the Civil Aspects of International Child Abduction, which has been joined by 54 nations including the United States (list of party countries enclosed), offers some relief in an international parental child abduction situation. This Convention attempts to discourage the use of abduction as a means of resolving a custody matter, by requiring (with few exceptions) the abducted child to be returned to the country where it resided prior to the alleged abduction. You should consult with your attorney concerning the advisability of incorporating the precepts of the Convention into any future custody decree to prevent an abduction.

Return of a parentally abducted or wrongfully retained child is more difficult in countries that are not party to the Hague Abduction Convention. In fact, in many countries, there is a probability that return will never occur. This is because child custody is a private legal matter between parents, and the U.S. Government has no formal mechanism to effect return of the child. As a general rule, foreign courts are under no obligation to give legal effect to a custody decree issued by a U.S. Court. Therefore, when a child is parentally abducted or wrongfully retained, the left-behind parent must initiate legal proceedings in that foreign country to regain custody of the child. Legal proceedings, however, do not guarantee a judgment in your favor. If you fear that your child could be abducted to a non-Hague Convention country, it is imperative that you take all the preventative measures available.

Please refer to the enclosed booklet, "*International Parental Child Abduction*," for further information on passport issuance prevention, custody orders and the Hague Convention, and for additional prevention information. We hope this information is helpful. If you have further questions, please do not hesitate to contact this office at (202) 736-7000, or visit our home page at <http://travel.state.gov>.

Office of Children's Issues
Bureau of Consular Affairs
United States Department of State

International Parental Child Abduction

INTERNATIONAL PARENTAL CHILD ABDUCTION

ISLAMIC FAMILY LAW

DISCLAIMER: THE INFORMATION IN THIS CIRCULAR RELATING TO THE LEGAL REQUIREMENTS OF SPECIFIC FOREIGN COUNTRIES IS PROVIDED FOR GENERAL INFORMATION ONLY. QUESTIONS INVOLVING INTERPRETATION OF SPECIFIC FOREIGN LAWS SHOULD BE ADDRESSED TO FOREIGN COUNSEL.

NOTE:

The information contained in this flyer is intended as an introduction to the basic elements of Islamic family law. It is **not** intended as a legal reference.

It is designed to make clear the basic rights and restrictions resulting from marriages sanctioned by Islamic law between Muslim and non-Muslim partners. For Americans, the most troubling of these restrictions have been:

-- the inability of wives to leave an Islamic country without permission of their Muslim husbands;-- the wives' inability to take their children from these countries without such permission; and-- the fact that fathers have ultimate custody of children.

MARRIAGE

In Islam, the act of marriage occurs with the conclusion of the marriage contract. The marriage contract itself is completed by an offer and acceptance, both of which must be made on the same occasion by two qualified parties. If a marriage has been contracted by competent persons in the presence of two witnesses and has been adequately publicized, it is complete and binding. **It requires no religious or other rites and ceremonies because in Islamic law formalities have no value insofar as contracts are concerned. Such marriages are conducted only if both parties are willing.**

MIXED MARRIAGES

With few exceptions, a Christian or Jew who marries a Muslim and resides in an Islamic country will be subject to provisions of Islamic family law in that country. In these circumstances:

-- Any children born to the wife will be considered Muslim. They will usually also be considered citizens of the father's country.

-- **The husband's permission is always needed for the children to leave an Islamic country despite the fact that the children will also have, for example, American citizenship.** Foreign immigration authorities can be expected to enforce these regulations. The ability of U.S. consular officers to aid an American woman who wishes to leave the country with her children is very limited.

-- The wife may be divorced by her husband at any time with little difficulty and without a court hearing.

-- At a certain point in age, the children will come under the custody of the father or his family.

-- In Islamic countries, the wife will need the permission of her husband to leave the country.

CHILDREN'S RIGHTS

There are three types of guardianship which are fixed for a child from the time of its birth;

-- The first is guardianship of upbringing, which is overseen by women during the age of dependence. The age at which this period of dependence terminates varies: anywhere from 7 years for a son and 9 for

a daughter to 9 and 11, respectively. In the case of divorced parents, it is permissible for a daughter to remain with her mother **if the parents agree**. But such an agreement cannot be made for a son.

-- The second is the child's spiritual guardianship. The spiritual guardian may be the father or a fullblooded male relative of the father.

-- The third is guardianship over the child's property which usually is carried out by the father.

PERSONS CONTEMPLATING SUCH MARRIAGES SHOULD GIVE SERIOUS CONSIDERATION TO THE POTENTIAL DIFFICULTIES DESCRIBED IN THIS PAMPHLET.

International Adoption & Child Abduction

Clinton Presidential Records

Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

Hague Text/ICARA

Divider Title: _____

HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The States signatory to the present Convention, Firmly convinced that the interests of children are of paramount importance in matters relating to their custody, Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access,

Have resolved to conclude a Convention to this effect, and have agreed upon the following provisions -

CHAPTER I - SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are -

- a. to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- b. to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in other Contracting States.

Article 2

Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

Article 3

The removal or the retention of a child is to be considered wrongful where -

- a. it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention;

and

- b. at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph a above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

Article 4

The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of

custody or access rights.

The Convention shall cease to apply when the child attains the age of 16 years.

Article 5

For the purposes of this Convention -

a. 'rights of custody' shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;

b. 'rights of access' shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

CHAPTER II - CENTRAL AUTHORITIES

Article 6

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organizations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures -

a. to discover the whereabouts of a child who has been wrongfully removed or retained;

b. to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;

c. to secure the voluntary return of the child or to bring about an amicable resolution of the issues;

d. to exchange, where desirable, information relating to the social background of the child;

e. to provide information of a general character as to the

law of their State in connection with the application of the Convention;

f. to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;

g. where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;

h. to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;

i. to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

CHAPTER III - RETURN OF CHILDREN

Article 8

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child.

The application shall contain -

a. information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;

b. where available, the date of birth of the child;

c. the grounds on which the applicant's claim for return of the child is based;

d. all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by -

e. an authenticated copy of any relevant decision or agreement;

f. a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;

g. any other relevant document.

Article 9

If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

Article 10

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

Article 11

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

Article 12

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

Article 13

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that -

a. the person, institution or other body having the care of

the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or

b. there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 14

In ascertaining whether there has been a wrongful removal of retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognized or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

Article 15

The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

Article 16

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under the Convention is not lodged within a reasonable time following receipt of the notice.

Article 17

The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be

a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

Article 18

The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

Article 19

A decision under this Convention concerning the return of the child shall not be taken to be determination on the merits of any custody issue.

Article 20

The return of the child under the provision of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

CHAPTER VI - RIGHTS OF ACCESS

Article 21

An application to make arrangements for organizing or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfillment of any conditions to which the exercise of such rights may be subject. The central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights. The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

Article 22

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

Article 23

No legalization or similar formality may be required in the context of this Convention.

Article 24

Any application, communication or other document sent to the

Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

Article 25

Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Article 26

Each Central Authority shall bear its own costs in applying this Convention.

Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

Article 27

When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

Article 28

A Central Authority may require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant, or to designate a representative so to act.

Article 29

This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

Article 30

Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

Article 31

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units -

- a. any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- b. any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

Article 32

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 33

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

Article 34

This Convention shall take priority in matters within its scope over the Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organizing access rights.

Article 35

This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

Article 36

Nothing in this Convention shall prevent two or more Contracting States, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provision of this Convention which may imply such a restriction.

CHAPTER VI - FINAL CLAUSES

Article 37

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 38

Any other State may accede to the Convention. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this

Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

Article 39

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 40

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 41

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

Article 42

Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservations shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands. The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

Article 43

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force -

1. for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
2. for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

Article 44

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 45

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following -

1. the signatures and ratifications, acceptances and approvals referred to in Article 37;
2. the accession referred to in Article 38;
3. the date on which the Convention enters into force in accordance with Article 43;
4. the extensions referred to in Article 39;

5. the declarations referred to in Articles 38 and 40;
 6. the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
 7. the denunciation referred to in Article 44.
- In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at The Hague, on the 25th day of October, 1980, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Fourteenth Session.

International Adoption & Child Abduction

HAGUE CONVENTION OF 25 OCTOBER 1980 ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

United States Central Authority
Office of Children's Issues
U.S. Department of State, Rm. 4811
Washington, D.C. 20520

Telephone (202) 736-7000
Fax (202) 647-2835
Internet. <http://travel.state.gov>
Automated Fax (202) 647-3000

Office Hours: 8:30 a.m. to 5:00 p.m., Monday - Friday

Party Countries and Effective Dates with U.S.

ARGENTINA - 1 June 1991
AUSTRALIA - 1 July 1988
AUSTRIA - 1 October 1988
BAHAMAS - 1 January 1994
BELIZE - 1 November 1989
BOSNIA & HERZOGOVINA - 1 December 1991
BURKINO FASO - 1 November 1992
CANADA - 1 July 1988
CHILE - 1 July 1994
COLOMBIA - 1 June 1996
CROATIA - 1 December 1991
CYPRUS - 1 March 1995
DENMARK - 1 July 1991
ECUADOR - 1 April 1992
FINLAND - 1 August 1994
FRANCE - 1 July 1988
GERMANY - 1 December 1990
GREECE - 1 June 1993
HONDURAS - 1 June 1994
HONG KONG - 1 September 1997
HUNGARY - 1 July 1988

ICELAND - 1 December 1996

IRELAND - 1 October 1991

ISRAEL - 1 December 1991

ITALY - 1 May 1995

LUXEMBOURG - 1 July 1988

FORMER YUGOSLAV REPUBLIC OF MACEDONIA - 1 December 1991

MAURITIUS - 1 October 1993

MEXICO - 1 October 1991

MONACO - 1 June 1993

NETHERLANDS - 1 September 1990

NEW ZEALAND - 1 October 1991

NORWAY - 1 April 1989

PANAMA - 1 June 1994

POLAND - 1 November 1992

PORTUGAL - 1 July 1988

ROMANIA - 1 June 1993

SLOVENIA - 1 April 1995

SOUTH AFRICA - 1 November 1997

SPAIN - 1 July 1988

ST. KITTS AND NEVIS - 1 June 1995

SWEDEN - 1 June 1989

SWITZERLAND - 1 July 1988

UNITED KINGDOM - 1 July 1988

VENEZUELA - 1 January 1997

ZIMBABWE - 1 August 1995

NOTE: Convention does not apply to abductions occurring prior to the effective date.

International Parental Child Abduction

INTERNATIONAL CHILD ABDUCTION REMEDIES (ICARA)

Sec.

11601. Findings and declarations.

- (a) Findings.
- (b) Declarations.

11602. Definitions.

11603. Judicial remedies.

- (a) Jurisdiction of courts.
- (b) Petitions.
- (c) Notice.
- (d) Determination of case.
- (e) Burdens of proof.
- (f) Application of Convention.
- (g) Full faith and credit.
- (h) Remedies under Convention not exclusive.

11604. Provisional remedies.

- (a) Authority of courts.
- (b) Limitation on authority.

11605. Admissibility of documents.**11606. United States Central Authority.**

- (a) Designation.
- (b) Functions.
- (c) Regulatory authority.
- (d) Obtaining information from Parent Locator Service.

11607. Costs and fees.

- (a) Administrative costs.
- (b) Costs incurred in civil actions.

11608. Collection, maintenance, and dissemination of information.

- (a) In general.

- (b) Requests for information.
- (c) Responsibility of government entities.
- (d) Information available from Parent Locator Service.
- (e) Recordkeeping.

11609. Interagency coordinating group.

11610. Authorization of appropriations.

Sec. 11601. Findings and declarations

(a) Findings

The Congress makes the following findings:

- (1) The international abduction or wrongful retention of children is harmful to their well-being.
- (2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.
- (3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.
- (4) The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(b) Declarations

The Congress makes the following declarations:

- (1) It is the purpose of this chapter to establish procedures for the implementation of the Convention in the United States.
- (2) The provisions of this chapter are in addition to and not in lieu of the provisions of the Convention.
- (3) In enacting this chapter the Congress recognizes -
 - (A) the international character of the Convention; and
 - (B) the need for uniform international interpretation of the Convention.
- (4) The Convention and this chapter empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act" meaning Pub. L. 100-300, Apr. 29, 1988, 102 Stat. 437, which is classified principally to this chapter. For complete classification of this Act

to the Code, see Short Title note below and Tables.

SHORT TITLE

Section 1 of Pub. L. 100-300 provided that: "This Act (enacting this chapter and amending section 663 of this title) may be cited as the 'International Child Abduction Remedies Act'."

Sec. 11602. Definitions

For the purposes of this chapter -

(1) the term "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(2) the term "Convention" means the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the term "Parent Locator Service" means the service established by the Secretary of Health and Human Services under section 653 of this title;

(4) the term "petitioner" means any person who, in accordance with this chapter, files a petition in court seeking relief under the Convention;

(5) the term "person" includes any individual, institution, or other legal entity or body;

(6) the term "respondent" means any person against whose interests a petition is filed in court, in accordance with this chapter, which seeks relief under the Convention;

(7) the term "rights of access" means visitation rights;

(8) the term "State" means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(9) the term "United States Central Authority" means the agency of the Federal Government designated by the President under section 11606(a) of this title.

Sec. 11603. Judicial remedies

(a) Jurisdiction of courts

The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

(b) Petitions

Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction of such action and which is authorized to exercise its jurisdiction in the place where the child is located at the time the petition is filed.

(c) Notice

Notice of an action brought under subsection (b) of this section shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) Determination of case

The court in which an action is brought under subsection (b) of this section shall decide the case in accordance with the Convention.

(e) Burdens of proof

(1) A petitioner in an action brought under subsection (b) of this section shall establish by a preponderance of the evidence -

(A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and

(B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights.

(2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing -

(A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and

(B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

(f) Application of Convention

For purposes of any action brought under this chapter -

(1) the term "authorities", as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;

(2) the terms "wrongful removal or retention" and "wrongfully removed or retained", as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and

(3) the term "commencement of proceedings", as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

(g) Full faith and credit

Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this chapter.

(h) Remedies under Convention not exclusive

The remedies established by the Convention and this chapter shall be in addition to remedies available under other laws or international agreements.

Sec. 11604. Provisional remedies

(a) Authority of courts

In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 11603(b) of this title may take or cause to be taken measures under Federal or State law, as

appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition.

(b) Limitation on authority

No court exercising jurisdiction of an action brought under section 11603(b) of this title may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

Sec. 11605. Admissibility of documents

With respect to any application to the United States Central Authority, or any petition to a court under section 11603 of this title, which seeks relief under the Convention, or any other documents or information included with such application or petition or provided after such submission which relates to the application or petition, as the case may be, no authentication of such application, petition, document, or information shall be required in order for the application, petition, document, or information to be admissible in court.

Sec. 11606. United States Central Authority

(a) Designation

The President shall designate a Federal agency to serve as the Central Authority for the United States under the Convention.

(b) Functions

The functions of the United States Central Authority are those ascribed to the Central Authority by the Convention and this chapter.

(c) Regulatory authority

The United States Central Authority is authorized to issue such regulations as may be necessary to carry out its functions under the Convention and this chapter.

(d) Obtaining information from Parent Locator Service

The United States Central Authority may, to the extent authorized by the Social Security Act (42 U.S.C. 301 et seq.), obtain information from the Parent Locator Service.

Sec. 11607. Costs and fees

(a) Administrative costs

No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

(b) Costs incurred in civil actions

(1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3).

(2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 11603 of this title shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(3) Any court ordering the return of a child pursuant to an action brought under section 11603 of this title shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

Sec. 11608. Collection, maintenance, and dissemination of information

(a) In general

In performing its functions under the Convention, the United States Central Authority may, under such conditions as the Central Authority prescribes by regulation, but subject to subsection (c) of this section, receive from or transmit to any department, agency, or instrumentality of the Federal Government or of any State or foreign government, and receive from or transmit to any applicant, petitioner, or respondent, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child, except that the United States

Central Authority -

(1) may receive such information from a Federal or State department, agency, or instrumentality only pursuant to applicable Federal and State statutes; and

(2) may transmit any information received under this subsection notwithstanding any provision of law other than this chapter.

(b) Requests for information

Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) Responsibility of government entities

Whenever any department, agency, or instrumentality of the United States or of any State receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under subsection (a) of this section, the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality in order to determine whether the information requested is contained in any such files or records. If such search discloses the information requested, the head of such department, agency, or instrumentality shall immediately transmit such information to the United States Central

Authority, except that any such information the disclosure of which -

(1) would adversely affect the national security interests of the United States or the law enforcement interests of the United States or of any State; or

(2) would be prohibited by section 9 of title 13; shall not be transmitted to the Central Authority. The head of such department, agency, or instrumentality shall, immediately upon completion of the requested search, notify the Central Authority of the results of the search, and whether an exception set forth in paragraph (1) or (2) applies. In the event that the United States

Central Authority receives information and the appropriate Federal or State department, agency, or instrumentality thereafter notifies the Central Authority that an exception set forth in paragraph (1) or (2) applies to that information, the Central Authority may not disclose that information under subsection (a) of this section.

(d) Information available from Parent Locator Service

To the extent that information which the United States Central Authority is authorized to obtain under the provisions of subsection (c) of this section can be obtained through the Parent Locator Service, the United States Central Authority shall first seek to obtain such information from the Parent Locator Service, before requesting such information directly under the provisions of subsection (c) of this section.

(e) Recordkeeping

The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

Sec. 11609. Interagency coordinating group

The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation to the United States Central Authority and other Federal agencies. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the interagency coordinating group at rates not to exceed those authorized under subchapter I of chapter 57 of title 5 for employees of agencies.

Sec. 11610. Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of the Convention and this chapter.

International Adoption & Child Abduction

Clinton Presidential Records

Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

USCode

Divider Title: _____

[Credits & Conditions](#)[Structure](#)[Your Comments](#)[Update](#)

-
- United States Code
 - TITLE 42 - THE PUBLIC HEALTH AND WELFARE
 - **CHAPTER 121 - INTERNATIONAL CHILD ABDUCTION REMEDIES**
-

§ 11601. Findings and declarations.

§ 11602. Definitions.

§ 11603. Judicial remedies.

§ 11604. Provisional remedies.

§ 11605. Admissibility of documents.

§ 11606. United States Central Authority.

§ 11607. Costs and fees.

§ 11608. Collection, maintenance, and dissemination of information.

§ 11609. Interagency coordinating group.

§ 11610. Authorization of appropriations.

§ 11601. Findings and declarations

• (a) Findings

The Congress makes the following findings:

- (1) The international abduction or wrongful retention of children is harmful to their well-being.
- (2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.
- (3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.
- (4) The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

• (b) Declarations

The Congress makes the following declarations:

- (1) It is the purpose of this chapter to establish procedures for the implementation of the Convention in the United States.
- (2) The provisions of this chapter are in addition to and not in lieu of the provisions of the Convention.
- (3) In enacting this chapter the Congress recognizes -
 - (A) the international character of the Convention; and
 - (B) the need for uniform international interpretation of the Convention.
- (4) The Convention and this chapter empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

§ 11602. Definitions

For the purposes of this chapter -

- (1) the term "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;
- (2) the term "Convention" means the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;
- (3) the term "Parent Locator Service" means the service established by the Secretary of Health and Human Services under section 653 of this title;
- (4) the term "petitioner" means any person who, in accordance with this chapter, files a petition in court seeking relief under the Convention;
- (5) the term "person" includes any individual, institution, or other legal entity or body;
- (6) the term "respondent" means any person against whose interests a petition is filed in court, in accordance with this chapter, which seeks relief under the Convention;
- (7) the term "rights of access" means visitation rights;
- (8) the term "State" means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and
- (9) the term "United States Central Authority" means the agency of the Federal Government designated by the President under section 11606(a) of this title.

§ 11603. Judicial remedies

- (a) Jurisdiction of courts

The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

- (b) Petitions

Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction of such action and which is authorized to exercise its jurisdiction in the place where the child is located at the time the petition is filed.

- (c) Notice

Notice of an action brought under subsection (b) of this section shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

- (d) Determination of case

The court in which an action is brought under subsection (b) of this section shall decide the case in accordance with the Convention.

- (e) Burdens of proof

- (1) A petitioner in an action brought under subsection (b) of this section shall establish by a preponderance of the evidence -
 - (A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and
 - (B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights.
- (2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing -
 - (A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and
 - (B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

- (f) Application of Convention

For purposes of any action brought under this chapter -

- (1) the term "authorities", as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;
- (2) the terms "wrongful removal or retention" and "wrongfully removed or retained", as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and
- (3) the term "commencement of proceedings", as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

- (g) Full faith and credit

Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this chapter.

- (h) Remedies under Convention not exclusive

The remedies established by the Convention and this chapter shall be in addition to remedies available under other laws or international agreements.

§ 11604. Provisional remedies

- (a) Authority of courts

In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 11603(b) of this title may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition.

- (b) Limitation on authority

No court exercising jurisdiction of an action brought under section 11603(b) of this title may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

§ 11605. Admissibility of documents

With respect to any application to the United States Central Authority, or any petition to a court under section 11603 of this title, which seeks relief under the Convention, or any other documents or information included with such application or petition or provided after such submission which relates to the application or petition, as the case may be, no authentication of such application, petition, document, or information shall be required in order for the application, petition, document, or information to be admissible in court.

§ 11606. United States Central Authority

- (a) Designation

The President shall designate a Federal agency to serve as the Central Authority for the United States under the Convention.

- (b) Functions

The functions of the United States Central Authority are those ascribed to the Central Authority by the Convention and this chapter.

- (c) Regulatory authority

The United States Central Authority is authorized to issue such regulations as may be necessary to carry out its functions under the Convention and this chapter.

- (d) Obtaining information from Parent Locator Service

The United States Central Authority may, to the extent authorized by the Social Security Act (42 U.S.C. 301 et seq.), obtain information from the Parent Locator Service.

§ 11607. Costs and fees

- (a) Administrative costs

No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

- (b) Costs incurred in civil actions

- (1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3).
- (2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 11603 of this title shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.
- (3) Any court ordering the return of a child pursuant to an action brought under section 11603 of this title shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

§ 11608. Collection, maintenance, and dissemination of information

- (a) In general

In performing its functions under the Convention, the United States Central Authority may, under such conditions as the Central Authority prescribes by regulation, but subject to subsection (c) of this section, receive from or transmit to any department, agency, or instrumentality of the Federal Government or of any State or foreign government, and receive from or transmit to any applicant, petitioner, or respondent, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child, except that the United States Central Authority -

- (1) may receive such information from a Federal or State department, agency, or instrumentality only pursuant to applicable Federal and State statutes; and
- (2) may transmit any information received under this subsection notwithstanding any provision of law other than this chapter.

- (b) Requests for information

Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

- (c) Responsibility of government entities

Whenever any department, agency, or instrumentality of the United States or of any State receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under subsection (a) of this section, the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality in order to determine whether the information requested is contained in any such files or records. If such search discloses the information requested, the head of such department, agency, or instrumentality shall immediately transmit such information to the United States Central Authority, except that any such information the disclosure of which -

- (1) would adversely affect the national security interests of the United States or the law enforcement interests of the United States or of any State; or
- (2) would be prohibited by section 9 of title 13; shall not be transmitted to the Central Authority. The head of such department, agency, or instrumentality shall, immediately upon completion of the requested search, notify the Central Authority of the results of the search, and whether an exception set forth in paragraph (1) or (2) applies. In the event that the United States Central Authority receives information and the appropriate Federal or State department, agency, or instrumentality thereafter notifies the Central Authority that an exception set forth in paragraph (1) or (2) applies to that information, the Central Authority may not disclose that information under subsection (a) of this section.

- (d) Information available from Parent Locator Service

To the extent that information which the United States Central Authority is authorized to obtain under the provisions of subsection (c) of this section can be obtained through the Parent Locator Service, the United States Central Authority shall first seek to obtain such information from the Parent Locator Service, before requesting such information directly under the provisions of subsection (c) of this section.

- (e) Recordkeeping

The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

§ 11609. Interagency coordinating group

The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation to the United States Central Authority and other Federal agencies. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the interagency coordinating group at rates not to exceed those authorized under subchapter I of chapter 57 of title 5 for employees of agencies.

§ 11610. Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of the Convention and this chapter.

§ 1204. International parental kidnapping

- (a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.
- (b) As used in this section -
 - (1) the term "child" means a person who has not attained the age of 16 years; and
 - (2) the term "parental rights", with respect to a child, means the right to physical custody of the child -
 - (A) whether joint or sole (and includes visiting rights); and
 - (B) whether arising by operation of law, court order, or legally binding agreement of the parties.
- (c) It shall be an affirmative defense under this section that -
 - (1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;
 - (2) the defendant was fleeing an incidence or pattern of domestic violence;
 - (3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.
- (d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.

Clinton Presidential Records

Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

ABA

Divider Title: _____



Hague Child Abduction Convention Issue Briefs

by
Patricia M. Hoff, Legal Director
Obstacles to the Recovery and Return
of Parentally Abducted Children Project
American Bar Association
Center on Children and the Law
740 15th Street, NW
Washington, D.C. 20005

Hague Child Abduction Convention Issue Briefs

This series of issue briefs highlight some of the important issues lawyers should consider when representing parents seeking return of their children from the United States pursuant to the Hague Child Abduction Convention. They were written by Patricia M. Hoff, Legal Director, Obstacles to the Recovery and Return of Parentally Abducted Children Project, ABA Center on Children and the Law, for dissemination to attorneys who participate in the International Child Abduction Attorney Network (ICAAN).

The briefs address the following questions:

- What are the elements of the case for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction? What should be included in the return petition? (See pages 1-8.)
- What defenses may be raised to a petition for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction? (See pages 9-15.)
- Should a return petition under the Hague Convention on the Civil Aspects of International Child Abduction be filed in state or federal court? (See pages 16-20.)
- What assistance can the United States Central Authority provide when a case for return or access is brought in this country under the Hague Convention on the Civil Aspects of International Child Abduction? (See pages 21-25).

The briefs should serve as a starting point for directed research. They are not intended as, and do not constitute, legal advice.

Release: Immediate
Contact: Diane Carr
abanews@abanet.org

ABA Spearheads Lawyer Network To Help Internationally Abducted Children

WASHINGTON, D.C., May 24 -- A child is abducted from his home in Buenos Aires, Argentina, and taken to the United States by his mother. The father files a Hague Application for his son's return with the Argentine Central Authority, which forwards the application to the National Center for Missing and Exploited Children. The child's father will need a free lawyer to handle his case in the U.S. Where can he find this legal assistance?

The American Bar Association Center on Children and the Law is spearheading establishment of an International Child Abduction Attorney Network (ICAN) to increase legal representation for parents in incoming cases under the Hague Convention on the Civil Aspects of International Child Abduction.

Linda Girdner, ICAN project director, said that, "lack of affordable legal representation is a major obstacle to the return of parentally abducted children. Lawyers who volunteer to take a Hague case are helping children, while contributing to the reciprocity between nations on which this international treaty depends."

The project includes a national recruitment campaign for lawyers willing to take a pro bono Hague case, assistance to lawyers in the form of mentors and relevant written legal materials, and the creation of a referral system to be used by the National Center for Missing and Exploited Children in carrying out its responsibilities in incoming Hague cases for the U.S. Central Authority at the Department of State.

The Hague Convention establishes a mechanism between party countries that requires the prompt return of children who have been wrongfully removed from, or retained outside of, their country of habitual residence. Once returned, decisions on the merits of custody and visitation/access can be made by the tribunal with jurisdiction over these matters. The Hague Convention is enforced among the United States and 42 other countries.

"We have received numerous compliments from foreign Central Authorities since ICAN was established late last year. During this short time more than 100 children have been returned home under the Hague Convention," according to Elizabeth Yore, Director of International Division at the National Center for Missing and Exploited Children.

Robert Arenstein, legal expert on the Hague Convention and Chair of ICAN's Mentoring Committee, describes his experience in legal representation in Hague cases as follows: "The United States has signed the Hague Convention and we as lawyers need to help our country implement this treaty around the world. In taking at least one pro bono case to help foster the needs of foreign nationals in pursuing their case, we will help American citizens overseas get help for their cases in foreign countries."

The project is carried out in collaboration with the U.S. Department of State, Office of Children's Issues, and the National Center for Missing and Exploited Children. Funding is provided by the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, to the ABA Fund for Justice and Education.

Persons interested in learning more about the International Child Abduction Attorney Network or the Hague Convention should contact the Parental Abduction Project at the ABA Center on Children and the Law, at 202-662-1757.

Chattman, Sutula, Friedlander & Paul

Law Review

March, 1995

International Custody Disputes

By: Patricia E. Apy, Esq.

Family life is becoming more complex. Everyone who has children, or grandchildren, can easily attest to the changes in the definition and complexion of the term "family". Family law has developed to meet the challenges of the 21st century by providing predictability and boundaries for complex family dynamics.

The Background. It is commonplace for individuals to marry, move out of state, and have children far from their family home. Similarly, more and more individuals are meeting and marrying individuals from outside of their native country. This becomes pertinent when the marriage ends and decisions must be made as to which country each parent and their children are going to live.

No other area of family law litigation creates so many "all or nothing" situations as the multi-national marriage. The parties may have chosen to live together in one or the other's native land while the marriage was secure; but, once the parties begin to separate, a spouse can be left with no ability to effectively communicate in their spouse's country, no possibility for employment based on immigration or work limitations, and financial or social abandonment by their spouse and spouse's family. In that context, the decision can be made to remove a child or children back to the native homeland where family support can be provided. While there is nothing abnormal about this desire (this happens frequently in the standard domestic situation), in an international dissolution, the implications of a removal can be devastating.

First, the removal of the children rarely comes as a result of mutual decision and almost always significantly affects the access rights of the left-behind parent. Extended family and grandparents similarly feel abandoned. Additionally, the child is uprooted from an environment which they consider home and feel perfectly comfortable. Often they are taken to a country where their parent is at home but where the children feel isolated and confused, unable to assimilate in school because of language difficulties and separated from a parent they love.

When religious issues are incorporated into this decision-making process, the parties become even more polarized. This anger and polarization can lead to circumstances which go beyond the adversarial to the criminal.

The Hauge Convention. The incidence of child removal and abduction became a global problem as the ability to travel from one part of the world to another instantly gave divorcing parents new options. As a result, the world community in the early 1980's bound together to form an agreement which would ensure the prompt return of a child to their "habitual residence." The Hauge Convention on International Child Abduction is an international treaty executed by a large portion of the world's nations which have mutually agreed that, upon a showing of habitual residence, a child will be immediately returned to that country so a custody evaluation can be performed in the locality which provides the most appropriate venue for determination of the best interests of the child.

Absent a showing that the child would be in overwhelming risk to physical safety or where conditions, internal strife or political upheaval would obviate against such a return (such as in the former Yugoslavia), a court of a signator country must return the child so long as the application

is made within one (1) year of the child being removed.

The enforcement of the Hague Treaty has significantly reduced the frequency and success of illegal removal of children from their home of habitual residence. Despite this success, large portions of the middle East and Asia have resisted the Hague Convention. The practical effect is to provide a safe haven for those parents who would wish to remove the children from their home of habitual residence to these countries and to significantly diminish communication with and access to the left-behind parent.

Some of the difficulties in signing on to the Hague have been the strong religious component of the family law systems in those countries. The traditions and rituals in the middle and far East surrounding family life are inextricably joined with spiritual life. As a result, family disputes within those countries are traditionally resolved by religious clerics or their designees in a legal system very different from our own.

The challenge is to dialogue with attorneys and clerics intimately aware and involved with the family law systems in these countries and to craft a solution which deals with their very real concerns about the stability and continuity of family life while ensuring that parental kidnappers and abductors are not given safe haven to the detriment of the best interests of the children.

A Case Study From Our Files. Mr. Smith is the father of a six (6) year old daughter. He and the child's mother were never married. He has, since the child's birth, paid regular support and enjoyed extensive interaction as joint legal custodian with the child's mother, designated as primary residential custodian. Eventually, the mother marries an individual who is a South-African national. The parties continue to live within state and the mother approaches Mr. Smith and indicates that she will be taking their daughter to South Africa for a family vacation to visit with her husband's extended family. She indicates the trip will last approximately one month and will be conducted over the Christmas holidays. Mr. Smith, seeing no reason to be concerned, agrees.

After the child's departure, Mr. Smith discovers that his daughter's stepfather had quit his job, that their furniture and personalty had been placed in storage, and that his daughter's medical and school records have been sent for. Upon further examination, the mother's application for her daughter's passport indicated that the child had no father. Mr. Smith believed that his daughter was going to be retained without his permission in South Africa.

South Africa is not a signator country; and as a result, the ability to have the child automatically returned to the United States is remote. To make matters worse, South Africa does not recognize the rights of unwed fathers. So, the mother in this case is free to consent to an adoption or engage in any other legal process in South Africa without notice to Mr. Smith.

Our Resolution. We immediately engaged in a series of negotiations in order to effect the return of the child to the United States. This involved travel to South Africa and eventual legal action in the United States to terminate the mother's and the child's passports. It was clear to her that, while there is no way to prevent her from staying in South Africa, we could make it impossible for her to return to the United States or travel without the potential of immediate arrest for kidnaping. We obtained an order seizing her property in storage and compelling her to reimburse all costs of travel as well as legal expenses. Eventually, this pressure resulted in a resolution of the child being returned and placed in our client's sole custody where she remains.

Conclusion. Family dynamics which lend themselves to international or interstate difficulties frequently arise where there are cross-cultural or multi-national relationships, individuals who are involved in military life and have traveled frequently, marriages where one party has family or friends overseas, and individuals who have careers that are easily transferable and have no real ties to the jurisdiction in which they are living.

Of course, even within the United States, there can be significant difficulties in interstate disputes depending upon the region, as each state has its own code of domestic law. However, because of

the Federal legislation such as Uniform Child Custody Jurisdiction Act, return of children taken out of state has become much more automatic, and there are civil and criminal sanctions for parental kidnaping which are applicable in all 50 states.

While it is hoped that no one has to experience the trauma of having a child or grandchild removed from their homes or lives, it is important to know that the law on state, national and international levels recognizes and addresses the needs of families to provide secure and predictable direction to their lives during the dissolution of a family.



[Return to Law Review Index Page](#)



[Return to CSFP Home Page](#)

Copyright © 1995 - Chattman, Sutula, Friedlander & Paul

Clinton Presidential Records

Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

News Articles

Divider Title: _____

September 23, 1997, Tuesday

HEADLINE: ' Habitual Residence' Under the Hague Convention

BYLINE: JOEL R. BRANDES AND CAROLE L. WEIDMAN; Joel R. Brandes and Carole L. Weidman have law offices in New York City and Garden City. They co-authored, with the late Doris Jonas Freed and Henry H. Foster, Law and the Family New York, and co-authored Law and the Family New York Forms

BODY:

EACH YEAR, thousands of children are abducted from their homes because of disputing parents. Leading-edge solutions to tracking such children are in the works, using high-tech computers and extremely sophisticated technology. Scores of people are devoting themselves to coming up with a "better way." Even so, lawyers still have their work cut out for them. Although locating the child may prove difficult, it is simply the first of many hurdles for those seeking the child's return. The rescue picture could improve shortly, with courts stepping in aggressively as the number of cases swells.

The Convention on the Civil Aspects of International Child Abduction (Hague Convention) was ratified by Congress on July 1, 1988. n1 Its purpose is to deter international child abduction and to provide a mechanism for the prompt n2 return of abducted children to their home country where the courts there can resolve the custody issue on the merits. The convention only applies among contracting states. n3 It is available only when a child is wrongfully removed from a signatory country and retained in another signatory country.

The Convention limits its application only to children less than 16 years old who have been "habitually residing" in a contracting state immediately before the breach of custody or access rights and ceases to apply on the day when the child attains the age of 16. n7 It only applies to the wrongful removal or retention of a child in the responding jurisdiction. n8 The procedure is summary. It does not contemplate a custody hearing on the merits, n9 For purposes of enforcement proceedings brought under The International Child Abduction Remedies Act (ICARA) the terms "wrongful removal or retention" include a removal or retention of a child before the entry of a custody order regarding that child. n10

The Permitted Defenses

Limited defenses are available. If the proceeding is commenced in the responding state more than one year after the wrongful removal or retention, a demonstration that "the child is now settled in its new environment" may preclude his or her return. n12

Other defenses that may be raised to returning the child to the demanding state are that the party now seeking return of the child was not actually exercising custodial rights at the time of the wrongful removal or retention of the child; n13 that there was consent to the removal or retention; n14 that return of the child would expose him or her to physical or psychological harm "or otherwise place the child in an intolerable situation"; n15 that the child objects to being returned and is of such age and maturity that it is appropriate to take account of his views; n16 and that human rights and fundamental freedom would be abridged if the return were permitted. n17

There is a constant and excessive bantering over the definition of "habitual residence," because its interpretation has been left to the courts and not defined by the Convention.

In *Friedrich v. Friedrich* n18 the Sixth Circuit established a definition that has been adopted in New York. It held that habitual residence must not be confused with domicile. To determine the habitual residence, the court must focus on the child, not the parents, and examine experience, not intentions. A person can have only one habitual residence. On its face, habitual residence pertains to customary residence before the removal. It reasoned that the court must look back, not forward.

Habitual residence can be "altered" only by a change in geography and the passage of time, not by changes in parental affection and responsibility. Any change in geography must occur before the questionable removal.

In *Feder v. Evans-Feder*, n19 the Third Circuit, relying on *Frederich*, held that a child's habitual residence is the place where he or she has been physically present for an amount of time sufficient for acclimatization and that has a "degree of settled purpose" from the child's perspective. A determination that any particular place satisfies this standard must focus on the child and consists of an analysis of the child's circumstances in that place and the parents' present, shared intentions regarding their child's presence there.

LANGUAGE: ENGLISH

LOAD-DATE: October 03, 1997

Copyright 1997 Union Leader Corp.
The Union Leader (Manchester, NH)

December 7, 1997 Sunday ALL EDITIONS

HEADLINE: Intercontinental Custody Fight Over. State Department Office Set Up for International Custody Disputes

BYLINE: STEVEN A. BERGER Sunday News Correspondent

State Department Office Set Up for International Custody Disputes

The U.S. State Department's Office of Children's Issues (OCI) is designated to provide assistance to the victims of international parental child abduction.

Since the late 1970s, OCI has been contacted in the cases of approximately 11,000 American children who were either abducted or prevented from returning to the United States by one of their parents.

Despite the fact that children are taken across international borders, child custody disputes remain fundamentally private legal matters between the parents involved, over which the State Department has no jurisdiction. If a child-custody dispute cannot be settled amicably between the parties, it often must be resolved by judicial proceedings in the country where the child is located.

The most difficult and frustrating element for most parents in international custody cases is that U.S. laws and court orders are not usually recognized in the foreign country and therefore are not enforceable abroad.

The increase in international marriages since World War II increased international child custody cases to the point that 23 nations, meeting at the Hague Conference on Private International Law in 1976 agreed to seek a treaty to deter international child abduction.

Between 1976 and 1980, the United States was a major force in preparing and negotiating the Hague Convention on the Civil Aspects of International Child Abduction.

The Convention came into force for the United States on July 1, 1988, and applies to abductions or wrongful retentions between party countries that occurred on or after that date. In the United States, the International Child Abduction Remedies Act was enacted to implement the Convention in this country.

The Hague Convention is a private civil legal mechanism available to parents seeking the return of, or access to, their child. As a private civil law mechanism, the parents, not the governments, are parties to the legal action.

To Contact OCI: Office of Children's Issues Overseas Citizens Services

USA TODAY

October 25, 1996, Friday, INTERNATIONAL EDITION

HEADLINE: Parents of abducted children get help

BYLINE: Evelyn Tan Powers

BODY:

It's a scenario that plays out many times each year in the USA and other countries. A marriage breaks up, and one of the spouses takes the couple's offspring and goes into hiding.

Sometimes one more thing happens that is even more devastating: The child is taken to another country.

The process of getting your child back from overseas can exhaust a parent's emotional and financial resources. This year, however, there is new help for U.S. citizens who have become impoverished by searching for their children taken across international borders.

The State Department, the Justice Department and the Center for Missing and Exploited Children are expanding a 1995 program to help recover such children.

What's new this year:

-- The Justice Department's Office of Victims of Crime will pay travel costs for U.S. parents who can prove they cannot afford to travel to another country to recover their children. The agency is giving \$ 450,000 to the program.

-- Parties to the agreement will beef up legal, consular and investigative services to parents whose children have been taken across international borders.

The importance of these new features cannot be overemphasized, says Shay Bilchik, administrator of the Office of Juvenile Justice, Delinquency and Prevention at the Department of Justice. "The complications that arise once you cross the U.S. border are things that the majority of parents cannot deal with," he says.

About 1,000 U.S. children are abducted or illegally kept in foreign countries each year by non-custodial parents, according to the State Department.

The chances of getting them back depend greatly on what countries the children are taken to. So far, 43 countries have ratified the Hague Convention, an international treaty that provides for

the prompt return of wrongfully removed or retained children.
Of the 1,000 children, 600 cases involve Hague Convention countries.

"Over the last year we've had 150 children returned" to the USA, says Elizabeth Yore, senior counsel for the non-profit National Center for Missing and Abducted Children in Arlington, Va.

"We know the treaty is working," she says.

What if the children are taken to non- Hague Convention countries?

"It's a lot harder when you have a country that doesn't belong to Hague, " says Ron Laney, director of the Missing and Exploited Children program at the Justice Department.

"The State Department negotiates. You have to try to provide legal services for (the parents)."

Yore and her colleagues at the State and Justice departments recommend these first steps for parents who fear their child may be illegally abducted, or whose abducted children already are abroad:

-- If you feel your child is at risk, go to court to take preventive measures.

-- Contact the National Center for Missing and Exploited Children for prevention information. From outside the USA, call (703) 235-3900 and ask for the international division. From within the USA, call (800) THE-LOST.

-- If your child is abducted, call the police and file a report.

-- Call the National Center for Missing and Exploited Children, which will assign a case manager to your child's case.

-- Notify the Office of Children's Issues, State Department's Bureau of Consular Services, (202) 736-7000.

-- Notify your local U.S. Immigration and Naturalization Service authorities if the abductor is a foreign national. If you're living outside the USA, contact a U.S. consular official.

-- Gather all important papers, including pictures of the child (school photos are best because they are clear facial shots with no background).

The National Center for Missing and Exploited Children will help guide the search for an abducted child all the way through, until the child is found and ready to be picked up by the custodial parent.

Laney says the rules for deciding which parents will qualify for help with travel costs are still being worked out. Yore says she expects it will be a strict protocol covering parents who are "totally destitute."

"It wouldn't be to go (to another country) to search for kids," she says. "It would be to pick up children."

An international treaty on child abductions

Besides the USA, these countries have signed the Hague Convention, a treaty that aims to deter international child abductions:

-- Argentina -- Australia -- Austria-- Bahamas-- Belize-- Bosnia-Herzegovina
-- Burkina Faso -- Canada-- Chile-- Colombi-- Croatia -- Cyprus -- Denmark
-- Ecuador -- Finland -- France -- Germany-- Great Britain -- Greece
-- Honduras -- Hungary -- Ireland -- Israel -- Italy -- Luxembourg
-- Macedonia -- Mauritius -- Mexico -- Monaco -- Netherlands
-- New Zealand -- Norway -- Panama -- Poland -- Portugal
-- Romania -- Slovenia -- Spain -- St. Kitts/Nevis-- Sweden -- Switzerland
-- Zimbabwe

LOAD-DATE: October 25, 1996

PR Newswire

May 24, 1996, Friday

HEADLINE: ABA SPEARHEADS LAWYER NETWORK TO HELP INTERNATIONALLY
ABDUCTED
CHILDREN

BODY:

A child is abducted from his home in Buenos Aires, Argentina, and taken to the United States by his mother. The father files a Hague Application for his son's return with the Argentine Central Authority, which forwards the application to the National Center for Missing and Exploited Children. The child's father will need a free lawyer to handle his case in the U.S. Where can he find this legal assistance?

The American Bar Association Center on Children and the Law is spearheading establishment of an International Child Abduction Attorney Network (ICAAN) to increase legal representation for parents in incoming cases under the Hague Convention on the Civil Aspects of International Child Abduction.

Linda Girdner, ICAAN project director, said that, "lack of affordable legal representation is a major obstacle to the return of parentally abducted children. Lawyers who volunteer to take a Hague case are helping children, while contributing to the reciprocity between nations on which this international treaty depends."

The project includes a national recruitment campaign for lawyers willing to take a pro bono Hague case, assistance to lawyers in the form of mentors and relevant written legal materials, and the creation of a referral system to be used by the National Center for Missing and Exploited Children in carrying out its responsibilities in incoming Hague cases for the U.S. Central Authority at the Department of State.

The Hague Convention establishes a mechanism between party countries that requires the prompt return of children who have been wrongfully removed from, or retained outside of, their country of habitual residence. Once returned, decisions on the merits of custody and visitation/access can be made by the tribunal with jurisdiction over these matters. The Hague Convention is enforced among the United States and 42 other countries.

"We have received numerous compliments from foreign Central Authorities since ICAAN was established late last year. During this short time more than 100 children have been returned home under the Hague Convention," according to Elizabeth Yore, Director of International Division at the National Center for Missing and Exploited Children.

Robert Arenstein, legal expert on the Hague Convention and Chair of ICAAN's Mentoring Committee, describes his experience in legal representation in Hague

cases as follows: "The United States has signed the Hague Convention and we as lawyers need to help our country implement this treaty around the world. In taking at least one pro bono case to help foster the needs of foreign nationals in pursuing their case, we will help American citizens overseas get help for their cases in foreign countries."

The project is carried out in collaboration with the U.S. Department of State, Office of Children's Issues, and the National Center for Missing and Exploited Children. Funding is provided by the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, to the ABA Fund for Justice and Education.

Persons interested in learning more about the International Child Abduction Attorney Network or the Hague Convention should contact the Parental Abduction Project at the ABA Center on Children and the Law, at 202-662-1757. CONTACT: Diane Carr of the American Bar Association, 202-662-1094, or e-mail: carrd@attmail.com

LANGUAGE: ENGLISH

LOAD-DATE: May 25, 1996

News and Events

FOR IMMEDIATE RELEASE

September 16, 1998

Contact: Julia Cartwright

703/ 235-3900 Ext. 6139

FORUM FOCUSES THE SPOTLIGHT ON THE CRISIS OF INTERNATIONAL CHILD ABDUCTION

Practitioners From Around the World Convene To Examine the Strengths and Weaknesses of the Hague Convention

Washington, DC -- For the first time since the Hague Convention on the Civil Aspects of International Child Abduction was formalized in 1980,

an unofficial group of over 50 concerned experts on international child abduction have met to examine the Convention's effectiveness and pave the way for a plan of action to improve it. Hosted by the nonprofit Arlington, Virginia-based National Center for Missing and Exploited Children (NCMEC), the forum concludes this afternoon after two full days of discussion about the escalating problem and the unacceptably high number of cases that go unresolved, routinely with heartbreaking consequences.

"Fifty-two nations (plus Hong Kong) are now signatories to the Hague Convention," said Ernie Allen, president of NCMEC. "But the responses to these cases have been uneven. Some countries handle them well, but in others legal loopholes result in stonewalling. Our purpose in convening this forum is to bring together under one roof all of the experts on this issue and begin a process by which the Hague Convention can be improved and subsequently reunite more children with their families," he said.

Catherine Laylle Meyer, co-chair of the forum and herself a victim parent who has waged a three-year long campaign in Europe to be reunited with her two sons who reside in Germany, agreed. "Child abduction across frontiers is one of the great outrages of our time. Every year, thousands of children are forcibly separated from a mother or a father by the other parent, and the numbers are growing. The situation cries out for urgent action," she said. "The aim of our International Forum is two-fold: to raise public awareness of this tragedy of traumatized children; and to draw up practical measures which will put a stop to this barbaric practice. A child has a right to both its parents," she added.

Forum participants included Congressman Ben Gilman (R-NY), Chairman, United States House of Representatives' International Relations Committee; Mary Banotti, Member, European Parliament for Dublin, Ireland; Denise Carter, Director, REUNITE, National Council for Abducted Children, London, England; and Anne Marie Lizin, Member of the Senate, Brussels, Belgium. Those attending were

parliamentary members, attorneys, judges, child advocates from nonprofit organizations and professional associations, social scientists, researchers, psychologists, current and former public officials and observers from key governmental agencies from Australia, Belgium, Canada, France, Germany, Ireland, Spain, Switzerland, the United Kingdom and the United States.

The Forum met as a group and in smaller break-out sessions, and agreed that areas of concern include:

The Need for a More Uniform International Response –

The Hague Convention, when it was agreed upon in 1980, was viewed as an unprecedented effort to bring order and resolution to this complex and distressing problem. But the reality is that some signatory States respond better than others.

- More must be done to create a more even international response to the problem of child abduction, highlighting as models those nations who respond best, encouraging emulation internationally.
- Federalism is a barrier. The Forum participants recommended that the court process be placed at the national level in each signatory State.

The Hague Convention's Unintended Loopholes –

The Hague Convention contains exceptions that can work against resolution of the cases for which it was intentionally designed to provide closure. Practitioners agree that the ground must be prepared for an international plan of action to amend the Hague Convention to better serve searching families.

As the Forum concludes, NCMEC will work with its participants to compile a formal report which will serve as an action plan with recommendations on how to raise global public awareness about the problem of international child abduction and ways in which the treaty itself can be improved. Once complete, their findings will be reported to the Permanent Bureau at the Hague.

The National Center for Missing and Exploited Children (NCMEC) is a private, nonprofit organization, mandated by the United States Congress, which serves as a national resource center and clearinghouse for information on missing children and child protection issues. Founded in 1984, NCMEC is located in the Washington, DC-area, and works closely with the United States Department of Justice to assist families of missing children and the law enforcement and social service professionals charged to serve them. Since NCMEC's inception, it has assisted local police in 61,166 cases of missing children, playing a role in reuniting 41,585 youth with their families. NCMEC has been referred to as a "high-tech search center" by the national news media in the U.S. and is visited routinely by world leaders from around the globe who view it as a model for the creation of similar centers in their own nations.

The Augusta (Ga.) Chronicle

March 3, 1997, Monday, ALL EDITIONS

HEADLINE: SECURITY FIRM SPECIALIZES IN CHILD RECOVERY

BYLINE: Amy Joyner; Staff Writer

BODY:

Gus Zamora spent most of January in Mexico, searching for a Colorado girl who had been kidnapped by her mother and taken across the border.

Once he found her, Mr. Zamora swooped in with the child's father and an envoy of operatives and snatched the child back outside her elementary school, seconds after she left her stepfather's car.

In polite company, Mr. Zamora, 41, is simply a house husband, a former soldier who spends his retirement caring for his three children, cleaning house and restoring antique rifles in his carport workshop. In reality, he is still living the life of an Army ranger, though he left the service 13 years ago.

A tiny office in his military tract home at Fort Gordon serves as headquarters for Zamora and Associates, an international security consulting firm that specializes in recovering kidnapped children. Mr. Zamora has lived in Augusta for three years with his wife, who is a military intelligence officer at Fort Gordon.

"There's no way I could have done this without Gus or someone like him," said Chris Handsel, who was reunited with his 5-year-old daughter Kaelyn Elizabeth Morgan in Mexico after a 3 1/2-year separation. "We found her when we least expected to. We found her at the darkest hour of the search."

Mr. Handsel, who lives in Fort Collins, Colo., was awarded custody of Kaelyn in 1993, but by then she had already vanished with her mother, according to the Associated Press.

Two of Mr. Handsel's friends, who assisted with the recovery, were arrested at a Mexican airport, but they have since been released from jail. The others escaped safely to the United States. The Associated Press also reported that Mexican authorities sought aggravated kidnapping charges against Mr. Handsel, Mr. Zamora and another unidentified man for their involvement in the schoolyard snatching.

Mr. Zamora considers himself a kind of "social worker" fueled by adrenalin and fear, but others have described him as a cowboy, a renegade, a mercenary and a smooth talker with a healthy ego and a hefty measure of machismo.

For a fee - he will not be specific about what he charges - Mr. Zamora travels to mostly Spanish-speaking countries and reabducts children who have been kidnapped by a noncustodial parent.

"This kind of work, you have to be a chameleon," said Mr. Zamora, who uses his Basque descent and fluency in Spanish to convince sources he is a native. "You have to assume identities, you have to adopt a cover story."

While undercover, Mr. Zamora spies on the missing child and kidnappers, learning their daily routines and formulating a plan to safely snatch the child and escape back to the United States before foreign authorities can catch them.

At times, his life is more of a Mickey Spillane plot than a job.

"These can turn into dime store novels real quickly with the mystery, the intrigue, the risk," he said.

Once during a child recovery job in Nicaragua, Mr. Zamora bribed border guards to allow their group into the country after the station closed, said Judy Feeney, co-owner of the Fayetteville, N.C., security company that hired Mr. Zamora for the case.

"If it takes what I call schmoozing, he's the one to do it," Mrs. Feeney said. "He has a talent and apt for adapting to certain cultures and attitudes."

Out of frustration with the slow-working legal system, many parents turn to child recovery agencies for a quick reunion. But many end up penniless and still childless, according to officials at the National Center for Missing and Exploited Children.

"Generally, I tell parents to stay away from it," said Elizabeth Yore, senior counsel and director of the international division for the center.

"Snatch-backs are by their nature fast and furious. There's no reintroduction to the parents," she said. "It's a traumatic event to put a child through no matter what the circumstance or motivation."

Many parents also incorrectly believe their American custody papers will protect them from foreign prosecution, Ms. Yore said. Even Mr. Zamora admits the punishment may have been harsh if he or Mr. Handsel were captured in Mexico.

The U.S. State Department also takes a dim view of businesses such as Mr. Zamora's, recommending parents instead work with law enforcement and The Hague Convention on International Child Abduction.

Mr. Zamora claims his own motivation is altruistic.

In Mr. Handsel's case, "I became consumed by finding this little girl. I made it my mission to find her," Mr. Zamora said.

"My client is that child," he said. "It's not really about financial gain. It's about retrieving these children."

"I will never abandon a client."

Adrienne Delgado of Belleview, Fla., believes that.

Ms. Delgado met Mr. Zamora a few weeks ago after another security firm botched a recovery attempt in the Bahamas.

On Feb. 4, 1995, Ms. Delgado's ex-husband fled to the Bahamas with their 5-year-old daughter, Falon Pura Albury. Since then, Ms. Delgado and her boyfriend, David Brock, have spent nearly \$ 50,000 trying to bring the girl back home.

"I can only say the blessing of the whole thing is meeting Gus," Mrs. Delgado said. "He's definitely on the front line where trust is concerned."

Ms. Delgado is now awaiting the results of a Bahamian custody hearing. If she doesn't win Falon back legally, she will return to the Bahamas with Mr. Zamora and snatch the child back from her ex-husband, she said.

"Right now, the quality of my life is almost fake. The only thing that's real is my daughter," she said. "I never will feel whole again until I get that child back."

LANGUAGE: ENGLISH

LOAD-DATE: May 28, 1997