

# HELPING TO REUNITE FAMILIES: THE OFFICE OF CHILDREN'S ISSUES

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RESOLVING INTERNATIONAL CHILD CUSTODY DISPUTES IS A HIGH PRIORITY FOR THE STATE DEPARTMENT'S CONSULAR AFFAIRS BUREAU. THE OFFICE OF CHILDREN'S ISSUES IS ON THE FRONT LINE OF THOSE EFFORTS.

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BY BARBARA J. GREIG

**A**s more and more congressional and media attention is focused on international child custody disputes, resolving such issues has become a major focus for the Department of State — both at our embassies and consulates and back in Washington at the Office of Children's Issues in the Bureau of Consular Affairs. Consider the following case study from last year, one of approximately 1,100 in CI's active files.

Seven-year-old Billy (his name has been changed), an out-of-wedlock child, was abducted by his Iranian-born father in July 1999 during an unsupervised visitation period in defiance of a Georgia court order awarding temporary custody to his mother. The mother suspected the father and the child were in Iran when she subsequently received a letter or two from the father with an Iranian postmark. She filed a missing child report with local law enforcement officials, who contacted the National Center for Missing and Exploited Children to open a case. Local and federal law enforcement authorities then filed criminal charges against the abducting father and Interpol notices were posted worldwide.

In 2001, the mother married and moved from Georgia to Washington, but she never gave up hope that someday she would be reunited with her child. In late October 2001, U.S. Interpol was notified by their Australian counterpart that the

abducting father had been picked up and questioned about a violation of Australian immigration law. He was scheduled to appear for a hearing at a later date. Interpol quickly notified the FBI office in Georgia and both offices made contact with the State Department's Office of Children's Issues. The CI officer immediately called the left-behind mother in Washington, who burst into joyful tears at the news. The officer then told her about the Hague Convention on the Civil Aspects of International Child Abduction and explained how to file an application for Billy's return.

Since the abduction had taken place in Georgia, the mother needed an Affidavit of Law from a Georgia attorney affirming her custodial rights at the time Billy was abducted. The attorney who had represented her pro bono during the custody proceedings was delighted to hear that Billy had been found and once more offered his services at no cost to the mother. CI coordinated the collection of all the necessary documents from the mother in Washington, the attorney in Georgia and the FBI agent.

Unfortunately, due partly to Sept. 11-related delays, it took until February 2002 for the application package to reach the Australian government, and, as the U.S. consulate in Perth reported, by that time the abducting parent and the child had disappeared. As local law enforcement authorities searched for them, Australian officials requested that the left-behind mother obtain a passport and be ready to travel at a moment's notice. The Seattle Passport Agency arranged expedited issuance and the Australian Consulate in California pre-cleared mom for visa issuance.

On May 20, 2002, CI was informed that the father and Billy had been located again. Australian officials arranged for an experienced Australian social worker to pick up Billy at the school he was attending, and his father was taken into custody at another location by immigration authorities. As soon as CI

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learned of the pickup, the case officer called the mother. Her excitement was obvious, even over the telephone. Meanwhile, the social worker explained to Billy that, although his father had told him his mother was dead, she was actually alive and well and eager to see him. The mother was put in contact with the Australian social worker and the important job of reunification with her son was initiated: first by e-mail, then by telephone. A Hague hearing was scheduled for early August, and Mom traveled to Australia at the end of June to become reacquainted with her son. A week before the hearing, Billy's new stepfather flew out to Australia and quickly bonded with the child.

Further documents were needed for the Hague hearing, which required coordination with the Immigration and Naturalization Service, the State Department's Visa Office, the Georgia attorney, and the FBI agent. But all the work paid off. On Aug. 7, 2002, the Australian Court ordered Billy's return to the United States, telling the abducting father, "You are an affront to all that is civilized." Billy, his mother and stepfather returned to the United States immediately after the hearing. The father remains in detention in Australia and has filed an appeal of the Hague ruling.

### **A High Priority**

Billy's story had a happy ending, but not all do. Hundreds of children are abducted by a parent and taken abroad each year. The State Department is committed to resolving as many of these cases as possible.

At the recent swearing-in ceremony of Assistant Secretary for Consular Affairs Maura Harty, both she and Secretary of State Colin Powell stressed that the issue of international parental child abductions remains a high priority for the bureau and the department. And they have backed up their words with actions.

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## ***New Assistant Secretary for Consular Affairs***

***Maura Harty and  
Secretary of State Colin  
Powell have backed up  
their words on child  
abductions with actions.***

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- In December 2002, at Assistant Secretary Harty's request, CI sent over 500 letters to the left-behind parents involved in current outgoing cases asking them to indicate if they would be interested in meeting Assistant Secretary Harty to discuss international child custody issues.

- Assistant Secretary Harty traveled to Saudi Arabia, Lebanon and Syria in early January 2003 to meet with government officials to discuss child custody and access issues. Future trips to other regions are already in the works.

- On Feb. 24, 2003, Assistant Secretary Harty met with over 70 left-behind parents from all over the United States in Washington, D.C. Speakers from CI, the National Center for Missing and Exploited Children, the FBI and the Department of Justice's Office of Victim Assistance told what each of their agencies did to assist left-behind parents, followed by a Q&A session. The parents expressed their thoughts, ideas and suggestions during brainstorming sessions on the Hague Convention and related topics. The final session on coping with the temporary loss of a child was led by a professional grief therapist. Future meetings will be arranged in other parts of the country in conjunction with Assistant Secretary Harty's visits to passport agencies and attendance at

other outreach events.

- State is also increasing efforts to reach bilateral arrangements regarding child custody issues, especially with countries who are not party to the Hague Abduction Convention. For example, CI management, the CI case officer for Egypt and the regional bureau desk officer for Egypt recently met in Washington with a special delegation of government officials from Cairo to discuss ways to improve cooperation in handling such cases.

At the working level, much progress has been made since the last article profiling State's efforts to resolve international child abduction cases appeared in the November 2000 *Foreign Service Journal*. For starters, CI's staffing pattern has increased. In addition to the office director and deputy director, there are 11 case officers (both Foreign and Civil Service), an Abduction Branch Chief and support staff. In 2002, a weeklong training program was developed for new case officers to ensure they can provide a high level of customer service. There are also bimonthly continuing education seminars.

Portfolios are based on workload rather than geographic bureau. An internal analysis in January 2003 showed an average of 66 active cases of children abducted from the U.S. to a foreign country per CI case officer. Each officer handles an average of 10 to 15 incoming calls daily, occasionally receiving a report of an abduction in progress, where a child is actually in the process of being removed from the U.S. In some cases, coordination with law enforcement, airport, immigration and/or customs authorities can delay the departure of the child, but all too often this is not feasible.

Case officers also stay in close contact with left-behind parents, law enforcement authorities and attorneys, update case files, draft and revise flyers on child custody and Hague procedures for the countries

in their portfolios, maintain contact with foreign counterparts and posts, and prepare briefing papers and talking points for demarches and congressional testimony.

Each overseas post has a designated Children's Issues officer, who is encouraged to come to CI for consultations prior to leaving for post. CI case officers also conduct specialized training in child custody and abduction issues as part of advanced consular courses and workshops at the Foreign Service Institute.

While consular officers at overseas posts are charged with protecting the welfare of American citizens abroad, they cannot assist a left-behind parent in breaking the laws of the country where they are assigned. Likewise, a consular officer cannot just take custody of a minor American citizen child and put him/her on the next flight home. But consular officers do a magnificent job of persuading caretakers to allow welfare visits with American citizen children, and CI has noticed a definite trend toward more detailed reporting cables on these visits. They are often able to persuade a caretaker to allow photographs of the child, and may even negotiate permission for direct contact between the left-behind parent and the child. Such contact, while not a substitute for seeking the child's return, allows the left-behind parent to maintain a relationship with their child, and is critical for both parent and child.

### **An Important Remedy**

As Billy's story demonstrates, the Hague Abduction Convention is probably the most important current remedy for resolving international parental child abduction cases. Formulated in 1980 at the Hague Conference on Private International Law, the treaty is a means by which a designated civil court in the country where the child is temporarily located determines the country where custodial issues will be adjudicated.

Approximately 80 percent of abductions involve children with a claim to more than one nationality. In fact, some of our outgoing Hague cases do not involve any U.S. citizens — adults or children — at all, since the convention focuses on a child's habitual residence, not nationality.

Each Hague treaty partner has designated a Central Authority to handle incoming and outgoing applications. Following the 1988 passage of the International Child Remedies Act that implemented the convention in the United States, the Department of State was designated to fulfill the responsibilities of our Central Authority. However, under a special agreement between the State and Justice Departments, the National Center for Missing and Exploited Children handles incoming Hague cases. (NCMEC's outstanding ability to locate missing children within the United States is just one of the reasons why this arrangement has proven to be a successful example of public-private partnership.)

Article 3 of the Hague Convention lists five requirements that must be met to file an application: (1) the convention must be in force between the two countries at the time the child is abducted, (2) the child must be under the age of 16, (3) prior to the abduction, the child must have been "habitually resident" in the country from which taken and to which the return is sought, (4) the applicant must have had some form of custodial rights at the time the child was removed or retained, and (5) the applicant must have been actually exercising those rights.

Even if those conditions are all met, the convention defines a few exceptions to return. If the court in the country where the application for return is filed determines that the return of the child will cause grave physical or psychological harm, the application can be denied. Last year, a

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

Party Countries and Effective Dates with U.S.

ARGENTINA	1 June 1991
AUSTRALIA	1 July 1988
AUSTRIA	1 October 1988
BAHAMAS	1 January 1994
BELGIUM	1 May 1999
BELIZE	1 November 1989
BOSNIA & HERZ.	1 December 1991
BURKINO FASO	1 November 1992
CANADA	1 July 1988
CHILE	1 July 1994
CHINA - Hong Kong	1 September 1997
- Macau	1 March 1999
COLOMBIA	1 June 1996
CROATIA	1 December 1991
CZECH REPUBLIC	1 March 1998
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
HUNGARY	1 July 1988
ICELAND	1 December 1996
IRELAND	1 October 1991
ISRAEL	1 December 1991
ITALY	1 May 1995
LUXEMBOURG	1 July 1988
FMR. YUGOSLAV REP. OF MACEDONIA	1 December 1991
MALTA	1 February 2003
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
SLOVAK REPUBLIC	1 February 2001
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
TURKEY	1 August 2000
UNITED KINGDOM	1 July 1988
Bermuda	1 March 1999
Cayman Islands	1 August 1998
Falkland Islands	1 June 1998
Isle of Man	1 September 1991
Montserrat	1 March 1999
VENEZUELA	1 January 1997
YUGOSLAVIA, FEDERAL REPUBLIC OF	1 December 1991
ZIMBABWE	1 August 1995

U.S. court denied the return of a child to a country where terrorist violence is commonplace. Or if more than a year has elapsed since the abduction or retention, the court can find that the child is “resettled.”

A return can also be denied if the child has strong objections to return and is “of sufficient age and maturity” to have his or her wishes taken into consideration by the court. For example, a Polish court denied the return of a 14-year old who had immigrated to the United States with his parents but was abducted back to Poland by his father within six months of their arrival. The child testified in court that his school classmates in the U.S. teased him cruelly about his accent and he was beaten up and robbed several times by street gangs. School and police reports corroborated his testimony.

### **Treaty Partners**

We now have 52 Hague Convention treaty partners (see table, p. 59).

The top destination countries where the Hague Convention is in force are Mexico, the United Kingdom, Germany, Israel and Canada. There are approximately 15 other countries that have acceded to the convention, but which the U.S. has not yet accepted as treaty partners. Because of past experience with governments that did not fulfill their responsibilities under the convention, posts in prospective treaty partner countries are asked to evaluate the government’s ability and willingness to meet its treaty obligations. These factors include: whether the country is able to locate missing children and report on any gender or nationalistic bias in child custody cases; whether the judiciary is subject to financial or political pressures; and whether there are mechanisms to enforce civil judgments. Only after a careful review does State recognize the country’s accession to the convention.

Treaty partners meet once every four years at The Hague in the Netherlands. At the Fifth Special Commission meeting of the Hague Convention, held Sept. 27-October 1, 2002, delegations approved the first chapters of a “Good Practices” guide that will provide useful information to both new and old members.

Regrettably, the convention is not available as a remedy for left-behind parents whose children have been abducted to non-member countries, most commonly the Philippines, Saudi Arabia, Lebanon, Jordan and Japan. In those situations, the parent must decide whether to pursue custody through the courts of that country. While the U.S. government cannot pay legal expenses or court fees, act as an attorney, or represent a left-behind parent in court, CI can provide information on retaining a foreign attorney, lists of attorneys who practice in a particular country, and in some cases, general information on child custody issues and precedents. Much of this information is available on the Bureau’s Web site: [http://www.travel.state.gov/children’s\\_issues.html](http://www.travel.state.gov/children’s_issues.html). In addition, consular officers abroad make every effort to alert the appropriate foreign authorities to any evidence of child abuse and/or neglect, and to monitor judicial and administrative proceedings.

### **An Ounce of Prevention**

CI firmly believes that the proverbial ounce of prevention can avoid a pound of cure. Many of our outreach efforts to the judiciary and attorney networks, the law enforcement community, Congress and the general public are focused on preventative measures. CI has responsibility for the Children’s Passport Issuance Alert program — a database of over 2,800 names. Any parent, legal guardian and/or legal representative can request that a U.S. citizen child’s name be entered as a lookout. Some

requests simply ask that the person be notified if a passport application is submitted; others, backed up by supporting legal documentation such as custody orders, may ask that a passport not be issued. When a passport application is submitted at any of the 16 U.S. passport agencies or at any U.S. embassy or consulate worldwide, and a child custody hold appears, that passport cannot be issued without clearance from CI. Holds remain in the system until the person who placed the hold asks that it be removed or until the child reaches 18. In 2002, CI received an average of 235 passport hold requests each month.

Another helpful measure is the Reid Amendment that took effect in July 2001. The signatures of both parents are now required on all U.S. passport applications for children under the age of 14. Exceptions are made if the applying parent produces a letter of consent from the other parent; a court order of sole custody; or a death certificate for the other parent. There are also exigent circumstances in which a passport may be issued if the child will be endangered, though these situations are more likely to occur overseas and might involve an evacuation or other emergency.

In December 2000 a new database to track international child custody cases was installed in CI. Eventually, portions of this database will be available to overseas posts, NCMEC and the law enforcement community.

Still, there is much work to be done. For example, there are many countries for which we do not yet have flyers describing child custody issues. But our overseas posts are being asked to bring child abduction issues to the attention of foreign governments more often and at higher levels than before. So there should be no doubt of the State Department’s ongoing commitment to resolving such cases wherever they may arise. ■