



DEPARTMENT OF STATE

STATEMENT

OF

AMBASSADOR SUSAN S. JACOBS

SPECIAL ADVISOR FOR CHILDREN'S ISSUES

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL

HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

HEARING

ON

INTERNATIONAL PARENTAL CHILD ABDUCTION

MAY 9, 2013

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

The Department of State values the ongoing interest and support on this issue from Members of Congress. We appreciate the efforts of Chairman Smith and the interest from Ranking Member Bass, as well as the many Members who advocate in support of their constituents affected by IPCA and parental child abduction in general.

Secretary Kerry has demonstrated his deep concern regarding international parental child abduction and his commitment to children by extending my tenure as the Bureau of Consular Affairs' Special Advisor for Children's Issues to ensure high-level attention stays focused on this important topic. Secretary Kerry, one of the leading advocates for combating IPCA during his time in the U.S. Senate, has now brought his passion and foreign affairs experience to bear as our Secretary.

The Department of State has no higher priority than to safeguard the welfare of children who have been taken wrongfully across international borders. For these reasons, the Department takes all appropriate steps, including at the highest levels, to seek the return of these children. Resolving IPCA cases is a priority for

the Department, and every day my colleagues and I press for tangible solutions to these cases.

The Office of Children's Issues

The Department of State is the U.S. Central Authority for the 1980 Hague Convention on the Civil Aspects of International Child Abduction (Convention). The Bureau of Consular Affairs' Office of Children's Issues, which executes U.S. obligations under the Convention as the U.S. Central Authority, develops and implements policies and practices to promote the welfare and safety of children involved in international parental child abduction. Office of Children's Issues country officers provide many services; they provide left-behind parents with information about foreign and domestic IPCA-related resources, process Hague Convention applications, monitor Convention proceedings, provide lists of attorneys in the country where the abducted child is located, coordinate with U.S. embassies and consulates to monitor the welfare of abducted children, and facilitate communication with state and federal government agencies as well as relevant foreign government authorities.

On May 16, 2012, the Office of Children's Issues held a global International Parental Child Abduction Open House to allow left-behind parents to interact with their assigned country officers, hear from senior Department of State officials, and learn more about the resources available through presentations about reunification,

mediation, law enforcement, welfare and whereabouts visits, and services available through the National Center for Missing and Exploited Children.

The 1980 Hague Abduction Convention

The U.S. Government recognizes the 1980 Hague Abduction Convention as the best tool for resolving IPCA cases. It is a multilateral treaty that provides protection for children from the harmful effects of abduction and wrongful retention across international borders. The Convention is not a tool for custody determinations. It provides a legal framework for securing the prompt return of wrongfully removed or retained children to the country of their habitual residence where a competent court can make decisions on issues of custody and the child's best interests.

Our diplomatic efforts increase the likelihood that our current and future treaty partners will be able to meet their responsibilities under the Convention. Some countries have few resources to implement the Convention effectively. In the spirit of strengthening and expanding the Convention worldwide, we routinely invite and welcome foreign governments to observe how we exercise our authority under the Convention. Additionally, we routinely identify opportunities to work multilaterally with countries that already implement the Convention effectively to press more countries to join.

Through the Hague Convention process, hundreds of children are returned to the United States each year. For example, Mexico is a critical Convention partner for the United States, with far more children abducted from the United States to Mexico than to any other country. This is an understandable result of our shared border and our close cultural ties. For the second consecutive year, Mexico was not cited as noncompliant in the 2013 Hague Convention compliance report. This is the result of our cultivation and maintenance of close and productive communication with the Mexican Central Authority on the challenging issues of judicial and law enforcement performance. Overall numbers of reported cases to Mexico have declined and our caseload is at the lowest level in years. The number of longstanding cases to Mexico listed in the compliance report went from 77 to 69, and a number of new cases submitted to courts in Mexico have been resolved within weeks.

Countries across Europe have continued to demonstrate strong treaty partnership while dealing with national fiscal crises through a commitment to continue to use valuable resources to implement treaty obligations. Greece, for example, despite tenuous local economic conditions, recently exhibited its continued commitment to the Convention by enforcing a court order that a U.S. citizen child be returned to his habitual residence in the United States. Such

progress shows that even under challenging circumstances, our Hague partners remain dedicated to the Convention.

To enhance bilateral cooperation and to encourage treaty compliance of our partner countries, over the last year we have held digital video conferences with Panama, Peru, Chile, Argentina, Italy, and Australia. These meetings have provided opportunities for bilateral exchanges between judges and Central Authorities on Convention issues and created an environment to share best practices. We also have used them to discuss strategies to address partners' compliance issues, such as case processing delays.

There are, however, many cases involving children abducted to countries that have not yet joined the Convention or with which the United States does not yet have a treaty relationship. Policy-wise, one of our top priorities is to engage bilaterally and multilaterally with these foreign governments to explain why the Convention is beneficial and to encourage expanded Convention partnership throughout the world. In those cases, options for seeking the return of a child are far more limited, thus underscoring why Convention membership is so critical as we move forward.

The Office of Children's Issues works closely with left-behind parents to provide information about domestic and foreign resources that may help parents to resolve their children's cases. We raise individual cases with foreign governments,

requesting through diplomatic channels that they return abducted children to the United States and assist parents to obtain access, confirm their children's welfare, and understand their options. We monitor legal proceedings as the case unfolds in the court, attend hearings when appropriate, engage child welfare authorities, advocate for consular and parental access, coordinate with law enforcement authorities when parents choose to pursue criminal remedies, and work day-to-day to explore all available and appropriate options for seeking these children's return to their countries of habitual residence.

The Hague Compliance Report

The Department of State is required to submit an annual report to Congress on the compliance of other parties to the Hague Abduction Convention pursuant to 42 U.S.C. § 11611. In the report, the Department identifies its concerns about partner countries in which implementation of the Convention appears to be incomplete or in which a particular country's executive, judicial, or law enforcement authorities may act in a manner inconsistent with proper application of the Convention principles. In accordance with that law, the Department places such countries into one of two categories, "Countries Not Compliant with the Convention," and "Countries Demonstrating Patterns of Noncompliance with the Convention." The law also specifically requires reporting on any cases that have not been resolved for 18 months or longer. The Department of State utilizes the

Compliance Report as a roadmap to identify and engage specific Hague partners in order to assist in the proper implementation and application of the Convention. I am pleased with our progress in engaging those Convention partner countries that have been cited repeatedly in our compliance reports to Congress.

In the 2013 Compliance Report, Costa Rica was cited as “Not Compliant” in the areas of central authority and judicial performance. In reviewing Convention cases in Costa Rica, the Department noted significant delays in the commencement of judicial proceedings and the rendering of court decisions, the Costa Rican Central Authority’s inability to expedite cases internally, and the Costa Rican judiciary’s consideration of issues outside the narrow scope of the Convention in Hague cases.

In October 2012, I traveled to Costa Rica and met with members of the Supreme Court of Justice and other judges and with representatives from the Costa Rican Central Authority and Ministry of Foreign Affairs to discuss these issues and to express concern regarding a 2011 precedent-setting Costa Rican Supreme Court decision that is inconsistent with Convention principles.

Expanding the Hague Abduction Convention

While we are intensely monitoring the compliance of our current Hague Abduction Convention partners, currently we also are seeking to expand our Convention partnerships. Our acceptance of newly-acceding partner countries

broadens the availability of the Convention's civil legal mechanism for parents seeking the return of their children to the United States.

In December 2012, the Hague Permanent Bureau opened the Asia Pacific Regional Office in Hong Kong in response to an increased membership base in the region and with the purpose of encouraging membership in the Hague Conventions. I recently visited the Asia Pacific Regional Office and met with Hong Kong government officials to discuss efforts to expand the Hague Abduction and Adoption Conventions in Asia and to develop working relationships with several new Central Authorities in the region.

Secretary Kerry recently traveled to Japan to meet with Japanese Foreign Minister Fumio Kishida to discuss the U.S.-Japan bilateral relationship and global challenges. In public remarks after the meeting, Secretary Kerry encouraged Japan's immediate ratification of the Hague Abduction Convention and urged Foreign Minister Kishida to continue working to resolve existing cases that may fall outside the Convention framework upon ratification.

On April 23, the Lower House of the Japanese Diet voted to ratify the Hague Abduction Convention. Once Japan ratifies, the Convention will enter into force between Japan and the United States automatically. Until Japan ratifies, however, parents whose children have been abducted from the United States to Japan or

wrongfully retained in Japan will be unable to invoke the Convention to pursue their children's return or to seek access to them.

The Republic of Korea is one of only a handful of East Asian countries that has acceded to the Hague Abduction Convention. The Republic of Korea acceded to the Convention in December 2012, and the Convention went into force for the Republic of Korea on March 1, 2013. The Convention will not enter into force between the Republic of Korea and the United States, however, unless the United States decides to accept the Republic of Korea as a partner. The Department currently is conducting a review of the Republic of Korea's implementation of the treaty, including its domestic legislation and institutions responsible for executing the country's responsibilities under the Convention, in order to determine whether the United States should accept the Republic of Korea as a partner under the Convention.

In South Central Asia, a large number of children are abducted to India from the United States. India appears to be taking slow steps towards acceding to the Convention. I visited New Delhi in April 2012 to meet with relevant Ministries and to offer our support as they move forward. Presently, many left-behind parents file cases in Indian courts to seek custody or the return of their children. Our Embassy and consulates in India monitor these cases, looking for signs that Indian courts will respect the principle of habitual residence when determining its

jurisdiction over the custody case. We are encouraged by a recent decision in the High Court of New Delhi to return a child to her country of habitual residence for a final determination of custody. We communicate closely with our multilateral partners facing similar challenges on international parental child abduction in India.

In 2010, Morocco became the first country in the Arab world to accede to the Hague Abduction Convention. The Department of State accepted Morocco's accession in December 2012, and we strongly believe Morocco can be an effective and strategic treaty partner. The United States will benefit from having a partner in the Near East that can bring its influence in the region to help persuade other countries to join the Convention.

In Egypt, we are not aware of any cases where Egyptian courts have recognized a U.S. court order, and we are not aware of any criminal prosecutions in Egypt for international parental child abduction. During my recent trip to Egypt, we met with representatives from the Ministry of Justice, the Prosecutor General's office, and the Constitutional Court to discuss international parental child abduction to Egypt and to encourage accession to the Hague Abduction Convention. I am encouraged that all parties understood the gravity of the issues presented and stated their willingness to review the Convention and to cooperate with the United States, within their legal authorities and capacities.

Prevention of IPCA

The most effective means of stemming the growth of IPCA is prevention. The Office of Children's Issues' Prevention Branch routinely conducts outreach to federal and state law enforcement, third-party organizations, and the general public to raise awareness of IPCA issues. Furthermore, the Prevention Branch actively engages with domestic law enforcement agencies to stop abductions-in-progress.

Since November 2011, our prevention staff exclusively administers the Children's Passport Issuance Alert Program (CPIAP), which allows parents and legal guardians to enroll their children in a Department of State database to help protect against passport issuance without parental consent or notification. If a passport application is submitted for a child who is registered in CPIAP, the Department contacts and alerts the parent. The Prevention Branch is responsible for reviewing and resolving, in conjunction with Overseas Citizens Services' Office of Legal Affairs, all child custody passport alert entries that "hit" during the passport application process. On average, the Prevention Branch reviews more than 300 hits per month. Since November 2011, we have managed more than 10,000 CPIAP cases.

Mediation

Mediation is an important method for helping families resolve international child abduction cases and custody battles where the Convention is not available to

settle the dispute. The Hague Permanent Bureau formed the Working Party on Mediation in the Context of the Malta Process. The Working Party originally consisted of six Convention countries and six non-party States. Currently, Australia, Canada, Egypt, France, Germany, India, Jordan, Malaysia, Morocco, Pakistan, the United Kingdom, and the United States are Working Party members. The Working Party, co-chaired by Canada and Pakistan, developed a document called the Malta Principles, which provides a framework for structured mediation programs in cases where the Convention does not apply. One of the principles is for each country to designate a Central Contact Point (CCP) for international family mediation. The CCP performs certain functions and serves as a contact point for individuals and mediators working on cross-border family disputes. In August 2012, the Office of Children's Issues became the CCP for the United States.

As the CCP for international mediation, the Office of Children's Issues has developed a mediation project in conjunction with two law school clinical mediation programs that will provide cost-free mediation and pro-bono counsel for both parties, in appropriate cases. The Office of Children's Issues is working with the American Bar Association's Task Force on International Family Mediation to design training materials for mediators involved in these cases.

The United States supports the idea of inviting other members into the Working Party if they are committed to the goals and to participating in the work. To this end, I recently visited Bangladesh with British and Canadian authorities to invite its participation in the Working Party and encourage accession to the Hague Abduction Convention. We received a very positive reception from Bangladeshi authorities, who expressed an interest in attending Working Party meetings. In addition, our Embassy extended an invitation to the State of Qatar to join the Working Party. The current initiative of the Working Party on Mediation and the Hague Conference Permanent Bureau is to engage stakeholders in the Gulf region and solicit interest in a regional workshop on mediation.

The Role of Congress

With the global expansion of the Hague Abduction Convention and the Office of Children's Issues' efforts to raise awareness of IPCA, congressional support and participation in IPCA issues has become a crucial factor in preventing and resolving these cases. As IPCA awareness increases across the country, we have noted an increase in left-behind parents contacting congressional constituent services offices to seek assistance with resolution of their children's cases.

Country officers from the Office of Children's Issues will participate in a webinar on May 15 to provide information to district congressional staffers on how the Department of State and consular officers overseas can assist their constituents.

The Bureau of Consular Affairs' Congressional Liaison office organized the webinar, which will include speakers from the Office of Children's Issues and Congressional Liaison Office, the National Center for Missing and Exploited Children, and the National Targeting Center.

Conclusion

Mr. Chairman, Ranking Member Bass, distinguished Members of the Subcommittee, over the course of the past five years, I have traveled around the world raising combating IPCA as a policy priority and pressing for a tangible resolution to these cases. In the Bureau of Consular Affairs, we are committed to finding a viable solution for resolving each and every case. International parental child abduction is the realization of every parent's worst fear, and Office of Children's Issues staff work hard to provide options and resources in a time of crisis. The Department of State has no higher priority than to safeguard the welfare of children wrongfully removed from the United States.

Thank you. I am pleased to take your questions.