

U.S. Slow to Repatriate Abducted Children Among Hague Treaty Nations

Written by Ginny Grimsley
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By: Steve Fenton

After my then-6-year-old son was abducted and taken to Mexico in December 1992, I traveled to Mexico City to plead for his return via the Hague Convention Treaty. The response from the Central Authority director surprised me.

“The U.S. has a very poor record of returning children to Mexico as well,” he said with a cold, almost personal glare. I never forgot that.

Eventually, I realized the treaty would be of no help to me and I went on to privately recover my son in April 1993. It was a surreal rescue drama undertaken with the help of a specialized team, disguises, decoy car switches and a stealth flight in a small plane. My young son and I escaped under the noses of the Mexican military, flying 450 miles to Brownsville, Texas, through Mexican airspace.

In Brownsville, the FBI immediately detained and interrogated me, acting on frivolous allegations from Mexico City. Stunned, I was told that the U.S. agents intended to send my son back to Mexico with a Mexican consulate official.

I recount the whole nightmarish experience in *Broken Treaty: The True Story of a Father's Covert Recovery of his Missing Son from Mexico* (www.brokentreaty.info).

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My son is now an adult and I am still contacted for advice by left-behind parents; not only those of children taken to Mexico, but from parents who “hit a wall” trying to recover their children from the overwhelming complexities of the U.S. judicial system.

What should take weeks turns into months and in some cases years as parents in other countries attempt to retrieve children abducted to the United States. Petitions drag through delays and appeals. The State Department’s own statistics demonstrate what should be serious concerns if the United States wants to lead by example.

A 2010 Compliance Report drafted by the State Department shows that parents filed 324 Hague Convention Treaty applications involving 454 children abducted to the United States from other treaty partner countries. The United States accounts for a staggering 23 percent of all incoming and outgoing caseload petitions. The report showed that we have the poorest record in terms of treaty-specified case resolutions for applications under the accord. We also have the highest ratio of pending cases awaiting resolution.

Hague Treaty guidelines call for expeditious proceedings within six weeks of the date of commencement, but the United States has no clear domestic policy guidelines to even determine if the cases should be heard by federal, state or local courts. Between federal and local venues, there are potentially 31,500 judges who could hear a Hague case. The sobering reality is that most judges are not educated about the treaty. Many who do hear these cases deny the petition because they fear that returning the child will automatically result in custody being awarded to the left-behind parent.

They don’t realize that the treaty specifies children be returned to the state of “habitual residence,” where the proper forum by the requesting court country’s jurisdiction will make any final custody determination.

Several nations have taken steps to streamline the Hague petition quagmire by appointing specifically trained courts and judges within a limited number of courts. The United Kingdom, Austria, Finland, Ireland, Portugal, Romania and Sweden are on the cutting edge of amending their procedures to limited jurisdiction and have greatly reduced the delays in restitution of abducted children.

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I hope to see the United States consolidate Hague cases to appointed courts with treaty-educated judges, so we can rightfully enjoy reciprocity by the world community on the return of wrongfully detained children abroad. I know only too well the anguish of the left-behind parent who sees the Hague Treaty as the only hope to recover a child.

About The Author: Steve Fenton is a specialty building contractor. After his estranged wife spirited their son, an American, away to Xalapa, Mexico, the father decided he had to take action. With little to no help from the U.S. and Mexican governments after a year and a half, the determined father went on a clandestine recovery mission across the border. What ensued were life-changing events that have defined the lives of father and son. His book was written with some technical assistance from Capt. Chesley "Sully" Sullenberger, the pilot who would later become a national hero after safely landing U.S. Airways Flight 1549 in the Hudson River.