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**“Implementation of the Hague Convention on the Civil Aspects of International Child
Abduction”**

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INTERNATIONAL CHILD ABDUCTION

A HUMAN RIGHT’S ISSUE

I. Introduction

In the US alone, more than 350,000 children are abducted by one of their parents every year. Some cases are resolved. But many are not. And when children are taken abroad, experience has shown that the chances of recovering them through a judicial process can be very slim. The issue of child abduction is a prime example of the limitations of international co-operation in the judicial area.

The 1980 International Hague Convention on the Civil Aspects of Child Abduction was designed to ensure “*the protection of children against the harmful effects of their wrongful removal and retention*”. In this it has largely failed.

My case, of which some of you may be aware, is typical of how the Convention has failed to work as originally intended, leading to a situation in which parents are for years denied access to their children.

II. My case

In 1984, I married a German medical doctor, Hans-Peter Volkmann, in London and our first son, Alexander, was born a year later. We then moved to Germany for the sake of my then-husband’s career and I gave up my own in the City of London. Our second son, Constantin, was born in 1987. Our marriage subsequently broke up and in 1992 we agreed a legal separation. I was awarded custody of the children (who were to live with me in London) and Volkmann was granted generous access rights.

At first, all worked well. The children continued their schooling at the French Lycee in London (Constantin coming first in his class) and they spent vacations with their father in Germany. I rebuilt 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.

In July 1994, the children left as usual for their summer vacations with their father in Germany. Without warning, four days before they were due to return to London, their father informed me that he was not sending them back. He then disappeared with the boys. For the next four weeks, I had no idea of their whereabouts, despite police searches.

In August 1994, the High Court of England & Wales ordered the children's "*immediate return*" to Britain under the terms of the Hague Convention. The children were made "Wards of Court". In September 1994 the appellate court of Verden (Lower Saxony) upheld the English decision and also ordered the "*immediate return*" of the children. But in defiance of the court order, Volkmann bundled the boys into a car and vanished. The local police and the Court bailiffs were unwilling to help.

The following day, Volkmann lodged an appeal in the higher court of Celle, a nearby town. To my dismay and astonishment, the judges made a provisional ruling that the children should remain in Germany until the appeal was heard because "*otherwise the mother could hide them in England*". Still worse, the ruling was made "**ex-parte**"; that is, without informing my lawyers or me so that I was left unrepresented at the hearing.

In October 1994, the Celle court reversed the earlier English and German decisions on the grounds that it was the "*children's wishes*" to remain in Germany, so exploiting the so-called loophole clause of the Hague Convention (Article 13b). The judges expressed the view that the children were German and that they had been suffering in a "*foreign environment... especially since German is not spoken at home or at school; that they were taunted as Nazis.*" The judges also ruled that the children had attained an age at which it was appropriate to take their views into account "*since a 7 year old child faced with the decision to play judo or football, generally knows which decision to make*".

The Jugendamt (Youth Authority) testified at both hearings that a return to the UK would cause the children "*severe psychological harm*", again taking advantage of the Convention loophole clause. The children had, they said, adapted to their new environment, Alexander felt himself German and the mother had no time for them because she worked. The Jugendamt took evidence only from the German side. Neither I nor anyone from the children's habitual environment in London was interviewed.

At the time of the hearing, I had not seen or spoken to my children in over four months, during which they had been under the sole influence and control of their father and his family. The Celle court decision meant that in German law all further legal proceedings on custody and access had to take place on the abductor's home territory. The consequence of this has been that since 1994, I have never been able to gain normal access to my children.

Between November and mid-December 1994, five applications to see my children were rejected on the grounds that I could "*re-abduct*" the boys and that in any case they no longer "*wished*" to see me. This went as far as to deny me access to the boys over the Christmas holidays. In January 1995, following my desperate attempt to see my boys in Verden, my ex-husband asked the court to transfer their place of residence to Germany on the false allegation that I had sought to re-abduct them. Despite a police report confirming that this was untrue, in my absence and without allowing me to file my defence, the court accepted my ex-husband's request. This was followed in March 1995 by a decision of the Verden court, giving temporary custody of the children to my ex-husband; despite they're being "Wards of Court" in England. The decision gave me only three hours access to my children, once a month, to be followed after 6 months by one day a month. The access visits had to take place either in my ex-husband's house or in the office of the Jugendamt.

My ex-husband reneged on even these highly limited access arrangements. The court, far from enforcing them, cut back my visitation hours in yet another “ex-parte” decision in October 1995. Thus, a pattern was set which exists to this day: of the Court promulgating access arrangements, my ex-husband refusing to abide by them, and the Court refusing to enforce them.

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 rights. Between the summer of 1994 and December 1998 I managed to see my sons for only 12 hours under the most harrowing conditions: either locked in my ex-husband’s secluded house, under the supervision of a third party; or in the offices of the Jugendamt. All visits were broken off after less than two hours.

In September 1997, Volkmann divorced me. My German lawyer strongly advised me not to fight for custody, saying that to facilitate access, it was in my best interest to move quickly to grant Volkmann a divorce and acquiesce in his getting custody. So, in exchange for giving him custody, it was agreed in court that I should have access to my children on “neutral territory”, that is in Hamburg.

But when, six long months later, the moment finally came for me to see my sons, Volkmann backed out at the last moment, stating that it was the “wishes” of the children not to see me and that they feared I would “abduct” them. The Verden judge refused to enforce the access agreement. It was only then that I discovered that while the custody arrangement was legally enforceable, the access agreement was not. It is extraordinary that a court can rule on divorce and custody while neglecting to protect a parent’s rights of access to his/her children.

Further applications for access were rejected and the Verden judge ruled that she would not decide on future access rights without first holding yet another hearing. This would entail, she said, her seeing the children and once more requesting a report from the Jugendamt.

The Jugendamt took two months to file the report. I was not interviewed. Their recommendation was that I should see my children once every two months for five hours in a priest’s house in Bremen. This was as inhumane as it was impractical, since by now I was living in the USA. By strange coincidence the recommendation was almost identical to a proposal Volkmann had made me the previous year.

It took until December 1998 to secure the promised hearing; i.e. 15 months after the divorce hearing which should have given me enforceable access rights. The Verden court ruled that the children should get accustomed to me “*little by little*” and that it would be too “*stressful*” for them to see their mother who after a four year separation was practically a stranger to them. The judge once again rejected my argument that the children had been deliberately programmed against me and that for us to re-establish a relationship, what was needed from the start was continuous contact over several days.

The judge established a program of visits, each of which would be longer than the last and which would culminate in the children visiting me in Washington in August of this year. My husband and I, travelling from the US, saw the boys in December (3 hours), January (one day) and February (2 days). Each visit was marked by increased tension on the part of the boys. My husband, Christopher, who had never before met his step-sons, was shocked to see

how in only two months they changed from being children increasingly excited to see their mother to becoming sullen zombies monotonously repeating the same “talking points” against me.

Predictably, a week before the April visit (the first which would involve the children being in continuous contact with me, including overnight), Volkmann sent a fax to say that he would not bring Alexander and Constantin to Hamburg because this was against the boys’ “wishes” and that it could not be in their “best interest” to be forced.

The judge, once again, refused to enforce her decision, stating that a new hearing would have to be held. And before then, she needed to see the children and get another report from the Jugendamt!

We were then informed that the judge had left on indefinite maternity leave and that months would pass before a new judge would be competent to hear my case. Meanwhile, a temporary judge rejected a further application requesting the enforcement of the May and subsequent visits. He claimed to be satisfied that Volkmann was acting in good faith.

As of today, I have no access rights whatsoever since the schedule of visits established in the December 1998 decision is at an end. The German Minister of Justice recently wrote to our Ambassador in Bonn saying that the courts were independent and that she could not intervene. Since it is the courts, not my ex-husband, which are the final arbiter over whether I can see my children, I find myself in an impossible catch-22 situation.

The German courts and the German authorities have rejected all my requests to have my children examined by an independent psychologist specializing in Parental Alienation. In five years, I have received one letter and one school report. I have no information on my children’s life, well being, schooling, or any other aspects of their existence. Under German law, I have no rights as a non custodial parent so confirming a letter I received from the Bundeskanzlerlei’s office (German Chancellor’s office) in 1995 stating that: “*Under German law, it is impossible to go against the wish of the parent who has custody*”. I have no rights as a mother. In 5 1/2 years I have seen my sons 24 hours.

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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.

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 **87-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 from the start that I have abandoned them. On two occasions, in 1994 and 1998, 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.”

III. The Hague Convention: what it does and what it does not do

The 1980 International Hague Convention on the Civil Aspects of Child Abduction was designed to provide a simple and straightforward procedure:

Should one parent break a custody agreement either by illegally retaining (on an access visit) or abducting a child, the Hague Convention requires the child's immediate return to the country where the original custody agreement was made. The Convention is not concerned with the "best interest 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 "promptly" and to confirm the jurisdiction of the country of origin in custody matters.

There is however one exception to the requirement for the immediate return of the child to country of habitual residence: "*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's 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*". But the intent of the Convention is not to allow these objections except in the most narrowly defined circumstances.

The precedent setting case of Friedrich v. Friedrich (U.S. Court of Appeal, 6th Circle, No. 2, 1996) ruled that "*physical or psychological harm or intolerable situation*" can only be upheld if the child would be sent back to a country where there is a situation of war or famine. Similarly, the child's "*objections*" are to be viewed with great caution - for example against the risk of indoctrination by an abducting parent - and, even if a child were found to object to a return, a return should only be refused in an **exceptional case**. The Consultation paper on Child Abduction published in the February 1997 issue of the British Family Law Journal stressed the need to draw a clear distinction between children's objections under article 13b and children's wishes in ordinary domestic custody cases. This is logical, given that the Convention is not intended as an instrument to resolve custody disputes per se. Additionally, abducted children are by definition put under enormous psychological stress (see below).

IV. The Hague Convention: What has gone wrong

As with many International Conventions, countries sign them but they do not necessarily abide by them. 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 (article 13b) have meant that most cases of child abduction remain unresolved. Some children are never located. Others are simply not returned to their country of origin.

According to the American Bar Association Report of 1997 on the Hague Convention, the rate of return of abducted/illegally retained children varies from 5% to 95% depending on the country. In the absence of a body to oversee the implementation of the Convention, the poor

performance of some countries has, until recently, not been exposed and will only improve with difficulty.

The Forum on International Child Abduction held in Washington on 15th and 16th September 1998, under the auspices of the National Center for Missing & Exploited Children (NCMEC), which Chairman Ben Gilman kindly opened, identified the major weaknesses in the Hague Convention; weaknesses, which some signatories exploit to avoid returning abducted children to their country of habitual residence. The NCMEC's report on the Conference (full copy attached) pointed in particular to:

Article 13b - the loophole clause: Since it is an exception to the requirement for the immediate return of the child, it stands to reason that an abductor will use it as a defense. But whereas, the intent of the Convention is not to allow this objection except in the most narrowly defined circumstances, in some countries - notably in Germany - it has become virtually the rule. The Lowe Report of 1996 found that **every time the child's "objections" was raised as a defense, a return order was refused by the German courts** (even when children as young as 3 and 5 apparently stated an "*objection*" to their return).

The abducting parent usually raises Article 13b as a defense: judges, who are inexperienced treat these Article 13b objections as "a merit of custody" argument. This is exactly what the Convention is 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 proceedings under the Hague Convention and arguments over custody arrangements. Underlying this is a distrust of foreign courts.

Number of courts and slowness of procedures: In countries where Convention cases are heard centrally by a small number of specialist judges, the system works well. Cases are dealt with expeditiously, based on paper evidence and without the child's view being usually heard (i.e. approaching article 13b - "*the child's objections*" - with great caution, in particular against the risk of indoctrination by the abducting parent). Judges usually make a decision to return the child, relying on the court of habitual residence to make a fair decision at any subsequent custody hearing. In countries where Convention cases are first heard at the lower level, proceedings are slow and dealt by judges who are inexperienced in Hague cases. As a result, children are usually not returned.

The delay factor (compounded when cases are first heard in lower courts and appeals then lodged in higher courts) gives abductors a further advantage by allowing them to indoctrinate the child against the left-behind parent (for the purpose of article 13b) and in generating a new argument, namely that the child is now settled in its new environment and should not be moved yet again.

Local bias: Some countries' courts tend to favor their nationals. This is particularly true when cases are heard in small towns where nationalistic biases and local politics put the foreign parent at a disadvantage.

Different approaches of law enforcement agencies: in some countries parental child abduction is a criminal act. In others it is not. As a result, law enforcement agencies' involvement in locating abducted children varies widely. Similarly, return orders are not necessarily

enforced.

V. International Child Abduction: An increasing Problem

There are no exact figures for trans-national child abduction. Many parents are reluctant to go to the central authorities. Others are not even aware of the existence of the Hague Convention. Their cases are therefore never filed officially. The figures, such as they are, almost certainly understate the problem. Even so they are alarmingly high. The National Center for Missing and Exploited Children reports that over 1,000 American children are illegally transported abroad every year (3 children every day). The number is probably growing sharply. In the US, no specific data is available. Only NCMEC has started recording the cases they receive and establishing a database. In England, Reunite, the National Council for Abducted Children, has recorded a 58% increase since 1995 in the number of children abducted abroad by an estranged parent. In France, a higher upsurge has been recorded...

The explosion of international travel and tourism, the social consequences of a global economy, and the increasing irrelevance of national frontiers mean that trans-national marriages are more and more common and that non-custodial parents can easily seize the child and flee to another country. Children will increasingly be the victims of cross-border abductions, until there is an international agreement to sanction parents who take the law into their own hands. Unfortunately, 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 general population. As a result, very little is being done to tackle the issue and to make The Hague Convention work as originally intended.

My own fight was in the beginning focussed exclusively on my own case: first, to secure the return of my abducted children, then to enjoy the basic human right as a mother to have access to them. That fight goes on, as, after five years, the obstacles erected in Germany to my seeing my children become increasingly Kafka-esque. But my battle has also opened a window on the nightmare that is child abduction across the world.

I have been approached by hundreds of other parents, many of them Americans, who are in the same situation. It was both comforting and horrifying to realize that I was not alone. My mission is therefore to raise awareness where I can of the predicament of all US victim parents; to sound the alarm over the damage being done to thousands of children; and to press for action that will make the Hague Convention effective.

VI. Effects on victim parents

I have come to realize that most victim parents do not know where to get help, that they feel alone, misunderstood. They are emotionally traumatized. Yet, they still have to cope with daunting practical obstacles, knowing where to find help, dealing with unfamiliar legal systems and bearing the enormous financial cost of pursuing justice.

But it does not stop there. Parents are often not believed. I know about this because when people first heard my story they simply could not accept it. The reaction is all too familiar: how could this possibly happen in an advanced West European State? The whisper goes round that there must be something wrong with you, the victim parent, to explain the severity

of being separated from your children.

As Hillary Rodham Clinton said in her speech at the launch of the International Center for Missing and Exploited Children (at the British Embassy on 23 April): *“It took about twenty plus years to take an issue like domestic violence and make it an issue that we talked about in public... Well -children abducted across national borders - is an issue that has a similar moment in time”*.

From the correspondence I receive I can tell you that most victim parents are too distraught and too intimidated to speak out. I know of one US father and one French grandfather who have committed suicide because they could no longer bear the pressure and the injustice.

VII. Effect on Children

If the pressures and distress for victim parents can be almost too much to bear, imagine what it is like for children. Suddenly snatched from the security of a familiar environment, friends, school, and grandparents - often at an age when the breakdown of a family relationship is hard to understand. They do not know what is happening or why.

We know only too well how traumatic it is for children if they are suddenly denied one of their parents. We know that traumatized children can grow into traumatized adults; that disturbed children can become disturbed adults; that abused children can grow into abusive adults. We are now finding out that abducted children can become abducting parents.

When parents abduct children, they are obviously not going to tell them that their other parent is wonderful, still loves them and wants to see them. On the contrary, as in my case, the children are told that their other parent is a bad mother or father, who has abandoned them and could see them at any time if only the he or she wanted to.

Situations are worse if the abducting parent is hiding from the police or taking precautions against re-abduction - when the child realizes there is a state of war between its parents.

The child becomes confused and angry. It is traumatized by the loss of one parent. Its greatest fear becomes not to lose the remaining parent.

This is similar to the “Stockholm Syndrome” when hostages identify with their captors. But in child abduction cases, the syndrome is even more severe because of the age of the child-hostage, its relationship with the captor, and the latter’s ruthless psychological exploitation of the relationship.

Many studies have been done in the USA about what is known as “Parental Alienation Syndrome” - when one parent systematically denigrates the other - and its devastating effect on children.

The child soon replaces the positive memories of the absent parent with hurt and anger at what it sees, and is encouraged to see, as abandonment and betrayal. In its craving to keep the love of the only remaining parent, the child ends up asserting vehemently that it does not want contact with the victim parent.

This is not just psychologists’ theorizing. It is my actual experience and that of the many parents who have contacted me.

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 reverse permanently previous custody decisions and destroy the other parent's relationship with the child.

The Children's Rights Council Inc. estimates that in the US alone 5.6 million children have difficulty in obtaining access to one of their parents. But when abducted children are not returned to their country of habitual residence, they usually end up being **totally** denied access to their left-behind parents.

So, given the enormity of the problem, why is it that the Hague Convention is ineffective; why is it that a parent can take the law into his/her own hands and get away with it?

International Child Abduction: Not a private legal matter

First, too many governments still regard child abduction as simply an extreme type of child custody dispute and that, as such, it is a "private legal matter" over which governments have no jurisdiction. This is surely hopelessly outdated. Violations of international laws and treaties can assuredly no longer be considered private matters. Nor is the illegal removal or retention of US minors abroad. As Senator deWine said in an interview with Reader's Digest (September 1999 edition): "*We go after countries that steal our products or violate patent and copyright laws, but not when they are supporting the theft of American children.*"

But what could be more of human rights' violation than the denial of a parent's access to his or her children? As Hillary Rodham Clinton said at the launch of ICMEC: "*Ultimately these matters are not just about individual children and the pain of victim parents, but they really are a question of human rights.*"

Secondly, there are countries that continue to allow other considerations to override their obligations under the Hague Convention.

VIII. Germany: a case study

My own difficulties are with Germany. In the past months, I have heard from some 40 American parents in a similar predicament with Germany. In all our cases, there is a striking uniformity in the arguments and procedures used by various German courts and authorities to **stop the return of our abducted children and then to deny us access to them**. For example:

The German authorities tend to be inefficient in locating abducted children. As a result, some victim parents cannot initiate Hague proceedings (cases of John Dukesherer, Joseph Howard). Furthermore, under German law it is possible to change a child's surname without the approval of the father.

Under German law it is possible to make emergency custody orders without the knowledge or presence of the opposing party. (Cases of Rebecca Collins, Joseph Cook, James Filmer, Joseph Howard, George Uhl, and Donald Youmans). The notion of German domicile can also be established in matter of months (Mark Wayson, George Uhl). As a result, German courts are able to claim jurisdiction over that of the country of habitual residence. It should be noted that the precedent setting case of *Friederich v. Friederich* established that habitual residence is not the same as legal residence; that is to say the court must examine past experience and

not future expectation.

Many victim parents complain that the Berlin Central Authority offer them little, or no help. Victim parents are also required to pay DM 2,000 by the Berlin Central Authority just to allow them to initiate court proceedings. Some parents cannot afford this to begin with (Robert James, Taylor Tali). German courts also tend to charge for the hearings themselves. This, combined with the costs of lawyers, the translating and travel expenses, makes it impossible for most parents to continue with lengthy proceedings, which may last years. Since German courts consider a child German if one of its parents is German, decisions tend to favor the German nationality over others. Germany still operates the “blood law”, based on the 1913 Imperial Naturalization Act which grants citizenship from parent to child on the basis of bloodline rather than birthplace or residence (all cases presented). This also allows German authorities to argue that the Vienna Convention governing consular access to US citizens does not apply.

We are told that the child is better off with the German parent (and by implication, the better parent); that it does not want to leave Germany; and that the victim parent is in no position to take care of the child. It is interesting to note that the arguments used by courts to justify not returning a child are often contradictory: for example “*the mother works and can therefore support the child*” when a German mother is the abductor (James Rinaman) but “*the mother works and therefore has no time for the child*” when the mother is the foreign victim parent requesting a return (Ildiko Gerbhash, Catherine Meyer). Similarly, when a German mother is the abductor the German courts argue that it would cause the child “*severe psychological damage*” to the child be separated from its mother, but when the mother is the foreign victim parent this no longer applies. Instead, it is argued that it would cause the child “*severe psychological damage*” to be separated from its new environment. It should be noted that the precedent setting case, Friedrich v. Friedrich, Federal Dist. of Ohio (Remand Division), 1994 ruled that this objection put forward by the abducting German mother could not apply: she could return with the child to the USA and settle that problem.

Victim parents can be faced by long legal and procedural delays (Hague proceedings take on average 26 weeks in Germany versus 5 1/2 weeks in England) during which contact with the children is difficult if not impossible. This creates a self-fulfilling prophecy for abductors dependent on a “*will of the child*” defense, since the longer the period without seeing the victim parent, the more the children become alienated and indoctrinated against the victim parent.

This also reinforces an argument much used by the German courts, namely that the child has “*adjusted to its new environment*” and it would be “*unsettling*” to return it to its country of habitual residence. In the case of Joseph Cooke, this argument has been taken to such extremes that a German court has committed his two children to the care of German foster parents rather than return them to their natural father in the USA.

But even when return orders are made, they are not necessarily enforced. In Germany, it is customary for judges to make decisions without ensuring that their orders are actually enforced. This in turn allows the abductor time to abscond with the child (e.g. cases of Catherine Meyer, Kenneth Roche, James Rinaman, Sanjay Das).

Access is made as difficult as possible and often denied altogether drawing on arguments based either on the “*fear of re-abduction*” or/and “*the child’s will*”. Victim parents are then told that it would be “*emotionally unbearable*” and “*against the child’s interest*” to have contact with them. In my own case, the German court has refused to implement access agreements made in the court itself which my ex-husband has with impunity refused to honor. Similarly, grandparents are denied all access. My 87-year-old father may never live to see Alexander and Constantin again.

German court procedures nearly always involve the Jugendamt (Youth Authority) who are asked to interview the children and report to the court. This causes further delay in the proceedings and gives an additional advantage to the abductor. In most cases, the Jugendamt does not make inquiries pertaining to the child’s habitual residence and it is the abductor, not the victim parent, who is interviewed. But, more importantly, the involvement of the Jugendamt fundamentally violates the spirit of the Hague Convention. The Convention is clear: “*In considering the circumstances referred to article 13b, the judicial and administrative authorities shall take into account the information relating to the background of the child provided by the Central Authority or other competent authority of the **child’s habitual residence***” - not of the child’s country of retention.

Underpinning the predicament in which we parents find ourselves is the systematic recourse to Article 13b to legitimize abductions/illegal retentions and to refuse a return. Under German Family law children are often required to participate in court proceedings. In these situations, it becomes of paramount importance to abductor-parents that their children say “the right thing” to the judges. This puts an even higher premium on placing psychological pressure on abducted children. (Stanley Clawar, PhD., C.C.S. and Brynne Rivlin, M.S.S. book “Children held Hostage: Dealing with Programmed and Brainwashed Children” Published by the American Bar Association is probably the best research made to date on how easy it is to program children). But, the German courts refuse to take into account the abductor’s opportunity to program the children’s emotions. In some cases, the children to be interviewed by the court are as young as three and five (Joseph Cooke, Edwin Troxel). Apart from perverting the original intent of The Hague Convention, asking a child of this age in effect to choose between parents is a form of child abuse.

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, substituting the forum chosen by the abductor for that of the child’s residence, would lead to a collapse of the whole structure of the Convention by depriving it of the spirit of mutual confidence which is its inspiration*”. Furthermore, used in this manner, Article 13b delivers children into precisely the danger from which it is supposed to protect them. 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?

* * *

In short, this can no longer be regarded as a private legal matter or one where the authorities have no role to play. The problem in all our cases is not so much the behavior of our ex-spouses, but the failure of the courts to deliver justice. The courts are the problem. They are responsible for gross miscarriages of justice over which their authorities can no longer wash their hands.

In the cases I am presenting today, German courts and authorities have consistently shown themselves heavily biased towards the German parent; either ignorant or careless of their obligations under the Hague Convention; repeatedly using arguments based on “fear of re-abduction” or the “children’s will” severely to constrain access to the children; slow to call hearings and to give judgements; ready to make “ex-parte” decisions, without informing or hearing the witnesses from the non-German side; unwilling to admit independent expert opinion to examine children and the degree to which they have been indoctrinated (Parental Alienation Syndrome); and unwilling to enforce access agreements made in court.

As a result, Rebecca Collins has not seen her children since 1994; Glen Gebhard. Since 1994; Joe Howard since 1994; James Rinaman since 1996; Kenneth Roche since 1991; Edwin Troxel since 1997; Mark Wayson since 1998; Anne Winslow since 1996; Donald Youmans since 1994; Joseph Cooke’s two children have been placed in foster care and he has not seen them since 1994 and John Dukheshere and George Uhl do not even know the whereabouts of their children... to name but a few. None of us have received any information on our children’s welfare. And to top it all, the German courts are usually demanding child maintenance payments from the victim parents!

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I stand before you today, as a mother who seeks only to obtain what is her most elementary human right: that of seeing her sons. I stand before you today, as a voice for all the American parents and children who have been separated in this most cruel way. I stand before you today to urge you to help restore our most fundamental human right - a right which God gave all of us but which a foreign judicial system has inhumanely taken from us.