

**H. CON. RES. 293, URGING COMPLIANCE WITH
THE HAGUE CONVENTION ON THE CIVIL AS-
PECTS OF INTERNATIONAL CHILD ABDUCTION**

MARKUP
BEFORE THE
**COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES**

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

—————
MAY 19, 2000
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Serial No. 106-159

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Printed for the use of the Committee on International Relations



Available via the World Wide Web: http://www.house.gov/international_relations

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U.S. GOVERNMENT PRINTING OFFICE

67-828 CC

WASHINGTON : 2000

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**H. CON. RES. 293, URGING COMPLIANCE WITH
THE HAGUE CONVENTION ON THE CIVIL
ASPECTS OF INTERNATIONAL CHILD AB-
DUCTION**

FRIDAY, MAY 19, 2000

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Committee met, pursuant to notice, at 10:30 a.m. in room 2172, Rayburn House Office Building, Hon. Benjamin A. Gilman (Chairman of the Committee) presiding.

Chairman GILMAN. The Committee will come to order. Members please take their seats.

The Committee on International Relation meets in open session this morning, pursuant to notice, to mark up House Concurrent Resolution 293.

The Chair lays the resolution before the Committee.

The Clerk will report the title of the resolution.

The CLERK. Urging Compliance with the Hague Convention on the Civil Aspects of International Child Abduction.

Chairman GILMAN. Without objection, the preamble and operative language of the resolution will be read, in that order of amendment.

The Clerk will read.

The CLERK. Whereas the Department of State reports that at any given time there—

Chairman GILMAN. Without objection, the resolution is considered as having been read and is open for amendment at any point.

[H. Con. Res. 293, "Urging Compliance With the Hague Convention on the Civil Aspects of International Child Abduction" appears in the appendix.]

Chairman GILMAN. This resolution is in the original jurisdiction of the full Committee.

I now recognize the gentleman from Ohio Mr. Chabot, who sponsored the resolution.

Mr. CHABOT. Mr. Chairman, thank you for bringing this important legislation before the Committee today. You have been a true champion on the issue of international child abduction, and I can assure you that the left-behind parents of those many American children appreciate your hard work on their behalf.

I also want to thank John Herzberg of the Committee staff for his help. His expertise on this issue and his commitment to helping

these families has been a real benefit to us as we have been moving forward with this bill.

I also want to thank Kevin Fitzpatrick from my office, who has been absolutely like a pit bulldog on this issue. He is very, very committed. He has been handling this in an extraordinarily professional manner, and I want to thank him personally for everything that he has done on this important issue.

I also want to thank Mr. Gejdenson, the Ranking Member of this Committee, who has been very supportive, and it is very much appreciated.

I also want to thank and pay tribute to the principal cosponsor of this bipartisan resolution, my friend from Texas, Congressman Nick Lampson. As founder and Chairman of the Congressional Missing and Exploited Children's Caucus, he has worked tirelessly on behalf of abducted children and their families, and he has been a very effective partner in this legislative effort.

The State Department reports that there are at any given time more than 1,000 open cases of American children either abducted or wrongfully retained in a foreign country. Thousands more are thought to go unreported.

The National Center for Missing and Exploited Children estimates that of the 165,000 parental kidnapping cases each year, approximately 10 percent involve a parent who takes the child abroad.

This resolution focuses on those children. House Concurrent Resolution 293 is very straightforward. We are urging all contracting parties to the Hague Convention on the Civil Aspects of International Child Abduction to comply fully with both the letter and the spirit of their international legal obligations under the Convention to ensure their compliance by enacting effective implementing legislation and educating their judicial and law enforcement authorities, and to honor their commitments and return wrongfully abducted children to their place of habitual residence, and ensure parental access rights by removing obstacles to the exercise of those rights.

Last October our Committee held a very important hearing on this issue. We heard compelling testimony from a number of witnesses. We listened to some very painful stories told by the left-behind parents of American children, and we learned of the incredible frustration felt by those parents as they were repeatedly rebuffed in their attempts to be reunited with their children, frustrated not only with the foreign governments who stood in their way, but with their own government as well.

In the months since that hearing, I have had a chance to meet and talk with more of those parents, and many of them share a common story. Oftentimes their stolen children reside in a country that is a signatory to the Hague Convention, yet those countries routinely reject the responsibility that comes with participation in that agreement. At the same time, they see an impotent U.S. Government failing to respond to their pleas for help.

Mr. Chairman, we will accomplish several things when we adopt this resolution. We will send a message to those offending countries, many of whom we consider allies, that the United States expects them to live up to their commitments under The Hague Con-

vention. We will send a message to the State Department that international child abduction is a priority issue in the U.S. Congress, and that we expect our diplomats to make it a priority issue in their dialogues with offending nations. We will send a message to the thousands of left-behind parents of stolen children that their government has not forgotten them.

I thank my colleagues for their attention and their support, and I urge support of the resolution.

Mr. Chairman, at this time I would like to request that our colleague from Texas, Mr. Lampson, the principal cosponsor of the resolution, be permitted to make a statement in support of the measure. I want to once again thank Mr. Lampson for his great leadership on this issue, as well as Congressman Doug Ose, who also has been a strong leader and strong advocate for those parents who have had their children ripped away to other countries. I would like to thank both of those Members, and at this point I yield to Mr. Lampson.

Chairman GILMAN. Without objection, I recognize the gentleman from Texas Mr. Lampson, one of the original cosponsors of the measure.

Mr. LAMPSON. Thank you, Mr. Chairman.

I want to thank you and Ranking Member Gejdenson for allowing me to come and spend just a couple of minutes talking about this. I probably have reached a point where I have almost made a nuisance of myself along the way with this issue, and I thank you very, very much for your understanding and your support of everything that we have done, and certainly for Congressman Chabot for the work that he has done in joining me in cosponsoring this very important piece of legislation. Steve, I thank you a great deal for your interest, your concern, and your persistence.

As Chairman and founder of the Congressional Missing and Exploited Children's Caucus, I really am pleased that the Committee has recognized the importance of an issue that Congressman Chabot and I have been pushing, international parental child abduction. The bill that the Committee is marking up today calls on signatories of the Hague Convention on the Civil Aspects of International Child Abduction to abide by the provisions of the Hague Convention.

I came before you 3 months ago with a number of parents to announce to Congress and to the American people that it was time for America and our foreign counterparts to sit up and take notice of the 10,000 American children who have been abducted overseas. That time has come. We are pointing fingers today at those countries that have not lived up to their side of the deal. I know that the United States is not perfect, that we still have much educating to do of the judges who deal with this issue, but the return rate by the United States to other Hague countries is upwards of 89 percent. We know that American children are returned at a rate far less than what the United States returns, about 24 percent.

I received a telephone call as I left the office, just a matter of 5 minutes or so before I left the office, and it was from Paul Marinkovich. Paul Marinkovich is a father whose child has been on the run with the child's mother to four different countries for the last 3 years. This morning he received word from Scotland courts,

because they have enacted The Hague Convention there, that he won his case, and his child will be coming to the United States. That is the success that we have sought on any and all of these cases, and they are happening now because of Congress's willingness to stand up and be heard on this issue.

These parents' children have been abducted to Hague countries all over the world. This issue is one that is nonpartisan and one that none of us can afford to ignore. I am truly pleased to have introduced this resolution with my friend, Congressman Steve Chabot. Our resolution urges all contracting parties to the Hague Convention, particularly European civil law countries that consistently violate the Hague Convention, such as Austria, Germany and Sweden, to comply fully with both the letter and the spirit of their international legal obligations under the Convention, in addition to urging all contracting parties to ensure their compliance with the Convention by enacting effective implementing legislation and educating their judicial and law enforcement authorities.

As I stated in my press conference about 3 months ago, we need to raise awareness. Parents from across the country have been contacting their Members of Congress, and we must continue to put pressure on other countries that are Hague signatories that are not abiding by The Hague treaty. This resolution does just that.

As I said in March, I would like to issue a challenge to each of you to help carry this message forward and help us bring our children home.

Thank you, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Lampson.

I recognize, without objection, a nonmember of our Committee who is also one of the original sponsors of this bill, Mr. Ose from California.

Mr. OSE. Thank you, Mr. Chairman. I am appreciative of your efforts to bring this quickly forward. I want to commend my good friend Mr. Chabot and my good friend Mr. Lampson for not only their eloquence this morning, but their dedication to this issue.

It is interesting, before I go home every night, I take 30 minutes and I call my children, and I am reminded every time I call about why I came to Congress.

So thank you, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Ose.

Mr. Gejdenson.

Mr. GEJDENSON. Thank you, Mr. Chairman. I commend the original cosponsor of the legislation to say that no one is immune from this kind of crisis. We know that Lady Meyer, wife of the British Ambassador, has this problem where her children have been taken off to Germany and she is not able to see them. One of my constituents traveled with her husband back to Egypt, he divorced her, took the children, faked a car accident and claimed the children were dead. When she found out they were alive, she tried to get them. That didn't succeed. He then found out later that she was pregnant with yet another child and threatened to kidnap that child. She is now in hiding. So we need to have an international response here.

I applaud the efforts of all of those who have been involved. We have 132 cosponsors. We have heard from the key Members that

really initiated this effort. We have 15 cosponsors on the Committee in support of moving the issue to move rapidly.

Chairman GILMAN. Thank you, Mr. Gejdenson.

Ms. Ros-Lehtinen.

Mr. Hastings.

Mr. HASTINGS. Mr. Chairman, thank you very much. I, too, associate myself with the remarks of Mr. Chabot and Mr. Lampson and Mr. Gejdenson in commending them for bringing this matter forward, and you, Mr. Chairman, for giving it the highest priority.

As rightly we should, we are dealing with returning American children who are caught up in the vicissitudes of parental disputes and governmental disputes, and rightly, we should make this our highest priority.

I have the misfortune of having this as the fourth forum in which I have had to live with this kind of situation. I have been a lawyer for people who have had this problem. I was a circuit court judge in a juvenile decision ruling with reference to matters of this kind, again in Federal court as a judge, and now as a Congressperson. Hopefully, this will bring us to a better resolution than I saw in the other three fori that I had opportunities to deal with this matter.

I do wish to assert to my colleagues that have brought this matter forward, I would hope that after we are successful, that you would also dramatize and bring to the attention of the world the need that we have in addition to what we are doing here by falling in line with the Hague Convention to ratify the Convention on the Rights of Children, and that is all children, not just American children. We have in this country a significant number of unaccompanied minors who are not being handled properly by our country. I would think, in light of the fact that 164 countries have ratified the treaty on the Convention on the Child passed by the United Nations in 1989, our country and Somalia being the only two that have not ratified that treaty, that it would be helpful that if the same sponsors, and I am one of the cosponsors with you all, would bring your attention to that matter.

I filed a resolution calling on us to expedite that particular matter and to deal with the subject of the unaccompanied minors who are here. I think it would help us in dealing with countries like Sweden and Germany and Austria, who seemingly are hell-bent on not following The Hague Convention.

Thank you again for your leadership on this, Mr. Speaker, and Mr. Chabot, and Mr. Lampson especially, and Mr. Ose for the fine work that they have done.

Chairman GILMAN. Thank you, Mr. Hastings.

Mr. Sherman.

Mr. SHERMAN. Thank you, Mr. Chairman. I just want to commend the authors of this bill. I have worked closely with Nick Lampson on these issues. I have one case in my district involving Costa Rica, and I can see how tangled these matters become, and I commend the Chairman for moving this markup quickly.

Chairman GILMAN. Thank you very much, Mr. Sherman.

Any other Members seeking recognition?

This resolution, H. Con. Res. 293, urges compliance with the Hague Convention on Civil Aspects of International Child Abduc-

tion. It is unfortunate that we are in the position of having to criticize by name several nations with whom we have otherwise friendly relations, Germany, Austria, Sweden, Honduras and Mexico, but it is clear from the circumstances that it is necessary to do so.

I want to commend the gentleman from Ohio Mr. Chabot, who, on behalf of some 132 cosponsors, introduced this measure. I would also like to thank Mr. Lampson from Texas as the Chairman of the Caucus on Missing and Exploited Children, and Mr. Ose from the State of California, who have devoted much of their time to raising our level of awareness of the growing problem of international child abduction.

We are taking action on this measure on behalf of the parents of our abducted and wrongfully retained children. These left-behind parents have put their faith and trust in an international agreement, The Hague Convention, which is clear and explicit on the obligation of signatory governments to return an abducted or wrongfully retained child to his or her country of habitual residence. Nevertheless, we have found that in a number of nations, for a variety of reasons, this does not occur, and the resultant frustration, heart-break and outrage has led us to act on the measure before us today.

I should also add that we need to have our State Department do more to promote compliance with The Hague Convention. The return of an abducted or illegally retained child should be on the top of the Secretary's meetings with any official of a country involved in such cases.

This is not a problem that should be handled as a routine exchange of diplomatic notes or phone calls by junior U.S. officials to their foreign counterparts. We need to see some concern and some concrete actions by the highest levels of our government to redress what is, evidently, a growing international problem.

It is our hope that by adopting this resolution, and sending it to the floor for speedy action, we will send a strong signal that this is an issue that we care deeply about. We need to get the attention of the Governments of Germany, Sweden, Austria, Mexico, and Honduras that they cannot expect The Hague Convention to be a one-way street. Accordingly, I urge our Committee to fully agree to the request that H. Con. Res. 293 be scheduled on the suspension calendar.

[The prepared statement of Mr. Gilman appears in the appendix.]

Chairman GILMAN. Are there any other Members seeking recognition?

If not, the gentleman from Ohio Mr. Chabot is recognized to offer a motion.

Mr. CHABOT. Mr. Chairman, I move that the Chairman be requested to seek consideration of the pending resolution on the suspension calendar.

Chairman GILMAN. Thank you.

The question is now on the motion of the gentleman from Ohio. As many as are in favor of the motion, signify by saying aye.

As many are opposed, say no.

The ayes have it. The motion is agreed to.

Further proceedings on this motion are postponed.

The Committee stands adjourned.
[Whereupon, at 10:55 a.m., the Committee was adjourned.]

A P P E N D I X

MAY 19, 2000

Statement of Chairman Benjamin A. Gilman
Markup of H. Con. Res. 293
Urging compliance with the Hague Convention
on the Civil Aspects of International Child Abduction.
May 19, 2000

This resolution, H. Con. Res. 293, urges compliance with the Hague Convention on the Civil Aspects of International Child Abduction. It is unfortunate that we are in the position of having to criticize by name several countries with whom we have otherwise friendly relations – Germany, Austria, Sweden, Honduras and Mexico – but, it is clear from the circumstances that it is necessary to do so.

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I should also add that we need to have our State Department do more to

promote compliance with the Hague Convention. The return of an abducted or illegally retained child should be on the top of the Secretary's meetings with any official of a country involved in such cases.

This is not a problem that should be handled as a routine exchange of diplomatic notes, or phone calls by junior U.S. officials to their foreign counterparts. We need to see some concern and some concrete actions by the highest levels of our government to redress what is, evidently, a growing international problem.

It is our hope that by adopting this resolution, and sending it to the floor for speedy action, we will send a strong signal that this is an issue that we care deeply about. We need to get the attention of the governments of Germany, Sweden, Austria, Mexico and Honduras that they cannot expect the Hague Convention to be a one-way street. Accordingly, I urge this Committee to unanimously agree to request that H. Con. Res. 293 be scheduled on the suspension calendar.

106TH CONGRESS
2D SESSION

H. CON. RES. 293

Urging compliance with the Hague Convention on the Civil Aspects of
International Child Abduction.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2000

Mr. CHABOT (for himself, Mr. LAMPSON, Mr. GILMAN, Mr. PORTMAN, Mr. KUCINICH, Mr. OSE, Mrs. FOWLER, Mr. ABERCROMBIE, Mr. TURNER, Mr. HORN, Mr. THOMPSON of California, Mr. GREENWOOD, Mr. LARSON, Mr. BRADY of Texas, Mr. ACKERMAN, Mr. FRANKS of New Jersey, Mr. HASTINGS of Florida, Mr. FORBES, Mr. FOLEY, Mr. BARCIA, Ms. WOOLSEY, Mr. GREEN of Wisconsin, Ms. LEE, Mr. SHEERMAN, Mr. PASCARELL, Ms. ESHOO, Mr. FARR of California, Mr. CROWLEY, Mr. HINCHEY, Mr. CLEMENT, Mr. BOSWELL, Mr. EDWARDS, Mr. SAWYER, Mr. GREEN of Texas, Ms. JACKSON-LEE of Texas, Ms. DELAURO, Mr. LEVIN, Ms. MILLENDER-MCDONALD, Mr. FORD, Mr. MASCARA, Mr. PALLONE, Mr. LaFALCE, Mr. BLUNT, Mrs. MINK of Hawaii, Mr. DAVIS of Florida, Mr. CAPUANO, Mr. BAIRD, Mr. ADERHOLT, Mr. DOOLITTLE, Mr. SHADEGG, Mr. TANCREDO, Mr. COBURN, Mrs. CHENOWETH-HAGE, Mr. CRANE, Mr. HOSTETTLER, Mr. BURTON of Indiana, Mr. SCHAFFER, Mr. HUNTER, Mr. SALMON, Mr. SESSIONS, Mr. BILLEY, Mr. BRYANT, Mr. LEWIS of Kentucky, Mr. GUTKNECHT, Mr. METCALF, Mr. BALLENGER, Ms. GRANGER, Mr. KINGSTON, Mr. JONES of North Carolina, Mr. DICKEY, Mr. LARGENT, Mr. ROGAN, Mrs. BONO, Mr. GEKAS, Mr. BARR of Georgia, Mr. JENKINS, Mr. GONZALEZ, Ms. PELOSI, Mr. KING, Mr. GEJDENSON, Mr. SKELTON, Mr. COBLE, Mr. MCKEON, Mr. TIAHRT, Mr. DOGGETT, Mr. HINOJOSA, Mr. REYES, Mr. STENHOLM, Mr. FROST, Mr. ORTIZ, Mr. RODRIGUEZ, Mr. CRAMER, Mr. EHLERS, Mr. MCGOVERN, Mr. EHRLICH, Mr. TRAFICANT, Mr. MCNULTY, Ms. VELÁZQUEZ, Mr. SERRANO, Mr. EVANS, Ms. BROWN of Florida, Mr. CHAMBLISS, Mr. CUNNINGHAM, Mr. YOUNG of Alaska, Mrs. MCCARTHY of New York, Ms. STABENOW, Mr. VENTO, Mr. WEYGAND, Mr. OLVER, Mr. LUTHER, Mr. SNYDER, Mr. WU, Ms. BALDWIN, Mrs. NAPOLITANO, Mrs. TAUSCHER, Ms. RIVERS, Ms. PRYCE of Ohio, Mr. KNOLLENBERG, Mr. GIBBONS, Mr. POMBO, Mr. PORTER, Mr. BATEMAN, Mr. NORWOOD, Mr. COOK, Mr. OWENS, and Mr. BENTSEN) submitted the following concurrent resolution; which was referred to the Committee on International Relations

CONCURRENT RESOLUTION

Urging compliance with the Hague Convention on the Civil Aspects of International Child Abduction.

Whereas the Department of State reports that at any given time there are 1,000 open cases of American children either abducted from the United States or wrongfully retained in a foreign country;

Whereas many more cases of international child abductions are not reported to the Department of State;

Whereas the situation has worsened since 1993, when Congress estimated the number of abducted and wrongfully retained American children to be more than 10,000;

Whereas Congress has recognized the gravity of international child abduction in enacting the International Parental Kidnapping Crime Act of 1993 (18 U.S.C. 1204), the Parental Kidnapping Prevention Act (28 U.S.C. 1738a), and substantial reform and reporting requirements for the Department of State in the fiscal years 1998–1999 and 2000–2001 Foreign Relations Authorization Acts;

Whereas the United States became a contracting party in 1988 to the Hague Convention on the Civil Aspects of International Child Abduction (in this concurrent resolution referred to as the “Hague Convention”) and adopted effective implementing legislation in the International Child Abduction Remedies Act (42 U.S.C. 11601 et seq.);

Whereas the Hague Convention establishes reciprocal rights and duties between and among its contracting states to expedite the return of children to the state of their habitual residence, as well as to ensure that rights of custody and of access under the laws of one contracting state are

effectively respected in other contracting states, without consideration of the merits of any underlying child custody dispute;

Whereas Article 13 of the Hague Convention provides a narrow exception to the requirement for prompt return of children, which exception releases the requested state from its obligation to return a child to the country of the child's habitual residence if it is established that there is a "grave risk" that the return would expose the child to "physical or psychological harm or otherwise place the child in an intolerable situation" or "if the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of [the child's] views";

Whereas some contracting states, for example Germany, routinely invoke Article 13 as a justification for nonreturn, rather than resorting to it in a small number of wholly exceptional cases;

Whereas the National Center for Missing and Exploited Children (NCMEC), the only institution of its kind, was established in the United States for the purpose of assisting parents in recovering their missing children;

Whereas Article 21 of the Hague Convention provides that the central authorities of all parties to the Convention are obligated to cooperate with each other in order to promote the peaceful enjoyment of parental access rights and the fulfillment of any conditions to which the exercise of such rights may be subject, and to remove, as far as possible, all obstacles to the exercise of such rights;

Whereas some contracting states fail to order or enforce normal visitation rights for parents of abducted or wrong-

fully retained children who have not been returned under the terms of the Hague Convention; and

Whereas the routine invocation of the Article 13 exception, denial of parental visitation of children, and the failure by several contracting parties, most notably Austria, Germany, Honduras, Mexico, and Sweden, to fully implement the Convention deprives the Hague Convention of the spirit of mutual confidence upon which its success depends: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring)*, That Congress urges—

3 (1) all contracting parties to the Hague Con-
4 vention, particularly European civil law countries
5 that consistently violate the Hague Convention such
6 as Austria, Germany and Sweden, to comply fully
7 with both the letter and spirit of their international
8 legal obligations under the Convention;

9 (2) all contracting parties to the Hague Con-
10 vention to ensure their compliance with the Hague
11 Convention by enacting effective implementing legis-
12 lation and educating their judicial and law enforce-
13 ment authorities;

14 (3) all contracting parties to the Hague Con-
15 vention to honor their commitments and return ab-
16 ducted or wrongfully retained children to their place
17 of habitual residence without reaching the merits of
18 any underlying custody dispute and ensure parental

1 access rights by removing obstacles to the exercise of
2 such rights;

3 (4) the Secretary of State to disseminate to all
4 Federal and State courts the Department of State's
5 annual report to Congress on Hague Convention
6 compliance and related matters; and

7 (5) each contracting party to the Hague Con-
8 vention to further educate its central authority and
9 local law enforcement authorities regarding the
10 Hague Convention, the severity of the problem of
11 international child abduction, and the need for im-
12 mediate action when a parent of an abducted child
13 seeks their assistance.

○