

FORGOTTEN CHILDREN - Complicity in Child Abduction

By Timothy W. Maier

Former Senate Foreign Relations Committee chairman Jesse Helms, R-N.C., has met his match. For that matter, so have Sen. Mike DeWine, R-Ohio, and Reps. Benjamin Gilman, R-N.Y., and Nick Lampson, D-Texas. All have been outspoken critics of how the State Department has handled international parental abductions. Suddenly they are silent. No press conferences. No hearings. Nothing.

Yet none has received a straight answer to their shared question: How many parentally abducted children have been returned from abroad under the Hague Convention, an international treaty signed by 54 countries that promises the return of children kidnapped by noncustodial parents?

Helms and Gilman expected that a series of congressional hearings and General Accounting Office (GAO) probes would get the State Department to provide direct answers. But, today, Gilman is no closer to the answer and Helms is no longer bothering to ask questions.

Certainly the answer to what has happened to America's forgotten children is nowhere to be found in the 2001 Compliance With the Hague Convention on the Civil Aspects of International Child Abduction, a State Department report required by law. The State Department claims there are only 29 unresolved Hague cases. But with an estimated 15,000 American kids missing abroad, the claim that there are less than 30 unresolved cases makes no sense.

"We lose kids by default," says Dave Thelen, founder of the Atlanta-based Committee for Missing Children Inc. Thelen calls the 2001 Hague report "useless," noting the failure of the State Department to identify either the number or details of allegedly resolved cases as mandated by Congress. Parents charge that most of the cases should be listed as unresolved.

Angered by cases classified as resolved when the children still are being held abroad in the hands of their kidnapers, parents gathered outside the White House in June to protest the State Department's failure to bring their children home. For example, State claims that cases such as that of Tom Sylvester's daughter, Carina, who was abducted by his ex-wife to Austria in 1995, are resolved. The State Department refuses to pressure Austria to abide by the Hague Convention rules even though Sylvester won his Hague case. Why is Carina's case regarded as resolved, he asks, when State only is supposed to call a case resolved if access has been ordered and enforced or the child has been returned?

But State claims wiggle room which Congress in fact eliminated when passing the 1999 State Department Authorization Act. Disregarding the clear intent of the law, critics say, State considers cases resolved as soon as foreign governments close them or when legal maneuvers abroad are exhausted - regardless of whether court orders have been enforced.

The State Department then maintains there is nothing more it can do. But parents say State can do more by putting economic pressure on offending countries or listing them as abusers in State's annual human-rights report. Not only has the State Department refused to do either, but it also resists filing federal warrants against estranged spouses who abduct their children to foreign countries.

Parents of the forgotten children charge that Congress has tolerated these violations of the law for three years without holding the State Department accountable for failure to

give the required details in its compliance report. But this year, no public outcry has been heard from Congress as in past years, when Lampson and Gilman called the reports "inaccurate" and "disappointing."

Lampson did quietly send a letter to the State Department questioning its upgrading of Germany, a major abuser. DeWine wrote to the president and says he is considering a working group to study the issue.

Part of the tiptoeing is due to the change of guard. Helms handed leadership on the issue to Sen. Joseph Biden, D-Del., who now chairs the Senate Foreign Relations Committee. Gilman passed his chairmanship of the House International Relations Committee to Rep. Henry Hyde, R-Ill. While the new staffs played catch-up on this tragic issue, the State Department moved quickly and quietly to publish the obfuscatory report on its Website. And, so far, the 2001 Authorization Act on the Senate side does not include the reporting requirement. The House bill does at least direct State to provide the numbers for two more years.

Perhaps more disturbing is the State Department's response to a questionnaire delivered to the Hague Conference in the Netherlands that has yet to be made public. State blocked American parents from attending the conference, which is held every four years, claiming it didn't want to focus on specific cases, according to State Department letters obtained by Insight. But parents think this has more to do with Foggy Bottom being unwilling to get down to cases that would embarrass habitual offenders - even though Congress in a joint resolution last year condemned Germany, Sweden and Austria for failure to enforce Hague orders.

In fact, State's response to the Hague questionnaire, obtained by Insight, indicates the department does not want to publicize child-abduction statistics. Asked if it would support making statistics accessible, State responded that it favored developing well-defined guidelines for tracking cases that focus on actual returns or access. But it does not "support posting statistics on the Hague Conference Website or in some other publicly accessible manner."

Tom Johnson is a senior attorney for the Bureau of Population, Refugees and Migration at the State Department. His 13-year-old daughter, Amanda, remains trapped in Sweden. He says, "The whole approach of the State Department is that they can't embarrass other governments because it will make matters worse. It's the quiet diplomacy argument: Who cares about complaining Americans; the job of State is to please foreign governments."

Johnson asked to attend the Hague conference, but he was rebuffed by Mary Ryan, assistant secretary of state for consular affairs in the Office of Children's Issues. Ryan should have let him go, he argues, because she didn't even bother to attend the entire conference - a sign to many parents that State still isn't taking these cases very seriously.

Johnson says the 2001 Hague report amounts to "fraudulent reporting." It categorizes countries that don't honor Hague requests into three rankings: "noncompliant," "not fully compliant" or "of concern." To parents' astonishment, the latest report upgrades Germany and Sweden to "of concern."

Never mind that Congress cited Germany as a serious abuser. In 1999, Germany was not even listed as violating the Hague Convention. In 2000, it was listed as partially compliant, but now it has been upgraded to "of concern." In fact, records obtained by Insight during a three-year investigation show very few American children have been returned from Germany. In 1999, State Department records showed that of 243 such cases filed in Germany, there were only 40 court-ordered returns (16.5 percent).

Germany's own report to the European Parliament on the Hague cases is even worse, putting returns at a paltry 9 percent during 1999. At least six American and French parents are holding a hunger strike in Berlin in July to protest the German government's handling of these cases.

The State Department claims Germany has halved the time it takes for parental-abduction cases to move through its court system and has trained dozens of judges in the international law. It also claims some children have been returned as a result. It's unclear whether these few returns were voluntary or court-ordered because the Hague compliance report fails to differentiate.

Sweden is no better. In fact the Belgian Minister of Justice has declared directly that Sweden violates the Child Abduction Convention. Its own Hague figures confirm this. Sweden has more cases with the United States than with the rest of the world combined, and Congress condemned Sweden, along with Germany, for its treatment of Hague cases. So, Johnson wonders, how could the State Department upgrade Sweden's Hague status?

DeWine tells Insight: "The international abduction of children is a foreign-policy imperative. We must not allow Germany, nor any Hague Convention signatory nation, to ignore their convention obligations and blindly turn against the parents who have suffered indescribable heartache at the loss of their children."

Parents don't expect answers from the State Department but wonder why Congress, having been stiffed, does not demand accountability on every single case. The State Department tells Insight there were about 11,000 cases dating back to the 1970s. In a 1999 report to Congress, State claimed there were about 10,000 abducted American children abroad at the time it passed the 1993 International Parental Kidnapping Crimes Act. Even these numbers make little sense when the State Department admits to 500 to 1,000 cases annually. Ernie Allen, chief executive officer of the National Center for Missing and Exploited Children, estimates more than 15,000 cases per year.

Although Allen's numbers include Hague and non-Hague cases, it is clear the number of unresolved cases the State Department provided Congress in its last three reports covered up the truth, Johnson says.