

THE SENATE

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Inquiry into international child abduction to and from Australia

On 11 May 2011, the Senate referred the following matter to the Legal and Constitutional Affairs Committee for inquiry and report:

The incidence of international child abduction to and from Australia, including:

- (a) the costs, terms and conditions of legal and departmental assistance for parents whose child has been abducted overseas;
- (b) the effectiveness of the Hague Convention in returning children who were wrongly removed or retained, to their country of habitual residence;
- (c) the roles of various Commonwealth departments involved in returning children who were wrongly removed or retained, to their country of habitual residence;
- (d) policies, practices and strategies that could be introduced to streamline the return of abducted children; and
- (e) any other related matters.

The committee has invited written submissions to its inquiry by **29 July 2011** and would be grateful for a contribution from you or your organisation.

My name is Craig Cannock and I have had my sons' internationally abducted and have been through Hague Convention proceedings in 2007-08 and am now struggling through another Hague Convention case concerning my youngest sons.. As such I'm in a very sound position to advise on such a topic and I will address both cases separately firstly, then I will address the above mentioned criteria..

Hague Case Number 1

On the 22 November 2007 my former partner while pregnant, unknown to me, abducted our 17 month old son to Canada. Due to the mother hiding the existence of our other child for almost 7 months I was unable to add him to the first Hague action.

Through a series of massive systematic failures primarily by the Canadian Central Authority it took 11 ½ months to return my eldest child, it took 4 months to locate my child despite the mother receiving Welfare in Ontario Canada, I was on many occasions provided with false or outdated information and I was expected to deal with many legal issues by myself. The Canadian government failed to implement the Hague Convention as it should as a signatory to the Convention.

The departmental assistance extended to me from the Australian Central Authority came in the form of a case officer assigned to the case and support services through the International Social Service.

The International Social Service was very helpful and provided me with actual real assistance something I didn't get elsewhere. They should be commended for their efforts and the government should be funding them in a more appropriate manner.

Throughout this process I was left alone and exposed, I was publicly attacked under false pretences, prejudged without ever having my day in court or me ever being on trial. I squarely lay the blame at the feet of the systems in both countries which clearly have father's and their rights as almost non-

existent.

I have solely cared for my eldest son for a period of 2 years and 7 months and he is thriving in my care, he's doing well at school, sports and socially. I have been thoroughly investigated by the courts, child safety, I been extensively drug tested including Hair follicle tested, I been home studied by a psychologist and no-one has at any time said I'm anything but a great dad.

Hague Case Number 2

After the return of my first son in October 2008 I commenced a Family Law case in Australia and sought to have my youngest son to that action as the Family Law Act and my right as an Australian Govern. Council for the mother then conceded jurisdiction to the Australian Courts for both children. It made no sense to run 2 cases on opposites side of the world when the issues remained the same and the laws in both jurisdictions concerning a child's best interests were almost identical.

After a year of having both children as part of the Australian Family Law matter Justice James Barry decided he would not exercise jurisdiction for my youngest son, to date no written reasons have been given.

I immediately drafted an application under the Hague Convention to have this matter dealt with, from day one I have had nothing but problems from the Central Authority of both Australian and Canada.

The Australian Authority firstly rejecting the application stating I didn't have custodial rights to my own child. It wasn't until I provided them with a reference to the Australian Constitution that they agreed to proceed with the case.

The Australian Constitution page 611 in part states;

At common law a father is entitled to the custody of the child at its mother's breast, and the courts in making an order as to the custody, pendente lite, will not, unless some good cause is shown take away this right. (Cartledge v. Cartledge, 31, L.J. Mat 85. Dig. of Eng. Case Law, vol. vii. p. 789)

After several other delays the matter was finally sent to Canada, being accepted by the Canadian Government on the 6 October 2010.

To date, now 8 months later this case has not gone anywhere the Canadian Government have done nothing, they haven't even provided me with a lawyer as the Hague Convention obligates them to. The Australia Central Authority has done next to nothing to address this telling me "it's up to the Canadian Government to address the matter". See attached letters for full details of what has gone on.

Unlike the previous Hague case the Australian Central Authority have provided me with the following:

No case officer has been assigned to my case.

No-one from the central authority has ever called me.

They haven't put me in contact with any support services.

They take weeks to respond to my enquiries, then give me next to no helpful information.

My youngest son was abducted, I have already missed 3 years of his life as a result of the abduction which has already been proven by the Superior Court of Justice Canada and Appeal Court of Ontario to have happened, 4 judges have ruled that the mother of my sons' is an International child abductor but no-one cares and no-one is doing a thing about righting this terrible injustice.

I'm am being discriminated against by the Australian and Canadian Governments who clearly place the rights of father's at the bottom of the heap. What has happened is a disgrace.

(a) the costs, terms and conditions of legal and departmental assistance for parents whose child has been abducted overseas;

I believe Government should fully fund the return of abducted children, they should provide every service at their disposal with International Child Abduction numbers not being that high I can see no reason for the Government not funding private firms both locally and internationally to address this incredibly destructive problem. Lets not forget International Child Abduction is, in and by itself a severe form of child abuse!

(b) the effectiveness of the Hague Convention in returning children who were wrongly removed or retained, to their country of habitual residence;

The Hague Convention is very good the problem isn't the convention it's the implementation by the various Central Authorities who as explained above do not comply with the rules of the convention.

(c) the roles of various Commonwealth departments involved in returning children who were wrongly removed or retained, to their country of habitual residence;

This is the problem area with Hague Convention matters, departments aren't complying with their obligations under the convention. As a result of this these departments are indirectly harming these children.

(d) policies, practices and strategies that could be introduced to streamline the return of abducted children; and

- Comply with the rules of the Hague convention.
- Increase funding to support networks that deal with parents dealing with child abduction, ISS.
- Fund private legal firms both here and abroad to ensure to quick safe return of abducted children.
- Put directives in place to deal with other authorities who do not uphold their obligations under the Hague Convention.
- Place higher priority on these matters.
- Being of limited means shouldn't disadvantage a person who's child has been abducted, unfortunately this is contrary to what happens currently.

(e) any other related matters.

Follow up on cases, find out what has happened afterwards, ensure that decisions are being made that are right, ensure that systemic problems don't continue to occur in other matters.

Having my children abducted was/is awful, even now I still can't explain the feeling of shear hopelessness and despair that came from that event. I'm still dealing with immense amounts of stress due to this one event, it's still ongoing for me the matter hasn't been resolved yet I now

have next to no governmental support or assistance and am expected to try and deal with a foreign bureaucracy by myself from the other side of the planet.

I love being a dad and it's not fair that I don't get to be a dad to both my sons' when they were both taken from me during the same illegal event. People say to me “at least you have one of your son's” as if I should be grateful yet I didn't ask for this I had no say or choice about this, my sons' mother has had all the choices and is now being protected by systemic prejudice against fathers. Our son in my care gets regular contact with his mother and I support and encourage that, but she denies me all access to our youngest child despite being previously ordered to provide it. The parental alienation he is being exposed to is abuse, his rights, under the UN convention on child rights are being denied.

There, unfortunately, is no happy ending from International child abduction the lives of all parties are changed and damaged forever, if the government can do all it can to limit that damage it would then be helping improve a very bleak environment.

Thank you for the opportunity to tell you about my situation and express my views.

Yours truly,

Craig Cannock