

Congress of the United States

Washington, DC 20515

June 5th, 2024

The Honorable Merrick Garland
Attorney General of the United States
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

We write to you because of our belief that it is critically important to reform the judicial system in the United States as it relates to the Hague Convention, specifically cases pertaining to domestic violence victims and refugees.

The Hague Convention on the Civil Aspects of International Child Abduction (HCCAICA), which the United States is a signature of, was initially created to provide a framework for resolving international cross-border custody disputes and ensuring that abducted children are returned to a familiar residence. However, we are deeply concerned about cases in which children and custodial mothers are sent back to a dangerous or abusive situation.

The purpose of this letter is to ask the Department of Justice (DOJ) a series of questions that pertain to potential risks of children being returned to dangerous or abusive situations under the HCCAICA. Our goal in seeking DOJ's answers to the questions is to ensure that the United States prioritize the safety and well-being of children and parental victims of domestic violence under the Hague Convention.

In our view, one way to do so is to explicitly include domestic violence as a definition of a "grave risk". This would emphasize the seriousness of domestic violence and recognize that it poses significant harm to both children and protective parents. Another way would be to establish a connection between violence against a child and the risk it poses to the protective parent. By recognizing that harm to the child can directly affect the well-being and safety of the protective parent, our judicial system can better assess the risks involved and take appropriate measures to protect both the child *and* the parent.

Our questions:

1. Does the Department believe it is critical to strike a balance between the objectives of the HCCAICA and the safety and well-being of children and parental victims of abuse in the United States? If so, what steps is the Department prepared to take to ensure this balance?
2. How does the Department perceive the potential risk of sending children and potential victims back to dangerous and abusive situations?

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3. When making decisions under the Hague Convention, is the U.S. judicial system prepared to take into account several key considerations, including:
 - a. Being sensitive to the dynamics of domestic violence and thoroughly assessing allegations of abuse, considering available evidence, testimonies and expert evaluations?
 - b. Coordinating with other relevant agencies, such as USCIS, in cases involving existing asylum claims based on domestic violence?
 - c. Verifying the legitimacy of all documents submitted under a Hague Convention petition and ensuring that due diligence is exercised, especially in cases in which corruption is prevalent and women's rights protection is poor, to prevent abusers from manipulating the system for personal gain?
 - d. Considering procedures that ensure that individuals who have committed violent crimes or have a history of abuse towards a respondent should not have the right to appeal through the Hague Convention because it could directly harm the parental victim and the child?
 - e. Implementing protective measures, such as supervised visitation, restraining orders and counseling services, to ensure the safety of children and custodial parent?
 - f. Being open to expert testimony and evaluations from professionals with expertise in domestic violence, child welfare and mental health, which can provide valuable insight into potential risks and the impact on the child and the custodial parent's well-being?
 - g. Taking into account factors such as the child's relationship with both parents, the child's preference (depending on age and maturity) and each parent's ability to provide a safe and nurturing environment?
4. Is the Department prepared to ensure that there is collaboration between the judicial system, law enforcement agencies, and child protective services for purposes of gathering relevant information, ensuring the safety of the child and custodial parent, and facilitating appropriate interventions? How do you propose DOJ can lead in this effort?
5. What can the Department do to ensure the safety and well-being of children and parental victims of abuse without undermining the objectives of the Hague Convention? How do you propose the United States strike a balance between protecting children *and* respecting the principles of the convention, including the prompt return of children to their habitual place of residence?
6. Given the current Hague procedures in the U.S. that relate to domestic violence cases, how will the U.S. ensure the safety and well being of children?

Finally, allow us to recommend that the Department of Justice lead a national campaign to increase awareness and training for judges, attorneys and relevant professionals on the dynamics of abuse; recognize red flags and implement appropriate protective measures.

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We know that under your leadership, DOJ can strengthen the protection of children and parental victims of domestic violence under the Hague Convention and help to ensure that their safety and well-being are prioritized in the United States in cases of international child abduction. We hope you agree, and we look forward to receiving the Department's answers to these questions at your earliest convenience.

Thank you for your prompt attention to our letter.

Sincerely,



Lucy McBath
Member of Congress



Brian Fitzpatrick
Member of Congress