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**HOUSE OF COMMONS
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**PARLIAMENTARY
DEBATES**

(HANSARD)

Tuesday 14 January 2014

Beth Schlesinger (Custody of Children)

Motion made, and Question proposed, That this House do now adjourn.—(Karen Bradley.)

6.50 pm

Graham Stringer (Blackley and Broughton) (Lab): I am grateful to have the opportunity of this Adjournment debate to bring the case of Beth Schlesinger to the attention of the House and, hopefully beyond this House, to the whole country. I believe the injustice that has happened to Beth Schlesinger deserves a wider audience and wider understanding than has been the case so far, although the case has already attracted international attention if my inbox is anything to go by. I have had e-mails from the United States, Italy and Israel as well as Austria, thanking me for bringing the case of Beth Schlesinger to this House's attention.

I request that the Government take some action on this case, although I am under no illusion that that is very difficult for the Government, even with the best will in the world. Austria is a modern European country with a judicial system that follows the rules of natural justice and it is very difficult for any Minister from that country, let alone this country, to comment on, or interfere in, the process. However, such is the scale of the injustice that has happened to Beth Schlesinger that I hope the Minister can in some way approach the Austrian ambassador to the United Kingdom or the Austrian Government to express the concerns that many of my constituents have on this matter. Beth Schlesinger lives in Vienna at present, but her parents are my constituents.

This case is Kafkaesque. That is an overused word, but what has happened to Beth Schlesinger defies normal understanding. Authorities have taken decisions about her life and her children's lives which are inexplicable and certainly unjust.

The best way to explain to the House what has happened is to go through the chronology of the events. Beth Schlesinger—her maiden name was Alexander—married Mr Schlesinger in October 2006. On 24 May 2009 the twins Samuel and Benjamin were born to the couple. Unfortunately the marriage then deteriorated and Mr Schlesinger became violent and abusive towards Beth Schlesinger and on 15 February 2010 Mr Schlesinger tried to have Beth committed to a mental hospital in Austria. Because there had been violence against Beth, however, the police were called and they removed Mr Schlesinger from the family home. He was given five minutes to pack his bags, and a restraining order was placed on him. He was subsequently given limited access to the children. Full custody was given to Beth Schlesinger; he was given two hours' supervised access, three times a week.

So far, so understandable, unfortunately. It is not an uncommon arrangement for married couples, in this country and elsewhere in Europe, for the mother to end up with custody and for the father to have supervised access because of his violent activities. Mr Schlesinger had been violent and abusive not only towards Beth but towards her father and her father-in-law.

Then, things took a turn for the worse. Mr Schlesinger requested a friend of his, Konstanze Thau, a high court judge in Austria, to contact Susanne Göttlicher, the judge in charge of the case. It is highly irregular for a

high court judge to intervene in another court on behalf of a father who has shown himself to be violent. However, after that meeting, Beth's custody rights were reduced. The judge also ordered that the children were not to leave Austria.

In January 2011, the father was given further, unsupervised, access to the children. I am told that that happened through a legal technicality. Let us remember that, after the violent episode, Mr Schlesinger had tried to have Beth committed. I suppose we would call it "sectioned" in this country. A doctor, Ulrike Willinger, then produced a psychiatric report on Beth, in which she recommended, without having fully examined all the people involved in the case, that the children should be returned to Mr Schlesinger's control. That report was considered by the judge on 17 June 2011.

A further report was produced by Dr Sinko-Sanz, a qualified psychiatrist, which informed the court that there was nothing wrong with Beth and that the children were developing normally. Social services put in a similar report. Unfortunately, however, Judge Susanne Göttlicher—who had previously been visited by the friend of Mr Schlesinger—decided to give full custody to the father. That was an extraordinary decision, and no details were given in the order of how the handover should happen.

In October 2011—this is a crucial point, because these decisions were never carried out—Beth brought an appeal and the father's rights were reduced; he was granted only temporary custody. Crucially, the higher court asked for a further investigation, and that reports should be drawn up on the children, the father and the mother. That instruction from the higher court was never carried out, however, and the only reports that were ever produced for Judge Göttlicher's court were those relating to Beth. As well as asking for those three reports, the father was told by the courts—there is a specific word for this, as is often the case with the German language—to give as much information to the children's mother. That was so that she could understand all the needs—

7 pm

Motion lapsed (Standing Order No. 9(3)).

Motion made, and Question proposed, That this House do now adjourn.—(Karen Bradley.)

Graham Stringer: The father was basically asked to tell the mother what the children's needs were and what was happening, but what actually happened was that he cancelled 50 of Beth's visits. Rather than him looking after the children, Filipino nannies were hired to do that for 12 hours a day and at weekends, and to take them to and from the nursery. Beth became more and more worried about the children; Samuel had four teeth taken out without any medical reasons given and Benjamin had two teeth removed. Beth was not only worried about what was happening as the visits were cancelled and the children were upset, but it became clear that in the court's previous decision Judge Göttlicher had suppressed a report from the nursery which had shown, and expressed the view, that when the children were seeing the father they had been crying and screaming, and had been extremely distressed. Clearly, Judge Göttlicher had had that report but it was not used. Things went from bad to worse, in terms not only of access to the

children, but finance. Mr Schlesinger stopped paying maintenance and, indeed, tried to demand that Beth paid maintenance. She was now given access only on two afternoons a week and three hours every second Sunday, which represents an extraordinary turnaround from the original situation.

In July 2013, the judge awarded full custody to the father. At this time, crucially, no assessment of the father, or of the father with the children, had taken place. Beth had been examined in German for the psychiatrist's report that had recommended against her. She is not fluent in the language, and so her answers had been slow, which was counted as a mark towards her being considered mentally unstable. Some of the relationships involving Judge Konstanze Thau became clear, and not only the one with Mr Schlesinger; her husband worked in the same hospital as Dr Willinger. I do not usually believe in conspiracies, but in this case the decisions that were taken were so strange that one has to suspect that undue influence and conspiracy were taking place.

Beth has asked me to draw to the House's attention a case of a similar custody issue, although much more extreme in many ways, that has been before the higher Austrian courts in the past week or so. It involved a neglected and filthy child—not the same as in the Schlesinger family's case—that had been taken away from the mother, who was seen to be inadequate. The higher courts in Austria said in giving the child back to the mother that a loving child's bond is of "paramount consideration". I agree with that, and that Austrian court got it right in a much more difficult case than this one. Court cases are always difficult to compare because they involve details that one does not know, but I think that that case highlights what has gone wrong in Beth's case.

I want to thank a few people before I come to my conclusion on this case. I have been to see the Austrian ambassador about this matter. He was courteous and listened carefully before explaining the situation to me. The Minister has received a delegation of me and my hon. Friend the Member for Bury South (Mr Lewis), and I am grateful to him for that. I know that he is familiar with the case and sympathetic, and I hope that he will listen to what are outrageous decisions from the Austrian courts and, even with all the difficulties that I have explained, take action on them.

I have great respect for the Austrian state. As a Minister I had regular meetings with Austrian Ministers. I like Austria, but the decision in Beth Alexander's case is a blight on the Austrian judicial system and I hope that it will be put right. Brought to its bare bones, this case is about a violent father who has been violent towards the mother of his children and other members of the family and who has been given custody of two children. The children are clearly unhappy. They do not speak very well, and they are still in nappies beyond the age of four. He was given custody of them after exerting undue influence on the courts over a mother who is completely blameless. As a Member of this House for 16 years and a councillor for many years before, I have rarely come across a case of such injustice. Despite all those difficulties, I hope that the Minister, who has shown that he is interested and sympathetic, can be of help.

Dr Matthew Offord (Hendon) (Con): I want to put it formally on the record that I thank the hon. Member for Blackley and Broughton (Graham Stringer) for

bringing this case to the House's attention. I also speak on behalf of my constituent, Adrian Alexander, who is the brother of Beth Schlesinger. Adrian and I had cause to visit the ambassador at the Austrian embassy and we discussed the case with him. I came away with the feeling that even the ambassador was confused about some of the details, particularly about the recent judgment in which there was no recitation of the facts of the case. If we could at least establish what we are dealing with, we could seek some kind of resolution. As I have said, I want to place it formally on the record, on behalf of Beth's family, that we thank the hon. Gentleman for bringing this matter to the House tonight.

Graham Stringer: As I explained to the House, we are not just talking about Beth's family. There has been concern throughout the world. I am grateful to the hon. Gentleman for his thanks.

Mike Freer (Finchley and Golders Green) (Con): This case has caused considerable concern among my constituents. At the start of the hon. Gentleman's very fine comments, he talked about the Austrian judicial system following the rules of natural justice. Is he aware that in the judgments handed down by the judges there has been no explanation as to why Mr Schlesinger was favoured over Mrs Schlesinger? They simply issued a judgment with no explanation. That surely cannot be in line with natural justice.

Graham Stringer: I am grateful for that intervention. I am aware that justice was denied in that last judgment without any explanation. There is a great deal that mystifies me about the case—how a higher court's decisions are not carried through and the inadequate decision of the lower court. Even though we have slightly longer than the normal half-hour Adjournment debate, one could have taken an hour going through the technical details of the case, but I wanted to get to the heart of the subject and show the basic injustice that has happened in this case. I am grateful to the hon. Gentleman for his intervention.

7.9 pm

Mr Ivan Lewis (Bury South) (Lab): I thank my hon. Friend the Member for Blackley and Broughton (Graham Stringer) for securing the debate and the compelling way in which he has explained this incredibly complex case in a truncated fashion. I also thank other hon. Members for their concern about a case that puzzles those of us who have been involved in it over a long period of time.

We should begin by saying that the only thing that matters is the best interests of the children, Benji and Sammy Schlesinger. After two and a half years in the care of their father, they are suffering from seriously impaired development and appear traumatised. The decision to award custody to the father, Dr Schlesinger, is one of the worst miscarriages of justice I have ever experienced during my long period as an elected representative. Beth Schlesinger has been falsely and cruelly labelled mentally ill and an unfit mother, labels both disproved by independent professionals. She is a mother, by the way, who is still allowed unsupervised access to her children. If this woman was an unfit mother and suffered from serious mental health problems,

[Mr Ivan Lewis]

surely the norm would be supervised access at the very least. As my hon. Friend has said, the father's documented history of abusive behaviour has not even been considered by the relevant court. A senior Austrian judge, Konstanze Thau, a friend of the father's family, sought to influence the judge hearing the case on behalf of the father.

There is an element of the case that my hon. Friend did not mention. A senior social worker, Dr Kindlehoffer, who testified to the mother's positive parenting skills and expressed serious concern about the integrity of the legal process, has been intimidated and threatened with the loss of her job. As a consequence, she is no longer willing to express an opinion on the case. As my hon. Friend has said, the final decision made by the Austrian court was that the father should be awarded custody without any independent professional assessment of the father, the children or the interaction of the father with the children, despite the fact—this is not generally known—that one of the children has been referred for professional help because they are self-harming, at such a tender age, and despite the fact that child protection agencies have been called to the father's home following reports of children crying endlessly, in an unusual way, in distress. Despite all that the court's final decision was one word: "refused". It refused the appeal.

As my hon. Friend has said, it is ordinarily incredibly difficult for any Government to intervene in the justice system of another country. I can testify to that as a former Foreign Office Minister. The default position of the civil service in the Foreign Office—I hope that people will take this in a good natured manner—is not to get involved in civil disputes of any nature. That is the default position and I am almost certain that that is the advice that the Minister will be given.

The Minister has been incredibly sensitive in how he has previously dealt with the case and he has offered to provide an element of assistance on behalf of the Foreign Office. At that time, the solicitor for Beth Schlesinger advised that that would not necessarily be helpful, but we are long past that point now. The family and their current legal representative are very clear that any assistance that the UK Government could give would be welcome and could make a difference. We are asking the Minister to raise the case, as my hon. Friend said, with the Austrian ambassador to the UK, to raise it, through the relevant channels, with the Austrian Justice Ministry and to ensure that there is a comprehensive review so that, if possible and where appropriate, the case can be reopened. We are realistic enough to realise that it would be entirely inappropriate for the UK Government to instruct the Austrian Justice Ministry or the Austrian courts on the decision they ultimately make, but there is no question but that there are serious issues to be addressed about a flawed process and, as my hon. Friend said—I will go even further—about corruption. The Austrian justice system is not renowned for corruption—it is viewed as modern and transparent—but in this case there are so many questions to answer that it would be entirely appropriate for the UK Government to ask the Austrian Justice Ministry to look at all the elements of the case and reopen it as a matter of urgency.

I have one final point to make. The earliest years of a child's life are the most important, as you, Mr Speaker, know better than most, having done a tremendous amount of work in recognising that in a different context.

We make the greatest difference in the earliest years of a child's life. That is why there is no time to waste. Anyone who has met those children and observed them will be extremely concerned about their lack of development and their apparent traumatising. In those circumstances, I think that we all have a duty to act.

7.15 pm

The Minister for Europe (Mr David Lidington): I congratulate the hon. Member for Blackley and Broughton (Graham Stringer) on securing the debate and on speaking with such clarity and passion in the case he has put forward on behalf of Ms Beth Schlesinger. I also acknowledge the long-standing interest of the hon. Member for Bury South (Mr Lewis) in the case and the interest of my hon. Friends the Members for Hendon (Dr Offord) and for Finchley and Golders Green (Mike Freer), who intervened earlier in this evening's proceedings.

It is a sad fact that international custody cases are becoming more frequent, as in today's world more parents of different nationalities marry and bring up children, and marriages and relationships sadly sometimes collapse. Although in many cases arguments about the care and custody of the children can be settled amicably, in an increasing number of such cases we see parents going before the courts to argue about who should have custody or in which country the children should reside. In more extreme but increasingly common cases, one parent absconds with the child without permission, an action that can quickly escalate into charges of abduction, and arrest warrants being issued.

This case is different from those. In cases of child abduction, it is our standard practice in the Foreign and Commonwealth Office to urge parents to look to The Hague convention to provide them with the way forward. The Hague convention, as the House knows, provides a mechanism by which to determine in an international dispute over custody in which country's courts the children's future should be decided.

Let me turn to the case we are debating this evening. Ms Schlesinger is a British national and her husband is an Austrian national. They both currently live in Austria. Their children were born in that country in 2009 and have lived there ever since. That is why this custody case has been heard by the Austrian courts, rather than the United Kingdom courts. Ms Schlesinger contacted my office only this week to outline her concerns about the welfare of her children—concerns that the hon. Member for Blackley and Broughton described in some detail. I was somewhat reassured to see that she has the support of her family and friends and specialist non-governmental organisations, such as the Twins and Multiple Births Association, but I am the first to acknowledge that her separation from her children and her consuming anxieties about their welfare make this an incredibly difficult time for her.

I want to explain the Government's involvement in supporting Ms Schlesinger to date and then move on to how we see the case today. In February 2010, Ms Schlesinger's father visited the British embassy in Vienna to discuss his daughter's situation. Divorce and child custody proceedings were taking place in the Austrian courts at the time and Ms Schlesinger was clearly concerned that her husband might prevent her from returning permanently to the UK with the children, following the breakdown of their relationship.

At that time, the embassy was able to help by providing our list of English-speaking lawyers in Austria and information on local women's support organisations and international organisations with relevant experience. Our consular staff explained that, in cases where families could not agree custody arrangements for the children on their own, it would be for the courts to decide which parent should retain custody and where the children should be resident.

Our staff also explained that both the UK and Austria are party to the 1980 Hague convention on international parental child abduction. That means that both countries have agreed that, where there is an international dimension to custody disputes, it is the court in the country where the children usually live that is best placed to make a custody decision in the best interests of the child. In this case, for the reasons I have described—the children were born in Austria and have always lived there—that is the Austrian court. In July 2011, as the hon. Gentleman has explained, the Austrian courts awarded custody of the children to their father, Michael Schlesinger.

When parental relationships break down and they cannot agree where a child should live, the resulting custody case inevitably causes untold distress to everybody involved—from the children themselves and both parents to the extended family. That distress can only be amplified when large geographical distances separate, or threaten to separate, one parent from their children. However, as I explained when I met the hon. Gentleman and the hon. Member for Bury South last year, while there is no doubt that this is a deeply distressing case for Ms Schlesinger and her family, there is limited scope for the Foreign and Commonwealth Office to intervene.

Our staff are not legally trained, and therefore cannot offer legal advice. Instead, we help to put British nationals in contact with reputable and, where possible, English-speaking local lawyers who are familiar with local laws and procedures and best placed to offer professional advice and support on the case and to identify any procedural irregularities with the court process in the country concerned. Nor can the United Kingdom—the hon. Member for Bury South was right about this—interfere in the independent judicial process in another country, just as we would not stand for another country interfering in our own independent judicial proceedings.

When I met the two hon. Gentlemen last July to discuss the case, I explained the background and that custody disputes are private legal matters. If parents cannot agree on arrangements for children, the decision on what is in the children's best interests must be made by the courts in the country where the children are habitually resident.

It is very clear from what the hon. Member for Blackley and Broughton has said that he and Ms Schlesinger have deep concerns about the integrity of the legal process that has taken place in Austria and believe that some of the information and evidence presented to the Austrian courts may have been seriously flawed. Ms Schlesinger needs to address those concerns with her legal team and consider what options there are to pursue them through the Austrian and, potentially, the European legal system.

Although the Foreign and Commonwealth Office cannot become involved in the competent judicial process of another country, if Ms Schlesinger's legal team were

to approach us with significant and substantiated—I stress that word—concerns about the process involved in the case, we would certainly be prepared to consider such representations and raise them with the Austrian authorities.

Our embassy in Vienna has provided some assistance to Ms Schlesinger and her family since the initial contact in 2010. As well as providing the lists of lawyers, support organisations and international bodies such as Reunite, the embassy has, during the course of this case, contacted the judge on some practical questions about timings and provided a statement to Ms Schlesinger's lawyer at the lawyer's request. There has been no direct contact between Ms Schlesinger and our consular staff between May 2012 and now, but in all our contact we have consistently advised the family that this has to be a matter for the courts to determine. I gave that advice to several hon. Members and other interested parties in 2011, 2012 and 2013.

Ms Schlesinger and her family have asked for the Foreign and Commonwealth Office to intervene to raise concerns about the court process, and to lobby the Austrian authorities for her to be given custody of her children. I must be clear that we can intervene only if there are sufficient grounds, particularly substantiated grounds about the process, and that we cannot simply take sides regarding custody of the children, any more than Ministers can take sides in such disputes that are handled by United Kingdom courts.

Ms Schlesinger's lawyers' concerns have previously been dismissed by the appropriate judicial authorities. When I met the hon. Members for Blackley and Broughton and for Bury South, I agreed that our officials should again contact Ms Schlesinger's legal team. We took that step and the lawyers' clear advice was that any form of diplomatic intervention could prove detrimental to their case, which was then at the appeal stage. We therefore stepped back from making any representation and considered instead whether we could do anything to expedite progress at a hearing. If the lawyers have changed their view and can bring forward substantiated evidence of something having gone seriously wrong in the process, we will examine such representations.

Since then, Ms Schlesinger has taken her appeal to the Austrian Supreme Court, which has said that it is inadmissible. Having listened to the two hon. Gentlemen, I can understand that the Austrian Supreme Court's somewhat terse language must have upset Ms Schlesinger deeply. The absence of any detailed explanation must also have made that decision even more difficult for her to bear. I am aware that no words that I or anybody else could say tonight will console her, given the huge emotional burden—as well as the enormous financial one—that this case will inevitably carry.

It is now crucial, however, that Ms Schlesinger discusses with her new lawyers how best to proceed, and whether there are any further avenues within the Austrian legal system or whether she needs to consider the European courts, especially the European Court of Human Rights. The UK ambassador to Austria has agreed to meet her this week to look at whether there is anything more that he and his team can do beyond what they have already undertaken.

At the root of the dispute are allegations of irregularity in the court process. Any evidence of procedural irregularity should be pursued by legal means in Austria. I cannot

[Mr David Lidington]

emphasise too strongly our view that, following recent decisions by the courts, Ms Schlesinger should seek immediate legal advice. If her lawyers advise that there are grounds for a diplomatic intervention that might be beneficial and could be substantiated by sufficient evidence, her legal team and/or the hon. Member for Blackley and Broughton are welcome to put their representations to us again.

Like any parent, I feel nothing but heartfelt sympathy for Ms Schlesinger in the plight she faces. I am sure that every Member of the House hopes that this case can be resolved swiftly, amicably and, above all, in the best interests of the children.

Question put and agreed to.

7.29 pm

House adjourned.