

Statement of David Goldman
Hearing on International Parental Child Abduction
U.S. Senate Committee on Foreign Relations
February 27, 2014

Before I begin my testimony, I would like to express my appreciation to Chairman Menendez, ranking member Corker, and members of the Committee for convening this hearing on the vital issue of international child abduction.

My name is David Goldman. My son, Sean, was abducted to Brazil in 2004 at the age of four by his mother. Even after Sean's mother died in 2008, his maternal grandparents continued to deny me access, in further violation of the Hague Convention. *(For a more complete description of the details of my case, I refer you to my December 2009 testimony at the Tom Lantos Human Rights Commission hearing on International Child Abduction: http://bringseanhome.org/David_Goldman_testimony.pdf)*

The only reason I don't appear before you today with a broken heart and broken family is because the President of the United States, the Secretary of State, the Senate, the House, and a number of individual lawmakers intervened with the government of Brazil to finally bring my son home. Although I will never reclaim those six lost years, my son is thriving, happy and healthy, reunited with his grandparents, aunts, and loved ones. So despite all the heartbreak my son, my family, and I endured, I am one of the lucky ones. Unfortunately, there are thousands of families like mine in America today who have suffered the same as me but have little or no hope of having their abducted children returned.

Most left-behind American families can't secure the intervention of the President, Secretary of State, Senate, and House on their behalf. Nor should they be expected to. These families should be able to rely on the U.S. government to do that for them. But what we have learned, year after year, through Administration after Administration, is that no matter how well intentioned our officials are, those who are responsible for returning abducted American children lack the tools to convince the 80 signatories of the Hague Convention to fulfill their Treaty obligations and return our abducted children.

These abducted children are the voiceless victims here. They've been stripped of half of their identities by the abducting parent, whisked away to a foreign country, and confronted by a language and culture many do not understand. They leave behind devastated families and friends, and little more than memories of the place they called home for most, if not all of their young lives.

Child abduction is child abuse and should be treated as a serious human rights violation by our country's leaders. These abducted children often suffer severe psychological trauma caused by the abduction and the ensuing parental alienation they experience at the hands of their abductors, who seek to poison their memories and shatter their attachments to the left-behind parent.

This is why it is crucial that Congress acts now to provide the Department of State and the White House with the tools they need to return our abducted children. I say that because time is not on the side of abducted children. As I prepared to testify, I went back and read the testimony from a similar hearing held before this very committee more than 15 years ago, in October 1998, on the issue of international child abduction.

Paul Marinkovich, a left-behind parent from California, testified: "We are here today with many other left-behind parents questioning the lack of compliance of our Hague Convention by other countries. If we show these other countries that we are serious by our actions and our requests, then they start getting serious about the return of our children. If we do not treat the abduction of our children as a serious matter, then how can we expect those other countries involved to fight for our children's return?"

Thomas Johnson, of Virginia, whose daughter Amanda was abducted to Sweden in 1994 and never returned, said: "A decade after U.S. ratification of the Hague Convention on the Civil Aspects of International Child Abduction, there is still no Central repository of reliable information and expertise in the Executive Branch that can quickly and effectively supply accurate basic data on the legal system, child custody institutions, law enforcement system, social welfare system, legal aid program, and Hague Convention performance of the abductor's country. The left-behind American parent thus has little basis for evaluating the options available."

But the problem was best summed up by the statement of the then ranking member and later Chairman of this committee. Senator Joseph Biden, now Vice President of the United States, said in 1998: "The Act of taking a child...across international borders is a heinous crime, which is extremely heart wrenching for the parent left behind and for the child or children affected...it is timely for this Committee to review the operations of the (Hague) Treaty."

In my work at the Bring Sean Home Foundation I interact every day with parents whose lives have been turned upside down by the abrupt abduction of their children. I feel their pain, because I have walked in their shoes. I advise them that the path ahead is long and painful, full of emotional ups and downs and, all too often, very few tangible results—often running up legal bills well into the six figures and risking bankruptcy for the left-behind family. I warn them that for all practical purposes, the State Department does not view its role as one of vigorous advocacy, but rather to provide assistance in making sure that the left-behind parent gets their day in court in the foreign country where their children have been taken. Sadly, having your day in court often does not result in the return of these children.

That is because the Treaty is easily manipulated to block or delay the return of the child, often by judiciaries subject to local political pressure and even outright corruption. An abducting parent need not ultimately win the legal case over the fate of the abducted child, but by using the appeal process to endlessly delay the legal proceedings long enough so that the abducted child can grow up, the abducting parent's case is strengthened solely based on the passage of time.

Sometimes this happens because judges lack an understanding of the principle tenets of the Treaty, and other times it happens because those same judges don't want to send the child home, perhaps because of gender bias or nationalistic reasons. To remove these structural and political obstacles is precisely why the Hague Convention was negotiated and ratified by 80 nations.

My foundation has been assisting a father by the name of Devon Davenport of North Carolina, whose daughter Nadia was abducted to Brazil in 2009, just a few weeks after her birth. Mr. Davenport has fought admirably to bring Nadia home. In September 2010, a federal court first ordered her return to the U.S. Since then, the return order has been upheld by numerous appeals courts and the legal case is effectively over, yet Devon is still waiting, as I did, for the Brazilian courts to enforce their own return order and put Nadia

back on a plane to the U.S. Our government should be demanding, not asking, that Nadia be returned.

The fundamental problem with the status quo is that there are no serious consequences or penalties for other nations who flagrantly, repeatedly, year after year, refuse or fail to return abducted American children. Go down the list of flagrant abusers and many are close allies of the United States, yet concern for "bilateral relations" and the instinct to put "the relationship first" keep successive Administrations from sanctioning countries who are flagrant violators or even denouncing them publicly.

Quiet diplomacy is always the first resort, but as Bernard Aronson, former assistant secretary of state for Inter-American Affairs, who assisted me in securing Sean's return, testified at a December 2009 hearing in the Tom Lantos Human Rights Commission on this very issue: "a diplomatic request for which there is no real consequence for refusal is simply a sophisticated form of begging."

Mr. Chairman and members of this Committee, I submit to you today that very little has changed in the nearly 16 years since this Committee's last hearing on this issue. The names of the families have changed, but the stories are eerily similar in terms of how ineffectual our government has been because it has no serious tools to compel other nations to do their duty, and there are few, if any, consequences when they refuse. In my case, significant diplomatic pressure was applied at all levels by Chairman Menendez, Congressman Chris Smith, and the late Senator Frank Lautenberg, who put a hold on the renewal of GSP trading privileges for Brazil and dozens of other nations. The act would have hurt Brazil economically, and low and behold, Sean was home a few days later.

Rather than having to resort to such extraordinary measures, shouldn't Congress arm the U.S. government with a menu of sanctions the State Department can apply at its discretion to flagrant abusers? That way our diplomats can warn non-cooperating nations of potential consequences and adverse congressional reaction and thereby increase the leverage available to our diplomats to return American kids.

A second problem with the status quo is the lack of accurate statistics and transparency concerning the dimensions of the problem and the record of other nations. We cannot properly analyze this problem without accurate data on abductions and returns, yet these figures have become increasingly difficult to find. Unfortunately, the State Department ceased publishing return figures starting in 2010. With regard to return rates for abducted children, overall return rates of abducted children appear to be holding steady in the 40% range, although the rate is not higher for Hague Convention countries versus non-Hague countries. It's also worth noting that return rates are not improving at a time when a higher percentage of overall abduction cases are to Hague Convention countries (75% in 2012 versus 46% in 2007), suggesting that the Convention is not working the way it was designed. I believe we need to take an honest view of the failures of this reciprocal treaty and what should be done about it. What good does it do to encourage other countries to join the Hague Treaty if it won't lead to an increased number of returned children?

When the International Parental Crime Act was passed in 1993 the number of abducted American children was estimated to be 10,000. We know that in the last several years, the number of abducted children registered with our State Department is between 1,000 and 1,500 per year. Historically, several hundred children per year are returned, which suggests that every year we have an increase in the net number of children abducted by roughly 800 to 1,000. Yet in 2013, the number of active cases according to the State Department was only 1,035, involving 1,453 children. The reason, I'm afraid, is that cases are closed by the

State Department for a long list of reasons in addition to an actual return of the abducted child. Some are instances in which the parent simply runs out of money to fund his litigation in the country where their child has been taken. Shouldn't you, as the peoples' representatives, and left-behind parents, have an accurate accounting of the dimensions of the problem and confidence that no child's case will be written off prematurely?

My hope for this hearing is that members of this Committee and all Senators will reach out to your colleagues in the House to work together to strengthen the capacity of the U.S. government to return abducted children with real sanctions and tools, and also to ensure that information about cases and reports is transparent and available to the public along with the performance of individual countries.

As you know, legislation which does just that passed the House of Representatives last December 398-0 in a rare show of bi-partisan, unanimous support for these victims. I urge this Committee to build on that strong foundation and pass this vitally needed legislation as soon as possible, and not risk having it bounced back and forth between the Senate and the House. The families of abducted children have no time to waste.

My fear is that if this Committee and the full Senate don't take up this cause quickly and mid-term elections start to loom, this Committee will convene yet another hearing, perhaps years from now, and we will hear the same heartbreaking stories from a new group of parents making the same urgent requests for help, with even more families shattered by the loss of their children.

As I conclude my remarks, I would like to share with you a quote by former Congressman Barney Frank, who said at a July 2011 Congressional hearing on international child abduction: "We sometimes hold back in using our legitimate moral authority because we worry about somehow alienating other countries. Now, I want America to be reasonable and fair in its dealings with other people, but, as a general rule, it does seem to me that most countries in this world need us more than we need them. I don't want to abuse that, but I think we sometimes assume that we can't press hard because people will get mad at us... a reasonable assessment of what the relationships are should allow us to press cases on their merits and not be held back by some fear that we will somehow lose influence."

In other words, it's time for America to lead on this issue. Time is the enemy here and for left-behind families and their children, those lost years can never be recovered. We face a rare political moment where we have a unanimous, bi-partisan consensus in the House on this issue. Let's not let the perfect be the enemy of the good. Now is the time to act.