

David Goldman

Testimony before the House Committee on Foreign Affairs, Subcommittee on Africa, Global Health, and Human Rights

International Child Abduction: Broken Laws and Bereaved Lives

May 24, 2011

Good afternoon Members of Congress.

I am honored for the privilege to testify before you today.

For five and one half years, I walked in the shoes of the Left-Behind Parent. I lived in a world of despondency and desperation, with a searing pain throughout my entire being. Everywhere I turned I saw an image of my abducted child. Sleep was hard to come by and never restful. If I smiled, I felt guilt. When I saw children, whether it was in the store, a park, on television or even on my charter boat, where clients often take their families for a day on the water, it was more than painful. For the longest time it was too painful to be around my own family members. I couldn't even be around my nieces and nephews. It was too painful. Where was my son? Where was my child? He had been abducted. He was being held illegally. He was being psychologically, emotionally and mentally abused. I needed to help him. I needed to save him. He needed me, his father. It was our legal, our moral, our God given right to be together as parent and child. I did everything humanly possible, leaving no stone unturned, but for many years the result remained the same. Sean was not home.

Although I remained determined and hopeful, I must admit, the outlook for a permanent reunion with my abducted child often seemed bleak at best. I felt like a dead man walking. This void left me a shell of the man I had once been. There were orders in place. There were many orders from U.S. courts demanding the immediate return of my child. The courts in Brazil acknowledged that my child had been held in violation of US and international law, however, he remained in the possession of his abductors. Why were so many laws being ignored? Why were the abductors and in my case, the government of Brazil, allowed to flagrantly violate international law with no consequences? Why were my child and over 50 other American children still in Brazil, another 80 or more in Mexico, and thousands of other American children also held illegally in various countries in clear violation of The Hague Convention on the Civil Aspects of International Child Abduction? It would take four and one half years, numerous court hearings, extraordinary work from my attorneys in Brazil and the US (one of whom is here today, Mrs. Patricia Apy), a tremendous amount of political pressure applied publicly and internally, and House, Senate and state resolutions for me to finally be able to visit my abducted son for a few short periods of time. My son had been abducted by my wife and her parents and held illegally for over four years. It wasn't until the tragic passing of his mother that my son's abduction became "newsworthy." This finally brought it to the attention of those who could and would actually assist me. It took Congressman Smith traveling to Brazil with me. It took Senator Lautenberg holding up a bill that would have given Brazil nearly three billion dollars in trade preferences for my son to come home.

Sean and I are extremely grateful for all of the assistance we received from supporters, elected officials, the Secretary of State and the President of the United States of America. Nevertheless, it is extremely rare for a left-behind parent to be the beneficiary of this level of help, yet every other parent whose American citizen child has been abducted deserves the same help that I received.

This committee must realize that if the system had been working properly, our government would have had the tools necessary to bring Sean, and all of the other abducted children, home years earlier. It should not have required the extraordinary efforts of Congressman Smith and Senator Lautenberg. Senator Lautenberg never should have needed to threaten a trade bill with Brazil because that option should have been available to our State Department when countries violate the law and refuse to return abducted American children.

As of today, there are many black and white Hague abduction cases in Brazil and other countries where the law is clear that the children must be returned. My case was the exception because the abducting parent had passed away but almost always the abductor is still alive. These abducting parents and their attorneys manipulate the legal system to their advantage, stalling the legal process for years while our children grow up apart from half of their families. For these Left-Behind Parents and families, time is the enemy!

With all the assistance and support I received, after over four years and then another year and one half after the death of my son's first abductor, on Christmas Eve 2009, Sean and I were finally reunited and returned home. It was nothing short of a miracle. After five and one half years of my son's illegal retention and documented abuse, he is now home and he is flourishing! He will be 11 years old tomorrow on May 25, International Missing Children's Awareness Day. Although the remaining abductors of my son have challenged the Brazilian Supreme court decision that brought him home and continue litigation in Brazil seeking my son's return, in addition to filing law suits in the New Jersey courts, he is home. He is happy, he is loved, he is allowed to be a child again and we are father and son again. One thing my father said when my son and I finally reunited and returned home, which will always resonate within me. He said "not only did I get my grandson back, I got my son back." Our family will always be so very grateful for every ounce of support from wherever it came. It is for this reason that I am here today – to do whatever I can to ensure the pleas from the remaining families, desperately fighting to reunite with their abducted children, do not fall on deaf ears, as my own pleas did for so many years.

Our foundation is assisting a number of left-behind parents including nine whose children remain illegally retained in Brazil. None of these children have been abducted by someone with great influence and power, like those who abducted my child, however the results are the same. The children remain held illegally. Other than my son, we are aware of no other child returned to the US, by Brazil, under The Hague Convention. In fact, since Sean's return, two US Hague cases in Brazil received return orders by Brazilian first level federal courts, which is very good news. However, the rulings were appealed, the children were not returned and the lives of the Left-Behind Parents and their children hang in the balance while every day the abductors live with impunity as these cases drag on. Brazil continues to defy international law.

I would like to note that Ambassador Jacobs has recently returned from a trip to Brazil where she had gone to discuss international child abduction with senior Brazilian officials. Ambassador Jacobs reports that the trip was a success and that the US and Brazil have established a working group which will meet this summer to discuss how to speed up Hague applications and the adjudication of these abduction cases. Hopefully, real change will happen, but to be clear, the only way progress can be measured is by the number of American children who are returned.

Right now, there are zero consequences when a nation flagrantly violates the Hague Convention and refuses to return abducted children to the United States. Nations including Mexico, Germany,

Brazil and Japan, which finally appears ready to ratify the Hague Convention, discover quickly that the United States is all talk and no action. These countries play endless legal and diplomatic games with Left-Behind-Parents, frustrating their hopes and breaking their hearts month after month and year after year through endless, bureaucratic maneuverings. The method and the excuses may vary from country to country, but the results are almost always the same – children illegally abducted from the United States almost never come home. The current system is broken.

In the letter inviting me to speak at this hearing today, the Chairman states that the purpose of this hearing is to explore ways the US can help increase return rates of children abducted internationally by a parent. First of all, we can only help increase return rates if we start with a complete understanding of the full magnitude of the problem, including the true number of American children who were abducted and continue to be illegally retained abroad.

This is a difficult number to find and is not presented as part of the annual Hague Compliance report submitted to Congress by the State Department. We keep hearing that the figure is around 2,800 American children. However, the last three annual Hague compliance reports prepared by the State Department show that the total number of abducted American children for those three years was 4,728. These reports also show that about 1,200 children were “returned,” although we weren’t able to find return data for 2010. That would account for an increase of 3,528 abducted American children in those three years alone, and clearly there have to be literally thousands of American children illegally retained abroad whose abductions date back prior to the most recent three-year period. How are “returns” categorized? How were these children returned, if they were in fact returned at all? Do “returns” also include cases which the State Department has closed for various reasons? If so, what are the criteria for closure?

Things need to change. We need a system by which these abduction cases are registered and monitored by each parent’s elected Members of Congress. We need our elected officials to work closely with the State Department on these cases to make sure that all resources and additional tools are at their disposal to make it clear to these countries that we want our children sent home.

There is no valid reason for foreign governments to illegally hold American children and support international child abduction. This statement, however true, defies all logic because there is never a valid reason to break the law and support kidnapping. But as I testify before you today, this is exactly what is happening in many countries to thousands of American children and their families. These countries are breaking the law with impunity!

The fact is very few Left-Behind Parents will be as fortunate as I was in having President Obama, Secretary of State Clinton, Congressman Smith and Senator Lautenberg all make my son Sean's return a fundamental foreign policy goal of the United States. Even then, Senator Lautenberg had to put a hold on renewal of GSP trade privileges for more than 100 nations, including Brazil, to put the final pressure on both Brazil and the Administration, which led to Sean's return. Let's be honest. I wish every Left-Behind Parent could have that kind of support in the future, but we all know that few at most, and possibly none, will ever have that kind of leverage and power backing them. What kind of leverage will these parents be able to wield without the kind of personal, high-level support I was so fortunate to receive from the White House, State Department, Senate, and House to bring their children home? Not very much. In fact, almost none at all.

The Hague Convention has the force of law but we all know there can be no rule of law if there is no system of justice to punish violators. Today Mexico, Brazil, Argentina, and a host of other countries face no real consequences for refusing to adhere to The Hague Convention requirements that abducted children be returned to the country where they were legally domiciled within six weeks. American treasure and our armed forces have safeguarded the security of Japan since 1945, yet Japan pays no price for refusing to return the abducted children of those American service members, as well as ordinary US citizens, whose children have been abducted to Japan.

This Committee and this Congress must pass legislation that arms the State Department with real sanctions to exemplify U.S. intolerance for other nations which remain flagrant violators. Chairman Smith has authored such legislation. I support it and I urge all Members to do so as well. Similar to our anti-human-trafficking laws authored by Chairman Smith, his bill to combat international child abduction provides a real and credible inventory of sanctions to be used to help get our kids back. If you arm our negotiators with such sanctions they will immediately be taken more seriously. If the Department employs such sanctions against the worst offenders, other nations will get the message also, and hopefully start to return our children. What I do know is that if all we do today is express outrage and vow to do better – as committees like this in both Houses of Congress have done for more than 12 years, but fail to enact Congressman Smith's legislation with real and credible sanctions, our kids will not be returned and we will be back before another Committee next year with more Left-Behind Families, more internationally abducted children, and no new mechanism of improvement.

It is worth noting that this is the seventh hearing on this issue since 1998 and I respectfully ask this Committee to think about something at the conclusion of this hearing. What, if anything, has changed in those 12 years since we acknowledged the seriousness of the problem of international child abduction and realized that the system was failing these parents back then? When you read the testimony, it's as if we are caught in a time capsule and suddenly, the dates on the hearing transcripts don't matter. All of these stories could be told today because the reasons for the failures are the same.

This is as much of a bipartisan issue as there could ever be and I continue to plead on behalf of all the suffering families torn apart by child abduction for our government to act now! My son Sean and I can never get back the time we lost because of his abduction, but now that he is finally home, not a day is lost on either one of us. Let us help the rest of the families and begin with providing the much-needed tools that the State Department so desperately needs to apply across-the-board pressure that will ensure abducted American children come home.

I would like to conclude with a letter from the left-behind parents of 117 American children unlawfully retained in 25 countries. The letter is addressed to Secretary of State Clinton and was written for the purpose of giving a voice to the thousands of parents who were not invited to speak here today. Their presence is felt and many of them are here in this room today.

AN OPEN LETTER TO SECRETARY CLINTON

May 24, 2011

Honorable Hillary Rodham Clinton
Secretary of State
US Department of State
2201 C Street NW
Washington, DC 20520

Dear Madam Secretary,

We, the undersigned, appeal to you for help as left-behind parents of 117 American children who have been abducted and remain unlawfully retained in 25 countries. We also represent a number of U.S. service members whose children were abducted while serving our country overseas. Some of these countries are signatories to the Hague Convention while others are not, such as Japan, where we face overwhelming odds trying to reunite with our children. We and our families are devastated – emotionally and financially – by the loss of our children and seek your assistance in ensuring that the U.S. Government is exercising all lawful means necessary to return these American children to their home country and reunite them with us.

The continued retention of our children violates international law, ethical norms, and human decency. Put simply, our children have been stolen from us, and it is our legal and moral right to be a part of their lives. As our 85 cases demonstrate, there are a growing number of countries willfully ignoring or abusing their international obligations with regard to international parental child abduction. Each of us has had exasperating experiences seeking justice in foreign courts, where our cases are often treated as custody matters, rather than as abduction cases. Often times, victim parents are told to use the court system of the foreign country when it is well known that such action will likely result in a decision with custody of our abducted children being awarded to the abducting party.

Collectively, we have limited or no contact with our children, many of whom have been turned against us as a result of parental alienation, a documented form of child abuse. Our children lost half their identities when they were ripped from their homes, families and friends. Like us parents, our children's grandparents, siblings, aunts, uncles, and other family members have holes in their hearts left by the abduction of their loved ones.

We were encouraged by your July 2010 appointment of Ambassador Jacobs as Special Advisor to the Office of Children's Issues (OCI). However, in working with OCI, we have experienced little improvement in the quality of service provided by the Department of State and almost no positive results. The current system has failed us. While our children remain unlawfully in foreign lands, the number of new child abduction cases from the U.S. continues to grow at an alarming rate. There is an urgent need for change, not only to prevent more of our nation's children from being abducted across international borders, but also to effectuate the expeditious and safe return of our abducted children.

International child abduction is a serious human rights violation in desperate need of your attention. In our experience, all too often these international child abduction cases do not appear to be addressed aggressively because of the State Department's effort to maintain harmonious, bilateral relations with other countries or to pursue other compelling foreign policy goals. The Department's Foreign Affairs Manual on the issue of child abduction highlights this point by instructing OCI case workers to remain "neutral" when handling these abduction cases. This inherent conflict of interest cannot be ignored and we need to place a higher priority on the welfare of our children. We understand the necessity of maintaining strong relationships with other nations, but this should not come at the expense of our children.

Over the years, both houses of Congress have held numerous hearings on the issue of international parental child abduction, yet precious little has changed as our absent children grow older. On Tuesday, another group of parents will gather in Washington, D.C. for yet another hearing. It is our hope that this will be the year that Congress and the Administration unite to pass new laws to strengthen our nation's capacity to help the parent and children victims of international parental child abduction. We also hope that the State Department, under your leadership, will embrace these changes to finally end this gross injustice affecting thousands of American children.

Madam Secretary, we applaud your past efforts and record on children's rights issues, but we are desperate and plead for your assistance. It is long past time for this great country to show leadership on the issue of international parental child abduction. We cannot grow complacent with each successful return, nor can we forget about all the other children who are being wrongfully retained abroad. We are fortunate to have the strong support of groups which advocate for victims of international parental child abduction. However, we need our government's unwavering support and determination to bring our children home.

Madam Secretary, we would welcome the opportunity to meet with you directly to discuss how progress can be made. Please help us to be reunited with our children.

Sincerely,

David Brian Thomas, father of Graham Hajime Thomas (Nishizawa) (Age 20)
Abducted to Japan in November, 1992

Walter Benda, father of M.B and E.B (Ages 22 and 20)
Abducted to Japan in July, 1995

Charles A. Hamilton, father of Dakota Carmen (age 15)
Abducted to Spain in December, 1996

Eric Kalmus, father of Amy Ito (Kalmus), (age 14)
Abducted to Japan in 1998

James Filmer, father of Sarah (age 13)
Abducted to Germany in October, 1998

David Hendricks, father of Daniel and Patrick (ages 17 and 13)
Abducted to Norway in June, 1999

Mark & Lydia Harrison, father and grandmother of Jessica Danielle (age 15)
Abducted to Mexico in July, 2000

Craig Alciati, father of Peter Spencer (age 12)
Abducted to France in March, 2001

Michael C. Gulbraa, father of Michael K. & Christopher R. Gulbraa (ages 21 and 20)
Abducted to Japan in November, 2001

CDR Paul Toland, USN and Linda Toland, father / sole surviving parent and stepmother of Erika (age 8)
Abducted to Japan in July, 2003

Richard B Kephart Jr and Martha Kephart, father and grandmother of Richard Kephart III and Nicolle Hyler Kephart (ages 15 and 10)
Abducted to Japan in November, 2003

Brett Weed, father of Takoda Tei Weed & Tiana Kiku Weed (ages 13 and 10)
Abducted to Japan in January, 2004

Klaus Zensen, father of Maria Carolina (age 7)
Abducted to Brazil in July, 2004

Ariel Ayubo, father of Lorenzo (age 10)
Abducted to Brazil in September, 2004

Robert A. McConnell, father of Bianca Damanik (age 8)
Abducted to Indonesia in January, 2005

Deana Hebert, mother of Bianca Lozano (age 17)
Abducted to Mexico in April, 2005

Paul Brown, father of Liam Shiratori Paul Brown (age 8)
Abducted to Japan in June, 2005

William J Lake, father of Mary Victoria Lake (age 14)
Abducted to Japan in August, 2005

Stephen Christie, father of James Kento Christie (age 16)
Abducted to Japan in October, 2005

John Donaldson, father of Michiru Janice Donaldson (age 10)
Abducted to Japan in November, 2005

George A. Petroutsas, father of Andonios (age 6)
Abducted to Greece in December, 2005, re-abducted in June, 2010

Michele Swensen, mother of Amina, Layla, and Sami (ages 14, 12 and 10)
Abducted to Yemen in February, 2006

Didier Combe, father of Chloe (age 7)
Abducted to Mexico in March, 2006

Kelvin Birotte, father of Kelvin Jr. (age 5)
Abducted to Brazil in July, 2006

Timothy Weinstein, father of Paul and Anna (ages 13 and 10)
Abducted to Brazil in August, 2006

Marty Pate, father of Nicole (age 10)
Abducted to Brazil in August, 2006

Nigel Lewis, father of Jasmyn Lewis and Cody Lewis (ages 9 and 7)
Abducted to Japan in November, 2006

Donna Hesse, grandmother of Kai Noel Hachiya (age 12)
Abducted to Japan in December, 2006

Michael McCarty, father of Liam Gabriele (age 9)
Abducted to Italy in March, 2007

Douglas Brian Gessleman, father of David and Joshua Gessleman (ages 7 and 9)
Abducted to Japan in May, 2007

Robert Carpenter, father of Natalie Elisabeth and Krystal Lynn (age 5)
Abducted to Colombia in June, 2007

Trevor Richardson, father of Andrew (age 5)
Abducted to Mexico in August, 2007

Paul Wong, father and sole surviving parent of Kaya Summer Xiao-Lian Wong (age 7)
Abducted to Japan in August, 2007

Kirsten M. Snipp, mother of Joichiro Yamada (age 13)
Abducted to Japan in September, 2007

Michael G. Canopin, father of Christian Lehua Haolalani Yuuki Inamura-Canopin (age 13)
Abducted to Japan in October, 2007

Jose Maria Cacho Polo, father of Jose Martín (age 11)
Abducted to Japan in January, 2008

Michael Sanchez, father of Emily Machado (age 5)
Abducted to Brazil in March, 2008

Randy Ernst, father of Joseph and Nicole (ages 13 and 11)
Abducted to Russia in May, 2008

Sean A. McKnight, father of Kelly and Julia (ages 15 and 7)
Abducted to Poland in May, 2008

Randy Collins, father of Keisuke Christian Collins (age 8)
Abducted to Japan in June, 2008

Carlos Bermudez, father of Sage Antonio (age 4)
Abducted to Mexico in June, 2008

Bandi J. Rao, father of Anand Saisuday (age 6)
Abducted to India in July, 2008

Carl Hillman, father of Sean (age 8)
Abducted to Japan in July, 2008

Conrad Washington, father of Conisha Kanna and Maximus Riku (ages 16 and 7)
Abducted to Japan in July, 2008

Patrick McCoy, father of Yuuki McCoy (Kojima) (age 3)
Abducted to Japan in August, 2008

Regan Haight, mother of Chloe and Aiden Kobayashi (ages 9 and 5)
Abducted to Japan in September, 2008

James Robert Allen, father of Joseph Martin (age 2)
Abducted to Colombia in September, 2008

Brandon C. Neal, father of Alexander Hikaru Neal (Sugashima) (age 4)
Abducted to Japan in September, 2008

Chandrashekar Mungaravalli Puttappa, father of Akshara (age 3)
Abducted to India in October, 2008

Michael Elias, Nancy Elias and Miguel Elias, father, grandmother and grandfather to Jade Maki Elias and Michael Angel Elias (ages 5 and 3)
Abducted to Japan in December, 2008

Jessie Duke, Roy Duke and Deborah Duke, father, grandfather and grandmother of Shanonyuma Ishida and Rikki (ages 8 and 4)
Abducted to Japan in December, 2008

Matt Wyman, father of Jake Taylor and Alex Michael (ages 10 and 6)
Abducted to Japan in January, 2009

Roy Koyama, father of Emily Alina (age 2)
Abducted to Costa Rica in February, 2009

Devon Davenport, father of Nadia Lynn (age 2)
Abducted to Brazil in February, 2009

John Henry Richardson III, father of Matthew and Dylan (age 8 and 7)
Abducted to Mexico in April, 2009

Dhanika Athukorala, father of Kali Soleil (age 3)
Abducted to Dominican Republic in April, 2009

Richard C. Nielsen, Peter Nielsen and Karin Heintz, father, grandfather and grandmother of Leo Nielsen (age 4)
Abducted to Japan in April, 2009

Darshaun Nadeau, father of Kaya Nadeau (age 2)
Abducted to Japan in May, 2009

Mzimaz Youssef, father of Ghali (age 2)
Abducted to Morocco in May, 2009

James Patrick Carol, Jr., father of Andrea Vanessa and James Patrick (ages 7 and 6)
Abducted to Mexico in June, 2009

Tracy Baumgart, mother of Saxon Rayne Kawar (age 10)
Abducted to Jordan in July, 2009

Michael M. Bergeron, father of Ami Amor (age 6)
Abducted to Peru in August, 2009

Douglass Berg, father of Gunnar and Kianna Berg (ages 11 and 10)
Abducted to Japan in August, 2009

Christopher and Amy Savoie, father and stepmother of Isaac and Rebecca (ages 10 and 8)
Abducted to Japan in August, 2009

Colin Bower, father of Noor and Ramsay (ages 10 and 8)
Abducted to Egypt in August, 2009

Evangelina Pena, mother of Elias Badys (age 4)
Abducted to Morocco in September, 2009

Brett Purcell, father of Dante (age 1)
Abducted to Argentina in September, 2009

Bruce R. Gherbetti, father of Rion Suzuki, Lauren Gherbetti and Julia Gherbetti (ages 8, 6 and 4)
Abducted to Japan in September, 2009

Mark Gomez, father of Haydn (age 3)
Abducted to China in January, 2010

Jeffery Morehouse, Madeline Morehouse & David Sorlie, father, grandmother and grandfather of "Mochi" Atomu Imoto Morehouse (age 7)
Abducted to Japan in February, 2010

Stan Hunkovic, father of Gabriel Julius and Anastasia Sierra-Marie (ages 3 and 1)
Abducted to Trinidad & Tobago in February, 2010

Sara Edwards, mother of Eli Kiraz (age 3)
Abducted to Turkey in March, 2010

Michael Hassett, Dennis and Ann Hassett, father, grandfather and grandmother of Noah and Kynan Hassett (ages 10 and 7)
Abducted to Japan in March, 2010

Alex Kahney, father of Selene and Cale (ages 9 and 7)
Abducted to Japan in April, 2010

Brian Prager and Morton Prager, father and grandfather of Louis "Rui" (age 5)
Abducted to Japan in June, 2010

Antonio Quintana, father of Victoria and Virginia (ages 4 and 3)
Abducted to Argentina in July, 2010

Rex S. Arul, father of Rhea Immaculate (age 4)
Abducted to India in July, 2010

Simon Williams, father of Noan John (age 2)
Abducted to Brazil in August, 2010

Sheena Howard, mother of Talan and José Otavio Ribeiro da Silva (ages 5 and 2)
Abducted to Brazil in September, 2010

Dennis Patrick Burns, father of Victoria Emma and Sophia Marie (ages 4 and 2)
Abducted to Argentina in September, 2010

Richard Joseph Gatt, father of Natasha Joanie (age 6)
Abducted to Brazil in October, 2010

Douglas Trombino, father of Morgana Gray (age 2)
Abducted to Colombia in November, 2010

Ray Rose, father of Kaia (age 15 months)
Abducted to Japan in November, 2010

Robert W. Makielski, father of Isabel Marie and Gabriel Leonardo (ages 8 and 4)
Abducted to Dominican Republic in January, 2011

Tim Johnston, father of Kai Endo (age 6)
Abducted to Japan in March, 2011