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Resolving International Parental Child Abductions to Non-Hague Convention Countries

Good morning Members of Congress. I am honored for the privilege to testify before you and commend you for holding this important hearing.

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.

Finally, after Congressman Smith became directly involved with my case and traveled to Brazil with me on multiple occasions, Sean and I were reunited after nearly a six-year separation as a result of his abduction. But it took worldwide media attention, the personal, outspoken support of former Secretary of State Clinton and President Obama, and ultimately U.S. Senator Frank Lautenberg's decision to place a hold on trade with Brazil, to make it possible. I must say that countless others also became involved and joined in my fight, making it essentially their fight, which made it our fight. I am forever indebted and humbly grateful for every ounce of support. I also know it is next to impossible for any single left-behind family to garner the support which my family was so extremely fortunate to receive. Today, I hope collectively we will start to change that.

This is my fourth time testifying before Congress on this issue and I am disappointed to report that the situation with international child abduction, to both Hague and non-Hague countries, continues to worsen since the return of my son Sean in December, 2009. This hearing today, by my count, is at least the 20th hearing on this issue dating back to the 1980s. Yet today, over thirty years later, the problem persists, the number of abducted children continues to rise at an alarming rate, and precious little is being done about it.

As I prepared to testify today, I spent time looking back at the extensive record of Congressional testimony on this issue over the years. So many important and meaningful statements have been

made that I felt that the most effective way to communicate my message is to quote some of these government officials.

I would like to start with a brief quote from Congressman Walter Jones of North Carolina from a session on the House Floor when my son Sean's case was being discussed, which I believe accurately sums up the issue we're here to discuss today. Congressman Jones said "the world should be about bringing families together" and he's absolutely correct. Let's work together to bring more children home and more families together. These American children, left without a voice as a result of their abductions, deserve better.

The following is a quote from former Congressman Barney Frank, from remarks made 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."

What he is saying, quite accurately, is that other countries look to America as a leader on moral issues concerning human rights. We have an opportunity to lead on this issue and we shouldn't be shy about it or fearful that we will hurt our bilateral relations with other countries by demanding compliance with international treaties and adherence to basic human decency in terms of how we treat the most vulnerable among us – especially our children.

Now I turn to the remarks made by Ambassador Susan Jacobs at that same hearing in 2011:

"In non-Hague countries we rely on quiet diplomacy, knowledge of local conditions, and respect for local customs, and often less visible means to try to resolve an international abduction case. The Hague Convention remains our best hope of resolving international abductions. It is the first subject that I bring up with foreign governments during my travels on behalf of the Secretary."

The mechanisms used today to return our children are failing. Let's look at some facts based on statistics compiled by the State Department.

1. Over the last five years (2008-12), over 7,000 American children have been abducted from the U.S. How many of those children have ever come home? Not nearly enough. The State Department used to provide return statistics to the public, through its annual

Hague Convention compliance report, but stopped doing so in 2010. We haven't heard an explanation for why the public is no longer entitled to this information.

2. For calendar years 2008-2010, the State Department reported an increase of almost 3,000 abducted children yet the number of children whose cases were active dropped from 2,800 to 2,400. What that means is that many cases are being closed but the children are never returned. That doesn't make sense.
3. The return rate (children returned as a percentage of abducted children) over the last 11 years (2001-2011) for Hague countries is exactly the same as with non-Hague countries – 36%.
4. Over the last 3 years (2009-2011), return rates for Non-Hague countries have actually been higher than with Hague countries (50% vs. 38%). What does that say about the effectiveness of the Hague Convention?
5. During the same three-year period (2009-2011), the number of children abducted has increased by 22% compared to the previous three year period of 2006-2008.

What is required at the State Department is a complete culture change. Nothing short of being extremely bold and principled is going to do much to change the status quo and the corresponding playbook for handling international child abduction cases. Left-behind parents, especially ones whose children have been abducted more recently, often make the mistake of thinking that the State Department is competently handling their cases and that countries routinely return children as expected. In reality, the State Department and the U.S. Foreign Service have been involved in these cases almost since the founding of America. We have always been a country of immigrants and these issues have always existed and been escalated to the State Department. What these parents often fail to appreciate is that it is not incompetence or ignorance that leads to the mishandling of abduction cases, but rather a failure to enforce policy.

To commemorate National Missing Children's Day in May 2011, then Secretary of State Clinton stated:

“We are committed to preventing child abduction and to helping the children and families caught up in these very complex situations. Our dedicated staff in the Office of Children's Issues works every day to support families and children at risk. We help parents access the tools available to prevent international abductions, such as our Passport Issuance Alert Program.”

Secretary Clinton deserves credit for addressing this issue, but unfortunately the tools her staff has to work with are woefully inadequate to bring the majority of these abducted children home. Yes, preventing abductions is critical but we cannot give up on these children once they've been taken out of the country. Parents don't have the resources to fight this battle, in two countries, on their own. They need real advocacy and real action – a commitment and the resolve to bring these children home – not platitudes and talk about how much we care.

I would like to share with you a quote from Bernard Aronson, former Assistant Secretary of State for Inter-American Affairs, from his December 2009 testimony before the Tom Lantos Human Rights Commission. Mr. Aronson stated that “a diplomatic request for which there are no consequences for refusal is just a sophisticated version of begging.”

The success rate of using the Hague Convention for a left-behind parent is abysmally low, and the number of abducted children is increasing at an alarming rate. The main reason the Hague is not working is that there are no material consequences for abusing it, and the U.S. has to do more to change that. Publishing a list of non-compliant countries does not create much incentive for such countries to change their behavior.

Now, let’s look at the cases of the thousands of American children who’ve been wrongfully removed from the United States. Could the U.S. find ways to put pressure on these countries to honor their international obligations? Do we trade with these countries? Do the leaders of our government understand the difference between a custody dispute and an abduction? Do they really want to make the Hague Convention an effective treaty to minimize international child abduction? If the answer is yes, the case of my son can serve as a blueprint for what can, and should, be done.

Our newly appointed Secretary of State, John Kerry, is intimately familiar with international child abduction, specifically the case of Colin Bower’s two children who remain in Egypt. As a U.S. Senator, Secretary Kerry authored a resolution admonishing the Egyptians for the abduction of Colin's children, Noor and Ramsey, and advocating for their immediate return. He also called on “all governments to assist in the safe return of children abducted from or wrongfully retained outside the country of their habitual residence.”

Once again, the intentions are good but there’s no action to see that these children are returned. We should stop talking and start acting, if we’re sincere in our desire to see these children brought home to their loving families, where they belong.

At his swearing in ceremony in February, Secretary Kerry made the following remarks:

“We can protect children as we did in Africa. We can keep students learning even after an earthquake destroys their schools, as we did in Pakistan. We can help young girls pursue their dreams of education, as we did in Afghanistan and other places in the world. That is what the Department of State can do.”

Certainly American children are no less deserving of protection than the children of Africa and other continents. Because the problem of IPCA is not being addressed in an effective manner, thousands of abducted American children and their parents are suffering daily. We can do better.

At a Senate hearing on international child abduction then Senator Joseph Biden remarked:

“The act of taking a child in violation of a custodial order – whether across States' lines or across international borders – is a heinous crime which is extremely heart-wrenching for the parent left behind and for the child or children affected.”

That was 15 years ago but the same holds true today. With the passage of time, the only difference between then and now is the names and faces of the grieving parents here today before you, telling their stories. The cases are different but all too similar in so many respects. We are failing these parents and their abducted children again and again.

If Congressman Smith hadn't traveled with me to Brazil I wouldn't have been able to see my son after more than four years of being separated because of his abduction. These cases typically drag on for months, which soon turn into years as the abductor creates a home field advantage with endless appeals and delay tactics in their home country's legal system. This is the norm, not the exception. These cases are abduction cases and laws have been broken!!! Let's remember that these cases are not custody disputes.

Let us also be clear what we left-behind families are asking for: Some people mistakenly believe we are asking our government to intervene in custody disputes. We are not. All we are asking is that when our children are kidnapped to thwart a proper resolution of custody, the law governing their return to our country is upheld. We Americans proudly proclaim that we are a nation of law, not of men. But when it comes to the international law that deals with children abducted from the United States to other lands – a law embodied in the Hague Convention which our country helped convince other nations of the world to adopt – there is no rule of law. And the broken lives and broken spirits of left-behind parents across America, whom we represent here today, stand as a living rebuke to that failure to enforce the rule of law.

The issue is not whether Ambassador Jacobs and her colleagues are trying their best. I have no doubt they are. The issue is that after more than two decades of failure, Ambassador Jacobs and her colleagues still have no effective tools to accomplish their objective. They are like combat troops sent into battle with no weapons or ammunition. The plain fact is that nations who refuse to return America's children pay no price for defying the law, and unless we arm the State Department with the tools they need to do their job and unless nations who break the law flagrantly and repeatedly suffer real consequences, nothing will change...nothing will change.