

**Not for Publication until released by
the Tom Lantos Human Rights Commission**

Statement of

Paul Toland

Commander, United States Navy

Before the

United States House of Representatives

Tom Lantos Human Rights Commission

Subject:

International Child Abduction

2 December 2009

“Written Testimony submitted to the Tom Lantos Human Rights Commission on Child Abduction/Parental Access”

By Commander Paul Toland, US Navy, on December 2, 2009 Cannon 210 HOB

Co-Chairmen McGovern and Wolf, Congressman Smith and Members of the Tom Lantos Human Rights Commission, thank you for calling this hearing and bringing attention to the appalling human rights tragedy of International Child Abduction.

My name is Paul Toland. I am a Commander in the United States Navy with over 20 years of active service, and I am the only living parent of Erika Toland, abducted over six years ago and wrongfully retained in Japan by her grandmother.

My daughter Erika was abducted by my now deceased wife Etsuko on July 13, 2003 from our home at Negishi Navy Family housing in Yokohama, Japan. Etsuko and I were married for over seven years before Erika was born. For the majority of our marriage, we were assigned to duty stations in the United States. Etsuko was a naturalized United States Citizen, and Erika is also a US Citizen. Soon after Erika's birth, Etsuko sunk into a severe postpartum depression. She refused treatment in a military hospital and her untreated condition rapidly deteriorated. Our marriage, too, soon followed suit. Etsuko's mother lived alone in Japan, and did not want to move to the United States with us. Instead, she wanted Etsuko to stay behind in Japan. I was unaware of this and caught completely by surprise when I received a call from my neighbor in summer, 2003, asking me if I was moving, because there was a moving truck outside our house. When I returned home, Etsuko, Erika and our household goods were all gone.

Soon after this I began my journey into the surreal world of Japanese family law. Japan is a haven for international child abduction. In the past 50 years, no child has ever been returned from Japan to ANY foreign country. Japan stands alone as more than just a haven for abduction, and is instead, quite literally, a black hole for abduction, from which no child ever returns.

I first sought advice from the Navy Legal Services Office in Yokosuka, Japan. I was distraught and looking for help. My daughter had disappeared into the foreign country in which I was assigned, and I needed the Navy's help. Any attorney with a rudimentary knowledge of the dysfunctional Japanese family law system would have told me to avoid entering the Japanese legal system at all costs, and instead hire an attorney in my home state, contact the US State Department and National Center for Missing and Exploited Children. Instead, the advice I was given by the young inexperienced Navy attorney was “this is a private matter, I suggest you hire a Japanese attorney.” That advice doomed me to years of unnecessary legal battles. Two years after that experience, Washington State family court did rule that they had jurisdiction over our marriage, but also ruled that since I had initially entered the Japanese family law system, I had forfeit my right to any US jurisdiction over my case.

I entered Japanese mediation in late 2003 in an attempt to maintain contact with Erika. The Japanese version of mediation is unlike anything you could possibly imagine. My wife and I never saw each other or met to discuss issues. Instead, we both waited behind frosted glass in

The views expressed in this testimony are not the views of the Department of the Navy or the

Department of Defense.

separate waiting rooms, each spoke to a "judge" separately, and never discussed any issues of substance. Most importantly, the court completely avoided any discussion regarding visitation with Erika. When I said I wanted to see Erika on weekends, the judge and the attorneys in the room laughed. When I asked to see Erika to give her gifts on her birthday, I was advised to mail the gifts to my wife's attorney. This same advice was again repeated at Christmas. After eight months of repeatedly asking to see Erika, I was finally granted 20 minutes of visitation in a small courthouse playroom while having both a court supervisor and Erika's grandmother present in the playroom with me. Meanwhile my wife, her attorneys and my attorneys all watched the visitation from behind one way glass, and the entire "event" was recorded on videotape. This is the type of visitation afforded to felon criminals in the United States, yet there I was, the victim of a crime and a highly respected military officer, subjected to this humiliating spectacle.

My own Japanese attorney apologized for actions taken by the Japanese court, asking me in an email to "Please understand your case is not a piece of cake because of the racism and irrationalism of Japan. It might be something like defending Taliban in the US."

In summer 2004, I was transferred back to the United States, and spent the next three years trying in vain to maintain contact with Erika, spending approximately \$200,000 in attorney fees in the process. Then, in late 2007, I received the tragic news that Etsuko had committed suicide, having never received proper treatment for her depression. Although devastated by her death, I had renewed hope to be able to see Erika. Our own US Supreme Court has found that the rights of a parent supersede the rights of any third party non-parent, and I naively thought that other societies, such as Japan, would also respect the rights of a parent over a non-parent. However, I was wrong.

Erika is today held by her grandmother Akiko Futagi in Japan, and I have absolutely no access to her. The US State Department has asked to visit Erika, but Akiko has said "No". The Japanese Ministry of Foreign Affairs has asked to see Erika, but again, Akiko said "No". In the Japanese system, where no enforcement mechanisms exist and compliance is completely voluntary, all any government agency can say to me is "We're sorry, we tried." Nobody can offer any remedies or solutions, because none exist.

I flew back to Japan this past October to wait on a street corner and greet Erika on her way home from school and bring her birthday presents, because this is the only possible contact with dignity that is possible. I am left with no other choices. I knew if I tried to take Erika to the Embassy to attempt to get a passport, I would likely meet the same fate as Christopher Savoie met when he attempted to retrieve his children from Japan. I would likely be blocked at the gates of Embassy by a US State Department more interested in preserving relations with Japan over the welfare of US citizen children, and I would likely wind up in Japanese jail as Christopher Savoie did, for simply trying to bring Erika home.

Nothing is more important and deep-seated in this world than a parents love for his or her child....we all love our children. Equally important is a society's responsibility to ensure that their most vulnerable citizens, their children, have the opportunity to know and love their parents. This is where Japan and many other nations have failed, and this is why we are here today.

I am left without any remaining options. Erika is essentially held captive in Japan, separated from her only living parent in a country that has never returned a child. I never dreamed that serving my country overseas in one of our allied nations would result in the loss of my only child. Japan is supposedly an ally of the United States, so why does the United States continue to tolerate this behavior from Japan? How can a nation that we call an ally be guilty of such despicable human rights violations and get away with it?

I humbly ask that you take any and all actions within your power to make a difference for Erika and for all children wrongfully abducted and withheld from loving parents. Thank you.