

Statement of
The Honorable Bernard Aronson,
Assistant Secretary of State for Inter-American Affairs (1989-1993)
Tom Lantos Human Rights Commission
December 2, 2009

Mr. Chairman:

I commend you and your colleagues for holding this important hearing.

If 2,800 American children were suddenly abducted by Somali pirates or a trans-national kidnapping ring or a group of terrorists, the President of the United States would summon congressional leaders to the White House, convene an emergency meeting of the National Security Council in the Situation Room, dispatch Delta forces and U.S. aircraft carriers to where the children were being held, send his United Nations Ambassador to convene an emergency meeting of the Security Council, and go before the nation in prime time to report on what the U.S. government would do to secure the return of these abducted children.

As you know, 2,800 American children have been abducted and are being held illegally in other nations-- not in one dramatic action, but in ones and twos, month after month, year after year. But there is no emergency meeting in the White House or the State Department and no sense of crisis. Nor can any honest observer argue that the either the Executive Branch or Congress have mobilized the full resources of our government to secure the prompt return of these children.

The problem we face is not a lack of awareness about this continuing national tragedy.

The Chairman of the House International Relations Committee is particularly eloquent on this subject:

"As a parent of four children and four grandchildren I cannot think of a more terrifying nightmare than one in which one of my children or grandchildren were abducted...The sheer panic, fear, and sickness one must feel has to be paralyzing...It is my sincere hope that by raising these issues once again, we are able to come to workable solutions to bring out kids home where they belong"

A member of the International Relations Committee said

"We as elected Representatives owe a better international system to people who have suffered so tremendously".

Another member of the International Relations Committee said this:

"It seems to me, in real life, international agreements are meaningless unless they're enforced aggressively by us...especially when you're dealing with children, enforcement and timeliness are absolutely critical, because one year, two years, or three years is a lifetime for a parent or for a child...it doesn't appear we are trying hard enough."

Your Senate colleagues are equally passionate. Here is the Chairman of the Senate Foreign Relations Committee:

"Parents have reported to me the failure by the United States to initiate vigorously diplomatic and law enforcement tools seeking the return of their children. These parents report a sense of frustration---and I can understand that---with the obviously low priority placed on the return of abducted children compared to other diplomatic relations.

And the ranking member of the Senate Foreign Relations says:

"The act of taking a child in violation of a custodial order...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 the Committee to review the operations of the (Hague) Treaty."

Every one of us would agree with these sentiments, but here is the problem in quoting them.

The quote from the Chairman of the International Relations Committee dates from a hearing "A Parent's Worst Nightmare: The Heartbreak of International Child Abductions" which was held on June 22, 2004 – more than 5 years ago--and the Chairman is the late Henry Hyde.

The quotes from the two members of the same Committee were from an earlier hearing on abducted children held more than 10 years ago (October 14th 1999.) And the members were Sam Gejdensen of Connecticut and Kevin Brady of Texas.

The statement I cited from the Chairman of the Senate Foreign Relations Committee is from a hearing 11 years ago on the U.S. response to International Parental Abduction (October 1st, 1998) and the Chairman quoted is the late Jesse Helms. The second Senator quoted from the same hearing was then ranking member, now Vice President, Joseph Biden

In quoting your colleagues, some of whom have passed away since those statements were made, I don't make light of their efforts or doubt their sincerity in making these statements. Indeed, it is to their credit and yours that, they like you,

took time out of busy congressional schedules to focus attention on the problem of abducted American children.

But let's be honest with each other: all of the statements I quoted from your colleagues a decade ago could have been made at this hearing and are just as relevant today. And that is the central problem.

The current system to secure the return of these abducted American children does not work and will not work unless it is changed profoundly. I don't doubt the sincerity or the dedication of the professionals in the State Department who have lead responsibly for this problem. But they do not have the tools and powers to do their job effectively. And unless Congress gives them the power and the tools we will be back here in five years or 10 years with another set of hearings, another group of parents with broken hearts and devastated dreams, and we will be making the same statements we are making today.

If I could leave you with one message today it is this: the time for speeches about the plight of America's abducted children is over; the time to do something about it is now.

What needs to be done? I don't claim to offer an exhaustive list. But based on my experience with the case of David Goldman let me offer what I think are the essential steps that must be taken.

First, these abducted children and their families need a high level advocate of Ambassadorial rank in the Department of State—appointed by the President, confirmed by the Senate, and reporting directly to the Secretary of State—who will ensure that the issue of abducted children is central to the deliberations of U.S. diplomacy. That is not the case today.

I served as Assistant Secretary of State responsible for the Western Hemisphere for 4 ½ years. If I was Assistant Secretary of State today dealing with Brazil, where 66 abducted American children currently reside, here are the issues that would be on our bi-lateral agenda: nuclear proliferation, counter-narcotics, trade and investment, Honduras and Haiti, climate change, preservation of the Amazon, Brazil's friendship with Venezuela and its opposition to the recent U.S. military force agreement with Colombia, ethanol production and the U.S. tariff on Brazilian sugar cane, the next G- 20 meeting, the Boeing Corporation's current competition with a French supplier to win a multi-billion aircraft contract with the Brazilian government, and probably a host of other issues, large and small from cultural exchanges to WTO petitions.

We can sit here and kid ourselves, but here is the truth: given all these competing demands, it is highly unlikely, absent a clear signal from the Secretary of State or another senior Department official that I am going to spend enough political capital with Brazil on the issue of abducted children to make a decisive

impact when I interact with their government. But I will make the issue of abducted children central to my agenda if it is central to the agenda of the government of United States. That will only happen if a senior Presidential appointee with standing in the State Department hierarchy is forcing this issue on the agenda of every regional assistant secretary. Clearly, the office you create must have ample resources and staff to carry out this responsibility.

Second, the new Ambassador-at-Large for Abducted American Children should be required to report to every member of Congress in real time about every new abducted child and the status of every pending case in his or her congressional district. The same information should be provided by State to each Senator. In addition, that Ambassador should be required to testify yearly to the House International Relations Committee and the Senate Foreign Relations Committee on compliance by all nations with their Hague Convention obligations and cooperation with countries which are not signatories on returning abducted American children.

Third, the State Department should be required in its annual budget requests for foreign assistance, including military aid, to report to the relevant Appropriations Committees in both the House and Senate how and whether each proposed foreign assistance recipient is cooperating with the United States in returning abducted American children. I understand there are other foreign policy and national security considerations in appropriating aid to other nations. But I want the Committee that writes a multi-billion check paid by American taxpayers to Egypt every year to be aware before that check is signed whether Egypt—and every other recipient of U.S. assistance-- is cooperating with our government in returning unlawfully abducted American children.

Fourth, the principle reason other nations, whether they are signatories to the Hague Convention or not, refuse to cooperate with the United States in returning abducted American children is that there are no real consequences for failing to do so.

Brazil currently harbors 66 abducted American children, including Sean Goldman, David Goldman's son. It has never returned a single one since signing the Hague Convention. And it has paid no price at all in its relations with the United States.

In the case of Sean Goldman, the House and Senate, the President of the United States and the Secretary of State have all asked for prompt action on this case. Nevertheless, David Goldman and his parents who are in this room today just spent their sixth Thanksgiving without their son and grandson by their side because of Brazil's continued refusal to meet its lawful obligations under the Hague Convention.

As you know, the State Department issues an annual report on compliance by other nations with The Hague Convention. Brazil has been cited repeatedly by for "patterns of non-compliance" which is one level above the lowest designation. Earlier this year, David Goldman and I asked senior State Department officials why, as promised, Brazil was not lowered to the worst offender category in the most recent report when it failed again last year to return Sean Goldman or any of the other abducted American children

This is what we were told: Brazil had not yet failed one of the tests used to determine a country's compliance: failure to enforce a return order on an abducted American child. That was, we pointed out, because Brazil has never issued a return order. Yes, we were told, therefore Brazil couldn't be judged to have failed this test. This scene could have come straight out of Joseph Heller's novel Catch 22. This is the Kafkaesque world which the abducted parents must navigate seeking the return of their children. A country is rewarded for failing to do the right thing. To put it mildly: we have woefully missed the forest for the trees.

Let me be blunt, a diplomatic request for which there are no consequences for refusal is just a sophisticated version of begging. And there are no consequences today for Brazil or any other nation which refuses to return American children.

If you want to do something serious about this problem Congress should empower the Secretary of State to impose designated sanctions on countries which flagrantly and repeatedly refuse to return children unlawfully abducted from the United State. The sanctions must have teeth and the Department must be willing to employ them. The President should be empowered to waive sanctions on national security grounds, but would be required to report his reasons to the responsible Committees.

Sanctions might include: prohibitions on OPIC and Ex-Im Bank financing; and mandatory no votes by U.S. representatives on loans from Multi-Lateral or Regional Development Banks. But the most effective sanction would be to deny trading privileges to the offending country under the Generalized System of Preferences (GSP) where relevant or to enact other trade sanctions for countries that do not benefit from GSP.

When I was Assistant Secretary of State the United States-- by threatening to cut off GSP privileges-- forced the President of Guatemala to reverse his decision to shut down Congress and the Supreme Court. Smarter people than I need to find a way to do this compatible with our WTO obligations, but I am sure some formula could be found. This much I know: If the United States can cut off trade privileges in defense of Guatemalan democracy it can cut off trade privileges in defense of abducted American children.

Fifth, you need to arm the State Department with tools to sanction the individuals who abduct and harbor American children abroad. Right now, under current law, in another Catch 22 perversity, according to the State Department, the citizens of Hague Convention signatory countries cannot have their visas to the United States lifted for their involvement in these abductions, because the fact that their governments signed the Treaty gives them a presumption of compliance regardless of whether that government is, in fact, co-operating in the return of abducted American children. To put it bluntly, this is crazy, and needs to be fixed. You should also explore whether legislation could be passed which would include parental kidnapping as an extraditable offense under our existing extradition treaties.

Sixth, and finally, there are judges and lawyers in other nations who do not fully understand the requirements of the Hague Convention, and this can and has led to terrible mis-carrriages of justice in their courts. I know the American Bar Association and Judges like Peter Messitte who testified earlier have been involved in important educational efforts with foreign Bar Associations and Judicial organizations. Clearly, these efforts need to be supported and expanded.

The parents you have heard from today and the thousands of other parents of abducted American children in our country today are not part of any organized group. They don't have a lobbyist. They don't have a PAC. And time is not on their side.

David Goldman and his son Sean will never reclaim the years that have been stolen from them. Nor will the thousands of other abducted children and their families. But you have the power to begin to end their nightmare and to make it far less likely that other American families will have to endure such a nightmare in the future.

Your colleagues who held hearings on this subject over a decade ago were sincere and well motivated. But all we have to show for their efforts are musty hearing records and hopes that were raised but never fulfilled. This cause and these families need and deserve champions in this Congress who will pursue real legislative solutions through to the end. I hope that you and your colleagues will be those champions.

If you succeed—and you will if you persevere-- I have little doubt that when you look back on your public careers, reuniting these broken families will be one of the proudest achievements of your public service. But if Congress once again raises the hopes of these abducted children and their families but fails to offer real solutions to their agony, when you look back that failure be a source of regret and shame.