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International Child Abduction Hearing
Tom Lantos Human Rights Commission
December 2, 2009
Excerpts by Rep. Chris Smith

This hearing is designed to bring fresh light, a new focus and long overdue congressional scrutiny to international child abduction, an ever-worsening global human rights abuse that seriously harms children while inflicting excruciating emotional pain and suffering on left behind parents and families.

The U.S. Department of State which serves as the Central Authority for the United States for the operation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction is currently handling about 1,900 cases involving over 2,800 children abducted by a parent or legal guardian to another country.

Reported abductions of children from the United States have increased about 60% in the last three years, 40% in 2008 alone.

These shocking trends, it seems to me, will show no sign of abatement or reversal until serious, aggressive, robust and sustained actions are implemented.

To that end, I have introduced the International Child Abduction Protection Act of 2009 (H.R. 3240)—a comprehensive bill designed to empower the President and Department of State with new tools and authorities to secure the return of abducted American children.

With its many mutually reinforcing provisions, H.R. 3240 enables the United States to more aggressively pursue the resolution of abduction cases. Under this proposed law, when a country has shown a “pattern of non-cooperation” in resolving child abduction cases, the President will be able to respond decisively with a range of actions and penalties—18 in all—identical to those enacted in 1998 as part of the International Religious Freedom Act (with the addition of a statement on non-reciprocity under the Hague Convention).

H.R. 3240 will also raise the profile of international abduction with a new Ambassador at Large for International Child Abduction to head the office charged with helping left behind parents secure the return of their children and advise the Secretary of State. H.R. 3240 authorizes

much needed resources for this office and expands its mandate to collect detailed information and report on abductions in countries that have signed the Hague Convention—and, of equal importance, in countries that have not signed the Hague Convention.

International child abduction is a huge scandal that has been significantly enabled by ignorance, indifference, incompetence, or outright complicity by far too many governments around the world. The present state of affairs is unconscionable and must change.

David Goldman's situation cries out for an immediate and final resolution.

In June, 2004, David's wife took their four year old son, Sean, on a vacation to Rio de Janeiro. When she got to Brazil, she called to tell David she was not coming back—and would not allow Sean to return home to New Jersey.

Stunned and utterly heartbroken, David nevertheless took immediate and appropriate legal measures domestically and internationally, including an application under the Hague Convention on International Child Abduction—to which Brazil is a party and thus obligated to return children wrongfully retained within its borders

Under the Hague Convention, Sean should have been returned within 6 weeks. David, however, has been forced by incessant and frivolous appeals in the Brazilian legal system to pursue his case for over 5 long years—at an astronomical cost in personal heartbreak and financial resources.

In 2008, Sean's mother passed away and Sean is now living with a man who is not his father. David is Sean's only living parent, and still, Sean remains in Brazil.

In 2009, three Brazilian court-appointed psychologists unanimously concluded that Sean is being psychologically abused by the abductors. In June of 2009, a Brazilian federal judge issued an order of return to the United States. However, those orders have not yet been enforced and the Brazilian authorities have allowed continued delay through endless appeals.

The Lula Government has failed to honor its commitments under international law. And because of that, a son has been deprived of his father, and a father has been deprived of his son. Respectfully, President Lula, we ask you and the Judicial Branch once again today to fulfill your international treaty obligations under the Hague Convention and send Sean back to his one and only Dad—David Goldman.

I would be remiss if I did not note here that David Goldman has demonstrated remarkable resolve, clarity of purpose, uncommon bravery and deep and abiding love for his son. David Goldman is an inspiration—a true hero. He has not only made bringing Sean home a near-term probability, but has tangibly helped every left behind parent and abducted child—especially those who had lost hope. David's tenacious persistence for the return of his son has launched a movement—a noble cause of left behind parents uniting for justice, their rights as parents, and the return of their kids.

In the last 50 years, the Japanese government has never issued and enforced a return order or recognized a valid custody order for an American child abducted to Japan. Currently, over 125 children missing from the United States are being held by taking parents in Japan.

Patrick Braden's daughter, Melissa, is one of those children. At the Japanese embassy earlier this year, I joined Patrick and others in a silent protest. We ate cake—birthday cake—blowing out the candles after singing happy birthday to his daughter, Melissa, on her special day.

In 2006, Melissa's mother abducted her to the grandparent's home in Japan. Melissa was just an infant—and Patrick has not seen her since, but fears for her safety, knowing that her grandfather molested her mother.

Since the abduction, Patrick, although a resident of California, has spent hundreds of days right here on Capitol Hill, educating members of Congress on the horrors of international child abduction, and productively working toward new means to resolve these heart-wrenching cases.

Cases like Commander Paul Toland's, whose daughter Erika is also being held in Japan. Paul's wife was a dual US-Japanese citizen. They lived both in the U.S. and in Japan during their marriage. But in 2003, his wife took their infant daughter from the family home in Negishi Navy Family housing in Yokohama, Japan. Commander Toland took legal steps in the Japanese legal system, but found the system incapable of addressing the complexities of international child abduction.

Sadly, the United States is not the only country having extreme abduction difficulties with Japan. In October of this year, the G-7 countries (Australia, Canada, France, Italy, New Zealand, Spain, the United Kingdom and the United States) issued a joint statement, calling on Japan to accede to the Hague Convention on International Child Abduction as well as to "identify and implement measures to enable parents who are separated from their children to maintain contact with them and to visit them." Something Commander Paul Toland and Patrick Braden have been unable to do.

Japan is an important friend and partner to the United States, and to each of the countries that participated in the demarche, but its intransigence on resolving custody disputes in international marriages has been harming its international relationships.

The new government in Japan has given hope to left behind parents. Just yesterday, I heard reports that Japan will open an Office on International Child Abduction. It was also reported that Japanese and French officials met separately in Tokyo and agreed to cooperate to resolve 35 pending cases of parental child abductions. Prime Minister Hatoyama has stated his support for the Hague Convention, for the recognition of some foreign custody orders, and for the other legal changes that will be necessary to ensure that both parents can have access to their children—as long as the access is reciprocated. The accession and legal changes cannot come soon enough.

Most of these cases, as we will hear, have been dragging on for years—years of loving relationships and happy memories that these parents will never get back even if they do see and are reunited with their children someday.

Abducted children often lose their relationship with their mom or their dad, half of their identity and half of their culture. They are at risk of serious emotional and psychological problems and have been found to experience anxiety, eating problems, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt and fearfulness. As adults, they may struggle with identity issues, their own personal relationships and parenting.

Child abduction is a serious crime that no legitimate government or self-respecting judicial body anywhere on Earth should ever countenance, support or enable. Child abduction is child abuse. We must call it what it is. And we must take action to back up our words.