

**David Goldman testimony before the Tom Lantos Human Rights Commission  
U.S. House of Representatives  
December 2, 2009**

Good morning and thank you for this opportunity.

My name is David Goldman. I was born in Philadelphia, Pennsylvania. In 1999 I married Bruna Bianchi Goldman, a dual citizen of Brazil and Italy, and a permanent US resident until her death in August 2008. We had a child together, a son named Sean Richard Goldman born May 25, 2000, in Red Bank New Jersey.

In June of 2004, I drove my wife Bruna, her parents Raimundo and Silvana Ribeiro, along with Sean to the Newark International Airport for a planned vacation that was supposed to last two weeks. During that time I was to finalize the plans for my wife's 30th birthday. I had no idea as I drove my son, my wife and her parents to the airport, it would be the last time I would ever see Bruna again and it would be over four years until I would see my son, Sean again.

Shortly after their arrival in Brazil, (my own mother remembers it was Father's Day) I received a call from Bruna. She began telling me what a great father and great guy I am and how she had no regrets about our relationship and having Sean together, but our love affair is over and she decided to live in Brazil with our son, Sean. She went on to say that if I ever wanted to see Sean again, I needed to fly to Rio De Janeiro immediately and sign a 10 page document that her lawyer drafted. Without my knowledge Bruna had filed secret custody papers in the Rio state court, and needed me to come to Brazil to serve them. According to Bruna, the document had several demands: Sean would permanently remain Brazil with Bruna and her family. I had to surrender my role as parent to Sean and give Bruna full custody, never go to the police in the US to file kidnapping charges, never file any custody papers in the US courts, never file for divorce in the United States and do nothing that interfered with her plan to obtain US citizenship. She ended by telling me that if I didn't meet her demands I would never see my son again and spend all my money trying.

Since my time is limited I will spare all of you the details of my experience following the shock and horror of what I had just been told by, at the time I thought was, my loving wife. It would literally take years to discover that her actions were part of a well planned and executed child abduction.

I had no idea what to do, I was raised in a loving home with parents who had been married over 40 years. Divorce, separation, and child abduction were beyond my comprehension. My concern turned solely on my son's well being. I understood that to meet the demands my wife had made and to sign the document she and her lawyers had prepared would give away every and all rights I have to my son and his rights to me, his father. I searched for legal counsel. I researched international child abduction, I was directed to Ms. Patricia Apy, an expert in the law of international parental child abduction. We met for a consultation in which I was informed that Brazil was a signator to The Hague Convention, an international treaty signed by both the US, Brazil and approximately 80 countries worldwide. I was told the treaty is a remedy for the swift return of a child that has been wrongfully removed by one parent from the other. I was also told that the US and Brazil had only recently signed on as Hague Treaty partners, prior to my son's abduction and that mine would be among the very first cases in Brazil.

There are two main criteria that need to be met in order to require the immediate return of the child under The Hague Convention. A child must have been wrongfully removed or retained from one Treaty country, their "habitual residence", to another Treaty country and the left-behind parent from whom the child has been abducted, must have been exercising rights of custody when the removal or retention took place. If both of these criteria are met, the return is mandatory. The court of the abducting country only has the discretion to consider other factors and deny a return when the left behind parent has waited more than one year to request the

return or the abducting parent proves by clear and convincing evidence that the country from which the child has been abducted cannot protect the child from abuse or neglect. The court of the abducting country is prohibited from considering any disputes regarding custody. The court of the abducting country is required to return a child within a six week period to ensure the child will have as little disruption to his/her life as possible.

In my case all the criteria has been met requiring the immediate return of Sean to the US. The criteria was met, recognized and entered into the records of the Brazilian courts. Within 45 days of the date Sean was to return from vacation, the court in the United States found that Sean's removal had been wrongful and ruled Bruna and her parents must return Sean. When Bruna refused, I filed immediately an application under the Hague Convention with the United States Department of State. Bruna and her parents each hired lawyers in New Jersey and Brazil to oppose and attempt to delay the eventual final order of sole legal and physical custody. I had to also hire private Brazilian counsel to file the judicial complaint for return as the Brazilian Central Authority had yet to seek prosecution of the matter two months after they had received the request. The Office of Children's Issues in the State Department told me that if I engaged private counsel in Brazil to help me, I could forfeit Brazilian Central Authority assistance. I continued to be subjected to opposition and delay in Brazil. Eventually, the Brazilian court confirmed that Sean's habitual residence could only be the United States and that he had been wrongfully removed and retained. However, they claimed that even though keeping Sean in Brazil was a violation of The Hague Convention and US law, during the year the Brazilian authorities and courts took to prosecute my case as a result of the strategic delays, Sean was "now settled" with his mother in Brazil. The Court went on to say the mother is the most important bond and they will not separate a mother and a child. I must stress again that under the treaty law, to return a child home, to his or her habitual residence does NOT SEPARATE the child from the abducting parent, but allows the court of competent jurisdiction in this case the NJ Superior court, to address any and all custodial issues.

Although all the legal criteria under the Treaty were met to require an immediate return of my son, the Brazilian authorities and courts didn't care. There was no legal basis in either country to support the decision the Brazilian authorities made; it was a clear violation of their Treaty obligations. All the while the United States was honoring our part of this reciprocal treaty and continued to return children to Brazil, while my son and a growing number of other US children were being abducted to Brazil without ever being returned. To date no American child has ever been returned from Brazil pursuant to a judicial decision. Nevertheless, throughout this entire time no notice was given to similarly situated parents like me, or American lawyers and judges who were addressing visitation and custody issues, which despite being described as a "Treaty partner" Brazil was simply refusing to apply the Treaty. As I testify today, the official report to the Congress from the United States Department of State, still describes Brazil as only showing "patterns of non-compliance", rather than being non-compliant.

Among others, three major flaws in the handling of the case were the failure of the Brazilian Central Authority to immediately bring the application for return and vigorously support Sean's return, the Brazilian judicial system treated the abduction as a custody dispute and the failure of both Governments to insist that the matter be handled swiftly and in keeping with International Law.

Of course, I took an appeal of the court's first decision, and during the entire appellate process and despite constant efforts through my US and Brazilian counsel to arrange parental access to Sean, under every conceivable condition, I was constantly rebuffed and thwarted. Despite the fact there were never divorce filings in the US, where we were married, without my knowledge Bruna remarried in Brazil to a lawyer. Her new father in law, also a lawyer in Brazil, was described as an expert on international parental child abduction. He has lectured as a scholar in Brazil on how a clever lawyer can work the Brazilian legal system to produce endless delays in the courts in order to keep an abducted child in Brazil indefinitely. He has also lectured on the psychological

abuse the abducting parent afflicts on the child and I quote "will use the child as an attack missile against the left behind parent". (a copy of these lectures can be provided).

I understand that to have a country sign on to The Hague Convention Treaty and to accept their accession may seem better than to have no potential remedy for the return of an abducted/unlawfully retained child. However, if there is no actual reciprocity, and there is no accountability when there are no returns of children, the situation creates dangerous reliance by American parents on a Treaty that is nothing more than an illusion. This is a treaty based on mutual responsibility and may be the most important international treaty based on the good will of all participating nations to recognize far beyond all other social, religious and political differences that the right of a child and parent relationship is paramount to all of us as human beings. My case was pending in the Supreme Court of Brazil, when as many of you know, Bruna died.

Despite the incredible loss to Sean I was not given the opportunity to comfort my son nor was I informed of Bruna's death by those holding Sean. I only found out about it when someone close to me in America learned of her death when reading an article on the Internet and sent it to me. Expecting that this long painful journey was about to end, I flew immediately to Brazil with Sean's Grandmother, my mother, to reach out to Bruna's family to extend our condolences and most importantly to comfort Sean. After several unanswered calls and attempts to contact Bruna's family, my counsel reached out to Bruna's attorneys to once again request that Sean and I reunite and begin the process for Sean's return home to America. It was only then that we discovered that Bruna's new husband had filed two other secret applications: one to the Rio state court requesting that my and my parents' names be stricken from Sean's birth certificate and that he be named Sean's parent and simultaneously, he filed other pleadings in the Brazilian Supreme court, where the original case was pending, in Bruna's name without ever disclosing her death to the court. I was then told that we had to add Bruna's new husband to the request for Sean's return and begin the entire Treaty litigation all over again. That was over one year ago.

Last February I was finally able to see my son for the first time in over four years, after multiple court orders and despite the continued obstacles created by those who are holding my son. Despite those obstacles, our meeting was wonderful, my son and I experienced the closeness and love that I had not dared hope for. The reunion was witnessed by Congressman Smith and US Embassy General Marie Damour and Consular officer Karen Gustafson de Andrade The reunion was also witnessed by the abductors who in response turned up their efforts of the brutal, psychological torture of my son.

Finally, on June 1st of this year, Brazil's First Instance federal Court ordered the immediate return of Sean, however, I am no closer to having my son home. His return was blocked by litigation orchestrated to prevent the court's action, by a Brazilian political party objecting to the Treaty. I have been subjected to over 20 post judgment motions filed by Sean's abductors, designed to continue the delay and obstruction of the Treaty. Most insidiously, as their desperation grows, my son, Sean has been subjected to intense psychological pressure by his kidnappers, including transporting my helpless 9 year old son to a mental facility in order to cross examine him on film, to solicit a statement that he objects to returning to the United States. I am encouraged and grateful that our national and state media, whose attention to this story has elevated the plight of internationally kidnapped children everywhere, have consistently refused to show these films. While Brazilian authorities have also objected to such behavior, Sean remains a hostage in the custody of his kidnappers, no closer to returning home to the United States and subjected to treatment that the federal Brazilian Judge, three Brazilian court appointed psychologists and the head of the Brazilian Union of Prosecutors has described as "psychological abuse".

Bruna died August 23, 2008. It has now been five years since Sean's abduction and over one year since Bruna died and still, a man with no blood relation to my son, a man who the Brazilian court has labeled a second abductor, prevents his return home. All the while my son, Sean, and I are still kept separated thousands of miles apart. My parents—Sean's grandparents, his aunts and cousins in New Jersey—all of whom love Sean and desperately wait for his return—just

concluded our sixth family Thanksgiving meal with an empty place setting waiting to be filled by Sean.

I cannot express my gratitude for the privilege to thank, in person, all of those who have already taken extraordinary action on Sean's and my behalf. The outpouring of support from American and Brazilian citizens alike, and citizens from countries all over the world, remind me that I do not stand alone while my son and I stare in the face this un-Godly living hell. I thank the scores of American diplomats who quietly but persistently over the last five years used their resources with very few tools, to work for Sean's return. To your colleagues, Congressman Christopher Smith, who has provided me constant support and remained personally devoted to fight against international parental kidnapping wherever it may be occurring, and to my own Congressman, Rush Holt who has remained vigilant in keeping my case and this issue before this body as a matter of urgency. There is now legislation introduced to this body that is enormously important, not just to me, but to the parents of the other 65 American children held in Brazil and the thousands held elsewhere. For the commitment of both Secretary Clinton and President Obama who I know have raised this issue with their counterparts, I can only express my continued gratitude. However, I become discouraged when I see that the promises and assurances made to this body, and to our Secretary of State and our President, by Brazil, appear to be empty and Brazil continues to harbor 66 American children, including Sean, in violation of international law and it appears there are no consequences for this flagrant violation of their Treaty obligations and apparently nothing the United States government can do to protect its citizens from this theft of our children, the most vulnerable among us.

I pray that my personal tragedy will end soon so that my son Sean and I may once again know and love each other as father and son like we did for over four years prior to his abduction. I pray that Congress does not just hold hearings on this ongoing tragedy, but joins together in a bipartisan commitment to pass legislation that will ensure the U.S. government has the tools to return abducted American children immediately as the Treaty requires and that other countries learn there are serious consequences for refusing to return abducted American children. We cannot dwell on or bring back the years we have lost, but we can hope to look forward to the remaining precious years ahead. My son Sean is still a young boy and he can heal. We can heal together, but he needs to come home now. I appeal and plead to all of you at the most basic level of human decency to respect the sanctity of a parent child relationship. Please take action to make a difference, to bring change, to bring our children home. Thank you.