

## **Testimony by Christopher S. Brann**

*Before the Committee on the Judiciary  
Of the United States Senate*

“Abducted Abroad: Exploring the Plight of International Parental  
Child Abduction and Its Effect on American Families”

April 24, 2018

Chairman Grassley and Ranking Member Feinstein, thank you for holding this important hearing. My name is Chris Brann. My son, Nico, was abducted from Houston, Texas, and taken to Brazil by my then wife Marcelle Guimarães, with the help of her parents Carlos and Jemima Guimarães, almost five years ago on July 1.

I vividly remember the intense pain and profound anguish that I felt the moment I learned from my lawyer he had just heard Marcelle was not going to return to the United States. But I could not have imagined then how much worse it was going to get. To be a left-behind parent is truly what I've described as a living death. My son Nico was only three when he was abducted – he was a cheerful, playful, beautiful little boy. Yet he was ripped out of my life in an instant and forcibly relocated to Brazil where he had never lived, was cut off from me and all my family in Texas, had no friends, and didn't even speak the language. This is why parental child abduction is child abuse. Today Nico is eight and I've missed a huge part of his childhood.

But it is much worse than that. When a child dies, it is the end – a parent can grieve, deal with the intense pain, and, in time, learn to live with it. When a child is abducted, however, there can't be healing – the pain never diminishes, it only gets worse. As the years have gone by, I've never been allowed to speak to Nico on his birthday, celebrate his achievements in real time, or even make sure he is in good physical health. The harshest reality is that I know Nico is suffering enormously being cut off from me and I am totally impotent to change the situation or even just to comfort him. And as a constant reminder to me of my abject failure as a Dad to protect my boy, Nico's room at my home is like a mausoleum, stuck in time with the stuffed animals, the toys, and the art that he loved the day he was abducted.

Every day, when I wake up and for the briefest of moments think maybe my nightmares aren't actually my living reality, I have to accept that it just doesn't matter that I love my son, that he loves me, that ten independent experts in Brazil and the U.S. concluded I was an excellent father, or even that the U.S. and Brazil have agreed for years Nico was abducted and must be returned to me under the Hague Convention on the Civil Aspects of International Child Abduction. I've been fighting this legal case in Brazil for years, but with total impunity the Brazilian judiciary has not only brazenly violated the requirements of the Hague Convention, but it won't even act to enforce the minimal rights of access granted to me on paper.

And in recent months this terrible situation has gotten much worse. It apparently wasn't sufficient for the Guimaraes family that I had less than two percent physical custody of Nico, and only under supervision by 3-5 armed guards. My ex-wife secured a court judgment in Brazil ordering me to finance Nico's abduction requiring me to pay almost \$50,000 in back child support. Now, if I go back to Brazil I'll be arrested – there is debtor's prison in Brazil and I would be imprisoned until I paid in full, which I can't afford; so I can't ever see Nico in person again. And since my ex-wife's parents were arrested and are facing a Federal criminal prosecution for parental child abduction and conspiracy and despite my ex-wife being a fugitive from justice, I've now been totally cut off from all communications with Nico.

My case has the strongest facts any left-behind parent could have. My ex-wife filed for divorce in Texas and agreed to joint custody of Nico, which was endorsed by court order. We had a travel agreement in place where she promised to return. Evidence that my ex-wife and her family pre-meditated my son's abduction came from her own court filings in Brazil. And both governments agree Nico was abducted and must be returned to the United States. This is a textbook case for the application of the Hague Convention. If I couldn't get Nico back with these facts, no left-behind parent can ever rely on the treaty.

But that is not all. What has compounded my anguish enormously is that the United States has all the tools it needs to compel Brazil and other countries to comply with the Hague Convention – it just won't use them. Brazil's non-compliance with the Hague Convention is well known. The State Department has for a dozen years since 2005 found Brazil to be persistently non-compliant with its legal obligations. In last year's annual report on international child abduction, the State Department noted “[s]pecifically, the judicial authorities in Brazil persistently failed to regularly implement and comply with the provisions of the Convention.”

In August 2014, President Obama signed into law the Sean and David Goldman International Child Abduction Act. Precisely because of cases just like mine, the U.S. Congress explicitly authorized eight actions that the Secretary of State could take in response to the failure of countries to comply with its obligations under the Hague Convention on individual cases or where there were patterns of non-compliance. Under 22 U.S.C. Section 9122(d), these include:

- (1) a demarche;
- (2) an official public statement detailing unresolved cases;
- (3) a public condemnation;
- (4) a delay or cancellation of 1 or more bilateral working, official, or state visits;
- (5) cutting or suspending U.S. development assistance;
- (6) cutting or suspending U.S. security assistance
- (7) cutting or suspending U.S. economic assistance
- (8) a formal request to the foreign country concerned to extradite an individual charged or convicted of child abduction

In the last four-and-a-half years, do you know how many of these actions have been taken

by both Republican and Democratic Administrations in response to Brazil's failure to apply the Hague Convention to my case and its broader non-compliance?

As far as I know, only one – the issuance of repeated demarches. But it is far worse than that. I haven't seen any official public statement detailing unresolved cases nor any public condemnation on my case or any other case nor extradition requests.

And I urge all of you to review the testimony of Suzanne Lawrence, the Special Advisor for Children's Issues at the State Department at the hearing convened on April 11, 2018 by Chairman Christopher Smith in his House Foreign Affairs Subcommittee. Ms. Lawrence was asked in a series of questions by Congressman Andy Harris if she was aware of **any** example of **any** country where the State Department had delayed or cancelled bilateral visits or had cut or suspended U.S. development, security, or economic assistance as a response to a country's non-compliance with the Hague Convention. In each of those questions, she responded the exact same way: she was not aware of any examples.

In August 2016, I led a group of seven left-behind parents whose children had been abducted to Brazil, writing to Secretary Kerry about Brazil's persistent non-compliance with the Hague Convention. I'd ask the letter to be included in the record. We pointed out the extraordinary fact that Brazil is the third-largest beneficiary of the United States' GSP program, allowing it to import duty-free an estimated \$2.3 billion of goods annually, which even forces us to have our tax dollars subsidize the Government of Brazil as it aids and abets the abduction of our children. And we emphasized the Goldman Act authorized a full range of options to compel Brazil to bring its actions into compliance with the Hague Convention, most of which had never been applied.

Yet we now know that **both** the Obama and Trump Administrations have taken no meaningful action. I ask all of you here today, if this was your child who had been abducted abroad do you think this response by the United States is good enough?

Now, I've been asked what the U.S. might do in relation to a country like Brazil where the problem lies primarily in the judiciary, which is independent from the Executive Branch. I am indeed grateful that the Government of Brazil has strongly urged its judiciary to return Nico to the United States. But President Temer could easily address Brazil's persistent non-compliance with the Hague Convention from his position. He could simply propose and work with the National Congress of Brazil to adopt a new law which (1) would limit to six weeks the timeframe for Hague Convention cases to be heard at each level of the judicial process (the Hague Convention says the entire process for a return should take more than six weeks total but this would still be a dramatic step forward); and (2) would require the Brazilian judiciary to fully honor custody rights of left-behind parents that were in place when a child was abducted as a Hague Convention case was being considered. This fix would stop the extraordinary delays in the Brazilian legal system. And it would kill the incentive for Brazilian parents to abduct their children to Brazil, making it impossible for them to have a second chance to relitigate custody rights.

Despite the enormity of the challenge, I cannot give up on my son. All I have ever wanted is for Nico to have equal access to his two loving parents. I believed that the day he was abducted. And I still believe that today. So I have no choice but to persevere.

I am very grateful that you held this hearing today. I cannot imagine a more important and non-partisan purpose for the United States Government than to help American left-behind parents to secure the return of their American citizen children home. But the United States has failed Nico and thousands of other American children in situations like his.

I beg you, please take action to ensure the United States will act aggressively against foreign governments that refuse to comply with their obligations under the Hague Convention. Nothing short of serious consequences for their impunity will change their behavior and enabled our abducted children to, at long last, return home.