Let Elian Have His Day In Court

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The mother of six-year-old Elian Gonzalez sacrificed her life so that her son could grow up in America. Her dying wish, according to a Cuban man who survived for two days on an inner tube, was that Elian could reach the United States and freedom.

A reporter for the socialist Madrid newspaper El Pais investigated and learned that Elian's father, Juan Miguel Gonzalez, had wanted Elian to go to America. Elian's relatives in Florida know very well that Elian is far better off in free America than in Communist Cuba where people are denied the everyday liberties we take for granted, including freedoms of speech, travel, and education.

One person, however, disagrees: Fidel Castro, whose apparatchiks no doubt "persuaded" Mr. Gonzalez to change his story. Elian's escape, like all defections, is an acute embarrassment to Castro.

Communist suppression of the right to travel has long demonstrated the inhumanity of its system. The Berlin Wall, guarded by sharpshooters ordered to kill anyone who attempted to escape, symbolized the terror of Communism for an entire generation.

Flight that risks death constitutes the ultimate repudiation of Communist regimes and is often followed by vindictive attempts at retaliation by the humiliated dictator. KGB files newly opened to the West are full of examples.

When the famous ballet dancer Rudolf Nureyev defected from the Soviet Union, the KGB's reaction was similar to Castro's. On the night of Nureyev's first major performance in the West, the KGB arranged for the delivery of emotional letters to him from his parents and his former ballet teacher urging him not to betray his homeland.

Then, according to Nureyev, "some Communists were trying to sabotage the performance" by shouting, whistling, and throwing what looked like glass onto the stage during his dance. KGB files include schemes to break one or both of Nureyev's legs.

History repeats itself in Castro's vicious campaign against freedom for Elian Gonzalez. As in other high-profile escapes from Communism, the dictatorship brutally exerts control over whomever it can in an attempt to minimize the dictator's own embarrassment.

The appearance by Elian's father on ABC's Nightline didn't help Castro because it reminded us of the show trials used by the Soviet bloc against dissidents. The history of Communism has taught us that, after weeks of intimidation or worse, even the most courageous resisters can be cowed into confessing "crimes" against the state.

Such "confessions" are inadmissible in U.S. judicial proceedings and are no more credible than statements made by a prisoner of war. Due process requires, at a minimum, reliance only on sworn testimony freely provided in open court and subjected to the scrutiny of cross- examination.

Miami-Dade County Circuit Judge Rosa Rodriguez ruled properly in scheduling a hearing at which Elian's father could and should appear in what is really a custody contest. In a free society, competing claims are adjudicated with due process, regardless of the potential embarrassment to anyone.

Of course, Castro doesn't want Elian's father to appear in a Florida court. After all, he might defect, too. Or at the least, he might change his testimony.

Like all dictators, Castro is used to getting his way. He deliberately raised the political stakes of this controversy to the point where Elian Gonzalez is unlikely to have a normal life if he were returned to Cuba.

The arguments about father's rights and family unity are phony when it comes to Elian's predicament. If U.S. authorities send Elian back to Cuba, it won't be to Elian's father; it will mean sending him back to be paraded around as a Castro trophy and raised, perhaps in a daycare center, to be a good Communist.

The only persons the United States has forcibly returned to Cuba are criminals, and Elian surely is not a

criminal. Does anyone believe that, if Elian's mother had died in the act of throwing her son over the Berlin Wall that we would have forcibly returned her boy to East Germany?

The mystery is why Clinton has sided with Castro. Perhaps his corporate friends are salivating over the potential for investments in tourism, gambling and other industries in Cuba where forty years of Communism have depressed the economy to the point where the ultimate luxury is a 1956 Chevrolet.

Perhaps the Clinton Administration considers deporting Elian as necessary to appease Castro and facilitate open trade relations. Based on Clinton's policies toward Communist China, "follow the money" is usually a good explanation of his foreign policy.

Congress should proceed with plans to pass legislation granting U.S. citizenship to Elian.