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REVIEWING INTERNATIONAL CHILD ABDUCTION

HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

OF THE

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REVIEWING INTERNATIONAL CHILD ABDUCTION

MONDAY, DECEMBER 10, 2018

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:02 p.m., in room 2172, Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. The committee will come to order.

First of all, let me begin by thanking all of you for joining us this afternoon to discuss the continuing crisis of international parental child abduction and how the Trump administration can and must use current law, especially the tools embedded in the Goldman Act, to more aggressively bring children home to their families.

I especially want to thank the brave left-behind parents in this room, and hundreds of others who are here in spirit, for tenaciously struggling to recover their child or children from an abduction.

The deleterious physical and psychological impact on abducted children, including parental alienation, coupled with the pain and agony endured by a left-behind parent from a forced, illegal, and inhumane abduction, demands more effective U.S. Government action.

Today we will hear from three extraordinary parents who have left no stone unturned in a noble quest of bringing their kids home. Out of deep love and concern for the safety and well-being of their children, all three parents—Jeffery Morehouse, Juan Garaicoa, and Michelle Littleton—continue to strive and to hope and to believe.

All three parents, and far too many others like them, daily endure the absolute nightmare of having had their beloved children kidnapped and taken to a foreign land. We can and we must do better.

As Jeffery Morehouse notes in his testimony, to date there have been more than 400 U.S. children kidnapped to Japan since 1994. To date, the Government of Japan has not returned a single American child to an American parent.

He notes that the last time that he hugged his son, "the last time I heard his voice was Father's Day 2010. I love you, Mochi, wherever you are," he said. "Our kidnapped children's true voices," he goes on, "have been silenced." And he speaks on behalf of many other left-behind parents and that they need to be heard.

Child abduction is child abuse and it continues to plague thousands of families across the United States. Each year more than 450 new children are abducted, adding to the 11,000 children who were abducted internationally between 2008 and 2017.

The good news: Since Congress adopted legislation that I wrote in 2014, the Sean and David Goldman International Child Abduction Prevention and Return Act, Public Law 113-150, we have seen a huge reduction in the number of new abductions each year. In fact, 450 is half the number of just 10 years ago.

According to the State Department's Annual Report on International Child Abductions for 2018, the State Department's Prevention Team has been working with the Department of Homeland Security, as directed by the Goldman Act, to protect vulnerable children from abduction. Last year, 210 very high-risk children were enrolled in the DHS prevention program, an increase of 60 percent over 2016.

We have also seen some high profile Federal criminal prosecutions of taking parents and their accomplices, such as the prosecution and conviction of Carlos Guimaraes and his wife Jemima for assisting with the kidnapping of their grandson Nico Brann to Brazil 5 years ago.

These prosecution efforts of the DOJ and FBI are incredibly important, not only for holding the perpetrators accountable and for driving home the seriousness of international child abduction, but also for deterring future abductions.

Ask anyone who works in the field or any left-behind parent and they will tell you that international child abductions are very difficult to resolve, even with the 77 countries that have partnered with the United States in the Hague Convention on the Civil Aspects of International Child Abduction. Two hundred and fifteen children came home last year. Every return is a hard won celebration and should not be minimized.

But every case resolved without return must be scrutinized and aggressively so; 197 cases were closed without return. Did the parent agree to let the child stay abroad because they could not afford the financial or emotional cost of fighting in a foreign court for years on end? Did the foreign court expansively read the Hague Convention exceptions to return so that living in an apartment counted as a "grave risk of harm," such as Japan's courts held in the Cook family case, which is absurd?

The Hague Convention was intended to minimize trauma to children and left-behind parents, returning children to their home country for custody determinations and to do so quickly. But it is regularly flouted without consequence to the violating country.

Tragically the State Department has persistently refused—and this is the bad news—persistently refused the use of return tools that are in the Goldman Act as envisioned by Congress to enforce the Hague Convention in both Hague and non-Hague countries and to move non-Hague countries to bilateral resolution agreements with the United States.

A 42 percent return rate of American children within 2 years of abduction—and that is the rate—cries out for immediate and systemic improvement. We can and we must do better.

The Goldman Act of course empowers the Secretary of State with significant sanctions, including the authority to withdraw, limit, or suspend U.S. development, security, or economic support assistance; to delay or cancel one or more bilateral working official or state visits; to extradite the taking parent, which puts pressure on the parents to return the child; to come up with their own actions that would have a positive effect; and many other prescribed actions that are in the Goldman Act.

To my knowledge, extradition has been used once and the other options not at all. That has got to change.

At a Senate hearing April 24 of this year, Assistant Secretary of the Bureau of Consular Affairs Carl Risch testified that the State Department "considers all the tools the Goldman Act provides for the most effective way to make progress with particular countries."

However, more than 2,000 cases after the Goldman Act was signed into law, the State Department has apparently never found a single case where those tools would be helpful, not even in the cases where the foreign courts had decided on return, but just failed to enforce those orders.

Devon Davenport has won all 24 appeals over the last 9 years for return of his daughter Nadia from Brazil—and yet she is still not home. Dr. Brann has been waiting for 5 years for the return of his son Nico from Brazil.

We have 100 American children abducted to India with almost no hope of return without the United States choosing to take real action. And again, those actions are in our law, they are in the Goldman Act. Use them, Mr. President. We could also lower the number of visas available to Indian citizens until abducted children are returned, another opportunity to get this right.

While Japan was finally named a noncompliant country by the Trump administration in this year's annual report, after having just about nothing done in the previous administration on Japan, Japan is still not held accountable for the dozens of cases that were pending before it signed the Hague Convention in 2014. And Jeffery will talk about that in his testimony.

But what a dark day that was. They signed the Hague Convention, which maybe opens up the door to some cases from then on, but all the cases that preceded ratification of the Hague Convention are grandfathered out. What a gross injustice.

Marine Corps Sergeant Michael Elias suffered the abduction of his two children to Japan. In 2008, after courts in New Jersey decreed shared custody and no travel for the children, Japan gave the children replacement passports to facilitate the abduction. Sergeant Elias has not been able to speak to his children in 10 years.

I actually traveled with my chief of staff to Japan to raise his and other cases, and I was shocked, frankly, about what we were not doing to help this combat war veteran at least see his children and hopefully to bring his children home.

I believe the Trump administration can and must do better with the backing of the Hague Convention, bilateral agreements, and requests for cooperation in return of abducted children, and with the actions described in the Goldman Act. We can and we must do better. The time is now. Delay is denial.

And for these three parents and so many others like them, the agony is every day, every day, and then every day. And we need to change that and we can change it with our law.

I would like to yield to Mr. Garrett for such time as he may consume.

Mr. GARRETT. Thank you, Mr. Chairman. I am going to waive and reserve time later.

Ms. SMITH. Thank you very much.

I would like to now yield to the gentleman, Mr. Posey.

Mr. POSEY. Thank you very much, Chairman Smith, for recognizing the problem that we have today and for holding this important hearing and for allowing me to join you in your discussion and your questions.

I am proud to represent Michelle Littlejohn, one of the three witnesses here today. Ms. Littlejohn's three beautiful children, two daughters and a son, Ascila, Leilah, and Yousef, were tragically abducted by her former husband to Lebanon nearly 2 years ago. She has worked tirelessly to litigate their return in Lebanese courts and has won remarkable, landmark decisions that have essentially established her case to return the children. Yet she waits.

I must defer to her with great respect to tell you the entire store and commend her for the brave struggle. Ms. Littleton's testimony and that of the other witnesses here today suggest that we need to look, as you said, more closely at ways to improve our Government's support of parents who face abductions and retentions.

As you mentioned so eloquently in your opening statement, Mr. Chairman, Congress passed the Goldman Act to empower the State Department with tools or sanctions to discipline countries who enable abductions and retentions.

I understand that you invited the State Department to participate with us today, and I must say that I am very disappointed that we don't have any State Department officials here today to testify on how we can work together to strengthen our support for the brave parents, like Ms. Littleton.

I follow the travels and the work of our Secretary of State, who clearly, obviously, gives that job absolute 100 percent. And I just can't tell you how I am disappointed that none of the other 60,000-plus employees of the doggone Department could not find time to show up today and participate in this important hearing that you have called. I am very disappointed and maybe I may bring that to the attention of the Secretary.

These are doubtless difficult circumstances when a child abduction intersects with our foreign relations, but we must try to do better.

And again, Chairman Smith, I want to thank you for holding this important hearing and allowing me to participate. I yield.

Mr. SMITH. Thank you very much.

I would like to now introduce our three outstanding witnesses, noble parents who are fighting for their children, beginning with Jeffery Morehouse, who is the executive director of Bring Abducted Children Home, or BAC Home, a nonprofit organization dedicated to the immediate return of internationally abducted children being wrongfully detained in Japan.

Bring Abducted Children Home strives to end Japan's human rights violation of denying children unfettered access to both parents and works to increase public awareness through community outreach on international parental child abduction.

His son, Mochi, remains kidnapped in Japan, despite Mr. Morehouse's U.S. Sole custodial order being recognized by the courts in Japan in both 2014 and 2017. He is also a founding partner in the Coalition to End International Parental Child Abduction and the G7 Kidnapped to Japan Reunification Project.

We will then hear from Juan Garaicoa, who is the father of two boys, Mateo and Martin, who were abducted to Ecuador in August 2016. Mr. Garaicoa decided to start his own independent financial advisory practice in 2004, the year Mateo was born. His independent financial advisory practice allowed him to fulfill his commitment to spend more time with his children. Previously he worked for a select number of investment banks in New York and Miami. And he is here today to make that appeal for his two children, and we are grateful he is here.

Then we will here from Michelle Littleton, who is the mother of three children, Ascila, Leilah, and Yousef, who were abducted to Lebanon on January 4 of 2017. After her children's abduction, Ms. Littleton moved from California to Florida to be with her family.

She was hired as an administrative assistant to the director for launch operations at Cape Canaveral Air Force Station as a contract hire for United Launch Alliance. Ms. Littleton was also selected as an Ambassador to the United States Launch Alliance.

Previous to her current position, she worked at a commercial real estate company, but put her real estate career on hold in order to pursue and try to bring back her children.

Ms. Littleton awaits the day when she is reunited, and has rooms furnished and decorated in her home on Merritt Island in Florida for the day when they come home.

Mr. Morehouse, the floor is yours.

STATEMENT OF MR. JEFFERY MOREHOUSE, EXECUTIVE DIRECTOR, BRING ABDUCTED CHILDREN HOME

Mr. MOREHOUSE. Thank you, Mr. Chairman and to the committee, for inviting me here to share my expertise and my personal experience on the ongoing crisis and crime of international parental child abduction in Japan.

Japan is internationally known as a black hole for child abduction. To date, as you mentioned, there have been more than 400 U.S. children kidnapped to Japan since 1994, and the Government of Japan has not returned a single American child to an American parent.

Over the years, many Japanese citizens and officials have shared with me that they are deeply ashamed of these abductions and need help from the U.S. and other countries to change it. They have asked for continued public, foreign pressure as it gives them the support needed internally to uproot this cabal of resistance in Japan that continues to corrupt the family court system there.

This has revealed itself in what is called the Continuity Principle, or simply put, judges and attorneys representing abductions and abductors, and they manipulate the best interest of the child

to rule that the child should remain alienated and ignore how they ended up with the abducting parent.

When Japan acceded to the Hague Convention on the Civil Aspects of International Parental Child Abduction on April 1, 2014, you, Mr. Chairman, joined us as we met with the Japanese Ambassador and officials at the Embassy to discuss their plans for implementation. And I remember walking out of that meeting, knowing that our worst fears had been realized. They had no real plan to uphold the spirit and the intent of the Hague Abduction Convention. It was all misdirection, all smoke and mirrors. What we foresaw then remains true today.

Under Article 21, and I am quoting here, it says,

> "The Central Authorities are bound . . . to promote the peaceful enjoyment of access rights and the fulfillment of any conditions to which the exercise of those rights may be subject. The central authorities shall take steps to remove, as far as possible, all obstacles to exercise such rights."

In the first known case to pursue Hague access rights in the Japanese courts, Canadian Henrik Teton requested interim access to his children and was ignored by the court. The judge refused to provide his name, therefore making accountability in these rulings impossible. No observers, no Embassy officials were allowed to witness the court proceedings.

Four and a half years ago, at the very moment Japan acceded to the Hague Abduction Convention, parents joined Bring Abducted Children Home to hand deliver 30 Article 21 Access applications. Hague was supposed to be an efficient path to see our children again. We were told at that time we must give Japan time, we must wait and see.

Well, we have waited and we have seen. Of those 30 cases, three parents reported receiving one Skype session with their children and one reported three sessions before the kidnapping parents cut them off entirely. None of these parents have received true unfettered access to their kidnapped children.

When I personally filed for access under Article 21, my ex-wife responded by filing a new motion for custody in Japan, citing my Hague application and weaponizing it against me. I had to put my application on hold for 3 years. After winning my case in Japan in 2017 and attempting to restart efforts for access, she has been nonresponsive.

In consultation with the Japanese Central Authority, the Office of Children's Issues is again encouraging me to file an Article 21 motion in the Japanese courts. This is grossly flawed. As I will state later in my testimony, Japan now admits that all the power to comply with court rulings rests with the kidnapper.

Japan's implementation of the Hague Abduction Convention is an abysmal failure. Hague return orders have failed to be enforced time and again, although it states under Article 7, and I will quote again, "Central Authorities shall cooperate with each other and promote cooperation amongst the competent authorities in the respective states to secure the prompt return of children." The prompt return of children. It doesn't state the optional return of children.

Japan fails miserably here, too. The enforcement of the return orders fails every time, unless the kidnapping parent willingly complies. In Japan an enforcement involves an official going to the home and asking for the children to come out while the kidnapping parent remains inside prompting them to stay and holding all power over those children.

For James Cook, as the chairman mentioned, who testified to this subcommittee in April, Japan's courts overturned the return order because Mr. Cook had moved into an apartment and had to share a bedroom with his sibling after the enormous legal bills incurred from years of fighting in the Japanese courts. He took his case all the way to the Supreme Court of Japan and the Hague Convention failed again there.

Laws and treaties are being ignored. Mr. Cook's children remain abducted, with the kidnapping parent. This is just another example of Japan's Continuity Principle at work and it crushes any hope of reuniting with our kidnapped children.

According to my discussion with the State Department, Mr. Cook's case would now be classified as a judicial resolution under their interpretation of the Goldman Act. In other words, Japan gets rewarded for finding a way to avoid returning children that are kidnapped from the United States.

Another example of Japan's systemic failure to return kidnapped children involves two Japanese parents that were living in the United States. I point this out because it is the second time that a case involving two Japanese parents received extrajudicial effort that I have not yet seen in cases involving a non-Japanese parents.

Like in the Oregon case that ended in 2016, the enforcement of the Hague return order failed. In this new instance, a Japanese form of habeas corpus petition was filed in the Nagoya High Court, but it was not awarded.

So the father appealed to the Supreme Court in Japan, which issued a ruling in March 2018, and they wrote four significant points in that: The child was found to be unduly controlled and influenced by the mother. The second point, therefore the child's statement was not considered to be objective. The Supreme Court in Japan determined that the retention of the child was clearly illegal.

And then the Japan Supreme Court remanded the case back to the Nagoya High Court, the lower court. In effect, the Supreme Court issued an opinion, but they didn't issue a return based on habeas corpus which evolved out of this failed Hague process.

Now, in July 2018 the Nagoya High Court issued a new ruling in the case. This time the child was ordered returned, but the mother and the child immediately fled the court. It can be assumed that the Government of Japan, the courts, her attorneys, and the police know exactly where the mother and the child are, but the enforcement of the return order remains to be executed.

In 2014, the Goldman Act was signed into law in part to create accountability for countries like Japan that fail to return our kidnapped American children. Multiple tools were provided—a demarche; an official public statement; a public condemnation, denial, or cancellation of official meetings or state visits; the withdrawal,

limitation, or suspension of U.S. assistance; and a formal request to extradite the kidnapping parent.

To date, only demarches have been issued. All other tools have been ignored, while we still don't have a single case of the Government of Japan returning an American child to an American parent.

In April, the Senate Judiciary Committee took this topic up at a hearing. Senator Booker asked, and I will quote, "Are we using the tool in the Goldman Act, beyond demarches?" Assistant Secretary Carl Risch of Consular Affairs responded, "Not to my knowledge."

Chairman Grassley inquired, "How many demarches have been issued since the passage of the Goldman Act?" Mr. Risch: "There have been many, but we feel that type of diplomatic engagement is the key to success in these cases."

Senator Blumenthal probed, "Have you used any other tools?" Mr. Risch concedes they have not.

In response to the committee's follow-up questions for the record, Assistant Secretary Risch responded that, from 2008 to 2015, 9,127 children were kidnapped and only 3,992 were returned. There was no substantial change in the percentage in those 8 years. Some years it went up a few points, some years it went down.

If returning kidnapped children home to the United States as the key measure of success—and it is—that would point to a failure in strategy, not success.

This subcommittee in April also held a hearing that examined the lack of use of the tools. And at the hearing, Chairman Smith, you noted that since 2014 we have seen a decrease in the number of new abductions, but not an increase in the percentage of returns, and you noted that in your opening statement as well.

Special Advisor for Children's Issues Suzanne Lawrence testified, and I will quote from her,

> "We do consider all the tools we have at our disposal, and we do that with our interagency partners, and try to use the best tool at the best moment on a case-by-case basis. We consider them when we think they will be effective."

Congresswoman Jayapal followed up,

> "What would move the threshold in order to use those tools? What can we tell our families about what we are going to do differently than we have been doing now?"

Ms. Lawrence replied,

> "I don't have a specific answer for you on what the threshold is."

Congressman Harris commented,

> "Is it going to take literally an act of Congress and an appropriations bill to get you ramped up through the escalating sanctions that can occur in some of these countries that the State Department has been unwilling to pursue?"

And Chairman Smith, you hit it right on the mark:

> "Sanctions work. If Japan doesn't get it through your persuasion—and I thank you for trying so hard—it is time to lower the boom!"

And the State Department's response to those hearings was to ignore Congress' call to use the tools.

A comprehensive review of all four actions reports from 2015 to 2018 shows a very bleak pattern. Many of these countries cited are repeat offenders, yet no other tools, other than a demarche, was utilized. Japan had three demarches in 2017 alone. In fact, other tools were only mentioned one time.

The 2018 actions report claimed, the Department wrote, "The Department is considering the use of further tools under the Act if Japan continues its pattern of noncompliance in failing to promptly enforce Convention court orders."

In an open session of the Diet in Japan in early 2017 the Japanese Foreign Minister at the time, Fumio Kishida, declared there is not a single example of sanctions under the Goldman Act. He called them out. He called the State Department's bluff.

Through multiple hearings in the House and the Senate, the State Department has rejected your calls, Congress' calls, to use the tools. Clearly, demarches, raising IPCA cases with foreign government officials, and empty threats are not bringing children home.

And what are these demarches? What is in them? Does anyone really know? I am still waiting for a response to a FOIA request that our organization submitted in February.

What is it going to take beyond demarches? When are the interests of American children that have been kidnapped going to be put first? And when will decisive efforts be made to bring abducted children home?

Based on multiple discussions with State, it is clear that Japan anticipated being cited under the Goldman Act in 2018 starting at least 6 months in advance. There was a demarche in November 2017 and December. Japan knew what was coming and they were preparing to spin their way out of it.

On May 15, 2018, as Japan was about to be cited for international parental child abduction by the United States, they held a public seminar at the House of Culture in Japan in Paris, co-organized by the Ministry of Foreign Affairs of Japan and the Japan Federation of Bar Associations. In an audio recording of this event from inside we hear participants being educated about the Hague Abduction Convention. They are taught how to prevent having their children returned to France, should they be taken without consent to live in Japan. More simply put, the organizers lay out how to abduct to Japan and get away with it.

By creating a seminar that advised potential abductors how to circumvent a Hague return order, the Government of Japan has exhibited a shocking and blatant disregard for this international agreement. When they were exposed and confronted by French Senator Richard Yung, Japan's Ministry of Foreign Affairs tried to deflect it as a rogue act by a presenter they invited.

Now, if that were true, somebody from the Japanese Government staff would have immediately interrupted at the seminar and disavowed their government of this. They would have denounced it

right then and there. They didn't do that. Because it wasn't a rogue act. It was intentional. The Government of Japan is a shameless co-conspirator.

I will note that seminars continue to be held and there is little reason to believe that the content has changed. There was one scheduled in London and I believe there was another one scheduled in New York.

In June of this year, just after Japan was cited by the United States, their press reported potential draft legislation to purportedly address the child abduction issue. This was an attempt to change the narrative. It noted that there is nothing under Japan's legal system to deal with parents who refuse to hand over their children in defiance of a court order.

The proposal in an interim report considered fining parents to encourage them to voluntarily comply. Now, fines and voluntary compliance already exist and they haven't solved the problem. Fines can be levied, they can be imposed, but they have to be collected and substantial enough to bend a kidnaper's will of defiance. That is a very narrow and unique set of circumstances. It is not a judicial or a legislative reform.

As this potential draft limped along, in September it was reported in the press the rules now call for giving more power to enforcement officers and allowing handovers to take place in the presence of parents with custodial rights, on condition sufficient consideration is paid to the sentiment of the children.

We have got to unpack this a little bit. It sounds good, but there are two immediate problems with it.

First, a Hague case has to do with habitual residence, not custodial rights of the child. There could be a parent seeking a return order that might not have sole custody or the recognition of being the custodial parent in Japan or under Japanese law. It is habitual residence that we are dealing with.

Second, what is it that they mean by sufficient consideration paid to the sentiment of the children? It is another loophole. What is the sentiment of a child going to be after they have been alienated for months or years? They are going to be filled with confusion, fear, anger, anxiety, all directed at the parent who is here to take them home. Is this "sufficient consideration" going to dictate enforcement is still abandoned because the child appears more accustomed to living a life under duress?

These are subversive efforts to give the false impression of progress in Japan. It is more smoke and mirrors.

Though the State Department has put great hope in Japan's potential legislation, a recent discussion I have had with them reveals that they were working on a draft from the summer, not the current legislation—sorry, the current potential legislation. It is not even a bill yet. The current version, according to our partners, has gutted the bill and would be completely ineffective if it is ever passed in a year or years down the road.

So don't be misled by reports in the Japanese press and from State Department meetings with the Government of Japan of sweeping legislative changes to improve our kidnapping crisis. Japan should not be rewarded with more time to fix problems that

were exposed years ago. Let the kudos come after our kidnapped children are returned.

In May, my colleague and I met with Japanese Embassy officials to try and better understand, is there any genuine path for Japan to reunite parents with kidnapped children? The Head of Chancery, which I think is essentially their number two person there, Mr. Takuya Sasayama, was shockingly candid to us. He said, "Your access depends on the mother and the child's wishes."

In November the State Department met with officials in Japan at the Japanese Central Authority to again raise cases of American children kidnapped to Japan and the lack of progress and failures in enforcement of judicial rulings.

Two weeks ago I received a comprehensive readout from the Office of Children's Issues on this, and there were three points I want to share with you. Japan acknowledged that, one, if the parent refuses there are no repercussions for ignoring an application for access, a return order, or a court order. Two, enforcing a court order depends on the voluntary cooperation of the kidnapping parent. And three, the kidnapping parent knows this and they hold all the power.

Is this Japan's new tactic, admit the problem and blame the kidnapper?

We need real solutions to the numerous clear-cut cases, such as Naval Captain Paul Toland and Paul Wong. Though they are both the only living parent, the grandparents in Japan are holding their daughters from them.

There are cases like Randy Collins, whose ex-wife was ordered to surrender the child's passport to the court and instead she kidnapped him.

Douglass Berg's children were kidnapped from their habitual and legal residence in the United States in 2009, violating his parental rights to access.

Marine Corps Sergeant Michael Elias' two children were kidnapped to Japan after a U.S. court ordered no travel for those children.

The list goes on and on, it is too far too long. All children and families crushed by the Government of Japan's unwillingness to uphold its moral, ethical, and treaty obligations. There are thousands of cases within Japan that must be remembered, too, in this process.

In my own case, I was granted sole custody of my son in the State of Washington in May 2007. Three years later, on June 20, 2010, I dropped my son Mochi Atomu Imoto Morehouse off to begin a weeklong visit with his mother. He was 6½ years old at the time. This is where my nightmare began.

Six days later, I received a phone call that no parent ever wants to receive. It was the police. My son, my ex-wife had been reported missing. I knew immediately what had happened. She had succeeded in what she had been planning all along. She had kidnapped our son to Japan. At this moment my life had been shattered.

I did everything I could to prevent this. There were passport and travel restraints in place. I had a court order that barred her from leaving the State of Washington with him. The Seattle Consulate

of Japan had denied her passport request when she went there. And she simply went to the passport office at the Portland Consulate of Japan, which issued her one, in violation of Ministry of Foreign Affairs' own policy.

Over the years people have said to me things like, "At least you know he is safe with his mother." He might be somewhere in Japan, but he is not safe. He is at risk. He has been willingly and intentionally kidnapped to a foreign land, with the intent of alienating him from me and everyone he knows.

Imagine being a small child and your mother steals you away to a foreign country and tells you your father doesn't want you anymore or he is dead. Your whole life is now built on a foundation of lies. This is not what a healthy, nurturing parent does. It is child abuse.

In 2014, and again in 2017, I won another landmark ruling in Japan: The court declared my U.S. sole custody order has legal effect. My ex-wife has no legal custody rights in Japan, none. They also cited her admission of illegal acts of passport fraud and forgery.

There was no intent to offer justice, though. It was simply the Continuity Principle at work again. It doesn't matter how a child ends up with an abductor, Japan will not uphold laws and treaties to return children to their rightful home.

In the end, the court refused to even reunite Mochi and me. I don't even know where he is being held.

Our kidnapped children's true voices have been silenced. They need to be heard. In the beginning of my most recent legal battle in Japan, my son, 13 at the time, was asked by his attorney, "Do you ever think of your father?" And he replied, "Sometimes I dream of him at night," as he cried, telling that lawyer.

The last time I spoke to my son, the last time I saw him, was on Father's Day in 2010. I love you, Mochi, wherever you are.

On behalf of the 66 children listed on the BAC Home Web site and those who have all been rendered voiceless by their abductors, for my fellow parents of internationally kidnapped children here today and watching all over the world who feel marginalized by the lack of active, engaged, transparent assistance in recovering our loved ones, I implore Congress to take strong, unified action toward Japan for its ongoing refusal to return our kidnapped children.

For the past 2 years, Prime Minister Abe has spread it all over the press how President Trump and the U.S. are going to help Japan resolve the 1977 to 1983 kidnappings of 17 of their citizens kidnapped to North Korea. I feel for those parents. I understand their pain. It is our pain. And the U.S. should help, it is the right thing to do.

President Trump ran on putting America first. Well, putting America first means putting America's kidnapped children first and bringing them home.

Prime Minister Abe, what about returning the 400-plus American kids kidnapped to Japan since 1994? What about returning Mochi? The Government of Japan throwing their arms up in the air and saying it is up to the kidnapper is not acceptable. The Government of Japan is complicit here.

Last week Secretary Pompeo said to the German Marshall Fund in Brussels, "When treaties are broken, violators must be confronted and the treaties must be fixed or discarded. Words should mean something." How will Japan be confronted?

In September the President addressed the United Nations and declared, "We are standing up for America and the American people." Who is standing up for America's kidnapped children?

Words must be backed up with actions so that Japan will recognize that enough is enough and the United States will not tolerate the ongoing kidnapping and retention of our citizen children.

In Vice President Pence's press statement from his November trip to Japan, he stated to the Prime Minister that President Trump has made a commitment to "speed up the sale of defense technology to Japan, and we are keeping that promise. Before the end of the year we will deliver 10 F-35s to Japan and 6 more in 2019."

I urge Congress to take immediate action while the opportunity exists and block the sale of defense technology to Japan until our kidnapped children are returned to us. They have broken their treaty obligations.

It is necessary to stand up for the American people here. Create this sanction. Please, stop the delivery of the F-35s. Tell the Prime Minister it is not acceptable to continue to hold my son Mochi Atomu Imoto Morehouse or any of the 400-plus American children kidnapped and retained in Japan.

[The prepared statement of Mr. Morehouse follows:]

Mr. Jeffery Morehouse
Executive Director, Bring Abducted Children Home
and Father of a Child Kidnapped to Japan

House Foreign Affairs Committee

Monday, December 10, 2018
Reviewing International Child Abduction

Thank you to Chairman Smith and the committee for inviting me here to share my expertise and my personal experience on the ongoing crisis and crime of international parental child abduction in Japan. Japan is internationally known as a black hole for child abduction.

There have been more than 400 U.S. children kidnapped to Japan since 1994. To date, the Government of Japan has not returned a single American child to an American parent.
Bring Abducted Children Home is a nonprofit organization dedicated to the immediate return of internationally abducted children being wrongfully detained in Japan and strives to end Japan's human rights violation of denying children unfettered access to both parents. We also work with other organizations on the larger goal of resolving international parental child abduction worldwide. We are founding partners in The Coalition to End International Parental Child Abduction uniting organizations to work passionately to end international parental kidnapping of children through advocacy and public policy reform.

At the beginning of this year The G7 Kidnapped to Japan Reunification Project formed as an international alliance of partners who are parents and organizations from several countries including Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States. The objective is to bring about a rapid resolution to this crisis affecting the human rights of thousands of children abducted to or within Japan.

Many Japanese citizens and officials have shared with me that they are deeply ashamed of these abductions and need help from the U.S. and other countries to change it. They ask for continued public, foreign pressure as it gives them the support needed internally to uproot the cabal of resistance in Japan that continues to corrupt their family court system. This is reveals itself in "The Continuity Principle." Simply put, judges and attorneys representing abductors manipulate the "best interest of the child" to rule that the child should remain alienated and ignore how they ended up with the abducting parent.

The Government of Japan's Systemic Failure to Return Kidnapped U.S. Children

When Japan acceded to The Hague Convention on the Civil Aspects of International Child Abduction on April 1, 2014, you Mr. Chairman, joined us to meet with Japanese Embassy officials to discuss their plans for implementation. I remember walking out of that meeting knowing that our worst fears had been confirmed. They had no real plan to uphold the spirit and intent of the Hague Abduction Convention. It was all misdirection. Smoke and mirrors. What we foresaw then remains true today.

Under Article 21, *"The Central Authorities are bound ... to promote the peaceful enjoyment of access rights and the fulfillment of any conditions to which the exercise of those rights may be subject. The Central Authorities SHALL TAKE STEPS TO REMOVE, AS FAR AS POSSIBLE, ALL OBSTACLES TO THE EXERCISE OF SUCH RIGHTS."*

In the first known case to pursue Hague access in Japanese courts, Canadian, Henrik Teton requested interim access to his children and was ignored by the court. The judge refused to provide his name, thereby making accountability of his rulings impossible. No observers including embassy officials were allowed to witness the court proceedings.

Four and a half years ago, at the very moment Japan acceded to The Hague Abduction Convention parents joined Bring Abducted Children Home to hand-deliver 30 Article 21 Access applications. Hague was supposed to be an efficient path to see our kidnapped children again.

We were told we must give Japan time. We must wait and see. We'll we've waited and we've seen. Of those 30 cases, three parents reported receiving one Skype session and one received three sessions before the kidnapping parent cut them off. None of these parents have received true, unfettered access to their kidnapped children.

When I filed for access under Article 21 my ex-wife responded by filing a new custody motion in Japan citing my Hague application and weaponizing it against me. I had to put my application on hold for three years. After winning the case and attempting to restart efforts for access, she has been non-responsive.

In consultation with the Japanese Central Authority, The Office of Children's Issues is again encouraging me to file an Article 21 motion in Japanese courts. This is a grossly flawed strategy. As I'll state later in my testimony Japan now admits that all power to comply with court rulings rests with the kidnapper.

Japan's implementation of the Hague Abduction Convention is an abysmal failure.

Hague return orders have failed to be enforced time and time again, though it states under Article 7, "Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children."

The prompt return of children. It doesn't state the optional return of children. Japan continues to fail miserably here, too. The enforcement of the return orders fails every time unless the kidnapping parent willingly complies.

In Japan, enforcement involves an official going to the home and asking for the child to come out, while the kidnapping parent is inside prompting them to stay and holding power over the victimized child.

For James Cook, who testified to this subcommittee earlier this year, Japanese courts overturned the return order for him because Mr. Cook has moved into an apartment and shared a bedroom with a sibling after the enormous legal bills incurred from years in court in Japan.

He took his case all the way to the Japan Supreme Court and The Hague Abduction Convention failed again in Japan. Laws and treaties were ignored. His children remain with the abducting parent.
It is an example of Japan's continuity principle at work that crushes any hope of reuniting with our kidnapped children.

According to my discussion with The State Department this would be classified as a judicial resolution of a case under their interpretation of The Goldman Act. In other words Japan gets rewarded for finding a way to avoid returning children kidnapped from the United States.

Another example of Japan's systemic failure to return children involves two Japanese parents living in the U.S. I point this out because it is the second time that a case from the U.S. involving two Japanese parents received extrajudicial effort that I have not seen yet in cases involving a non-Japanese parent. Like in a case from Oregon that ended in 2016, the enforcement of The Hague return order failed. In this instance a Japanese form of a habeas corpus petition was filed in the Kanazawa branch of the Nagoya High Court but it was not awarded. The father appealed to the Japan Supreme Court, which issued a ruling in March 2018. They wrote:

1. The child was found to be unduly controlled/influenced by the mother.
2. Therefore, the child's statement was not considered to be objective.
3. Therefore, the Japan Supreme Court determined that retention of the child was clearly illegal.
4. The Japan Supreme Court remanded the case back to the Nagoya High Court, Kanazawa branch.

In effect, the Supreme Court issued their opinion, but did not issue a return order in a habeas corpus case that evolved from a failed Hague process.

In July 2018, the Nagoya High Court issued a new ruling in the case. This time the child was ordered to be returned, but the mother and child immediately fled the court. It can be assumed that the Government of Japan, its courts and police, and her attorney know where the mother and child reside, but the enforcement of the return order remains to be executed.

State Refuses To Use Goldman Act Tools To Bring Kidnapped U.S. Children Home

In 2014 The Goldman Act was signed into law in part to create accountability for countries like Japan that fail to return kidnapped American children.

Multiple tools were provided ranging from:

(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) the withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n);
(6) the withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304);
(7) the withdrawal, limitation, or suspension of assistance to the central government of a country pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the Economic Support Fund); and
(8) a formal request to the foreign country concerned to extradite an individual who is engaged in abduction and who has been formally accused of, charged with, or convicted of an extraditable offense.

To date, only demarches have ever been issued. All other tools have been ignored while we still don't

have a single case of the Government of Japan returning an American child to an American parent.

In April, the Senate Judiciary took this topic up at a hearing.

Sen. Booker asked, "Are we using the tools in The Goldman Act (beyond demarches)?"
Assistant Secretary of State for Consular Affairs, Carl Risch responded, "Not to my knowledge."

Chairman Grassley inquired, "How many demarches have been issued since the passage of the Goldman Act?"

Mr. Risch, "There's been many... We feel that type of diplomatic engagement is the key to success in these cases."

Sen. Blumenthal probes, "Have you used any of the other tools?"
Mr. Risch concedes they have not.

Has there been success? In response to the committees follow up "Questions for the Record", Assistant Secretary Risch responded that from 2008-2015 9,127 children were abducted from the U.S. and 3,992 were returned. There was no substantial change in the percentage of returns in those eight years. Some years it went up a few points and some years it went down. If returning children home to the United States is the key measure of success, and it is, that would point to a failure not a success.

This subcommittee also held a hearing that examined the lack of use of tools.

In that hearing, Chairman Smith, you noted that since 2014 we've seen a decrease in the number of new abductions, but not an increase in the percentage of returns.

Special Advisor for Children's Issues Suzanne Lawrence, testified, "We do consider all the tools we have at our disposal and we do that with our interagency partners and try to use the best tool at the best moment on a case by case basis... We consider them when we think they will be effective."

Rep. Jayapal followed up, 'What would move the threshold in order to use those tools?... What can we tell our families about what we are going to do differently than what we've been doing?"

Ms. Lawrence replied, "... I don't have a specific answer for you on what the threshold is..."

Rep. Harris commented, "Is it going to take literarily an act of Congress and an appropriations bill to get you ramped up through the escalating sanctions that can occur in some of these countries that the State Department has been unwilling to pursue?"

Chairman Smith, you hit it right on the mark when you said, "Sanctions work. If Japan doesn't get it through your persuasion, and I thank you for trying so hard, it is time to lower the boom!"

The State Department's response to those hearings was to ignore Congress's call to use the tools. A comprehensive review of all five Actions Reports from 2014-2018 showed a bleak pattern.

Many of these countries are repeat offenders. Yet no other tool but a demarche was utilized. Japan had three demarches in 2017 alone. In fact, other tools were only mentioned one time. The 2018 Actions Report claimed, "The Department is considering the use of further tools under the Act if Japan continues its pattern of noncompliance in failing to promptly enforce Convention court orders." In an open session of Japan's Diet in early 2017 Japan's Foreign Minister Fumio Kishida declared, there is not a single example of sanctions under the Goldman Act. He called them out. He called State's bluff.

Through multiple hearings in the House and Senate the State Department has rejected the calls from Congress to use the tools. Clearly demarches, raising IPCA cases with foreign government officials and empty threats are not bringing children home.

What is in these mysterious demarches? Will we ever really know? I am still waiting on a FOIA request BAC Home filed in February. What is it going to take move beyond demarches? When will the interests of kidnapped American children be put first and decisive efforts made to bring abducted children home?

Paris Seminar and Misleading Draft Legislation

Based on multiple discussions with State, it is clear that Japan anticipated being cited in 2018 under The Goldman Act starting at least six months in advance. There was a demarche in November and December last year. Japan knew what was coming and it was preparing to spin its way out of accountability.

On May 15, 2018 as Japan was about to be cited for International Parental Child Abduction by the United States, they held a public seminar at the House of Culture of Japan in Paris co-organized by the Ministry of Foreign Affairs of Japan and the Japan Federation of Bar Associations. In an audio recording from inside the event, we hear participants being educated about The Hague Convention on the Civil Aspects of International Parental Child Abduction. They are also taught how to prevent having their children returned to France should they take them without consent to live in Japan. More simply put, organizers lay out how to abduct to Japan and get away with it.

By creating a seminar that advised potential abductors how to circumvent a Hague return order, the Government of Japan has exhibited a shocking and blatant disregard for this international agreement.

When exposed and confronted by French Senator Richard Yung, Japan's Ministry of Foreign Affairs, tried to deflect it as a rogue act by a presenter they invited. If that were true someone from the Japanese Government staff would have cut the speaker off and denounced the advice. They did not do that because was not a rogue act. It was intentional. The Government of Japan is a shameless co-conspirator.

Seminars continue to be held and there is little reason to believe the content has changed.

In June, just after Japan was cited by the United States, their press reported potential draft legislation to purportedly address the child abduction crisis. This was an attempt to change the narrative. It noted that there is nothing under Japan's legal system to deal with parents who refuse to handover their

children in defiance of a court order. The proposal in an interim report considered fining parents to encourage them to voluntarily comply.
Fines and voluntary compliance already exists but haven't solved the problem. Fines can be imposed, but they would have to be collected and substantial enough to bend a kidnapper's will of defiance. That is a narrow and unique set of circumstances, not legislative and judicial reform.

As this potential draft legislation limped along in September it was reported, "the rules call for giving more power to enforcement officers and allowing handovers to take place only in the presence of parents with custody rights, on condition sufficient consideration is paid to the sentiment of the children."

There are two immediate problems with this. First, a Hague case has to do with habitual residence of the child not custodial rights. The parent seeking the return order might not have sole custodial or any recognition of being the custodial parent in Japan or under Japanese law. Second, what is meant by, "Sufficient consideration is paid to the sentiment of the children"? That's another loophole. What is the sentiment of a child who has been alienated for months or years going to be? Confusion, fear, anxiety, anger all directed at the parent who has appeared to take them home. Is this "sufficient consideration" going to dictate enforcement is still abandoned because the child appears more accustomed to living a life under duress?

These are subversive efforts to give the false impression of progress in Japan. It's more smoke and mirrors.

Though The State Department puts great hope in Japan's potential legislation a recent discussion reveals that they were working from a draft from the summer and not its current incarnation. The current version according to our partners has been gutted and will be ineffective if it is ever passed a year or years down the road. By all accounts this draft being discussed is a rotting piece of swiss cheese that nobody should touch.

Do not be mislead by the reports in the Japanese press and from State Department meetings with the Government of Japan of sweeping legislative changes to improve our kidnapping crisis. Japan should not be rewarded with more time to fix problems that were exposed years ago. Let the kudos come only after our kidnapped children come home.

Japan Admits Access and Returns Are Optional

In May, my colleague and I met with Japanese Embassy officials to try to better understand if there was any genuine path for Japan to reunite parents with their kidnapped children. The Head of Chancery, Mr. Takuya Sasayama was shockingly candid, he said, "you're access depends on the mother and child's wishes."

In November, State Department officials met with the Japanese Central Authority to again raise cases of American children kidnapped to Japan and the lack of progress and failures in enforcement of judicial rulings. Two weeks ago I received a comprehensive read-out from the Office of Children's Issues. There were three important points in it. Japan acknowledged that:

1. Enforcing an order depends on the voluntary cooperation of the kidnapping parent;
2. If this parent refuses there are no repercussions for ignoring an application for access, return or a court order; and
3. The kidnapping parents in Japan know this.

Is this Japan's new tactic, admit the problem and blame it on the kidnapper?

Too Many Tragic Cases

We need real solutions to the numerous clear-cut abduction cases, such as Naval Captain Paul Toland and Paul Wong. Though they are both the only living parent, the grandparents in Japan are holding their daughters from them.

In Captain Toland's case the abducting grandmother is in failing health. In working with the Office of Children's Issue an open line of communication was kept with the Tokyo Family Center to ensure he'd be notified in the event of her death. This ongoing line of communication is vital to protect Erika's future when the time comes.

In October his daughter turned 16. An email and a letter from the Office of Children's Issues arrived informing him that his point of contact would now be the American Citizens Services Unit at our Embassy in Tokyo. He was provided a contact and assured, "The officers in charge of Erika's case have been fully briefed."

Captain Toland reached out to the ACS Desk Officer and it took three weeks for him to receive this reply,

"As I do not have the details of your case, I would appreciate if you could explain what is going on with Erika. Also, what is Tokyo Family Center's involvement in your case? As you may not know, our office's involvement is totally different from our Office of Children's Issues."

It is astounding that this could have happened. Parents of internationally kidnapped children should receive better support than this.

There are cases, like Randy Collins, whose ex-wife was ordered to surrender their child's passport to the court. Instead she kidnapped him. Douglass Berg's children were kidnapped from their habitual and legal residence in the United States in 2009 violating his parental rights to access. Marine Corps Sgt. Michael Elias's two children were kidnapped to Japan after a U.S. court issued a no travel order.

The list is far, far too long. All children and families crushed by the Government of Japan's unwillingness to uphold its moral, ethical and treaty obligations.

There are thousands of cases within Japan that must be remembered, too.

The Kidnapping of "Mochi" Atomu Imoto Morehouse

In my own case I was granted sole custody of my son in the State of Washington in May 2007. Three years later, on June 20, 2010, I dropped my son, "Mochi" Atomu Imoto Morehouse, off to begin a weeklong visit with, his mother. He was 6 ½ years old.

That is where the endless nightmare began. Six days later, I received a phone call that no parent wants to receive. It was the police. My son and ex-wife had been reported missing. I knew immediately what happened. She succeeded in what she had threatened to do. She had kidnapped our son to Japan.

In that moment my life was shattered. How could this happen to my little boy? I did everything I could think of to prevent it. There were even passport and travel restraints in the court order to bar her from going outside the state Washington with him. When the Seattle Consulate of Japan denied her passport request she simply went to the Japanese consulate in Portland, which issued her one in violation of the Ministry of Foreign Affairs Passport issuance policy.

Sometime people say to me, at least you know he is safe with his mother. He may be somewhere in Japan with her, but he is not safe. He is at risk. She has willingly and intentionally kidnapped him to a foreign land with the intent of alienating him from me and everyone he knows.

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This in not what a healthy, nurturing parent does. It is child abuse.

In 2014 and again in 2017 I won landmark rulings in Japan. Their court declared my U.S. sole custody has legal effect. My ex-wife has no legal custody rights there and they also cited her admission of illegal acts of passport fraud and forgery. There was no intent to offer justice, though. It was simply the continuity principle at work. It does not matter how a child ends up with the abductor in Japan, they will not uphold laws and treaties to return children to their rightful home. In the end the court refused to reunite Mochi and me. I don't even know as where he is being held.

Our kidnapped children's true voices have been silenced. They need to be heard. In the beginning of my most recent legal battle in Japan, My son, thirteen at the time, was asked by his attorney, do you ever think about your father? As the tears rolled down his face he replied, "sometimes I dream of him at night."

The last time I hugged him, the last time I heard his voice was Father's Day 2010. I love you Mochi, wherever you are.

On behalf of the 66 kidnapped children listed on the BAC Home website and those who have all been rendered voiceless by their abductors, for my fellow parents of internationally kidnapped children who feel marginalized by the lack of active, engaged, transparent assistance in recovering our loved ones, I implore Congress to take strong unified action toward Japan for its ongoing refusal to return our kidnapped children.

Congressional Action Needed

Prime Minister Abe for the past two years has spread it all over the press how President Trump and the U.S. are going to help Japan resolve the 1977-1983 kidnappings of 17 of their citizens in to North Korea. I feel for those parents. I understand their pain. It is my pain. It is our pain. We should help with that. It's the right thing to do.

President Trump ran on putting America first. Well, America first means putting American children first and bringing them home. Prime Minister Abe, what about returning the 400+ American children kidnapped to Japan since 1994? What about returning Mochi?

The Government of Japan throwing their arms up in the air and saying it is up to the kidnapper is not acceptable. The Government of Japan is complicit.

Last week Secretary Pompeo said to the German Marshal Fund in Brussels, "When treaties are broken, the violators must be confronted, and the treaties must be fixed or discarded. Words should mean something."

How will Japan be confronted?

In September the President addressed the United Nations and declared, "We are standing up for America and for the American people..."

Who is standing up for America's kidnapped children?

Words must be backed up with actions so that Japan will recognize that enough is enough and the United States will not tolerate the ongoing kidnapping and retention of our citizen children.

In Vice-President Pence's press statement from his November trip to Japan he stated to Prime Minister Abe that President Trump made a commitment, "to speed up the sales of defense technology to Japan, and we're keeping that promise. Before the end of this year, we will deliver ten F-35s to Japan, and six more in 2019."

I urge Congress to take immediate action while the opportunity exists and block the sales of defense technology to Japan until our children are returned to us. They have broken their treaty obligations. It is necessary to stand up for the American people here.

Create this sanction. Stop delivery of the F-35s. Tell the Prime Minister it is not acceptable to continue to hold my son, "Mochi" Atomu Imoto Morehouse or any of the 400+ U.S. children kidnapped to Japan.

Mr. SMITH. Mr. Morehouse, thank you very much for that very persuasive testimony on behalf of your son, as well as all the other left-behind parents who are being, I believe, cruelly mistreated by the Government of Japan. Thank you so much.

We will now here from Mr. Garaicoa.

STATEMENT OF MR. JUAN GARAICOA, FATHER OF TWO CHILDREN ABDUCTED TO ECUADOR

Mr. GARAICOA. Thank you, Mr. Chairman.

Chairman Smith, Members of Congress attending this hearing today, on behalf of my two children, Mateo and Martin, I would like to thank you for giving me the opportunity to speak here at the United States Congress about international parental abduction and the Goldman Act to return abducted American children.

It has been well documented that international parental abduction in most cases is not an act of love, but rather an extreme form of child abuse. Children who are victims of parental abduction usually have already gone through the pain of their parents' separation or relationship breakdown.

Due to the unilateral decision of one of their parents, these children then face the trauma of suddenly losing contact with their mom or dad, the left-behind parent. Sadly, this is precisely the case of my two boys, Mateo and Martin, who have been deprived of any contact whatsoever with their dad for over 2 years now.

The effect of international parental abduction on children can be catastrophic. An essay published by the American Bar Association reports that, I quote:

> "Children that are abducted for over 6 months display severe psychological trauma and severe social disorders that will likely not be resolved as long as the child stays with his or her abductor.
>
> "Although reintegration with family after many years can be difficult for the child, this is often the only chance the child will have to overcome the issues caused by the abduction. Most children are found to improve with the stability of being home with the searching parent and attending therapy."

The essay goes on and says:

> "Children of long-term abductions report a feeling of resentment toward both parents, the abducting parent for stealing them and the left-behind parent for not rescuing them sooner. And the longer a child is on the run, the more emotional damage is done.
>
> "Abducted children have a high rate of seeking out their left-behind parent as teenagers and adults, always seeking reunification, even after many years apart. This suggests that returning a child to a left-behind parent, even after many years, is often what is best for the child and is what the child desires."

Shortly after my children's abduction in August 2016, I found much needed encouragement and hope from a press release dated November 18, 2015, from former Secretary of State John Kerry,

and I am going to highlight three of that paragraphs of that statement.

One, according to the press release,

> "One of the Department of State's highest priorities is the welfare of children involved in international parental child abduction cases. And one of our most effective tools for resolving these cases is the Hague Abduction Convention."

Two,

> "In 2014 Congress passed the Sean and David Goldman International Child Abduction Prevention and Return Act, which gives the Department of State additional tools to advocate for the return of the abducted children."

And three,

> "There can be no safe haven for abductors."

There can be no safe haven for abductors.

So I am going to focus my testimony on those three topics.

After fighting for over 2 years to secure the return of my children from Ecuador, I have found the following conclusions. One, The Hague Convention has not been an effective tool in bringing back my children from Ecuador. Two, the State Department has not enforced the tools provided by the Goldman Act. And three, the abductor seems to have been successful in finding a safe haven in Ecuador, a Hague partner country that has been listed as noncompliant by the State Department for several consecutive years.

Let me talk about the Hague Convention. In principle, the legal remedy available through the Hague Convention of seeking to have the abducted children returned to their habitual place of residence aims to achieve a fair process.

However, in noncompliant countries reality is rather different. As soon as the taking parent abducted my children to Ecuador, she filed lawsuits for divorce, parental rights, and child support, three different lawsuits. Classic case of forum shopping. Henceforth, she has retained 13 attorneys from nine different law firms in Ecuador in 2 years—13 attorneys from nine different law firms in Ecuador—none in the U.S.

When we served her for divorce proceedings in the U.S., she did not even bother to retain an attorney from the United States. She did not appear in court and the court gave me full custody and parental rights of my children. But she continued on with the cases in Ecuador.

The 13 Ecuadorian attorneys were not retained randomly. They are rather widely known for their political connections in Ecuador and questionable, unethical, illegal practices. In fact, the very first attorney, Monique Carriano (ph), chosen by the doctor (ph) in Ecuador, is the wife of the person who was acting at the time as the Minister of the Interior, the head of police. My attorneys warned me in Ecuador: Don't come to Ecuador, the wife of the Minister of the Interior has the police at her disposal, don't even bother coming to Ecuador.

Subsequently, the taking mother retained the services of two attorneys, Maria Elena Pascal (ph) and Maria Gracia Pasmen (ph), who are known to be close friends with the person acting then as

President of the Judicial Council of Ecuador, who is Gustavo Jalkh, who was recently ousted in Ecuador due to corruption.

More recently, the taking parent retained the services of another attorney, Antonio Costa (ph), who has the reputation in Ecuador for allegedly engaging in bribing.

It is worth emphasizing that we have documented a fairly large number of irregularities since day one in Ecuador. Let me share some of those irregularities with you as they pertain to the Hague Convention in Ecuador.

In the lower court hearing in April 2018 the judge, Marianella Maldonado (ph), did not allow testimony from U.S. independent professionals that were going to testify via video conference. She just didn't allow them to testify. These professionals included family therapists and the guardian ad litem from Miami who were appointed by a Florida judge and they had firsthand knowledge of our family dynamics as they personally treated both parents and children for nearly 3 years.

The lower court judge did not allow the U.S. custody evaluator, who traveled personally to attend this meeting in Ecuador, this hearing in Ecuador. According to the U.S. custody evaluator, who had previously testified in other Hague proceedings in different countries, he found an extremely hostile environment in the Ecuadorian court.

Most notably, the custody evaluator claimed, one, that the judge demonstrated to be utterly biased; two, that his passport was confiscated by the court until late in the afternoon, long after his testimony had concluded; and three, that he was threatened with prison in Ecuador for perjury. She thought he was not coming back to the U.S.

The lower court judge did not recuse herself from hearing this case despite the fact that she maintains an intimate friendship with opposing counsel. Oddly enough, the judge and the abductor's attorneys were displaying public messages on Facebook of their mutual admiration and love precisely at the time when we were waiting to hear the hearing date for the hearing for the Hague case.

The lower court judge had a short private meeting with my boys before the Hague hearing. Based on that meeting, she denied the restitution of my children because, she said, that was the desire of my boys.

In July 2018, the court of appeals, consisting of three judges, did not allow an officer from the U.S. Embassy in Ecuador to attend the hearing. We don't know why. An officer from Ecuador's Central Authority was allowed to attend the lower court hearing.

The panel of judges also met privately with my children, but this time it was with the presence of an independent child psychologist. After the hearing the panel of judges announced that a final ruling would be issued in writing in the following days. However, they did announce their decision to order protective measures in favor of my children in the form of therapies, which were necessary to reestablish the bond between children with their father in view of the mother's strong opposition.

The panel of judges several days later issued their ruling in writing with protective measures included, denying restitution with my

children because they considered that my children were well settled in Ecuador.

So notwithstanding having dismissed the reason that the lower court judge had used to deny the restitution, the court of appeals proceeded to deny the restitution of my children based on the "well settled" exception.

It is abundantly clear that this ruling was made in violation of Ecuador's Constitutional Court and the Hague Convention. In 2017, Ecuador's Constitutional Court ruled that the 1-year clock of the so-called "well settled" exception stops when a petition is received by the Ecuadorian Central Authority.

Interestingly enough, the lower court judge did mention in her ruling that our petition had been filed within 1 year of the abduction. However, this material fact was notoriously missing from the court of appeals' ruling.

As we speak, my attorney in Ecuador is filing today an appeal with the Constitutional Court in Ecuador.

With respect to the Goldman Act, in April 2018, when the State Department published its latest Goldman annual report, Ecuador was listed yet again as a country that demonstrated a pattern of noncompliance. Subsequently, in July 2010, the State Department published its report on the specific actions taken against countries determined to have been engaged in a pattern of noncompliance in their 2018 Annual Report on International Child Abduction.

The following is the actual transcript of the full report of actions taken by the State Department with respect to Ecuador. It consists of three paragraphs.

One, the Department has reinforced efforts urging Ecuador to improve its convention implementation. In January 2018, the U.S. Central Authority increased the frequency of digital video conferences with the Ecuadorian Central Authority, Ecuadorian law enforcement officials, and the Public Defender's Office to monthly meetings.

Two, the Department also plans to invite Ecuadorian officials to participate in a new International Visitor Leadership Program, scheduled for summer 2018. The International Visitor Leadership Program will specifically address the judicial components of processing and resolving Convention abduction cases.

And, finally, the third paragraph of this action report says, in June 2018, U.S. Embassy Quito delivered a demarche to the Ecuadorian Ministry of Foreign Relations giving official notice that the Department cited Ecuador for demonstrating a pattern of noncompliance.

Period. That is it. Those are all the actions taken with respect to Ecuador. And with all due respect, these actions, from the point of view of a left-behind parent, do not seem that impressive.

Despite the fact that the Goldman Act provides powerful tools to the Department of State, it is evident that these tools are not being used. The State Department's actions report contains no sanctions whatsoever against Ecuador. In its action report, the State Department states that "diplomatic engagement remains our most effective tool with all countries to assist in resolving international parental child abduction cases."

I have no doubt, as a left-behind parent, the intentions are good and that the desire is there, but enforcement is clearly lacking. Soft diplomacy alone is not getting the job done.

Finally, with respect to actions that might be helpful in resolving the longstanding abduction of my children in Ecuador, I would like to say the following. Critics of The Hague Convention are of the opinion that the United States Government is powerless in its attempts to coerce foreign countries to obey or comply with The Hague Convention.

To maximize impact and bring back American children abducted abroad, I personally believe that the U.S. Government should start announcing and implementing sanctions at the macro and micro level. This will send an unequivocal message to the world that the United States of America means business when it comes to bringing back its abducted children.

So, specifically, the executive branch should consider taking the view that American children are being illegally retained in foreign countries as a result of an act of kidnapping. With implementation of economic sanctions, noncompliant countries will soon start complying with The Hague Convention and American children will finally be rescued and protected from the harmful effects of international parental abduction.

Economic sanctions may have a huge impact almost overnight. The United States is Ecuador's principal trading partner. Conversely, Ecuador is the 42nd-largest trading partner of the U.S.

Currently, Ecuador benefits from tariff-free entry into the United States for many of its products under the Generalized System of Preference, GSP. In Ecuador, the annual renewal of the GSP with the U.S. Is celebrated as a major victory. Under the current President of Ecuador, Moreno, Ecuador is now expressing interest not only in negotiating a new bilateral investment treaty with the U.S. But also is exploring a commercial trade agreement between both countries.

It is worth mentioning that Ecuador is currently facing a fiscal deficit that is unsustainable, and the country lacks any significant monetary policy maneuvering because its official currency is the U.S. dollar.

From an economic point of view, the country that seems powerless is Ecuador. If the U.S. Were to announce imminent economic sanctions against Ecuador, the days of noncompliance with the Hague treaty would be over.

Two, the Department of Justice should consider taking swift and immediate action against abductors and accomplices.

Back in 2016, when my children were kidnapped by their mother, I went personally to the FBI Miami field office, as I had read that the FBI had jurisdiction under the International Parental Kidnapping Act. A special agent, FBI agent, told me on that occasion that the protocol is for the FBI not to get involved until the Hague proceedings in the foreign country were finalized.

More recently, another FBI agent, a special agent from Miami, emphatically told me: Juan, I am telling you right now, the taking mother won't be indicted unless you win the Hague case in Ecuador. So the FBI is not going to take any action unless I win the Hague case in Ecuador.

To my surprise, the FBI agent also told me that the defenses under International Parental Kidnapping Act and The Hague Convention were the same. My understanding, however, is that International Parental Kidnapping Act has three defenses, none of which is the welfare exception.

I would hope that the U.S. Law enforcement considers international parental kidnapping as a violent crime against innocent children and that the FBI becomes immediately involved without having to wait for Hague cases to be resolved overseas.

Parental abductors usually count on a support network of family and friends who aid in the kidnapping and/or its continuation. These individuals should be investigated and eventually be prosecuted if found liable for aiding and abetting. These accomplices, whether they are family, friends, or even family attorneys, should be criminally charged with kidnapping and conspiracy to kidnap.

Prosecuting these individuals makes sense not only because they will be held accountable for their crime but also because law enforcement may obtain valuable testimony against the abductor and/or other accomplices. More importantly, taking action against accomplices could, in some cases, persuade the abductor to voluntarily return children retained abroad.

And, number three, the Department of State should consider implementing immigration sanctions against accomplices irrespective of whether the abducted children were taken to a Hague partner country or a non-Hague partner country.

The State Department can build a database with the names of all the individuals involved in the illegal retention of American children overseas, including family, friends, attorneys, judges. Under this scenario, not only the abductor and his or her accomplices but also corrupt attorneys and judges could be properly interviewed when they visit an American consulate next time for their visa renewal.

The problem in Ecuador is that corruption is endemic, especially in the judicial system. And this problem does not seem to be addressed by the State Department's action report on parental abduction.

In Ecuador, judges are known for accepting bribes from unscrupulous attorneys and their clients. At the moment, there is no constitutional court in Ecuador because all of its judges—nine judges—were recently ousted due to corruption.

Furthermore, a national court judge who was part of the panel of judges that heard my Hague case is currently being investigated in Ecuador after a journalist published a report that her daughter has paid $1,000 in income taxes in the past 10 years—not $1,000 every year, but in the whole 10-year period, $1,000 in income taxes—despite having inflows of several million dollars in her bank account.

The possibility of denying U.S. Visas to these individuals can become an extremely powerful tool in preventing and resolving international parental abduction. While legislation may be needed, please, Mr. Chairman and Members of Congress, consider implementing immigration sanctions as soon as possible against abductors and their accomplices irrespective of the country of destination where the abductor has taken our children.

I would like to finish my testimony by emphasizing that every day counts. Every single day counts. Time does not erase our memories or heal our pain. Time triggers an awful lot of daily reminders. Time is of the essence, and now is the time to bring our children home. The childhood of our children is in your hands. The fate of our children is in your hands.

My special thanks to Michael for his extraordinary work at the Office of Children's Issues and to Allison for her unconditional support throughout this difficult journey.

And last but not least, I would like to send a brief message to my children: I love you guys. I am here for you always.

Thank you.

[The prepared statement of Mr. Garaicoa follows:]

United States House of Representatives
Committee on Foreign Relations
Washington D.C.

Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations

Testimony of Juan Garaicoa

Father of Two Children Abducted to Ecuador

December 10th, 2018

Chairman Smith, Ranking Member Bass, and Members of Congress attending this Hearing today, on behalf of my two children Mateo and Martin, I would like to thank you for giving me the opportunity to speak, here at the United States Congress, about International Parental Abduction and the Goldman Act to Return Abducted American Children.

It has been well documented that international parental abduction, in most cases, is not an act of love, but rather an extreme form of child abuse.

Children who are victims of parental abduction, usually, have already gone through the pain of their parents' separation or relationship breakdown. Due to the unilateral decision of one of their parents, these children, then, face the trauma of suddenly losing contact with their mom or dad - the left behind parent. Sadly, this is precisely the case of my two children, Mateo and Martin, who have been deprived of any contact whatsoever with their dad for over two years now.

The effect of international parental abduction on children can be catastrophic.

An essay published by the American Bar Association reports that "children that are abducted for over six months display severe psychological trauma and severe social disorders that will likely not be resolved as long as the child stays with his or her abductor. Although reintegration with family after many years can be difficult for the child, this is often the only chance the child will have to overcome the issues caused by the abduction. Most children are found to improve with the stability of being home with the searching parent and attending therapy.

Children of long-term abductions report a feeling of resentment toward *both* parents, the abducting parent for stealing them, and the left-behind parent for not rescuing them sooner. And the longer a child is on the run, the more emotional damage is done. Abducted children have a high rate of seeking out their left-behind parent as teenagers and adults, always seeking reunification, even after many years apart. This suggests that returning a child to a left behind parent, even after many years, is often what is best for the child and is what the child desires." [1]

Shortly after my children's abduction in August 2016, I found much needed encouragement and hope from a press release (dated November 18th, 2017) from former Secretary of State John Kerry.

I would like to highlight three paragraphs from Secretary Kerry's statement:

1. *"One of the Department of State's highest priorities is the welfare of* children involved in international parental child abduction cases, and one of our most effective tools for resolving these cases is the Hague Abduction Convention."

2. "In 2014, Congress passed the Sean and David Goldman International Child Abduction Prevention and Return Act, which gives the Department of State additional tools to advocate for the return of abducted children."

[1] American Bar Association, One Year Isn't Enough

3. "There can be no safe haven for abductors."

After fighting -for over two years- to secure the return of my children from Ecuador, I would like to testify today that my experience makes me believe that:

1. The Hague Convention has NOT been an effective tool in bringing back my children from Ecuador.

2. The State Department has NOT enforced the tools provided by the Goldman Act.

3. The abductor seems to have been successful in finding a safe haven in Ecuador, a Hague-partner country that has been listed as non-compliant by the State Department for several consecutive years.

HAGUE CONVENTION

In principle, the legal remedy, available through the Hague Convention -of seeking to have the abducted children returned to their habitual place of residence- aims to achieve a fair process.

However, in non-compliant countries, reality is rather different.

As soon as the taking parent abducted my children to Ecuador, she filed lawsuits for divorce, parental rights, and child support (i.e. classic case of forum shopping). Henceforth, she has retained 13 attorneys from 9 different law firms in Ecuador, and none in the U.S. The vast majority of the Ecuadorian attorneys are renowned for their level of influence, connections, and even and questionable practices.

We have been able to document a fairly large number of irregularities since day one. Let me share some of those with you, as they pertain to the Hague Hearings in Ecuador:

Lower Court - April 2018

- Lower Court Judge did not allow independent professionals from the U.S. to testify via videoconference. These professionals, including family therapists and Guardian Ad Litem (who had been appointed by a Florida Judge during divorce proceedings in Miami), had first-hand knowledge of our family dynamics, as they personally treated both, parents and children for nearly three years.

- Lower Court Judge did not allow U.S. custody evaluator, who travelled to Ecuador for this Hearing, to testify in a free manner.

According to the Doctor from Miami, who had previously testified in other Hague proceedings in different countries, he found an extremely hostile environment in the Ecuadorian Court. Most notably, the Custody Evaluator claimed:

a) That the Judge demonstrated to be utterly biased.
b) That his passport was confiscated by the Court until late in the afternoon, long after his testimony had concluded.
c) That he was threatened with prison in Ecuador for perjury.

- Lower Court Judge did not recuse herself from hearing this case despite the fact that she maintains an intimate friendship with opposing counsel. Oddly enough, the Judge and the abductors' attorneys were displaying public messages on Facebook of their mutual admiration and love – at a time when the Judge was supposed to announce a hearing date for our Hague case.

- Lower Court Judge had a short, private meeting with my children without any other person attending. She denied restitution based on what she claimed was the desire of my children.

Court of Appeals (July 2018)

- Panel of Judges did not allow officer from the U.S. Embassy in Ecuador, who went that day to Court, to be present during the Hearing. (An officer from Ecuador's Central Authority was allowed to attend the Lower Court hearing).

- Panel of Judges met privately with my children, but on this occasion, with the presence of an independent child psychologist.

- Panel of Judges announced at the conclusion of Hague hearing that a final ruling would be issued in writing in the following days. However, they did announce their decision to order "protective measures" in favor of my children -in the form of therapies- which were necessary to re-establish the bond between the children with their father in view of the mother's strong opposition.

- Panel of Judges, several days later, issued their ruling in writing with protective measures, but denied restitution because they considered that my children were "well settled" in Ecuador.

Notwithstanding having dismissed the reason that the Lower Court Judge had used to deny the restitution, the Court of Appeals proceeded to deny the restitution based on the "well settle" exception.

It is abundantly clear that this ruling was made in violation of Ecuador's Constitutional Court and the Hague Convention.

In 2017, Ecuador's Constitutional Court ruled that the "one-year clock" of the so-called "well-settled" exception stops when a Petition is received by Ecuador's Central Authority.

Interestingly enough, the Lower Court Judge did mention in her ruling that our Petition had been filed within one year of the abduction. However, this material fact is notoriously missing from the Court of Appeals ruling.

Needless to say, we intend to appeal with the Constitutional Court of Ecuador.

GOLDMAN ACT

In April 2018, when the State Department published its latest Goldman Annual Report, Ecuador was listed -yet again- as a country that demonstrated a pattern of non-compliance.

Subsequently, in July 2018, the State Department published its Report on the "Specific Actions taken against countries determined to have been engaged in a pattern of noncompliance in their 2018 Annual Report on International Child Abduction".

The following is the actual transcript of the full "Report of actions" taken by the State Department with respect to Ecuador

> **Report of Actions Taken:**
>
> **The Department has reinforced efforts urging Ecuador to improve its Convention implementation. In January 2018, the USCA increased the frequency of digital video conferences with the Ecuadorian Central Authority, Ecuadorian law enforcement officials, and the Public Defender's Office to monthly meetings. During these conferences, participants discussed case updates and strategies on improving implementation of the Convention in Ecuador. Such conferences also increased understanding among the different offices involved in abduction cases in Ecuador and therefore improved communication, coordination, and cooperation.**
>
> **The Department also plans to invite Ecuadorian officials to participate in a new International Visitor Leadership Program (IVLP) tentatively scheduled for summer 2018. The IVLP will specifically address the judicial components of processing and resolving Convention abduction cases.**
>
> **In June 2018, U.S. Embassy Quito delivered a demarche to the Ecuadorian Ministry of Foreign Relations, giving official notice that the Department cited Ecuador for demonstrating a pattern of noncompliance.**

With all due respect, these actions –from the point of view of a left behind parent- do NOT seem that impressive.

Despite the fact that the Goldman Act provides powerful tools to the Department of State, it is evident that these tools are not being used. The State Department's Action Report contains no sanctions whatsoever against Ecuador.

In its Action Report, the State Department claims that "Diplomatic engagement remains our most effective tool with all countries to assist in resolving IPCA cases".

I have no doubt that intentions are good and the desire is there, but enforcement is lacking. Soft diplomacy –alone- is not getting the job done.

ACTIONS WHICH MIGHT BE HELPFUL IN RESOLVING THE LONG-STANDING ABDUCTION OF MY CHILDREN IN ECUADOR

Critics of the Hague Convention are of the opinion that the United States Government is powerless in its attempts to coerce foreign countries to obey or comply with the Hague Convention.

To maximize impact and bring back American children abducted abroad, I personally believe that the U.S. Government shall start announcing and implementing sanctions at the macro and micro level. This will send an unequivocal message to the world that the United States of America means business when it comes to bringing back its abducted children.

1. THE EXECUTIVE BRANCH – shall consider taking the view that American children are being illegally retained in foreign countries as a result of an act of kidnapping.

   With the implementation of economic sanctions, non-compliant countries will soon start complying with the Hague Convention and American children will finally be rescued and protected from the harmful effects of international parental abduction.

   Economic sanctions can have a huge impact almost overnight. The United States is Ecuador's principal trading partner, and currently, Ecuador benefits from tariff-free entry into the United States for many of its products under the Generalized System of Preferences (GSP). In Ecuador, the annual renewal of the GSP with the U.S. is celebrated as a major victory. Under President Moreno, Ecuador is now expressing interest not only in negotiating a new Bilateral Investment Treaty with the U.S., but also in exploring a commercial trade agreement between both countries.

   From a "macro" point of view, Ecuador is currently facing a fiscal deficit that is unsustainable. The country lacks any significant monetary policy maneuvering because its official currency is the U.S. dollar.

2. THE DEPARTMENT OF JUSTICE – shall consider taking swift and immediate actions against abductors and accomplices.

   Back in August 2016, when my children were kidnapped by their mother, I went personally to the FBI Miami Field Office – as I had read that the FBI had jurisdiction under the International Parental Kidnapping Act (IPKA). A Special Agent told me, on that occasion, that the protocol is for the FBI not to get involved until the Hague proceedings in the foreign country were finalized.

   More recently, another FBI Agent from Miami emphatically told me: "Juan...I'm telling you right now.... the taking mother won't be indicted unless you win the Hague case in Ecuador".

   To my surprise, the FBI Agent also told me that the defenses under IPKA and Hague Convention were the same. My understanding is that IPKA has three defenses, none of which is the "well settled" exception.

   I would hope that U.S. Law Enforcement considers international parental kidnapping as a violent crime against innocent children and that the FBI becomes immediately involved - without having to wait for a Hague Case to be resolved overseas.

   Parental abductors usually count with a support network of family and friends who aid in the kidnapping or its continuation. These individuals shall be investigated and eventually be criminally liable for aiding and abetting.

   These accomplices, whether they are family, friends, or even family attorneys, shall be criminally charged with kidnapping and conspiracy to kidnap.

   Prosecuting these individuals makes sense not only because they will be held accountable for their crime, but also because law enforcement may obtain valuable testimony against the abductor and/or other accomplices. Taking action against accomplices could also persuade the abductor to voluntarily return children retained abroad.

3. THE DEPARTMENT OF STATE– shall consider implementing immigration sanctions against accomplices, irrespective of whether the abducted children were taken to a Hague partner country or non-Hague partner country.

   The State Department can build a database with the names of all individuals involved in the illegal retention overseas –including family, friends, attorneys, and judges.
   Under this scenario, these individuals could encounter a big surprise next time they go to an American Consulate for their visa renewal. Denying U.S.

> visas can become an extremely powerful tool on resolving international parental abduction. Please consider implementing immigration sanctions as soon as possible against abductors and their accomplices -irrespective of the country of destination where the abductor has taken our children.

I would like to finish my testimony by emphasizing that every day counts. Time does not erase our memories or heal our pain. Time triggers an awful lot of daily reminders. Time is of the essence and now is the time to bring our children home.

The childhood of our children in in your hands. The fate of our children is in your hands.

My special thanks to Michael G. for his extraordinary work at the Office of Children's Issues, and to Allison H. for her unconditional support throughout this difficult journey.

Last but not least, I would like to send a brief message to my children: I love you guys! I'm here for you. Always!

Thank you.

Mr. SMITH. Thank you, Mr. Garaicoa, for that very powerful testimony and your recommendations for additional actions. I think they were very well-founded.

Ms. Littleton? I yield such time as you may consume.

STATEMENT OF MS. MICHELLE LITTLETON, MOTHER OF THREE CHILDREN ABDUCTED TO LEBANON

Ms. LITTLETON. Chairman Chris Smith, Congressman Bill Posey, and distinguished members of the committee, thank you for holding this important and urgent hearing on international child abduction.

My name is Michelle Littleton, and my three beautiful children—Ascila, Leilah, and Yousef—were kidnapped from their hometown of Mission Viejo, California, by their father, Mazen Fawzi Matar, on January the 4th, 2017.

It was the middle of the school year on what was supposed to be a 10-day vacation over Christmas break. While most children were returning to school, my children were boarding a plane and being kidnapped to war-torn Lebanon, where dozens of other American children had already been abducted to and never returned.

For 1 year prior to the abduction, my family fought to prevent this nightmare from happening by pleading with Judge James Waltz of Orange County to prevent the trip. Eventually, Judge Waltz felt I was just being difficult and took my custody away so my ex could obtain passports without my consent. After he obtained the passports, I had to agree to the trip to have partial custody back.

Judge Waltz should have listened to my desperate warnings. By not researching the Lebanese history of non-returns, he failed to protect the very United States citizens he serves.

All judges should have awareness of IPCA and strongly consider the risks involved when approving international vacations, especially when one parent is communicating fears of abduction and the data is available to show that return from a particular country is extremely difficult or impossible.

My worst fears for both of my daughters' safety and well-being became real when I requested the State Department perform a welfare and whereabouts visit. During the visit, the grandfather stated that my girls are almost of age to be married. They were 12 and 13 at the time.

There have been times when the Embassy could not visit the children, either because it was not safe for the staff to travel to Tripoli or because my ex-husband denied access. I have gone several months at a time without being able to contact my children. I cannot imagine the heartache my children must be feeling, especially my son, Yousef, who was only 5 years old when he was abducted and ripped out of my arms.

With the help of my Lebanese lawyer, Mhomad Ayoubi, I have been able to slowly but successfully navigate through the foreign and complex Lebanese court system. However, 2 years into my fight and I am still up against my ex-husband's delay tactics from Lebanon, enabling my husband's tricks.

He has filed appeals to every victory I have won. I have even won full custody in Lebanon. The Lebanese civil and execution

courts have ordered the children to be returned to me in the United States immediately. Not surprisingly, my ex filed an objection to the execution enforcement order based on what he calls "no jurisdiction" for the Lebanese authorities to enforce their own return order.

It has been 3 weeks since he filed the objection to the enforcement, and he may be able to run the clock for another 8 weeks or more with frivolous delay appeals.

I am grateful that Lebanon has recognized the situation for what it is—a kidnapping—and issued orders for my children's return to their home here in the United States. But my ex, who is a U.S. Citizen, is making a mockery of Lebanese courts, U.S. Courts, and, worst of all, putting at risk the lives of our children. This should not be tolerated by the Government of Lebanon or the United States.

I have not been able to see my children in 2 long years. I have asked if I could travel to see my children, but I am told it is too dangerous. This is my painful reality and hell that I have been living for 2 years.

I want my children home for the holiday more than anything in this world, and me and my children have the right to be together now, right here on American soil. It must end at once, with my children at home with me.

This could be a watershed moment for U.S.-Lebanon relations. Although the United States has had dozens of children abducted to Lebanon, I do not know of any cases before mine with a court order for return from a Lebanese court. In fact, there have not been any court-ordered returns ever reported to the State Department. Zero.

With the current court orders in place in my case, Lebanon could for the first time return an abducted child to the United States. It would be a timely and welcome gesture of cooperation between Lebanon and the United States as we seek justice for children abducted, wrongfully retained in either country. It goes both ways.

The State Department and law enforcement have been so helpful in my case, and I am thankful that they have even more tools at their disposal in the Goldman Act if Lebanon fails to enforce the return orders they have issued. Almost $200 million and so much more is provided in aid to keep Lebanon safe and strong. So much is at stake.

Isn't it time for Lebanon to enforce the return orders that they have already acknowledged to send my children home? I call on the State Department to use every tool at its disposal to bring these American citizen children home immediately. And I appeal to Lebanon to, please, quickly enforce the return orders Lebanon has justly upheld. Set the example so that any parent now considering the child abuse that is child abduction will know that Lebanon does not aid kidnappers.

I have one message for my children: I love you, and I am fighting for you, and I cannot wait for you to come home.

Thank you.

[The prepared statement of Ms. Littleton follows:]

Hearing: Reviewing International Child Abduction

Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations

Testimony by Michelle Littleton

Mother of Ascila, Leilah, and Yousef Abducted to Lebanon

December 10, 2018

Chairman Chris Smith and distinguished members of the Committee, thank you for holding this important and urgent hearing on International Child Abduction. My name is Michelle Littleton, and my three beautiful children, Ascila, Leilah, and Yousef were kidnapped from their hometown of Mission Viejo, California by their father Mazen Fawzi Matar on January 4, 2017. It was the middle of the school year on what was supposed to be a ten-day vacation over Christmas break. While most children were returning to school, my children were boarding a plane and being kidnapped to war-torn Lebanon.

For one year prior to the abduction, my family fought to prevent this nightmare from happening by pleading with Judge James Waltz of Orange County to prevent the trip. Eventually, Judge Waltz felt I was just being difficult and took my custody away so my ex could obtain passports without my consent. After he obtained the passports, I had to agree to the trip to have partial custody back. Judge Waltz should have listened to my desperate warnings. By not researching the Lebanese history of non-returns, he failed to protect the very United States citizens he serves. All judges should have awareness of IPCA and strongly consider the risks involved when approving international vacations, especially when one parent is communicating fears of abduction and the data is available to show that return from a particular country is extremely difficult or impossible.

My worst fears for both of my daughters' safety and well-being became real when I requested the State Department perform a Welfare and Whereabouts Visit. During the visit the grandfather stated that my girls are almost

of age to be married. They were 12 and 13 at the time. There have been times when the Embassy could not visit the children either because it was not safe for the staff to travel to Tripoli or because my ex-husband denied access. I have gone several months at a time without being able to contact my children. I cannot imagine the heartache my children must be feeling, especially my son Yousef who was only five years old when he was abducted.

With the help of my Lebanese lawyer, Mhomad Ayoubi, I have been able to slowly but successfully navigate through the foreign and complex Lebanese court system. However, two years into my fight and I am still up against my ex-husband's delay tactics and Lebanon enabling my ex-husband's tricks. He has filed appeals to every victory I have won. I have even won full custody in Lebanon. The Lebanese Civil and Execution courts have ordered the children to be returned to me in the United States immediately. Not surprisingly, my ex filed an objection to the execution enforcement order based on what he calls "no jurisdiction" for the Lebanese authorities to enforce the return order. It has been three weeks since he filed the objection to enforcement, and he may be able to run the clock for 8 weeks or more with frivolous delay appeals.

I am grateful that Lebanon has recognized this situation for what it is, a kidnapping, and issued orders for my children's return to their home, here in the United States. But my ex, who is a US citizen, is making a mockery of Lebanese courts, U.S. courts, and, worst of all, putting at risk the lives of our children.

This should not be tolerated by the government of Lebanon or the United States. I have not been able to see my children in 2 long years. I have asked if I could travel to see my children, but am told it is too dangerous. This is my painful

reality and hell that I have been living for two years. I want my children home for the holiday more than anything in this world, and me and my children have the right to be together right now, right here on American soil. It must end at once, with my children at home with me. This could be a watershed moment in U.S.-Lebanon relations. Although the United States has had dozens of children abducted to Lebanon, I do not know of any cases before mine with a court order for return from a Lebanese court. In fact, there have not been any court-ordered returns ever reported to the State Department. With the current court orders in place in my case, Lebanon could for the first time return an abducted child to the United States. It would be a timely and welcome gesture of cooperation between Lebanon and the United States as we seek justice for children abducted or wrongfully retained in either country.

The State Department and law enforcement have been so helpful in my case and I am thankful that they have even more tools at their disposal in the Goldman Act if Lebanon fails to enforce the return orders they have issued. Almost $200 million dollars and so much more is provided in aid to keep Lebanon safe and strong. So much is at stake. Isn't it time for Lebanon to enforce the return orders that they have already acknowledged and send my children home?

I call on the State Department to use every tool at its disposal to bring these American citizen children home immediately. And I appeal to Lebanon to please, quickly, enforce the return orders Lebanon has justly upheld. Set the example so that any parent now considering the child abuse that is child abduction will know that Lebanon does not aid kidnappers.

Mr. SMITH. Ms. Littleton, thank you so very much for that strong testimony, for the appeal to our Government to use every power at its disposal to use every tool to bring these American children home immediately.

I think that is part of the message that we are trying to send to the White House and to the Department of State, that you have tools in that toolbox that remain unused, and because of that, the people on the other side of this issue—and that is to say, the kidnappers—are able to game the system in such a way that they stall, they play out, buy years, and at the end of the day, your children and the children of so many Americans never come home while they are children—maybe as adults, but certainly not as children.

So I do have a few questions I would like to ask.

Both, Jeffrey, you and Mr. Garaicoa mentioned that you won in court—no, you mentioned you won in court, Ms. Littleton, that you won custody. On the enforcement issue, that seems to be perhaps one of the biggest Achilles' heels in all of this. Win, win, win—even David Goldman, on whose case I worked, he was in a situation where he would win cases and then they would just appeal. It went on for years. And it gets to the point where you spend so much money and time and effort, they hope that you will just pack your bags and go home, which you don't do and so many others don't do. They double down and try even harder.

But at the end of the day, you get things like the Article 13(b) exception to return, which was used in the Cook case, saying, as they did in Japan, that living in an apartment is a "grave threat to the children's well-being," which is absolute nonsense. A lot of Americans live in apartments. There is nothing wrong with that. It is a great way of—if you don't have enough money for a mortgage or you are more transient, of just that is where you decide to live. But in his case, he had to spend down so much to get to the point where the very home, his abode, was a simple apartment. And then that is used against him in court again.

So, Jeffrey, you might want to speak to that issue, because I think that is utterly perverse, that a court or any judicial or governmental body would use that kind of logic.

And on the enforcement issue, as you mentioned, Mr. Garaicoa, about the intimidation factor in the courts. You talked about the special—how did you put it? Just let me get it correct. The custody evaluator said that on the case of the doctor from Miami that he was threatened with prison in Ecuador for perjury.

The threat, however strongly it is made, of possible prosecution can have a chilling effect on what happens after that. And that goes for judges as well. If they feel they may be subjected to that kind of abuse, they may rule the other way.

So you might want to speak to that as well. Because I think the idea of restitution is a very dangerous tool in the hands of a kidnapper and an abductor.

And then, finally—and then I will go to Mr. Posey, and I do have some additional questions—just speak to the issue of if any of you can explain or give any insight as to why you think both the Obama administration and now the Trump administration have not used the tools that were given to them.

When I authored the Goldman Act, we took many of the prescribed sanctions that were embedded in the International Religious Freedom Act as a very good template on what we can do on a human rights issue. And this human rights issue is used against Americans and American parents who are left behind. And it seemed to me that we had a well-founded group of sanctions. And demarche was to be the beginning, not the beginning, the middle, and the end and the only thing that is employed. It was just meant to be the warning shot before all the other sanctions begin to kick in.

So if you could speak to that.

And then you have all, in your testimonies, made an appeal for that, but if you could also just, you know, in a couple of sentences or two, if President Trump were sitting here, if Secretary Pompeo and others in the chain of command were sitting here—because they have to execute the laws, they have to implement the laws. We write them. But we do oversight as well, and that is what this is, to say, please, Mr. President, just implement the law.

And as you say with the GSP, Mr. Garaicoa, if GSP was put on the chopping block, the abductions would go away. They would stop this horrific game, this dangerous game, this ugly game of siding with abduction and with kidnappers.

And I will go to you.

Mr. MOREHOUSE. So, in response to the question regarding how it works in the courts in Japan and the exceptions they are creating, it goes beyond just The Hague abduction convention and really falls all under the continuity principle, where they will not change current circumstances and really just ignore how the child ended up with the kidnapping parent.

We saw this play out in Mr. Cook's case, where they engineered the end conclusion that they wanted to get to, which was to not return the children, by crafting a best-interest-of-the-child argument based on living in an apartment. And as you pointed out a moment ago, many Americans live in apartments. My son, when he was born, we lived in an apartment in New York. It is a very common part of American society and, I will note, also in Japanese society. So it is really kind of a hollow argument that they made there.

In my own case, as you may or may not recall, the last case took a year. We thought we had a real chance at proving that he had a great life available to him here in the United States at home. Went through all of the motions. I had to present to court investigators pictures of my house, my neighborhood, square footage, all of these great attributes of living in the Seattle area. And they just sat there and marveled at photographs of a very average American house, discussed that, asked me several questions, with no real intent of doing any judicial investigative process.

It was all pre-engineered, even to the point of the fact where they asked for us to present a reunification process for Mochi and me. And we drew it out in a very Japanese style. It was going to span about a year to reunite him, which truly is absurd under the circumstances, but I was willing to go to that extent. They never even looked at it seriously in their ruling.

They simply ruled that the U.S. Custody order that I have had since 2008 has legal effect in Japan, denied her all custody rights

under Japanese law. So, ergo, I am the sole custodial parent of our son, both in the U.S. And Japan, and they are unwilling to enforce that.

And then simply on the unwillingness to reunite, I think that was based on, as I testified earlier, he expressed his true opinion months earlier to an attorney. They had many months to sanitize that response and provide an answer for what the court wanted to hear in order to justify not reuniting Mochi and me. Just another example of how the continuity principle works in Japan.

Mr. SMITH. Thank you.

Mr. GARAICOA. Mr. Chairman, with respect to the intimidation issue in the lower court in Ecuador, the U.S. Custody evaluator, Dr. Miguel Firpi from Miami, is a very well well-known professional that has over 20 to 30 years' experience in hearings, and he is one of the few people actually in Miami who has gone to different countries to appear in Hague cases.

And he called me the following day, and he said: Mr. Garaicoa, I cannot explain this to you, but I have never, ever experienced something like what happened or transpired yesterday in Quito. I am glad to be back in Miami. At one moment, I thought I was not coming back. The opposing counsel threatened me with calling the district attorney's office that day, at that time in the afternoon in Ecuador. I was threatened that my passport would not be given back to me and that I would not go back to the U.S. Because you are committing perjury.

He was not—and this too—the judge did not contain the opposing counsel. She kept quiet. So Dr. Firpi told me, I could not give my testimony in a free manner. And to my surprise, the other professionals that were about to testify via videoconference were not allowed to testify. And I am sorry to tell you, but the judge was completely biased, and this is not looking good.

The hearing that day did not finish, did not end, because there were other witnesses in Ecuador. But he told me, by the day this hearing is over, chances are that the judge is going to rule against you. And that is, in fact, what happened.

Dr. Firpi told me just last week when I knew about this hearing in Congress, he told me that he would be willing—more than willing to testify here at some point. And I think it would be interesting for you to hear from an independent professional how a foreign court works and whether that court is being fair or unfair. And he is willing to come or to testify via videoconference at any moment in time.

Ms. LITTLETON. Thank you, Chairman.

I think that, in general, it is very easy to look at Lebanon and recognize that they are not compliant. So far, no children have ever been returned from Lebanon. I think we are moving forward into a better space and relationship with them. They are definitely putting the right foot forward. They are here today. But more has to be done.

And the fact that there has never been a child returned from Lebanon is frightening, as a mother who has daughters who could be married off. And we know that because the welfare and whereabouts visit that the Embassy did proved that. So, I mean, are we

going to send them another demarche when my daughter is married off?

Mr. SMITH. Mr. Garrett?

Mr. GARRETT. Mr. Chairman, the only people more frustrated in this room than perhaps yourself and your staff, than me, are the ones at that table. And I want to concede that on the front end.

Having said that—and I am leaving this body in just a few short weeks, and there are a lot of reasons I will be glad to be gone. And one of them is that we sit in this room oftentimes and identify real problems with real victims, many of whom are human beings, every one of whom has import in my world view, to include not only yourselves but your children, and we talk at these problems and we don't solve them.

Now, I want to commend the chair of this subcommittee, Mr. Smith. Goldman has the teeth to make this happen. But there are 435 Members, 441 including non-voting Members, in this chamber and 100 across the hall, and there is 1 guy sitting in the White House. And everything in this world, tragically, becomes a carrot and a stick. And we have the stick to make the Japanese and everyone else play ball if we are willing to use it.

What I have seen in so many areas—and I shall not digress—as it relates to U.S. Policy with regard to anything from who we support in conflict zones abroad, to whether or not we put a priority on the sanctity of your familial relationships with the people who you love in a way that we can't understand unless they are our own family members, we subrogate oftentimes that which is seemingly micro for the macro. My submission would be that if we do the small things right the big things generally will tend to take care of themselves.

But I hope that somebody in the executive branch is watching this, because they can fix this right now simply by suggesting that 12 F-35s might become 10, or what have you. These things aren't terribly important, tragically, to the people in the executive branch, whether in this country or abroad. If they were more important, I would bet we would see some movement.

Having said all of that, again, this is not in any way to impugn the folks in this room. I think Mr. Smith has done all that can be done over a number of years, as have each of you. But these are things that we need to get on the radar of the people who can make the changes immediately. And, again, I am not trying to lecture you. You all know this.

I can't begin to have empathy, praise God, for each one of you and your suffering. But it matters. It ought to matter. And if Congress were to decide that we were going to fix this and we really leaned into it, it would probably be fixed in a few years. We can fix this at Pennsylvania Avenue now. And so I hope someone is looking. I hope a phone call is made.

Again, I understand that there are courts, et cetera, of basic jurisdiction in various places, but some of these cases that you are describing, cut and dried, right? Agreements on both sides of the water.

So I wish that my words mattered. I hate mere words. But I commend you for what you are doing. To the extent that I am able to help during my time here and after, I will.

This is really, truly symptomatic of mistakes that we make, I think, in the foreign policy realm by virtue of prioritizing relations, say, with Japan over relations between a mother and child, father and child. And I, again, think that you can have good relations with our colleagues in the global community and prioritize these familial relations, and, candidly, I don't think they are mutually exclusive.

And, secondarily, I think they might be even better if we showed that we actually adhere to the values that we say we do. Because that is where I think we fail in the grand scheme. People are looking to see what this country does, not what it says. And what we are saying is all the right stuff; what we are doing is not generating the results.

So I thank you and yield back. And I genuinely and sincerely thank you for the privilege of having been able to work with you. And, again, I wish condolences meant anything. It is tragic, what you all are going through, and I hope that it sees a rapid end. But I fear that until we attitudinally shift how we do business internationally that it will continue.

Thank you.

Mr. SMITH. I thank you, Mr. Garrett. And thank you for your service on this subcommittee and your profound commitment to human rights.

Mr. Posey?

Mr. POSEY. Thank you again very much, Mr. Chairman.

And, again, I would be remiss if I didn't state how disappointed I am that the State Department is not here and can't help answer or validate some questions that have arisen because of the testimony that we have heard here today.

For example, the last time our staff and I met with Ms. Littleton, the Department of State was there, and we talked about a number of different approaches that they might try to execute to make these things happen a little bit more efficiently. They promised to update us, and they did, in fact, recontact us and tell us that the local law enforcement had gone to the children's school to execute an order, and they planned, actually, to take the kids into possession and return them to you. But can you just imagine, on that particular day, the kidnapper didn't let the children go to school. And he refiled to appeal every other finding.

So, you know, I think the political pressure definitely needs to be applied at a higher level. As was mentioned here, when we interface with the local authorities, there is obviously more than a little bit of corruption, and they are not on our side, like so much of the international community.

Do you know, each of you, if any criminal charges have been filed against the kidnapper?

Mr. MOREHOUSE. Yes, I am aware of criminal charges being filed.

Mr. POSEY. Have they been filed? It has been 8 years.

Mr. MOREHOUSE. Yes. Yes.

Mr. POSEY. Have they been filed?

Mr. MOREHOUSE. Yes.

Mr. POSEY. Is your ex wanted by the FBI for interstate transportation of children illegally? Or what is the charge?

Mr. MOREHOUSE. It is under IPKCA, the International Parental Kidnapping Crime Act, and passport fraud.

Mr. POSEY. Okay. How severe is the penalty for that?

Mr. MOREHOUSE. I would have to look at the statute, but they are extraditable because it does meet the comity—it meets Japanese law under the interpretation of the Department of Justice.

Mr. POSEY. Because that is pretty significant. I think that got left out of the testimonies here.

Sir, your case?

Mr. GARAICOA. To my knowledge, in Ecuador, or people who have found a safe haven in Ecuador have not been criminally charged by the Department of Justice here in the U.S.

Mr. POSEY. But where were your children kidnapped?

Mr. GARAICOA. My children were kidnapped to Ecuador. They were taken from Miami to Ecuador by their mother.

Mr. POSEY. Well, you know, it——

Mr. GARAICOA. And I met with the FBI in Miami, and they told me they are not going to do anything unless I win the Hague case in Ecuador.

Mr. POSEY. Okay. So you have to win a case against Ecuador, a foreign court, before. And I wonder why your FBI office is different from your FBI office.

Mr. MOREHOUSE. If I could address that briefly.

My colleagues and I have met in the past with the Office of the Attorney General at DOJ—not directly with the office, but underneath in the building. And we have cited the fact that there has been gross inconsistency in the FBI throughout the country with regard to responding to parents of kidnapping cases. I have seen instances as he has described as well as parents being turned away, claiming that the parent needed to file local charges first.

Nowhere under the Federal statue does it require any sort of prerequisite. So I do not know if it is a fundamental lack in training, policy, or just a desire to push parents away because, in the end, these cases are hard to prosecute and they would rather put resources elsewhere. But it is important to actually get this on the record and get it cited.

And the last thing I will just add in response to that is our coalition of organizations has asked for the past several years for DOJ to provide statistics on how many cases they have pursued and indicted under the International Parental Kidnapping Crime Act of 1993. To date, they have declined, stating that they do not collate those numbers, and advised us to reach out to each district office throughout the country. Frankly, I think that is kind of a nonsense response, but that is what they tell us.

Mr. POSEY. Thank you. Yeah. I am not a lawyer, but I think your court proceedings make it very clear that the children are basically being kidnapped out of Miami. And I am shocked that you couldn't get any charges filed and he could.

Ms. Littleton, how about you?

Ms. LITTLETON. There is a Federal warrant from the FBI for international parental childhood abduction. There is a warrant.

Mr. POSEY. There is a warrant. Okay. So two out of three.

Mr. MOREHOUSE. But, if I could just add to that, in my experience in knowing hundreds of cases, we are the outliers that actu-

ally have received response and indictments by the Department of Justice. It is highly unusual.

Mr. POSEY. Okay. Thank you.

And, again, you wonder what the parents are telling their home countries too, you know, that are obviously taking the kidnappers' side. And it would be like, if you went over there and kidnapped your kids back and brought them over here, they would be filing motions saying that you molested the children and all kinds of terrible things, and why we should send them back to the country with them. I mean, so, you know, it is not clear-cut, probably, to the other side of the authorities either. They don't hear your side; they are obviously just getting the other side.

Do we know if there are children in the United States who have been abducted in other countries by Americans and are held here and the people from the other countries are trying to do just the opposite? Are we aware of that?

Mr. MOREHOUSE. Yes. There are cases where children have been kidnapped from foreign countries to the United States.

Mr. POSEY. How many?

Mr. MOREHOUSE. I don't have the exact figures on that. I do know the Department of State publishes those numbers, or did in the past, on their Web site prior to the Goldman Act. And they would list, year by year, the number of incoming cases, as they call it.

Mr. POSEY. Okay. Do you know how the status works on any of those? Do we respect a foreign court's jurisdiction?

Mr. MOREHOUSE. My understanding from meetings with the Department of State on that topic is that is handled by the courts that adjudicate it. And the general answer could be yes, but I think, as you pointed out, they get into the details and the he-said-she-said component. So one could make an argument that we may not be perfect on this as well.

However, I do think our American rule of law does apply, and hearsay is probably not allowed in those jurisdictions the way it is in Japan and, I presume, in Lebanon and Ecuador and many other countries that stack the deck against American citizens when our children are kidnapped abroad.

Mr. POSEY. Yeah, you would think there should be maybe an international court, but then you see what happens at the U.N. Same thing. You know, it is all against us.

Just out of curiosity, is Judge Waltz still on the bench?

Ms. LITTLETON. Yes, he is.

Mr. POSEY. You would not have had a problem were it not for his poor judgment, if I understand your testimony correctly.

Ms. LITTLETON. That is correct.

Mr. POSEY. Is he aware of what this turned into?

Ms. LITTLETON. He is fully aware, and he actually finished doing the final court orders, the final return orders that we submitted to the Lebanese civil court that Lebanon has acknowledged.

So he has tried to make it right or rectify it. But I have been left to the fate of my lawyer in Lebanon using the court documents that Judge Waltz is now sending to have my children returned.

Mr. POSEY. And he seems like—your attorney there, I was on the phone with you one time where we did a conference call, and he

seemed pretty confident—seems confident and competent. And I guess he did get everybody to the point they wanted to go, until the local police muffed the execution of the order for whatever reason, or however reason the kidnapper knew about it. And, you know, that is kind of sad.

Mr. Chairman, I think it is really clear that we need to get some level of the State Department involved, at maybe a higher level that would actually want to show up at a hearing and see what was said and be up to date on this stuff.

And I think, to the point of the witnesses today, clearly, the local level of governments are not going to be responsive. I don't think we are going to expect to see any change of behavior on their part unless we get higher-level interaction on our part. And they have all mentioned the possibility of sanctions being the key.

And, I mean, this is not on the radar screen of most Americans, but if you know about one of these cases and you know about the injustice of one of these cases and you think about the children of these cases, it should shoot far up the interest screen of any agency, particularly our Department of State. But, you know, I don't have an answer right now, except some of those things that I have expressed that we should pursue further with our Department of State.

But I just want to thank you for your interest in this, as you have so many other humanitarian issues and stood on so much principle for the betterment of mankind. I am deeply grateful to you, sir.

Mr. SMITH. Mr. Posey, thank you very much. And thank you for being such a great advocate for Ms. Littleton. I think that shows a clear concern for, as she put it, the hell that she is living, 2 years now, having her children abducted.

You did mention in your testimony, as we have seen so many times all over the world, you have won case after case, you have full custody, and yet there is always the frivolous appeal that follows by your ex.

And my appeal from this chair now to Lebanon, as you pointed out here:

> "With the current court orders in place in my case, Lebanon could for the first time return an abducted child to the United States. It would be a timely and welcome gesture of cooperation between Lebanon and the United States as we seek justice for children abducted and wrongfully retained in either country."

I mean, that is a level-headed appeal to a country with whom we have strong relations and friendship, notwithstanding some other issues that complicate it at times. But this seems to be, on a purely humanitarian basis, something they could do tomorrow—enforce the orders. And I hope that they will take that from you being here today.

And I would point out and I am grateful, there have been many members of the press here today. C-SPAN has also covered this, and we are deeply grateful for that, because that allows the American people to hear you and to hear what American parents are suffering because of parental child abduction.

And, Mr. Posey, as you pointed out, we have had the State Department here before. We have had the high-level individuals. For the record, when I introduced this, it took 5 years to get passed. The Obama administration was opposed to it when Hillary Clinton was the Secretary of State. When John Kerry got that position things changed within State, and I am grateful to him for that, because we would pass it in the House and it would languish and die in the Senate. And it took 5 years to get the Goldman Act enacted into law.

But a law is only as good as its enforcement. And, certainly, the prevention part of it is doing better and doing well; not as good as we would like it to be. But the second part, the returns of children, has been a failure.

And it is only a failure due to lack of enforcement. Again, as Juan said earlier, if we would just say GSP is at risk and we mean it, we would have their attention full bore, and they would make a change in these dilatory tactics as well as their injustices being meted out to left-behind parents.

And, again, there is always the issue of reciprocity. We do try in this country to honor our Hague Convention obligations, and that is to non-Hague countries as well. But our idea is that it is the rule of law. Custody needs to be determined at the place of habitual residence, not in some far-off court of law somewhere, where a judge may not be Hague-literate and not know the issues like parental alienation and the damage it does do to children.

So we need, I think, perhaps, to do a letter to President Trump and include your testimonies and some of the other very, very high-profile cases that make the case for robust and rigorous enforcement. And it also ought to go to Secretary Pompeo as well.

I have raised it at the highest levels myself, but when you hear what you had to say here today, you can't help but be moved mightily to do far more. And, hopefully, the President will have that same view. Enforcement has been the problem since enactment, and it is time for that to change. The pivot day should be today.

So if any of my distinguished panelists or any of you would—any final comments?

Okay. So thank you. We will work with you. It is bipartisan, I am happy to say. And my hope is that your children will be home soon. God bless you.

[Whereupon, at 3:45 p.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Record

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
Christopher H. Smith (R-NJ), Chairman

December 4, 2018

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs to be held by the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at http://www.ForeignAffairs.house.gov):

DATE: Monday, December 10, 2018

TIME: 2:00 p.m.

SUBJECT: Reviewing International Child Abduction

WITNESSES: Mr. Jeffery Morehouse
Executive Director
Bring Abducted Children Home

Mr. Juan Garaicoa
Father of Two Children Abducted to Ecuador

Ms. Michelle Littleton
Mother of Three Children Abducted to Lebanon

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON *Africa, Global Health, Global Human Rights, and International Organizations* HEARING

Day *Monday* **Date** *December 10, 2018* **Room** *2172*

Starting Time *2:02pm* **Ending Time** *3:45pm*

Recesses [ ] (____to ____) (____to ____) (____to ____) (____to ____) (____to ____) (____to ____)

Presiding Member(s)

Chairman Smith

Check all of the following that apply:

Open Session [✓]
Executive (closed) Session [ ]
Televised [ ]

Electronically Recorded (taped) [✓]
Stenographic Record [✓]

TITLE OF HEARING:

Reviewing International Child Abduction

SUBCOMMITTEE MEMBERS PRESENT:

Rep. Garrett, Rep. Meadows

NON-SUBCOMMITTEE MEMBERS PRESENT: *(Mark with an * if they are not members of full committee.)*

Rep. Posey*

HEARING WITNESSES: Same as meeting notice attached? Yes [✓] **No** [ ]
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

-Chairman Smith: Rachelle Smith's Testimony 12-10-2018

-Chairman Smith: Ravindra Parmar Testimony_House Foreign Affairs Committee_December 10 2018

-Chairman Smith: Simindur Kaur for the Record--Reviewing Int'l Child Abduction

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED _____

Subcommittee Staff Associate

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

Good afternoon. My name is Rachelle Smith. My 3 year old son, Dexter, was abducted by his father and taken to Lebanon on August 24th, 2018.

Congressman Smith, Congresswoman Bass: I am here before you today not only to share my own case and the unimaginable fear, pain, and trauma that this has caused me and my son Dexter, but also to help bring awareness to the ongoing plague of injustice that thousands of parents like myself have endured, and will continue to endure, as a result of International Child Abduction.

Before I get into the details of my case, I would like to personally thank Mr. Smith, Mrs. Bass and everyone on this subcommittee for your ongoing support in this matter and for holding this hearing today. I'd also like to personally thank Gabriel Issa, the Lebanese Ambassador to the US, Brashire Tawk, Counselor with the Lebanese Embassy in Washington, DC who has been incredibly supportive in my case, Elizabeth Richards, the US Ambassador to Lebanon in Beirut, and Senator Marco Rubio and his staff who have all shown a tremendous amount of support in my case and have taken a personal interest in seeing that my son be returned.

My son, Dexter, was born in Tampa, Florida on September 10th, 2014 at 12:14pm. He was the most beautiful, happy, baby and he was and is the love of my life. The day I gave birth to Dexter was the most incredible day of my life, and I cannot describe in words the joy, excitement, and love that I felt that day and that I've felt every day since he was born.

When Dexter was 10 months old, I separated from his father, Ali Salamey, as a result of the mental abuse and constant threats from him to abduct my son from me and take him to Lebanon, as his own father had done to his brother and sister. On the day I moved out, my son's father, told me that he would make it his mission in life to destroy me and to take Dexter from me. From that day forward, a bitter custody battle began and over the next 3 years, Dexter's father made good on his promise to try to destroy my life. He would keep me from seeing Dexter on almost every major holiday. He refused to allow me to see my son on Christmas, Thanksgiving, birthdays, Mother's Day and any other event that he knew was important to me in an effort to try to remind me that he was in control and that could keep him from me at any time he wished.

When he first began to assert his control over me by refusing to allow me to exercise my timesharing, I reached out to local law enforcement for help, and was advised to document every instance of his refusal to comply with the court ordered parenting plan. For three years, I complied with my end of the parenting plan, and attempted to co-parent with my son's father despite his constant defiance, abuse, and refusal to abide by the court's orders.

My son's father was found in contempt of court on numerous occasions for failing to comply with court orders. The court therefore ordered that my son was not to be allowed to travel outside of the US and was not to have a passport requested or issued on his behalf. Upon this ruling, I enrolled my son in the US passport assurance program in an attempt to keep my son's father from obtaining a passport for our son and leaving the country with him. Shortly after these events, on June 29th, 2017, I was awarded full physical and parental custody of our son based on the court's findings and the judge's opinion that Allowing Mr. Salamey to have time sharing or

shared parental responsibility was gravely concerning to the court and that the award of shared parental responsibility would be detrimental to our child. The judge also stated in her findings that the combination of the father's willingness to disobey the court orders and his history of withholding the child from the mother was GRAVELY concerning to the court as was the testimony from the mother that she was scared that the father was planning to take the child out of the country and withhold the child from returning. Furthermore, in order for the court to reconsider timesharing to the father, the father was ordered to have a psychological evaluation completed and file with the court, proof of completion of the psychological evaluation for review.

I finally felt that my fear for my child's safety as well as my fear of him being abducted and taken out of the country was being taken seriously and that the court was acting in my son's best interest. Unfortunately, two weeks later, this final judgment was set aside due to his attorney's argument that the proper document had not been submitted to allow the judge to make this ruling. The family law courts in this country are supposed to be held to an obligation that is different from that of all other courts. The obligation to consider the best interest, safety and wellbeing of the child. Clearly, based on the court's findings, setting aside this ruling based on a technicality could not and was not in my son's best interest.

Two weeks before my son was abducted, Dexter's father broke into my home in the middle of the night and kidnapped my son. The police were immediately contacted, and Mr. Salamey was apprehended within a few hours. Thankfully, my son was returned to me and I will never forget how it felt to hold him in my arms again after fearing the worst that night. Dexter's father was charged with felony burglary of an occupied dwelling and parental interference. I was later

informed by the FBI that Mr. Salamey had rented a truck from the airport and it was their opinion that he was most likely planning to leave the country with my son. After this event, I went to the courts to file an emergency injunction for protection from Mr. Salamey on behalf of myself and my son. What happened next is still unbelievable to me. Even after those recent events, and with his criminal charges still pending, my emergency injunction for protection was denied by the judge, and a hearing was set for the next week. On August 23rd, that hearing took place. Mr. Salamey was out of jail on bond and facing two felony charges for kidnapping my son, but I was ordered by the court to return my son to him the very next day on August 24th. The court ordered that Mr. Salamey was to have timesharing every other weekend and that he was to pick our son up from his preschool on Friday afternoon and would return him to the school the following Monday morning by 9am. That never happened. On August 24th, on the very first day of the new timesharing arrangement, Mr. Salamey sold all of his belongings, and using a falsified Lebanese passport, got on a plane to Lebanon with my son.

Now that I've had a chance to describe the details of my specific case and my circumstances, I would like to take a few minutes to speak about the issue of international child abduction as it pertains not only to myself, my family, and my son, but also to every victim of this heartbreaking crime.

Over five years after U.S. Representative Chris Smith introduced his first bill to prevent international parental child abduction, the Sean and David Goldman International Child Abduction Prevention and Return Act was signed into law on August 8th, 2014. At its core, this law gives the State Department a variety of tools to pressure foreign governments to send home

American children abducted to overseas destinations—including a list of penalties that can be applied against countries that do not cooperate in the rightful return of American children. The law also requires better reporting and support from the State Department so that left-behind parents are not on their own in overseas battles to win the return of their abducted children.

Among its many provisions, The Goldman Act has eight steps the Administration should take, increasing in severity, when a country refuses to cooperate in the resolution of overseas abduction and access cases involving American children. I believe it is important to be mindful that this law explicitly uses the wording "should take" and not "may take." By definition, the word "should" in this context means that our government has "an obligation, correctness, or duty" to use the provisions provided in the Goldman Act. And yet, since 2014 when this bill was enacted, over four thousand children, parents, and families have been the victim of this crime and in that time, the only step that has ever been used in any of these four thousand cases is the first step, which is merely a petition or protest through diplomatic channels.

I've personally met with the Department of State, which has the authority to use all of the tools provided in the Goldman Act, and I was astonished to hear from them that in over four thousand cases of international child abduction in the past four years, they have not found a single instance where they believed that using any of the additional 7 steps provided to them through the Goldman Act was warranted.

I am not a lawyer or a politician. I am not trying to imply that using the provisions afforded by the Goldman Act should be a simple matter, or to be taken lightly. I am simply a mother who

loves her son very dearly. I am a mother who was failed by my local judicial system, and now fears that I may never see my son again. I have hope in my heart, but that does not erase my fear. I am a mother, but just one of thousands of parents who is trying everything within their limited power to fight for my child, who cannot fight for himself. I also understand that my son's case may not be at a point where the use of the many tools provided by the Goldman Act may be warranted. However, there are far too many left behind parents that have been fighting to bring their children back over these 4 years and have appeared in front of this committee year after year without any additional actions being taken. Unfortunately, past behavior is the best indicator of future behavior and based on the behavior and actions that have been taken over the past 4 years since the Goldman Act was put into law, I fear that I could be back in front of this committee for years making this same statement as many other left behind parents have without seeing any of these tools being implemented. I will fight as long as it takes to get my son returned home to the US where he belongs, and I will continue to fight for all of the other abducted US children and left behind parents even after my son has been returned. I ask that we not allow the 4 years without any escalating actions being used not turn in to 5 years, 6 years, 7 years, 8 years or longer.

I would like to make one last point if I may. As I've stated earlier, I am not a politician. I do not have the political connections to bring my case to the attention of our president. However, the people in this room do. Therefore, I would like to share a comment that I recently heard from our President in 2010 while watching a documentary on US citizen that he believed was being unjustly detained by a foreign government. When asked by a reporter if he "really believed that America should intervene at the top levels of our government", his response was, and I quote, "I

think the president should get involved. This is a miscarriage of justice. I think the president should absolutely get involved". Therefore, I ask the members of this committee, the department of state, and everyone in our government including President Trump, to get involved and do everything within their power to address this miscarriage of justice.

Thank you,

Rachelle Smith

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

Ravindra Parmar
Father of Reyansh, abducted to India in 2012
Co-Founder Bring Our Kids Home

December 10, 2018

House Foreign Affairs Sub-Committee

Reviewing International Child Abduction

Respected Chairman Smith, Ranking Member Bass, Members of the Committee and Congress. I am honored for the privilege to provide my testimony before you and I commend you for holding this hearing on an important and growing issue of International Parental Child Abductions.

I had the privilege to testify about my son's abduction to India in June 2015. Since then 3 more Annual Report have been issued by the U.S. State Department, citing India for its failure to return abducted American children, retained in that country. Since then there have been 4 "Actions Taken" Reports issued by the U.S. State Department, including 4 demarches, countless dialogues and numerous instances of our "cases being raise with the Government on India". The net result, my son, Reyansh, along with dozens of other American children remain hostages in India, while the taking parents, receive safe haven in a country that refuses to act on international parental kidnapping, nor live up to its binding obligations to uphold UN. Convention on Rights of Children or the rule of law.

I am compelled to stand up and fight for a cause that transcends cultures and Nations. I am here today because my little boy, whom I love dearly, isn't with me and he has been robbed of his father's love and presence for over six (6) years. Reyansh is another victim of a crime that was not perpetrated by a stranger, but his own parent. It was a calculated, malicious act committed to inflict maximum pain on me, without any regard for Reyansh's wellbeing or rights.

On March 22, 2012, I drove my son and his mother (Dimple Khatri Parmar) to airport for what was going to be five (5) week vacation. As Reyansh and his mother were waiting at the security line at the airport, my little boy kept running towards me, to give me a hug and return back to the queue. He repeated this several times, until he could not come past the TSA agent who checked his passport and tickets. This memory has been etched in my mind permanently. Each time I see little children at the airport it reminds me of my son and a profound sense of sorrow fills my heart and my eyes begin to water. At home, I have kept many of my son's toys, clothes and other belongings intact, waiting for the day he returns home. I have kept his photo next me ever since he was taken from me. I talk to him, pray for him and share my joys and sorrows with him.

Little did I know that my son would not return for 2,453 days and counting. It wasn't until April 24, 2012 that I learnt about Reyanah's mother's decision to seek divorce in India and not return to the U.S. and her refusal to return Reyansh to his home. I was in a state of shock. She gave me no hint of her plans, but as soon as she reached India, her tone changed. I felt violated, it felt like someone ripped my heart out and left be bleeding. I would cry for days, I begged her to return home and try to work things out. I pleaded her to think about our three (3) year old

boy, who all of a sudden has to live without his father, in a country he had never lived before. Reyansh's mother ignored all my pleas. I felt betrayed by my partner with whom I was married for over 9 years.

For another six (6) months I continued to negotiate my son's return with his mother. She demanded over USD 400,000, refused to return Reyansh to the U.S., share his custody, and only offered me see temporary access to Reyansh in India a few weeks a year. I could not accept her unreasonable terms, and she took full advantage of my son's wrongful retention in India as tool to extract favorable terms. While we were negotiating, she also prepared and file for divorce and child custody in India, unbeknownst to me.

On November 7, 2012, I received an email from an Indian attorney, who claimed to present Reyansh's mother, with an ex-parte interim Indian Court order saying I cannot remove Reyansh from his mother's custody. In her petition, she alleged that she is a "victim of domestic abuse" and used cruelty as grounds for divorce. I asked her during a phone conversation why she never reported this in the U.S. If she dialed 911, she would receive help within minutes and law enforcement would investigate her allegations. She didn't have a response. I was beginning to see the extent of her deception and planning.

Reyansh's mother had planned and executed his abduction to perfection. I urged her to drop the case and negotiate with me in good faith, she insisted that if I agree to her earlier demands, there will be no litigation and we could "settle out of court". In reality, she held my son hostage and was resorting to extortion.

With the help of her family, Indian lawyers and legal system that doesn't even recognize joint custodial rights, let alone parental child abduction, she has managed to weave a complex and malicious web in India, to deny Reyansh and my rights. Each day that passes by, increases the risk of my little boy suffering from long term emotional or psychological trauma.

I sought legal advice in New Jersey and India and filed for divorce and custody in New Jersey, since all three of us were residents of New Jersey, Reyansh was attending pre-school in New Jersey and his mother and I were working full time in New Jersey. In February 2013, the Superior Court, after determining it had jurisdiction to decide the child custody and divorce case, issued an emergent order directing Reyansh's mother to return him to New Jersey immediately and cease all litigation in India.

Reyansh's mother upon being served, immediately violated that order and obtained another ex-parte order in March 2013, preventing enforcement of the New Jersey order in India. Even though under Indian rules, ex-parte interim order ought to be heard within 30 days of issues, there has been no hearing on both these orders for over five (5) years. In effect, these orders have become permanent.

In April 2013, the Superior Court of New Jersey found Reyansh's mother in violation of earlier order and again directed her to comply with the February 2013 order to return Reyansh to New Jersey. The Court also issued its own opinion on why it had personal jurisdiction over Reyansh's mother, based on the principle of "minimum contact" and that Reyansh was wrongfully removed from New Jersey in violation of my custodial rights. On this basis, I challenged the Family Court of Pune's jurisdiction to decide my son's custody and divorce. New Jersey orders

were also submitted to the Family Court, Pune, however in June 2013, the Court, based on a flawed and frankly insufficient determination, decided that it had jurisdiction to decide the divorce and custody in India.

I appealed this order in the Bombay Hight Court. In October 2014, nearly 10 months after the New Jersey Court had dissolved my marriage and granted me sole, legal and residential custody of my son and found my ex-wife in default of multiple New Jersey Court orders, to my shock and dismay, the High Court reaffirmed the Family Court, Pune's decision and stated that not only was Reyansh's mother domiciled in India, so was I. It concluded that because my marriage took place in India and I had ancestral residential property in India, I had the "intention to be domiciled in the future". The Court's decision ran counter to facts and existing case law. I had immigrated to the U.S. in 1994, became a naturalized U.S. citizen in 2002, have lived and worked in the U.S. continuously since 1994 and had no intention to reside in India. In January 2015, I appealed the High Court decision to India's Supreme Court, who declined to admit my petition.

Since 2015, my petition to enforce the New Jersey divorce and custody decree in India have been stalled in the Family Court India. My motion to seek interim parental plan, has also been stalled. No hearing has been taken place in the last 3 years on the above matters. In the meantime, petitions and motions filed by my ex-wife subsequent to my filings, have been heard and decided in her favor. I am left with a barrage of adverse orders from Indian Courts, inaction on my petitions and motions and chronic and systemic disregard for my son's wellbeing. Since 2016, I volunteered to pay ad-hoc child support, with the hope the Family Court will focus on the core issue of child abduction and enforcement of New Jersey decree, however no progress has been made.

In December 2017, I petitioned the Family Court in Pune, India for temporary access to my son during his Christmas vacation. The day the hearing was scheduled, the Judge was absent, my ex-wife's attorney would not cooperate to schedule a hearing before the start of Christmas vacation and insisted on a hearing in early January 2018, thus making my access petition infructuous. My father travelled from Mumbai to Pune (10 hour round trip) the very next day to request the Judge to hear the matter on an urgent basis. However the Family Court Judge declined to do so, insisting that I pay 50% of the "child support arears" based on his September 2017 order, which I had challenged and pending a hearing. This "child support arrears" was in addition to over USD 10,000 I have already paid and the Family Court, Pune ordered me to pay approximately USD 1,000 per month starting from November 2012, i.e. USD 60,000 of arrears, which it determined without merit via its September 2017 order. Fortunately, the Family Court, Pune accepted my challenge to the child support order, and vacated the earlier order.

In January 2018, after being denied access to my son during Christmas, I mailed gifts for my son that I had purchased earlier. I filed a petition in the Family Court, Pune to allow my parents to spend time with my son and to deliver Christmas gifts to him. My ex-wife contested the application, on multiple grounds, including that the gifts I had sent were "enticements" for my son and that she was afraid I had sent "used clothes". This was outrageous, but the Family Court Judge in India, did not grant my request. On April 4, 2018, U.S. Consular staff conducted a welfare and whereabouts visit with Reyansh. During the visit, the Consular staff offered to deliver Christmas gifts to Reyansh, which were refused by my ex-wife. Thus, Reyansh's

Christmas gifts remained undelivered until November 2018, when my parents were finally allowed to visit my son after his 10th birthday. While my parents were granted three (3) hours with my son, they were only able to spend 45 minutes with him. This is the ugly reality of international parental child abduction. Child abductors, regardless of parent or stranger, perpetrate child abuse, simply by their wrongful retention of children. They show no regard for rule of law or the wellbeing of the victimized child.

My communication with my son has been disrupted since October 2017. I continue to call my son 3 days, as per my allocated time, but my calls are either unanswered, or my son answers my call, say, "I don't want to talk to you" or "stop calling me" and hangs up immediately. I know this is not my son speaking, he has been manipulated or coerced by his mother or her family. In June 2018, I visited India, after I was granted temporary access. However my ex-wife, her Indian attorney, Abhjit Sarwate, Yashwant Khatri and Harsha Khatri (my ex-wife's parents) all conspired to prevent Reyansh from spending time with me and willfully defaulted on Family Court, Pune order dated May 31, 2018.

I am the sole residential and legal custodian of my son, based on the determination by the Superior Court of New Jersey. Three (3) New Jersey Court orders that direct my ex-wife, who is also a U.S. Citizen, to return my son to New Jersey. Yet, two different U.S. Attorneys declined to prosecute my son's abduction case under 18 USC 1204. For the past six year, my parents, Reyansh's grandparents, have remained in India to help me with litigation in India. I have exhausted my savings, borrowed from my retirement account, and yet six years later, I am no closer to bringing my son home, than I was when he was abducted in 2012.

I often think about my own childhood, where my parents' presence and love was constant. I then think about my son, who has forced to deal with this trauma, who doesn't even know that he has been wronged, his dignity robbed, and his rights violated. I pray for my son's wellbeing each and every day, multiple times a day.

After 6 years of my son's abduction to India, I still don't what specific actions has the Department of State, the Office Children's Issues has taken to seek my son's return?

I am unable to understand what it means that the State Department "raises" all cases with the Government of India?

I am heartbroken to hear from State Department officials, when they say there is "no update" on the status of return applications submitted to the Government of India in December 2015.

I am frustrated each time I read that the U.S. Government has signed another trade deal or defense deal with the Government of India, yet does not sign a deal to reunite America's stolen children.

Let's look at elsewhere within our Government. Where is the Department of Justice, whose mission is;

"To enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans."

Has the DoJ lived up to its mission statement? How many parental child abductions cases have they prosecuted in that last decade? How many cases have they closed without children returning? How many offenders have they successfully prosecuted? The answers are hard to find.

It took me nearly three (3) months to get a response from the FBI to even report my son's abduction. On multiple occasion, the FBI desk agent informed me that "my son is not abducted, he is with his mother". I had to repeatedly explain the situation, refer them to 18 USC 1204, the International Parental Child Kidnapping Crime Act, reach out to my Congressional office and the NCMEC. Then finally, I received a call from an FBI agent who request more information about my son and his abduction. After 8-9 months of investigation, the FBI recommended my son's case for prosecution. However, the U.S. Attorney's office in New Jersey declined to prosecute my case, and offered no explanation. To his credit, my FBI agent reached out to the Washington D.C. office and sought their assistance. After a couple of months I find out that U.S. Attorney in D.C. also declined to prosecute my case, again no explanation was offered.

I learned from other left behind parents, that their experience with District Attorneys and U.S. Attorneys is comparable. They face multiple obstacles to even register child abduction cases and when they are registered, and investigated, Prosecutors decline to prosecute the case. We have seen this pattern repeat in dozens of cases.

As part of on-going oversight of the Goldman Act (HR 3212, 2014) and oversight of the Federal Agencies, the DoJ submitted a written testimony on November 19, 2015, for a House Foreign Affairs hearing on the issue of International Parental Child Abduction. The DoJ's testimony raises more questions than provides answers:

The DoJ states:

"*International extradition, nevertheless, remains a valuable tool for bringing to justice individuals who violate our law by absconding with a child to a foreign country or unlawfully retaining a child abroad. Integral to that effort is the U.S. Department of Justice's Office of International Affairs (OIA), which vigorously pursues extradition of parents charged with international parental kidnapping when a federal or state prosecutor seeks extradition. For example,* ***since 2000, our records show that the Department, through OIA, has opened approximately 182 cases involving persons charged in the United States with international parental kidnapping or related offenses.***"

182 extradition requests since year 2000 represent a minute percentage of outbound abduction cases (from the U.S.) reported to the Department of State ("DoS") each year, let alone those reported to State and Federal law enforcement or not reported at all.

Between 2010-2013, the DoS reported 5,007 children abducted from the United States to other nations. Assuming an average of 1,000 new abductions year each since year 2000, an estimated 15,000 children were abducted between 2000-2015. DoJ's extradition represent about 1% of estimated child abductions between 2000-2015 or 3% of the reported abductions cases between 2010-2013.

There is a compelling case for the DoJ to increase prosecutions under IPCKCA. The DoJ testimony states:

"*In those cases, approximately 61 fugitives returned to the U.S. through extradition, voluntary surrender, or deportation."*

It is important to note that percentage of successful prosecutions, i.e. where child abductors are extradited to the United States is 34%, which suggests that when USAO or State DAs decide to prosecute child abduction cases, they have higher probability to succeed than those parents who have reported child abduction cases to the DoS, where the return rate ~16% in 2016.

The DoJ asserts that criminal prosecutions do not lead to return of abducted children. It states:

"*it is important, however, to distinguish between the extradition of the parent who kidnapped a child and the return of that child to the United States. Extradition is a process to secure custody of a person charged with a criminal offense; it is not one intended to secure custody of an abducted child.*"

The DoJ further explains:

"*federal or state prosecutors may investigate and prosecute the parent, but they typically have no control over whether foreign authorities will order the return of the child. As a result, even when a parent charged with parental kidnapping is extradited to the United States, the child may remain in the foreign country in the custody of other relatives, friends, or a child services agency*"

While the extradition of child abductors from other countries may not guarantee the return abducted children, often US Attorneys or DAs will be able to negotiate the return of abducted American children, for a reduced sentence. **Lack of prosecutions, essentially allow child abductors to face no consequences for their actions, creates no deterrence to prevent future abductions, thus the cycle of abductions and inaction by the U.S. Government continues, leaving thousands of victimized children and families to their own peril.**

Victims' Report Card

So if I have to give a victims' report card. to rate our the responsiveness and effectiveness of U.S. and Indian Governments handling of international parental child abductions cases, using a rating scale that my nine year old son would understand, namely, "A" through "F", **I would give the United States Government a "D" and the our "global strategic partner" and "friend", and fellow democracy, the Government of India a solid "F"**

After several decades of collective hardships faced by left behind parents and our children, the dial on international parental child abduction just hasn't moved!

Our Government's response to this crisis is un-American. I would expect this type of response in a less developed country, and I was born and raised in one. From a parent's point of view, where is the Leadership? Where is the Urgency? Left behind parents have been kicked around like a soccer ball from one Court room to the next, from one Government agency to another,

from one elected Official's office to another. And by chance, if their stars align, then that left behind parent, like David Goldman, Noelle Hunter or Alyssa Zagaris, may get the support and justice they deserve; otherwise for most left behind parents we hit the "repeat" button and do this all over again!

Challenges In India

I wish we could say that the only challenge we face in India is systemic delays in their judiciary system. And that despite the delays, abducted American children and left behind parents, consistently get justice in India. Unfortunately, neither statements are true!

Key challenges victimized parents and children face in India include:

1) Lack of policy and law recognizing parental child abduction as crime, both civil and penal, has significant ramifications for not only Indian citizens, but those around the world who have some sort of association with India, including; cross cultural ties, marriage with Indian citizens or people of Indian origin;

2) Absence of administrative tools in India, including reporting of parental child abduction cases, domestic and international, and retrieval and reunification assistance for abducted children, means, left behind parents are compelled to litigate in a dysfunctional and ill-equipped judiciary system in India;

3) Lack of clear and transparent guidelines on a multitude of issues, including the determination of jurisdiction (i.e. domicile), child custody (including shared parenting, non-custodial parental rights), alimony, child support and distribution of marital assets; result in significant discretionary power with Judges and inconsistent quality of judicial decisions. This often leads to extensive appeals and delays justice;

4) Systemic delays and other inefficiencies in the Indian judicial system is not only leading to justice being denied to Indian citizens, but impacts U.S. Citizens and other foreign nationals who are being subjected to the jurisdiction of Indian Courts, in matters related to divorce and child custody;

Members of the Committee don't just take my word. According to the NCMEC, **86%** of all active cases of **abductions to India are open 2 years or more** and **51%** of all active India related cases are **open 5 years or more**. **21%** of all India related cases **close without the child returning or child turning 18 years**.

I respectfully urge members of this Committee and those in our Government, that you consider each of the actions listed in **Exhibit A** (below).

Conclusion

Quoting from David Goldman's May 2013 testimony before the House Foreign Affairs Sub-Committee:

"Let us also be clear what we left-behind families are asking for: Some people mistakenly believe we are asking our government to intervene in custody disputes. We are not. All we are asking is that when our children are kidnapped to thwart a proper resolution of custody, the law governing their return to our country is upheld."

"..when it comes to the international law that deals with children abducted from the United States to other lands – there is no rule of law. And the broken lives and broken spirits of left-behind parents across America, whom we represent here today, stand as a living rebuke to that failure to enforce the rule of law."

"The plain fact is that nations who refuse to return America's children pay no price for defying the law, and unless we arm the State Department with the tools they need to do their job and unless nations who break the law flagrantly and repeatedly suffer real consequences, nothing will change...nothing will change"

After almost five (5) years, those words still hold true. The Department of State, Department of Justice, U.S. Congress and the White House, have the tools to urgently and safely bring our children back. We are asking for ACTION! We are asking that you BRING OUR KIDS HOME!

Thank you, Chairman Smith and Ranking Member Bass, for allowing our voices to be heard.

Exhibit A

List of Overt Actions in Support of Victims of Parental Child Abductions – Abductors, Aiders and Abettors:

1) Departments of State & Justice, coordinate investigation and prosecution of abductors under 18 U.S. Code § 1204 - International Parental Kidnapping Crime Act (IPKCA), upon the confirmation of abduction case by the DoS;
2) Congress enact law to provide full legal, financial and reunification aid to victimized parents and children both within the U.S. and in the country where the child(ren) are wrongfully retained;
3) Department of Home Security and DoS streamline procedures to enroll children in the Prevent Departure program, including allowing a concerned parent to temporarily (period of 90 days) enroll children in the program until a Court order can be obtained;
4) Congress enact laws or amend existing ICAPRA legislation, to automatically impose visa restrictions and halt trade concessions for countries that are cited as non-compliant on the DoS Annual Report on International Parental Child Abduction. These restrictions remain in place until all abducted American children are returned;
5) An interagency action be initiated, comprising of the DoS, DoJ and DHS, to establish or enhance existing extradition treaties with those Nations that are Top 10 destinations for abducted American children. If those Nations do not cooperate, we must freeze all extradition requests from those nations until our extradition request are honored;

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

Siminder Kaur

Mother of an Abducted Child (Son) to India in 2016

Bring Our Kids Home / iStand Parent Network

Testimony for the United States House of Representatives Committee on Foreign Affairs

Subcommittee hearing: Reviewing International Child Abduction

December 10, 2018

Honorable Chairman Chris Smith, Ranking Member Bass, Members of the Committee and Congress as well as my fellow left-behind parents and their supporters. Thank you for committing your time today to address this issue of International Parental Child Abduction, an issue that is very close to my heart because I, along with my son have been on the receiving end of this extremely grave and problematic issue. I had to go through the battle to regain my only child that was so brutally and deceptively taken from me. Despite being a US citizen, he was wrongfully retained in India and kept away from his mother by his own father! I would like to share my story in hopes that no other parent has to ever go through such an ordeal.

My name is Siminder Kaur. I was born and raised in India. I married my husband in 2008 and relocated to United States shortly thereafter. Things moved fast over the years and I was not able to see what I was about to come across. During the course of marriage, there were multiple issues and our marriage was deteriorating with time, but for the sake of brevity, I will skip all of that and only talk about the events that led to my son being wrongfully retained in India as that is what will make the most sense in this testimony.

I am also a member of "Bring our kids Home", an organization founded by left behind parents seeking the return of their children from India and a systemic solution to this broader issue. It was around April 2016 when I came to know about a fellow left behind parent who had to go through extreme challenges in regards to her son's abduction to India. Unfortunately, I did not know about her case or the issues / challenges with respect to IPCA until it actually happened with me so I wish there was more awareness on this topic to prevent such things from happening. Only when it happened to me, I learnt about several more parents dealing with the dark realities in cases of international parental child abduction to India. Without having a clue about such issues, in November 2015, I reluctantly agreed to my husband's request to leave our then 15 month old toddler son temporarily with his parental grandparents in India as an attempt to save my breaking marriage. Little did I know that it could be a conspiracy and an attempt to separate me from my one and only child whom I loved dearly. I was the primary care giver of my son up until that time and I still clearly remember his first flight from US to India during which he clung to me for the entire two day journey and two days after reaching India. My son didn't feel comfortable with anyone else but his mom. Having been married for about 7 years to an Indian citizen, residing in US for past 13 years, I was facing increasing marital difficulties and domestic abuse, however

like many other women facing domestic abuse, I kept quiet in hopes of a better future. In October of 2015, all three of us went to India for a vacation to attend my husband's brother's wedding having purchased return tickets. We were scheduled to fly back to US in 4 weeks after the vacation. However, during the trip, there were some unfortunate incidents that led to the decision that we would leave our son temporarily with his paternal grandparents for a maximum of 3-4 months so we can both work on the marriage. With a heavy heart, I left my 15 month old son in his sleep and came back to US with my husband. Upon my return, I could not bear the separation and started requesting my husband to make arrangements to bring our son back sooner rather than later.

Unaware about the fact that almost immediately after returning to US, my husband started talking to lawyers both in India and US possibly to determine which jurisdiction might be more favorable to him and how he can prevent me from accessing my own son, I kept trusting and accepting his false excuses leading to delays in my son's return. By the end of 5 months, I realized that something was wrong and that my husband has no intentions to bring our son back like we had agreed. His excuses kept changing and ultimately he refused to bring our son back unless I give up my job or agree to his aggressive terms. In April 2016, when I became aware of this, I immediately informed the US Embassy and local police in India about my travel to India and asked them to help me bring my US citizen son safely back to US. Upon reaching India, I was shocked to find out that my husband had filed a false police complaint against me with the Indian police authority asking them to arrest me at my arrival in India stating mental illness and multiple other false allegations. I also quickly learned that he used his political connections in India to prevent police from helping me when I asked for assistance. When I was prevented to see my own 2 year old son, I was forced to cancel my return flight and my son's one-way ticket to US in order to gain access to him. I immediately filed a criminal writ petition of Habeas Corpus in the Punjab and Haryana High court – the highest court of a state in India and a court that has appellate jurisdiction. I had hoped to get an immediate order to be able to take my son back to US where not one, but both of his parents worked and resided. However, I was traumatized at each and every hearing when I couldn't get the relief I requested or even meaningful access to my son. My worst fears had come true. My toddler son forgot me due to the prolonged separation and failed to recognize me at the limited court-ordered visitations I was able to get.

I cannot begin to put in words how it feels when your own child rejects you. My whole world shattered in front of my eyes when I heard my son call "mom" to his paternal grandmother. I kept asking how much more inhumane can a legal system be if it fails to recognize the parental alienation and cries of a parent seeking the most basic right – right to visit their child uninterrupted by the drama and nuisance of the other side. My legal challenges began when my Habeas corpus case started getting dragged in India and I was getting nowhere to gain any meaningful access in the meanwhile. The limited visitations I got were all in presence of my husband and his family members, intentionally sabotaged by them, including the 2 hour visit on my son's second birthday, just to prevent him from bonding with me. There was a chaos in every visit and such unfortunate was the whole situation that I had to put my traumatized son to sleep, just so I could hug him. I ended up staying in India for 5 months when my original plan was only to stay for a week. In those 5 months, I went from pillar to post, attended 10s of court hearings, visited at least 10 different police stations, met at least 20 different police officers in various jurisdictions / cities because my husband and in-laws kept filing false and frivolous police complaints that I was forced to defend. None of those complaints had any merits and no action was taken. However, it caused severe harassment to me and my family and it made me realize what I was up

against. My husband used everything in his power, from money to political connections to prevent police from helping me. I was forced to file law suits as per Indian laws and yet till date none of them have been adjudicated, because Indian courts are over burdened with millions of pending cases. The disposal rate is so low that it easily takes up to 10 years for any civil matter to adjudicate fully. Indian courts often take years to decide any matter, show no sensitivity to children's issues, the cases get appealed and bounced around from one court to another, children keep growing without the love of the other parent and ultimately, the courts end up rewarding the wrongdoer by granting custody.

On August 22, 2016, I was hoping that my Habeas corpus case may finally get disposed off just like I was hoping on every single hearing leading up to that. However, I was once again shocked, paralyzed and traumatized to find out that at the conclusion of the hearing, the court continued the case to a date six months in the future without any logic behind it. When I heard that decision, it felt like earth had been removed under my feet and I was dropping in a free fall state. I could not believe what I had heard. Without any rhyme or reason, without any logical justification provided, the court dragged my case out further 6 months and what was even more bizarre was that in the meantime I had been given absolutely no access to my toddler son. While there was no restriction put on me from visiting my child but then there was no order on the contrary. So, how could I visit especially, since I was dealing with a family that would not hesitate to call the police and file frivolous complaints if I dared to visit even the neighborhood where my son was residing?

After recovering from the chronic shock treatment by the Indian legal system, I still refused to give up on my son and filed another motion asking for temporary custody of my son in the same court. My motion was dismissed in-limine without a hearing. I knew something was odd from the beginning but that action further led me to believe that justice in Indian legal system was gravely misplaced. With a heavy heart and with absolutely no access to my son, I returned to US seeking legal remedies. I filed my divorce case in TN on October 4, 2016 and I was fortunate enough to get a ruling on the very same day ordering my husband to return our son to US in 7 days and granting me the temporary custody. He was bold enough to come to court that day along with a lawyer when that order was pronounced and subsequently entered. On both the occasions, his attorneys kept arguing that India has jurisdiction over my son and that US court should defer this matter to Indian courts. How can an Indian court have jurisdiction over a US citizen child, even more so, when both the parents are living in US as permanent residents? That seemed bizarre to me and so it appeared to the US trial court which ordered an almost immediate return of my son. While I was still rejoicing for this victory and hoping to see my son very soon, on the 6th day of the order, I learned that my husband has now filed an extra-ordinary appeal in the TN Court of Appeals, once again challenging the jurisdiction of US courts over my son.

That was another shock for me and my belief that it will not be an easy battle by any means was affirmed. I defended the appeal and after 4 months of waiting, I finally won the appeal. The Court of Appeals heard oral arguments where both parents were physically present and ultimately ruled in my favor. However, knowing what I had to deal with, I was fearful that the moment my husband would lose in US Court of Appeals, there is a greater chance that he would permanently leave US jurisdiction like most other taking parents and if that happens I may lose my son permanently. The next day I learned that the United States FBI had arrested my husband on charges of International Parental Kidnapping and conspiracy to kidnap. He was not allowed to leave US jurisdiction anymore and was ordered to cooperate to bring our son back. At that time, I really thought I will see my son in the next two days, however, I was once again wrong. It took almost 20 days to get my son back as attorneys and federal

authorities tried to negotiate with my husband and his family on the "terms" of bringing him back. I was forced to withdraw my cases/complaints from Indian courts without them being adjudicated, and I was forced to give an undertaking that I shall not depose in the FBI case - conditions that I was made to agree just so I can see my son take a flight to US. Even though I thought this to be an extortion at that time, I agreed because I desperately wanted to see my son on US soil. The Department of State, the FBI, various attorneys, National Center of Missing and Exploited Children, and I, all watched as my son boarded a flight to US with his paternal grandparents praying for no other tactic or legal hurdles.

On February 22, 2017, I was crying yet another time but this time they were tears of joy. I was going to see my son after 15 months barring the 10 hours visitation on 5 separate occasions in India. I was assisted by the FBI to get custody of my son at the Memphis international airport which was not as straightforward as one would have hoped for. However, despite the challenges that I had to face, I feel one of the fortunate few ones to be able to recover my son back from a country like India which has consistently failed to cooperate with the United States in returning the abducted children.

It still brings chills to me and I get nightmares trying to recollect the long struggle and the various legal challenges that I had to go through in getting my son back. I cannot imagine what the other left-behind parents go through every single day without knowing where their children are and what their children even look like. There is an urgent need for a reform and even greater urgent need for the US government to take action by enforcing the Goldman Act. Without strict action, India and similar non-Hague countries will continue to support, aid and shelter the taking parents and the innocent children who don't even know the existence of their other parent fighting for them for years. This to me is intolerable and a human rights cause, a cause that needs to be passionately advocated for and a cause that needs increasing support from the US government. I recently became a United States citizen and renounced my Indian citizenship. I am putting my trust in United States government to protect me and to protect the rights of America's stolen children. Every child has the right to get love, care from both the parents and not just one. There is a need for greater seriousness on this issue and for more active champions on the issue of International Parental Child Abduction. Despite having so many hearings, one after the other, till date we have not seen any major steps towards a bilateral treaty or a resolution to this enormous problem. Goldman Act is a light of hope that left behind parents so desperately need. If enforced, it can help unite the left behind moms and dads with their children who have been abducted for years, and hopefully it will help prevent future abductions. I, on behalf of the other left-behind parents, request, urge, plead and demand from my new government to enforce the Goldman Act and bring this systemic problem to a resolution by action and not just words.

Thank you for your time and consideration and for allowing me the honor to provide this testimony.

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