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THE GOLDMAN ACT TO RETURN ABDUCTED AMERICAN CHILDREN: ENSURING ADMINISTRATION ACTION

HEARING

BEFORE THE

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

OF THE

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THE GOLDMAN ACT TO RETURN ABDUCTED AMERICAN CHILDREN: ENSURING ADMINISTRATION ACTION

THURSDAY, NOVEMBER 19, 2015

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 11 o'clock, in room 2172 Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. The subcommittee will come to order, and let me express my apologies for the lateness in starting. We did have a series of votes. Who could ever anticipate or predict?

So, again, I want to say how unfortunate it is for that almost hour-long delay. But thank you for your patience.

I would like to welcome all of you to our fourth oversight hearing this year on implementation of the Sean and David Goldman International Child Abduction and Prevention and Return Act.

The Goldman Act empowers the executive branch with powerful new tools and a myriad of ways to successfully resolve parental child abduction cases.

Like any law, however, it is only good as its implementation. Historically, some 750 to 1,000 American children are unlawfully removed from their homes each year by one of their parents and taken across international borders.

International parental child abduction rips children from their homes and takes them away to a foreign land, alienating them from the love and care of the parent and family left behind.

Child abduction is child abuse. Its negative impact on the child and left-behind families can last for years, even a lifetime.

Two of our witnesses today, like many in this hearing room and around the country know first hand the trauma, the tears, the excruciating pain and the longing and heartbreak of a parental child abduction.

David Goldman's son, Sean, was abducted to Brazil and unlawfully retained for approximately 5½ years. Mr. Goldman tenaciously pursued every legal means of return including expert legal counsel in his quest to bring Sean home. Today, father and son are thriving and we will hear from them in Panel Two.

Captain Paul Toland continues his heroic 12-year quest to bring his 13-year-old daughter, Erika, home from Japan. Captain Toland refuses to quit or to be deterred, despite years of frustration and setbacks. Such is this father's incredible love for his precious daughter.

Our first hope, of course, is to prevent or at least mitigate the number of child abductions and the State Department is to be commended for implementing a provision of the Goldman Act and for taking other efforts as well including the one that adds children that a judge has determined to be at risk of abduction to a no-fly list.

In 2014, we saw a decrease in the number of new abductions—150, as a matter of fact, fewer cases than the previous year—and I want to do a shout out to Rush Marburg on the prevention side who has done a magnificent job in this endeavor.

But I am, frankly, concerned that the State Department has chosen not to impose any sanctions on any of those nations found to have engaged in a "pattern of noncompliance."

The Goldman Act, however, requires the State Department action under individual cases that have been pending for more than a year if the foreign government has not been taking adequate steps to resolve the case.

The Goldman Act also requires action when collectively a country has a high number of cases—30 percent or more—that have been unresolved for over a year or if the government is failing in their duties under the Hague Convention or other bilateral agreements or if their law enforcement fails to enforce, return or access orders.

The Goldman Act not only shines a light on a country's record through annual designation of countries showing a pattern of noncompliance, it holds countries accountable and hopefully incentivizes systemic reform.

Actions, as we know, from the law escalate in severity and range from official protests through diplomatic channels to public condemnation to extradition to suspension of development, security or other foreign assistance.

The Goldman Act was designed to raise the stakes on the foreign countries in action or obstruction and move that country to end the nightmare of child abduction.

In July, we received the State Department's first annual report on abduction and access resolution rates around the world. The annual report had some major gaps and misleading information, some of which were corrected by the supplemental data posted by the State Department in August.

Tragically, in contravention of both the spirit and letter of the Goldman Act, the State Department failed to list Japan with more than 50 abduction cases among the 22 countries showing a pattern of noncompliance and therefore eligible for Goldman Act sanctions.

This glaring omission, which can still be corrected today, sent the unfortunate signal that pre-Hague Japan cases were not a top priority.

Cases like that of Sgt. Michael Elias, who has testified here—he is a New Jerseyan who has been denied any contact with his two children, Jade and Michael, after they were abducted to Japan in 2008.

In September, the State Department sent to Congress its first 90-day report on actions it took to bring the 22 countries most—to the resolution table.

Those actions including the marches, judicial rulings—meetings, I should say—and education efforts and meetings, all of which are necessary and of real value. Noticeably absent was the imposition of any number of meaningful sanctions, again, prescribed by the Goldman Act.

I respectfully submit that this was a missed opportunity to convey to a pattern of noncompliant nations that the United States is absolutely serious about resolving parental abduction.

The imposition of sanctions says we mean business and I would note parenthetically that sanctions, and I have done this in other laws that I have written including the Trafficking Victims Protection Act but also our Civil Rights Act, Title 9, which has made all the difference in the world in women's sports, always carried a penalty phase and that certainly got the attention of universities and colleges throughout the country that the Federal Government was not kidding and wanted changes in how these universities did business.

Notwithstanding Section 103 of the Goldman Act, the report makes no mention of MOUs or bilateral agreements to resolve cases including and especially cases that existed prior to Japan's ratification of the Hague.

I and many others have raised this concern for several years. I actually did a trip to Japan with Michael Elias' mother, the children's grandmother, and said if we don't get that right they will be twice left behind because they were less likely to find themselves a resolution to their cases because, of course, the Hague Convention is from the date of ratification onward. It does not have a look back provision.

The report details the State Department's effort to persuade India to ratify the Hague Convention, a step that if not combined with an MOU to resolve current abduction cases which number about 75 today risks duplicating the extraordinary misery endured by left-behind parents after Japan ratified the Hague.

If India ratified the Hague it will, like Japan, grandfather preexisting cases out of the convention resolution process.

I would note the Bindu Phillips, who has been here, and she too has testified—mother of Albert and Alfred—has struggled with her ex-husband in Indian courts for the return of her sons for nearly 9 years—9 years—and every time she thinks she may be on the verge of a win in court, obviously, there is always, like in David Goldman's case another appeal to bleed her dry financially and to make it difficult to ever get her sons back. Ravi Parmar has been fighting for his son's return for 3 years.

Section 201 of the Goldman Act also requires the State Department to conduct a review of individual cases pending 12 months or more to discern whether the foreign government has taken adequate steps to resolve the case or whether actions are warranted.

This individual case trigger for actions, as opposed to the pattern of noncompliance country trigger, despite a half dozen congressional letters from various Members of Congress asking for Section 201 reviews of egregious cases the State, to my knowledge, has not

done a single review and perhaps, Ambassador Bond, you can enlighten us on that.

I am encouraged by a press statement issued today by Secretary of State John Kerry in which he says clearly that he is looking to use all of the tools that have been prescribed by the Goldman Act as the beginnings of the next report take place and he said, you know, in his press release—and I do have it—he says in his press release, and I think it is a very important point that there can be no safe haven for abductors.

The State Department, Secretary Kerry says, will continue to use all the tools available to us to help those involved in international parental child abduction cases to resolve their disputes and move forward with their lives. So that is a very encouraging note.

Now I would like to introduce Secretary Bond, first, with a very brief introduction and without objection your full resume will be made a part of the record.

Ambassador Michele Bond serves as Assistant Secretary for Consular Affairs at the State Department. As Assistant Secretary, Ambassador Bond leads a team of 13,000 consular professionals in almost 300 locations across the U.S. and around the world who protect the lives and interests of U.S. citizens abroad, facilitate legitimate international travel and helps protect our nation's borders.

A career member of the senior Foreign Service, Ambassador Bond has more than 38 years of diplomatic experience in Europe, Africa and Latin America including having served as U.S. Ambassador to Lesotho.

Ambassador Bond, the floor is yours.

STATEMENT OF THE HONORABLE MICHELE THOREN BOND, ASSISTANT SECRETARY, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE

Ambassador BOND. Thank you.

Chairman Smith, thank you for this opportunity to discuss international parental child abduction. This is one of the highest priorities to the Bureau of Consular Affairs and the Department of State.

As Secretary Kerry noted in his statement on child abduction yesterday and as you have pointed out, the department will continue to use all the tools available to us to help those involved and to resolve their disputes and move forward with their lives.

Mr. Chairman, thank you for your leadership on this issue. You have heard the testimony of my colleagues, Ambassador Jacobs, Deputy Assistant Secretary Christensen and Director Hand in previous hearings.

You know that I lead a talented team of experienced professionals who work tirelessly to prevent abductions and bring children back home.

My testimony today will summarize my written statement which I request be entered into the congressional record.

The Sean and David Goldman International Child Abduction Prevention and Return Act of 2014 has given us additional leverage to resolve these cases. We have already put these additional tools to good use.

We are proud of our contribution to the 247 returns in 2015 and about 140 prevented abductions in 2015, and we recognize and accept the challenge of the 1,100 cases that remain open, some for many years.

Mr. Chairman, many actions take place every day to prevent or resolve these heart-wrenching cases. Since implementation of the law, more than 140 children have been protected from removal from the United States.

The law also provides the mechanism to streamline interagency efforts and we are fortunate to receive crucial assistance from our interagency partners.

We share your goals of preventing abduction, ensuring the expeditious return of children to their homes and strengthening and expanding the Hague Abduction Convention.

Let me briefly explain the role of the Office of Children's Issues within the greater context of how the Bureau of Consular Affairs advances U.S. foreign policy.

The Office of Children's Issues provides policy guidance and coordination within the Department of State and the Washington interagency community to prevent child abduction. It safeguards the welfare of abducted children, returns abducted children to their places of habitual residence and helps parents resolve these complex cases.

The Office of Children's Issues executes U.S. obligations under the convention as the U.S. central authority.

It leads U.S. Government efforts both within the department and with other U.S. Government agencies to assist children and families involved in abduction cases in all countries and reviews applications to partner with countries that have acceded to the Hague abduction convention.

My bureau leads the effort to engage governments on convention implementation, acceding to the convention and providing assistance to families involved in cases in nonconvention countries.

Our number-one priority is the safety and protection of U.S. citizens overseas. This provides a little solace to those parents who are still waiting to see their children returned home. Only the safe return of their children matters.

As a parent and as an assistant secretary of state for consular affairs, I pledge that my team and I will continue to work to resolve all abduction cases.

That includes working with convention countries such as Japan to resolve abductions that occurred before our partnership under the convention took effect.

We are actively engaged with Japan in these cases. Disappointingly few have been resolved with the return of an abducted child to the United States or through meaningful parental access.

My colleagues in the bureau, throughout the department and at our Embassies and consulates abroad, press our foreign government counterparts on the issue of abduction and raise your constituents' cases at every opportunity.

For example, we have requested the Government of India's assistance in resolving reported abduction cases. Special advisor for children's issues, Ambassador Susan Jacobs, Principal Deputy Assistant Secretary for South and Central Asian Affairs Ambassador

William Todd and I all personally urged India to resolve reported cases in recent meetings in New Delhi and Washington.

Additionally, officials at the U.S. Embassy in New Delhi are in regular contact with Indian foreign ministry officials on these issues.

Mr. Chairman, let me again emphasize my personal commitment and my bureau's dedication to prevent parental abductions.

The department at State and our Interagency partners are committed to the implementation of the law and to safeguarding and returning abducted children to their places of habitual residence.

We are committed to ensuring parents have effective tools to resolve these cases in both convention and nonconvention countries.

As always, I appreciate your interest, your feedback and your suggestions. I look forward to your questions.

[The prepared statement of Ambassador Bond follows:]

DEPARTMENT OF STATE

STATEMENT

OF

AMBASSADOR MICHELE THOREN BOND

ASSISTANT SECRETARY FOR CONSULAR AFFAIRS

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON FOREIGN AFFAIRS

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

HEARING

ON

NOVEMBER 19, 2015

Chairman Smith, Ranking Member Bass, and distinguished Members of the Subcommittee – Thank you for the opportunity to address you regarding international parental child abduction and our implementation of the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014.

The Department of State values the strong interest and support on this issue from Members of Congress. The law has given us an important framework to leverage our diplomatic engagement both with our partners under the 1980 Hague Convention on the Civil Aspects of International Child Abduction (Convention) and with countries with whom we are not yet partners under the Convention. We appreciate the efforts and interest of Chairman Smith and Ranking Member Bass, as well as the many Members who advocate in support of their constituents affected by the heartbreak of abductions. We share with all of you the goals of preventing abductions, of the expeditious return of children to their homes, and of the strengthening and expansion of the Convention.

Testifying before you today, I'd like to put into context the critical role of the Bureau of Consular Affairs in the Department's overall mission of advancing U.S. foreign policy. The Consular Affairs Bureau is among the largest in the Department, and for all of us, there is no higher priority than the safety and protection of U.S. citizens overseas. Every day, we assist thousands of U.S. citizens affected by political crises, natural disasters, abuse, mental illness, and crime abroad. We perform welfare and whereabouts checks, including of U.S. citizen children who are victims of international parental child abduction, issue passports to U.S. citizens, including emergency passports to U.S. citizen children, and issue visas, including to eligible non-U.S. citizen parents in IPCA cases where appropriate.

The Bureau of Consular Affairs' Office of Children's Issues coordinates the many dedicated officials of the Department of State, in Washington, at passport agencies across the United States, and in our diplomatic missions worldwide, who are committed to preventing abductions, safeguarding the welfare of children abducted across international borders, facilitating the return of abducted children to their place of habitual residence, and helping parents resolve these complex cases. The Office of Children's Issues, a team of over 80 dedicated and well-trained professionals, serves as the U.S. Central Authority (USCA) under the Convention and leads U.S. government efforts within the Department and with other U.S. government agencies, to prevent international parental child abduction, to assist children and families involved in abduction cases, and to promote the principles of the Convention.

Prevention of International Parental Child Abduction

From a child's first U.S. passport application, we work to protect children from international parental child abduction. U.S. law and regulation requires the consent of both parents for passport issuance to children under the age of 16. This minimizes the possibility that a passport could be issued to a child without the consent of both parents. In addition, enrolling a child in the Children's Passport Issuance Alert Program (CPIAP) provides an extra notification check to the enrolling parent to ensure they are either aware of or supportive of the passport application. When children are enrolled in the CPIAP the application and all supporting

documents are sent to the Prevention Branch of the Office of Children's Issues for review and clearance. Prevention officers reach out to the requesting parent to notify them of the application and confirm their consent to the passport application.

In addition to administering the CPIAP, prevention officers conduct extensive outreach to judges, law enforcement, and parent groups, among others. They also work closely with non-governmental organizations dedicated to seeking the return of abducted children. When the unthinkable occurs and a parent reports that an abduction is in progress, the Prevention Branch works with parents, legal guardians, or their attorneys, to try to stop the travel of the child out of the United States.

If parents have a court order that prohibits the child's removal from the United States, or can obtain one, the Prevention Branch can contact the Department of Homeland Security (DHS) Customs and Border Protection (CBP) and/or law enforcement to ask them to take action. The child is added to CBP's Prevent Departure list which will notify CBP if international travel reservations are made for the child. If international travel reservations are located for the child, CBP alerts law enforcement and appropriate airport security personnel in an effort to stop the child's travel.

Depending on the circumstances of the child's custody arrangement, other law enforcement tools can be utilized including having Interpol notices activated for the taking parent and child and having the child added to the FBI's National Crime Information Center missing person database.

To strengthen these critical working relationships, the Department of State's Interagency Working Group on Prevention, which includes representatives from State, DHS (Immigration and Customs Enforcement and CBP), and the Department of Justice (Federal Bureau of Investigation), as well as the Department of Defense and other federal entities, meets twice annually to discuss ways to collaborate on abduction prevention measures. The Department of State works closely with CBP to help ensure that parents who have court orders that prohibit the international travel of a child can request assistance from CBP and U.S. law enforcement to prevent outbound abduction attempts. Key to the program's success, and a byproduct of the law's mandated interagency working group, has been streamlined communications and information sharing among agencies on child abduction prevention initiatives. These new measures were instrumental in preventing the more than 140 potential abductions since the law took effect.

How We Work to Resolve Abduction Cases

As we assist U.S. citizens overseas and protect the integrity of our processes and treaty obligations, we are on the front lines of U.S. diplomacy. We coordinate with our colleagues throughout the Department about your constituents' abduction cases using a variety of diplomatic tools to ensure host governments fully appreciate our deep concern for the welfare of our citizens, especially children. We hold our Convention partners responsible for complying

with the Convention, raising concerns with them at the highest levels. In the Bureau of Consular Affairs and throughout the Department of State, U.S. diplomats raise these issues and your constituents' cases at every opportunity with our foreign government counterparts.

When an international parental child abduction does occur, left-behind parents turn to the Office of Children's Issues outgoing abductions divisions for information and assistance. The country officers and case assistants of Childrens Issues' two Outgoing Abduction Divisions work to return children who have been wrongfully removed from and/or retained outside their habitual residence in the United States. They also facilitate access requests in countries that are Convention partners and evaluate the compliance of signatory partners to the Convention.

The Convention provides the most effective way to facilitate the prompt return of abducted children. When a child has been abducted to or retained in a country that is one of the U.S.'s 73 partners under the Convention, a country officer helps the left-behind parent file a Convention application for the child's return, explains the parent's civil options under the Convention, works with law enforcement to file reports, and pursues criminal remedies if appropriate. Officers work with U.S. and foreign authorities and resources to facilitate the return of the abducted child. Country officers are the left-behind parent's (LBP) point of contact in the Department of State. In addition, country officers are responsible for sending completed Convention application materials to foreign central authorities, and monitoring the progress of cases, ensuring that they move forward as expeditiously as possible, keeping the LBP apprised of case progress, and advocating for effective implementation of the Convention in the foreign government, courts, and legal system.

Many of the abduction cases handled by the USCA involve abductions to countries not yet parties to the Convention. In these cases, country officers work closely with U.S. embassies and consulates overseas to provide parents with information about foreign legal options, conduct welfare visits to monitor the well-being of the child, and engage foreign government officials to seek the child's return.

In addition to handling cases, the Outgoing Abductions Divisions are responsible for pursuing the Department's objectives to strengthen and expand the Convention worldwide. Officers work with the Department's regional bureaus to engage foreign governments in discussion about why the United States believes the Convention is the best mechanism for protecting a child's best interests when custody disputes cross international borders. When working with countries that are already members of the Convention, officers engage bilaterally to ensure both governments work together to implement the treaty properly so that abducted children may benefit through swift return to the country of habitual residence.

Country officers are specialists within the consular field and function as desk officers in their capacity to apply country-specific expertise to the pursuit of the Department's policies on abduction. Country officers liaise with law enforcement officials (local and federal), foreign authorities, attorneys, and organizations in the United States (such as the National Center for Missing and Exploited Children) in order to assist parents and move cases toward resolution.

Using all of the tools available in abduction cases, we assisted in the return of 374 children to the United States in 2014. Yet, because of the differences in laws, legal systems, and enforcement mechanisms, achieving the return of children, even with the treaty relationship and law enforcement tools, can be difficult. The laws of the country where an abducted child is physically located apply, and although it can be frustrating to endure delays, the U.S. government cannot interfere with the legal system or judiciary of another sovereign nation, just as no other country may interfere with the law enforcement or judicial system of the United States.

The law identifies actions the United States may consider to encourage better alignment with Hague goals and standards. Many of these measures are the same tools the State Department uses in diplomacy with nations around the world on a range of important issues. For those countries that have not yet partnered with us under the Convention, we appeal to the universal interest in safeguarding children, even as we urge countries to turn to the Convention as a reliable way to protect these interests in future abduction cases.

We are committed to fully and successfully implementing the law. The tools it contains reflect the constant balance diplomats seek in advancing the many interests of the United States around the world. Your support and this law underscore the fact that IPCA is a priority for the U.S. government.

The 90-Day Report on International Parental Child Abduction

In compliance with the law which took effect on August 8, 2014, the Department presented an annual report to Congress that provided data and other information about cases around the world and the Department's efforts to resolve them. The 2015 Annual Report covers the period of October 1 to December 31, 2014. It reflected the fact that the law had been in effect only for part of the year. The Department identified 22 countries as demonstrating patterns of noncompliance. Subsequently, the Department reported to Congress (90-Day Report) on the specific actions taken against countries determined to have been engaged in a pattern of noncompliance as reported in the 2015 Annual Report.

Diplomacy and Actions

As noted in the 90-Day Report, which covers actions through July 31, 2015, diplomatic engagement remains one of our most effective tools with all countries to assist in resolving abduction cases. In Convention partner countries, we have reiterated that we expect our partners to implement the Convention effectively. In non-Convention countries, we take every appropriate opportunity to raise abduction cases with foreign government officials at the highest appropriate levels and to ensure host governments understand the high priority the U.S. government attaches to resolution of these cases.

As part of the process of demarching each of the countries cited in the 2015 Annual Report for demonstrating patterns of noncompliance, our embassies held frank conversations with foreign government officials, discussing what actions their countries could take to avoid

being cited in the future. The Department also met with foreign missions in Washington to deliver the same clear message.

For example, we have requested the Government of India's assistance in resolving reported abduction cases. In May, Special Advisor for Children's Issues Ambassador Susan Jacobs pressed India to resolve reported cases. In September, I urged India to make progress on its accession to the Convention and resolve reported cases. In October, Principal Deputy Assistant Secretary for South and Central Asian Affairs Ambassador William Todd encouraged India to resolve reported cases. I again reiterated our strong interest that India make progress on its accession to the Convention and resolve reported cases at the annual U.S.-India Consular Dialogue this month. Officials at the U.S. Embassy in New Delhi are in regular contact with ministry officials on these issues.

We continue to have serious concerns in some countries we could not cite in the annual report as demonstrating a pattern of noncompliance per the criteria established in the law. These include countries with pending abduction cases that do not benefit from the Convention, such as abduction cases in Japan that occurred before Japan became party to the Convention. We are keenly aware of the pre-Convention cases and are as actively engaged on them as we are on all of our non-Convention cases. We continue to engage with Japan intensively through bilateral visits, digital video conferences, and in coordination with the U.S. Embassy in Tokyo and the Department's Bureau of East Asia and Pacific Affairs to resolve these cases.

Beyond the Reports

The diplomatic tools and engagement noted in the 90-Day Report have yielded important results. For example, Slovakia was cited for demonstrating patterns of noncompliance in the 2015 Annual Report. In January 2016, Slovakia will implement legislation that limits the number of court appeals in Convention cases and mandates that Convention cases be adjudicated within 12 weeks. This important step should improve Slovakia's compliance with the Convention and resolution of cases. It also has the potential to make Slovakia a European leader on Convention compliance.

As we continue to coordinate and interact with our partner central authorities in foreign countries to monitor individual cases, we are obtaining critical information to assess countries' compliance with the Convention. At the same time, we are developing the personal contacts and relationships with our counterparts that build trust and make our interactions more productive over time.

In addition, the USCA and other Department officials regularly engage with non-Convention countries in Washington and overseas, to encourage them to ratify or accede to the Convention. In September 2015, the U.S. Embassy in Abu Dhabi hosted a symposium on the Convention to follow up on an October 2014 regional symposium held in Amman, Jordan. The event educated government officials about the Convention and how it can be implemented in countries with Islamic law traditions. An official from the Moroccan Central Authority joined presenters from the Department, the Hague Conference on Private International Law, and the

Canadian Ministry of Foreign Affairs to discuss the Convention and its implementation. We continue to press countries such as Egypt, Tunisia, and the United Arab Emirates to follow in the footsteps of Morocco, with which we partnered in 2012, to become party to the Convention.

In the 2015 Annual Report, we cited Brazil for demonstrating patterns of non-compliance in the area of judicial performance. As a result of the citation and follow-up meetings, the U.S. Embassy in Brasilia coordinated an International Visitor Leadership Program that brought Brazilian judges and federal prosecutors to the United States to see and experience firsthand how the United States implements the Convention. These exchange programs are a prime opportunity to share best practices and Convention obligations with the same judges who will decide abduction cases. They met the judges who handle abduction cases in the United States We also used the opportunity to discuss significant delays we have observed in pending abduction cases.

During my discussions with Brazilian officials in Brasilia last month, we agreed that their slow, deliberate judicial process does not align well with the Convention's emphasis on a narrowly-focused and rapid judicial decision. Brazil is working to increase judges' familiarity with the Hague Convention, and to develop a network of expert judges to whom family court judges can turn for guidance. I was also informed Brazil is drafting legislation intended to address shortcomings in its performance to date. I note that we have seen positive developments in our Hague cooperation with Brazil, notably with respect to communication and cooperation with the Brazilian Central Authority. During my visti to Brasilia I learned of an additional resource, mediation, which may enable some parents to resolve their situations outside the judicial process.

On November 14, I returned to Washington following bilateral discussions with the Russian government which included examination of the status of our cooperation on abduction. Russia has acceded to the Hague Convention but has not yet been accepted by the U.S. as a partner; we seek additional information to determine whether they have laws and procedures in place to enable full compliance with Convention requirements. Both countries expressed strong interest in partnering under the Convention and I will work to accelerate realization of that goal. Meanwhile we also seek agreement on how to resolve outstanding cases which at the time of my meetings involved 39 families and 47 children since the Convention does not apply retroactively.

Conclusion

Mr. Chairman, Ranking Member Bass, distinguished Members of the subcommittee, this law represents a joint effort by Congress and the executive branch to resolve difficult abduction cases and to prevent future abductions. The law is central to our diplomatic efforts, which extend far beyond our annual reports. It significantly reinforces our work to address the complex problem of international parental child abduction. The law calls for sustained, purposeful engagement with countries that do not meet their obligations to their Convention partners, and to children and parents involved in these cases.

My Bureau leads the effort to engage governments on Convention implementation, encourage governments to become party to the Convention, and provide assistance to families who are victims of abdcution in Convention and non-Convention countries. My colleagues throughout the Department, including those at the highest levels, regularly raise international parental abductions as a bilateral policy issue in meetings with foreign government officials, and where appropriate, discuss pending abduction cases. The Department remains committed to preventing abduction, safeguarding and returning abducted children to their places of habitual residence, and working to ensure that parents have effective tools in Convention and in non-Convention countries to resolve these cases.

Thank you.

Mr. SMITH. Thank you very much, Madame Ambassador.

We're joined by Mark Meadows? Any comments?

[No response.]

Thank you.

Let me just begin with some questions. First, in 2014 18 percent of the left-behind parents had to overcome, when litigating for the return of their child in a foreign country what sorts of obstacles, I should say, have they had to overcome?

Eighteen percent of the 1,467 cases this year were resolved with the child coming home and this includes resolved and unresolved cases—18 percent.

Of the 1,781 cases that were resolved, only 34 percent were resolved with children returning to the United States. In my opinion, these are staggeringly low numbers. Are you, Madam Ambassador, satisfied with this return rate—actual return rate, not resolution where, you know, as you know there are criteria for closing a case when obviously a return is something we are looking to break out and hopefully effectuate?

And what are you doing to change that rate in 2015? Again, the return rate I am talking about.

Ambassador BOND. Mr. Chairman, I am not satisfied with that return rate and we are working with each of the countries where there is a single case in order to address and identify what more could be done to actually bring each individual child home.

As you know, these cases are not identical in any way and so we are focused on the—on working with countries on the pattern of how they deal with these cases, how expeditiously and to what degree of well informed approach they have among their law enforcement.

In their central authority, in their judiciary we are working to make sure that people understand the point of the convention, the goals of the convention, how it is supposed to work and we are investing a great deal of resources in the training and the exchanges that do, as we have seen through the years, that do lead to results in terms of better performance.

Mr. SMITH. Can I ask you, obviously, the report will come out late April—it will be the second report—and, frankly, when we saw the first trafficking in persons report, you know, there was some threadbareness to that one, which was greatly improved when the report—second year, third year, fourth year came forward.

And my question is when it comes to the sanctions part, you know, a lot of notice has been given to countries that are noncompliant. The conversations, the training, I think are extremely important and can change hearts and minds and that is important.

But at the end of the day, if they persist in these patterns of noncompliance and are obtuse to the heart cry coming from abducted children and their left-behind parents, are you planning on hopefully applying sanctions in this next round? You know, they begin—like I said, a lot of ample notice that it is in the law.

I am sure you and others have conveyed that in your conversations that this is a sword of Damocles that hangs over them. We don't want to do it. We don't want sanctions.

But if the record requires it they need to be imposed. Are you looking for that kind of evolution in terms of the imposition of sanctions in round two?

Ambassador BOND. The actions that are described in the law are, as you—you have described them as a range that starts with a demarche and builds.

I would argue that the fact is that there is a lot of strength in reiteration. There is a lot of strength in continuing, A, to raise an issue in order to emphasize how important it is to us and to raise it broadly so that individuals—it's not just, say, the minister of justice or the minister of one or two foreign affairs that are hearing about it but that a broad range of business people and others are getting the message that this problem exists because many people don't know about it and also the nature of the resolution that we are proposing that the different countries follow so that people understand what it is that we are talking about, what it is that we are asking for and what it is, in the case of convention countries, they have agreed to do.

There is a period of time and it happened in the United States too during which you are trying to make sure that people understand exactly what this treaty requires.

And as you may know, in the United States every time there is a child abducted here a packet of information is sent to the judge who is going to hear that case because most of the time, here and in other countries, a typical family court judge may never hear a Hague Convention case and if he or she does hear one it may be the only one they ever hear.

And therefore it is important to make sure that they understand that this is different from what they are used to doing, which is handling custody decisions.

So the engagement that we have and, you have said and, of course, I agree, that the education efforts are important, they are really fundamental.

If you take, as an example, the countries where our principal problem is with the judiciary, those, in many cases, may be countries where we used to have problems with the central authority and now have developed strong, excellent even, communication and coordination and understanding with the central authority.

But we are not seeing the results that we need in terms of a prompt focused understanding of what a Hague Convention court case is.

And so in that case the focus has to be on the judiciary and on making sure that the judges understand what the law is and understand how to apply it, understand that this is not a custody decision that we are talking about. It is a jurisdictional one and so forth.

So that is where the attention is focused if the issue has to do with a judicial understanding and compliance with the law.

If the problem in a particular country has to do with enforcement, and we have countries like that where the judges are making what we consider to be very good decisions, and then we don't see the enforcement of the return, there then you are focusing your attention on the people who are responsible for that.

In almost every case, it is important to be doing a lot of public outreach and a lot of looking for ways to highlight this issue and the importance of it in the press, again, in order to get understanding and acceptance among the public of what is going on so it doesn't look like their children are being taken to another country.

So all of the actions that are suggested in the law are absolutely on the table and the countries that we are talking to know that.

The fact is, though, that the focus is on who is it that is creating the problem here. Is it judges not knowing what to do? Is it law enforcement not being directed to pick the kids up and arrange for them to get on a plane and come home? And you focus on that, on the people who aren't getting it and finding ways to get them to do their jobs better.

So I can tell you absolutely honestly and clearly that there are no actions that are not on the table but the focus is on the actions that are directed at the problem that we see in a particular case or broadly in a particular country in order to turn that around and, again, I would say that there are a number of countries where we used to have real problems with the central authorities and now we have very, very good understanding with the central authorities.

So it is a fact that the efforts that have been made over the years do have an effect.

Mr. SMITH. Can I just ask you again, you know, we had the same issue dealing with the Trafficking Victims Protection Act and when we said prescribe minimum standards we often found that law enforcement was the weakest link because they were often complicit at the local level with the traffickers in the abuse.

But we held the entire government, because they are part of the government, even though they are independent and judges even more so, to task. And Tier 3 would be netted out if there's a country that—where there is all kinds of collaboration with the traffickers, and I would argue that we are dealing with very smart people.

Our interlocutors in Brazil, in Japan, in India, these are some of the most educated people that you—you know, you are on the other side of the table that you speak with. They will understand to a great extent if sanctions are forthcoming.

One of the biggest lessons I learned on trafficking was when Israel and South Korea were designated Tier 3. We don't have any better allies.

We have similar and as good but no better allies in the world than Israel and South Korea. George Bush put them on Tier 3. They could have lost security aid, economic support but especially security aid and there was a very serious contemplation.

I have never seen two governments alter their Behavior, crack down on the brothels where trafficked women were. In the case of South Korea they passed some remarkably effective laws to end human trafficking there, and the trigger was the placement followed by the very credible threat that those sanctions would be used.

I would ask you, plead with you, use the sanctions. Pick out some countries—Japan, certainly, and I know there is a reluctance to

single out Japan. First and foremost, put them on the pattern of noncompliance and maybe you can do that today.

But, certainly, if things don't change and maybe if you could answer this question, if you made the designation today based on the 50-plus cases, would you make that designation a pattern of noncompliance for Japan?

Ambassador BOND. So I want to be sure I understand the question. Japan is absolutely a country that is—they have made a good start at—after becoming, after joining the convention we think that they have made a good start.

We are watching very closely to see what they are doing this year with cases under the—under the Hague, the convention cases, and they will certainly be cited if they are not performing.

The—we are also very focused on the cases that were pre-Hague but under the description—the requirements for their report those didn't get reported in April. So that doesn't mean they are not important and it doesn't mean we are not focused on them.

The—as for the question, you know, we have seen examples of countries who are responding exactly as you are describing Israel and South Korea having done in terms of writing new legislation and looking at new ways to address problems that we were pointing out to them and pressing them to resolve.

And so Slovakia is an example where they are—they have just passed a new law. It limits the number of appeals, requires courts to speed up their cases.

Slovakia has said that they will join us in efforts to persuade other countries, particularly Middle Eastern ones, to join the convention. Slovakia—they are going to be the president of the EU starting in July.

Mr. SMITH. They also had the Court of Human Rights—European Court of Human Rights come down very hard on them in two of those cases.

So there was, thankfully, additional pressure on Slovakia. Let me just ask you, because I know your time and we do have two members that I would like to get to, if Captain Paul Toland's case is unresolved by next year and there are 50 other cases, his is among the most egregious I have ever seen.

Got very bad advice from the JAG as to how he should handle his case. He was, obviously, there deployed to Yokohama as part of the defense of Japan—the joint defense that we are so happily engaged in and I certainly support that.

If his is unresolved, won't that trigger in and of itself, and then you add the other 49 cases—plus cases—for putting Japan on the noncompliant list, regardless of any progress they make post-Hague ratification? I mean, these—I mean, that is why when I went to Japan years ago I said if you don't have an MOU, if we are not working those cases aggressively they will fall by the wayside and the agony will be on words for those who feel left behind a second time.

So if his case is not resolved, does that trigger it, your opinion?

Ambassador BOND. We are, as I——

Mr. SMITH. We will then be in the 13th year.

Ambassador BOND. We are considering all options available to assist the parents and we discuss within the department and with

other parts of the U.S. Government actions that might make a difference in a particular case or the behavior of a country toward the general group of cases.

So there are no options that are off the table and the report—the next second annual report under the new law will reflect the conduct of all of these countries, Hague and non-Hague countries, in terms just as is required.

Mr. SMITH. But again, I would hope if you could broadcast that signal to Japan—you could do it here today, hopefully you will—that Captain Toland and others like him, that this is a red line that ought to be laid down before Japan.

You know, Japan will be hosting the G–7 in the spring. Hopefully, these could be resolved by then. Otherwise, it ought to be a major issue discussed. I'm not sure if that is being contemplated or not. But maybe you could shed some light on that. Then I will go to Mark Meadows.

Ambassador BOND. I don't know about the agenda for the G–7. But it is an issue that we raise consistently with Japan. They know this is one of the major bilateral issues that we want to see resolved, all of the cases, whether they began after Japan joined the convention or are among the dozens that were already underway before Japan joined the convention.

The fact that Japan is a member of the Hague Convention reflects the power of persistent diplomacy by the United States and by other countries for the children that had been abducted to Japan and that does change the playing field for all of us because——

Mr. SMITH. And cases are being resolved under the Hague vis-a-vis Japan?

Ambassador BOND. We are pushing for that. There are—there are two cases where judges have ordered the return of children to the United States.

Mr. SMITH. Out of how many? Two cases out of——

Ambassador BOND. Of cases that—since they joined the Hague where judges have ordered the return. That has not yet been enforced, however. So we are working to get those kids home.

Mr. SMITH. Now, is that a law enforcement problem or——

Ambassador BOND. It is—well——

Mr. SMITH. Or is it under appeal?

Ambassador BOND. It is a complex—in both of the cases there they are both a little bit different but the issue is making it clear to all of the authorities in Japan and as you rightly point out, you know, the police or the judges or whoever they are part of the government and our engagement is with the government as well as with the particular part of that government that we think needs to special attention.

So I am hopeful that we are going to see returns to the United States under the Hague from Japan. We are pushing for that in those two specific cases.

Mr. SMITH. Mark Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman.

Ambassador Bond, thank you for being here. Obviously, we—this is not the first hearing that we have had on this matter. Your colleague there behind you, she has been here before, and I believe

that you have a real commitment to return these children to their parents.

The frustration becomes is—and the reason for the Goldman Act originally was the type of soft diplomacy that you have described over the—really, in much of your testimony most of it has been soft diplomacy.

And what you are referring to was really the whole reason why the Goldman Act was passed by Congress was to give you additional tools beyond that soft diplomacy and the frustration that has been evident in this hearing as well as other hearings is the fact that some of the tools that have been afforded the State Department are not being used. And so there is a law that has been passed.

Now, I want to make sure I am clear with you and with some of your other colleagues. I know your commitment is, as you put it, a number-one priority.

The frustration on parents is each day, each birthday, each time that goes by they don't see that commitment and it is—where it is a priority for you it is the life for many of these parents and there is the disconnect.

So I guess my question, and I am going to be very direct, has the State Department delayed or cancelled one or more bilateral working relationships or official or State visits with any country based on a lack of cooperation?

Have you done that? Can you point to any specific example where that has been done based on their inability to help us out? Has that ever been done?

Ambassador BOND. Mr. Meadows, I have to admit that after 38 years at the State Department I don't share your sense that soft diplomacy doesn't—just doesn't get the job done.

Mr. MEADOWS. I didn't say that. You misquoted me.

What I am saying is you describe soft diplomacy as what you are engaging in. I said the Goldman Act gives you additional tools and I am asking one of those tools did—have you—have you done that? Is there a case that you can point to?

Listen, there is no one—I made a living in soft diplomacy so I understand the benefits of soft diplomacy but I also understand when it doesn't work.

Ambassador BOND. Diplomacy is—I wouldn't even call it soft—it is a powerful tool and I am sure we agree on that.

Your question about whether we have cancelled any bilateral——

Mr. MEADOWS. Delayed or cancelled, yes. I am giving you the benefit of the doubt. Have you said that we are not going to have this bilateral working or official or State visit because you haven't complied? Have you done that?

Ambassador BOND. As an example, I am not aware that we have done that.

Mr. MEADOWS. I am not aware of any either. So let me go on to the next one because I have got a limited time here.

Have you withdrawn or limited or suspended any U.S. development aid because of noncompliance? I am not aware of any but we are having a hearing. So are you aware of any?

Ambassador BOND. I am not.

Mr. MEADOWS. Okay. Have we withdrawn, limited or suspended any U.S. security assistance for any of these countries that are noncompliant?

Ambassador BOND. Not to my knowledge.

Mr. MEADOWS. Yes. Have we withdrawn, limited or suspended any foreign assistance to a central government of a country relating to other economic support?

Ambassador BOND. I am not aware of any.

Mr. MEADOWS. I am not. All of those are tools that are available to you should quiet or soft diplomacy not work. And yet the parents are not seeing any of these being deployed.

So let me, in light of your answers and knowing that you have a limited time let me give you an analogy. I assume that you occasionally exceeded the speed limit in your vehicle.

Ambassador BOND. Yes.

Mr. MEADOWS. Okay. Well, you are on the record. Okay. All right. We won't say where.

There is a place next to where I live where there is a city policeman that is there, that literally will give you a ticket the minute you exceed the speed limit. And you know what happens? I don't speed through that town.

And yet there is another place where we don't employ any of the tools that are available to our law enforcement officers, and I am not quite as conscious about my speed.

And so I offer that analogy to you because here is what many of these foreign governments are seeing is that we passed a law, that you bring it up when you talk to their Ambassador, and I believe that you do because honestly I have checked with some of them and you do bring it up.

But they see no consequences to their action or noncompliance, and that is the frustration you are hearing from this committee.

That is the frustration you are hearing from parents and, hopefully, that is the frustration that will be eliminated with the new report, and as you employ some of the tools that have been granted to you by this Congress to make sure that we are effective. Does that make sense?

Ambassador BOND. Yes.

And Mr. Meadows, I think it is important to note that we are seeing action in—even in some of the countries that are the most difficult to work with at this time. The—for example——

Mr. MEADOWS. We are seeing——

Ambassador BOND [continuing]. When I most recently met with the Brazilians for an annual bilateral discussion, and I was in Brasilia for that, and they talked about legislation that they are working on.

So they are looking at ways to try to address the great wall——

Mr. MEADOWS. But do you see the disconnect there? What you are seeing is maybe progress and action in terms of the potential for returning these kids. All the parents see is the kids don't come back. And so on your matrix of success you are seeing progress.

On theirs, they are seeing none. And I think that that is the difficulty here and that is what we have to address and hopefully this law will give you the tools to start to use short of sanctions—you know, I am not one—I don't like to employ sanctions.

But there is a number of other tools that the Goldman Act allows the State Department to employ that they haven't done, and with that I will yield back, Mr. Chairman.

Ambassador BOND. Thank you.

Mr. SMITH. Thank you.

Mr. Clawson.

Mr. CLAWSON. Thank you for coming, Ambassador, and I think your job is a wonderful way to spend a life helping people and families like this. So congratulations and thank you for that.

Since I have been here in Washington, DC, we have talked about trade a lot. We just did the TPA agreement. We are now on the verge of the TPP agreement and so let me give you just a little bit of context, Ambassador, why I bring that up.

The U.S. is, roughly, a third of the GDP in the world, a little less than that. We are everyone's engine for economic growth and prosperity. No one does anything to lift up the poor in their country without trading with us, basically, for all intents and purposes.

Our trade deficit every month is $40 billion. That is the deficit every month—$40 billion, roughly. If the price of oil goes up, that goes up a little bit.

And so we are the economic engine for everyone, which creates leverage like I don't know—you know, every negotiated relationship in the world is based on leverage, as far as I can tell, and if that $40 billion a month doesn't create leverage with people I don't know what does.

We see Japanese-made cars. We see Korean-made cars. We all go to Wal-Mart. That's 90 percent Chinese-made goods, roughly.

We know what the Indians sell here, the Brazilians. I mean, I go down—when I went down the list today as I was reviewing the data for this committee, I looked at all these people that we have enormous economic leverage. They cannot live without us.

Now, if the administration is not serious enough to take their bacon away then what are we all sitting around here talking about?

We could solve corporate espionage tomorrow. We could solve kidnapped children tomorrow, in a month—one Executive order. Give our kids back or you don't get to sell your cars over here. Give our kids back or you don't get to sell your software over here. And if we don't do that how can we say we are serious? Because then we just send the money—and by the way, it costs—all those imported vehicles just cost good-paying jobs for hard-working Americans.

They just go away anyway. So we let our jobs go away at $40 billion a month and to add insult to injury they don't have to bring our kids back.

Now, I am not getting this. I am new to it. I hear what you all are saying about, you know, cancelled trips and cancelled that.

But as long as they are sending billions of dollars in here, making a living on our economy, and we are never doing—we are never using that leverage I don't see this changing. I really don't.

And so, you know, anything I can do to help but as a former business executive, you know, we had plants all over the world. These are nice people in these countries.

But until we hit them in the pocketbook nothing is going to happen, in my view. And so if you will take that back. Now, if my world is too simplistic and you are seeing something different than I am seeing, let me know.

But the only thing I think these folks will understand is if we take a shot at where it hurts and that is in the trade agreements and it can't go forever.

I mean, we could do it tomorrow, in my view. This is all very, very solvable as soon as we take a shot at their imports that come into our country.

Am I—you know, sorry for the passion here but am I—am I too simplistic in my—in my view here, Ambassador?

Ambassador BOND. Mr. Clawson, when I was working on the same issue 10 years ago, the countries that I was most focused on were Switzerland and Germany and Japan—been out there. Switzerland and Germany aren't on the list anymore because we have a very good working relationship.

We are good Hague partners. If children are taken, they come home. Very often children don't get taken because the advice that the parent gets who is kind of looking into—maybe checking with a lawyer, here's what I am thinking of doing—they are told don't even bother, your children will be brought right back.

Now, when we were originally talking with Switzerland and Germany 10 years ago there were judges in those countries that were saying why would I return a kid to the United States—it is better to grow up here in Germany and this child has a German passport and a German mother.

So I am not interested in the Hague Conventions.

That isn't true anymore. So I can't agree with the idea that the only thing that anybody listens to is a threat of financial harm.

I completely agree that the tools that are written into the new law are valuable ones and that they are ones that have to be under consideration for use, and they are.

But I do not agree that the best way to approach an issue is to say well, all right, you know, you have had 6 months and we told you these sanctions were out there so now we are going to come out with guns blazing.

Mr. CLAWSON. Remember—remember, Ambassador, most of these countries don't allow our products into their countries. So you have people with enormous import tariffs.

We don't have any import tariffs on what they ship in here. We can't ship product into their country that would help the American worker and yet, you know, billions of American dollars go to their country every months and we are going to talk for years about bringing back the kids?

You know, that may be success in your all's view but that is too slow in my view, particularly when I got all the leverage. I got all the leverage because they are selling to me.

We got this big trade deficit which creates the leverage, and thank you for your hard work and I yield back.

Ambassador BOND. Thank you.

Mr. SMITH. I want to thank Mr. Clawson, who is a very accomplished CEO, for that breath of fresh air. They do listen and stand up and take notice and, I believe, are moved.

You mentioned, Madam Ambassador, the—Germany. Germany, according to the figures put out by you guys, has a abduction case resolution rate of 27 percent—4 percent better than India, which is on the noncompliant list.

Twenty-seven percent doesn't sound all that good to me. So I wouldn't lift up Germany, with all due respect, when they have such a poor resolution rate.

Let me also—in Switzerland, you know, we didn't have any cases. The department didn't cover abductions to Switzerland because we didn't have any last year. But Switzerland is known internationally for not complying with the text of the Hague Convention and relitigating best interest determinations.

So, again, I am not sure that is a stellar example to be pointing to either. I do have few questions and then we will move on to panel two.

How does Japan's ratification of the Hague Convention help resolve any of the 50 pre-Hague cases? Again, I do hope if you have an opportunity to listen or at least read his testimony Captain Paul Toland will be next at the panel.

But have any of them been resolved? You mentioned two that are post-Hague and they are not even returned yet, which clearly begs the question as to delay is denial.

But none of those—have any of them been resolved and are we working on a MOU or bilateral agreement with Japan now for those pre-Hague Convention?

Ambassador BOND. The pre-Hague families, of course, have only the option of requesting access under the Hague and there a number of left-behind parents who have filed requests for access and that is, you know, individual cases. I actually am not in a position——

Mr. SMITH. Again, underscoring why there needs to be an MOU. I mean, access—while that may be nice in the context it is not what is being requested.

Ambassador BOND. It's not what they want. Right. No, we are talking to Japan about how can we have a framework, a structure agreement for addressing the cases that don't fall under the Hague Convention.

Mr. SMITH. When do you think that framework might be forthcoming?

Ambassador BOND. I don't know.

Mr. SMITH. Any sense? And, again, delay is denial. Having—through contacts and long conversations with so many left-behind parents, frankly, started with David Goldman, the tears are—you know, flow every day. Delay is denial. If you could get back to us with when that might occur and with whom—who are your interlocutors.

Ambassador BOND. We are talking to the Japanese very, very consistently about resolution of the cases that predate the convention. So we absolutely are focused on trying to find resolution in every one of those cases.

In some—in some of them it may be that access may lead to a resolution as the children are able to reconnect with parents that they have lost contact with through the years.

Mr. SMITH. Let me just shift briefly to Brazil, and it was great to be with you at the press conference with Dr. Brann, Jared Genser, David Goldman and pressing for the return of Nico Brann.

As you know, Federal Judge Arali Maciel Duarte ruled that Nico Brann had been in Brazil 2 months, far less than any prescribed by the Hague Convention and was "well settled and would not be returned to the U.S. despite admittedly illicit abduction that took place in Texas."

And I've seen the court papers. His wife, that is to say Dr. Brann's wife, had agreed that this wouldn't happen—that they were coming back from a so-called vacation. Dr. Brann is 2 years into his abduction fight.

Devon Davenport is 6 years in his case. He has won at every level and yet he can't get his daughter home. Quiet diplomacy, it seems to me, has not worked.

David Goldman, you know, was well over 5½ years in his quest and through the grace of God and a lot of effort—thank God he was able to get his son back. But these others have not been 6 years that now exceed David's time.

Why isn't there a sanction—I mean a sanction—against Brazil? I don't understand it.

Ambassador BOND. Well, we are—we are working to get those kids home. We are working to make sure that the Brazilians understand that they have got to improve—find a way to improve their judicial process. It is designed to permit a lot of appeals but as a result they are not living up to their commitment to turn these cases around and get the kids home.

And so we agree—Brazil's attorney general, as you know, is filing an appeal of that judge's decision in the Brann case because the Government of Brazil agrees that judge was wrong.

Mr. SMITH. I understand you will have to leave soon. So I will submit a number of questions. But just a couple of final ones just to conclude.

On extradition, an extradition request—tell the other country we are very serious about resolving abduction. This is especially helpful in non-Hague countries where abduction is not taken seriously.

The Goldman Act lists extradition as an action the State Department should be taking in concert with the Department of Justice.

How many extradition requests are pending on abduction cases? Are there any pending in India, a non-Hague country where 75 open long-pending cases at the end of the year, about half are more than 5 years old—I mentioned Bindu Phillips earlier, who I have gotten to know very well—and her case is just filled to overflowing with fraud.

The police in her township—it is not in my district—have been—have done yeoman's work in documenting how she was defrauded as well as adding additional pain to the abduction itself because she was also ripped off, stolen from.

What is being done vis-a-vis extradition?

Ambassador BOND. Mr. Chairman, the issue of extradition of U.S. Government requesting the extradition of someone to the Unites States is a decision that is made by the Department of Justice and so I really would have to refer you——

Mr. SMITH. Oh, I understand that.

But is it something that your office weighs in or the Office of Children's Issues? I mean, they certainly would look to you for guidance. I mean, on Bindu Phillips it think there ought to be an extradition done in that case.

And certainly a thumbs up—an admonishment from your office would go a long way to sharpening their focus because obviously they have a lot of cases and prosecutorial discretion that they have to deal with in terms of what cases to take.

Ambassador BOND. Yes, and it is absolutely one of the options that is out there for cases where we think and Justice agrees would make a difference.

Mr. SMITH. But you know of no case as of now?

Ambassador BOND. I don't.

Mr. SMITH. Okay. Could you get back to us if there is such a case of making its way through?

[No response was received prior to printing.]

Mr. SMITH. Let me also ask you with regards to India is a MOU or bilateral agreement being contemplated there? Because I know there is a great push, have them sign the Hague. But, again, that just grandfathers out all of those 100 children, 75 to so cases, including Bindu Phillips.

Ambassador BOND. Right. Yes, and as you say, we are hearing very positive comments from the Indians with whom I also had meetings this month here in Washington about joining the Hague.

They recognize the fact that there are a lot of cases and that that structure provides a way to address these and resolve them. So we would also then be talking to India about how are we going to resolve the cases that predate the convention.

Mr. SMITH. Again, the argument was made as to why no MOU for Japan was that the atmosphere would be so improved under Hague that it would lead to possible resolution of those cases.

Again, has any of that happened? Are they looking to resolve Captain Toland's case?

Ambassador BOND. I know, as I mentioned, that some of the parents have submitted Hague access requests and to the extent that they are able to resume regular contact with their children that may well lead to actions that actually bring the children home, especially if the children are older and in a position to express their own interests in where they want to live or where they want to travel.

Mr. SMITH. Let me just ask you finally, and this is regarding India and maybe other countries as well. But your reports to Congress this year and letters to left-behind parents, and I have one here which we can share with you, showed some confusion regarding the application trigger recounting a case against a non-Hague country such as India.

When desperate left-behind parents contact you they are told there has to be an additional application procedure for their case to count as "unresolved" but that the content and the process for the application is kept secret.

One enquiring parent was told the response to her direct questions regarding an application has not been submitted—that is from the letter—that the State Department will do so when appropriate.

For non-Hague countries the Goldman Act starts the clock the moment the State Department formally raises the case by name with the country.

What additional requirements have you added, if any, for an application and how can you fill them immediately in India? And we will share with you this letter if you would like to take a look.

Ambassador BOND. I am not aware of——

Mr. SMITH. The family came away confused.

Ambassador BOND. Yes. I am not aware of any additional requirements that are asked for parents whose children have been abducted to India.

So, you know, I don't know whether there was a misunderstanding in what you are describing or a failure on our part to communicate clearly but there aren't any, as far as I am aware, additional requirements that are imposed on left-behind parents whose children are in India.

Mr. SMITH. Right. I know you have indicated you need to leave. Is there time for Sheila Jackson Lee to ask a question?

Ambassador BOND. Of course.

Mr. SMITH. Thank you. Yield to the gentlelady from Texas.

Ms. JACKSON LEE. Let me thank the chairman for his kindness and the ranking member of this committee in this important hearing.

And I thank Secretary Bond for your presence here today. I dashed from the floor so thank you for your patience.

But I want to just hold up a face of mothers that have encountered challenges and difficulties even as this law has been passed.

And I would like to be—I think all of us would like to be a help to the administration, to administrations plural and to these families.

So I, first, would like to get from you a sense of the importance of the law being enforced through judicial and law enforcement education.

It seems that there is a difficulty. One case comes to mind where the court said I don't have jurisdiction—I am going to give it to Monaco when the children are U.S.-born, the mother is U.S.-born and a court is advocating their responsibility.

What do you think we can do with the education about the enforcement of this law?

Ambassador BOND. Well, one very valuable important tool that we have in terms of our education efforts is our network of Hague judges, Federal and state judges who are experts on the Hague and are prepared and very actively go out and talk to their counterparts in other countries in order to address very directly the questions that they might have about how this process works and to reassure them about how the process works in the United States.

So that is one of the education measures that we have. We also have brought scores of foreign judges and prosecutors to the United States to be—to have the opportunity to meet their counterparts and to understand how the process works here and to exchange different cases they worked on and just talk, you know, robe to robe, if you will, about how the process works for them, how they understand it and how the American judges handle the same cases.

So I think that is very much at the heart of the work that we are doing working also with the Hague permanent bureau, which has experts stationed in different regions of the world who also work to support different governments to make sure that they understand what they are supposed to be doing and that they get it right.

In Brazil next week there is going to be a judicial training program that is being organized with our support by the Hague permanent bureau.

Ms. JACKSON LEE. I am on the Judiciary Committee and I think the education is a problem and I think also it might be helpful if the Justice Department joined in with the State Department as it relates to the judicial enforcement.

Again, that is part of what you see in the understanding. I guess my concern is that the Goldman Act has not been as strongly enforced as the intention was behind the passage.

How do you—do you think a collaborating with the Justice Department on the enforcement end or would be—would be helpful?

Ambassador BOND. Congresswoman, we actually do collaborate very closely with the Department of Justice. We work very closely with the FBI on—especially in blocking abductions of children from the United States but also in addressing different cases, and Justice is very much involved in the work that we are doing, the interagency work, on preventing the abductions and also on working to effect returns.

So I absolutely think that greater coordination with Justice is a good idea. We have—twice a year we have a specific interagency meeting which includes the Department of Defense.

It includes Justice, DHS and others—State, of course, because we lead it—to talk about what more we can be doing as a government to address this issue and to prevent the abductions but also to address the situations of the families that are already caught up in this.

Ms. JACKSON LEE. And you can imagine that is very painful and I think we can only judge ourselves by the numbers of children that get reunited legitimately or legally with those parents who found themselves in an international quagmire and they just—whether they have lawyers here they are just grounded by this huge umbrella of international affairs that can really be insurmountable for must an individual who lives in Iowa, an individual who lives in New Jersey or Houston or in the state of Texas—just insurmountable.

So let me—let me ask this. In those meetings the FBI independently is there with the DOJ? Is that the—is that the enforcement arm—the FBI?

Ambassador BOND. Yes, FBI is also there.

Ms. JACKSON LEE. Then can you—I think the question would be, and we have the greatest respect for the mountain of responsibilities our law enforcement have and we thank them all for their service—but we wonder whether or not there is an educational issue there and what do you, the State Department—who is the overseer, if you will, of the success stories?

How much—how much enforcement is the FBI engaged in? Are these cases high priority cases? Can we determine how many cases

in the law enforcement term have been made by the FBI using the law and do we need now to assess that part of it, the enforcement, that then brings these cases before the court?

Ambassador BOND. Well, we work, as an example, very closely with the FBI and local law enforcement when we are notified by a parent that that person believes that there may be an abduction in progress.

We have 24/7 operators who are—they are not operators, they are officers who are trained in abductions who are available to take calls if people call in and say I just came home, my wife is not here, she left a note, I think she is planning to fly out with the kids.

Our officers are able to give very immediate direct instructions to the parents. If they don't have a court order they need one and they are told exactly what to do and we hook up with CBP, with the FBI, with local law enforcement in order to act—to interdict that abduction. So that is an example of a process that works very well.

You spoke, and it is absolutely true, to the challenge to the average citizen of understanding, you know, what do I do now if my child has been abducted to a foreign country that I may not even know that country very well and that is why we have a team of officers working in our Office of Children's Issues, the prevention team but also the abductions team that they are a part of, to provide information to the families that are caught up in this nightmare and to make sure that we're well linked up with the central authority in the other country if it's a Hague partner and to follow up on the case and provide the advice and the guidance that we can for non-convention cases to help people identify a lawyer in the other country and understand what their options are.

Ms. JACKSON LEE. Let me add—and I appreciate that but let me add and hopefully I am being helpful to this committee of requesting that we get a list of the cases—active cases that the DOJ and working with this international law enforcement are acting upon now.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE MICHELE THOREN BOND TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE SHEILA JACKSON LEE

We routinely communicate with law enforcement on possible criminal charges and extradition requests on international parental child abduction (IPCA) cases. However, the Department of State does not have access to a list of active IPCA criminal cases with the Department of Justice and international law enforcement. For this information, we would refer you to the Department of Justice.

Ms. JACKSON LEE. It is interesting, as the chairman has taken the lead, the ranking member—I am on Judiciary and Homeland Security, two of the departments that you mentioned—so I think there is an opportunity for a partnership here but to get the list of cases, active cases and then the second would be the list of cases that have resulted in the extradition or the return of these children because the most instances is children.

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE MICHELE THOREN BOND TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE SHEILA JACKSON LEE

We do not have access to a comprehensive list of IPCA cases involving the extradition of the taking parent or return of the children as a result of criminal charges

against the taking parent. The following are illustrative cases that we are aware of that fit these criteria; however, we would refer you to the Department of Justice for more comprehensive information:

- Mexico, 2016—One child was returned to the United States under the Hague Abduction Convention after the child's aunt obtained guardianship following the taking parent's alleged murder of the child's mother and the child's abduction to Mexico. Subsequently, Mexican officials arrested the taking parent for U.S.-based murder charges.
- Kingdom of Saudi Arabia, 2015—Two children were returned to the United States after Saudi authorities acted on an Interpol Red Notice against the taking parent for international parental kidnapping charges.
- Ghana, 2014—Two children were returned to the United States per a Ghanaian court order. German authorities subsequently arrested the taking parent on state custodial interference charges and the taking parent was extradited to the United States. The taking parent's travel to Germany was unrelated to the abduction case.
- Spain, 2013—One child was returned to the United States per a Spanish court order after the taking parent was arrested on federal international parental kidnapping charges. Subsequently, the taking parent was extradited to the United States.

Ms. JACKSON LEE. I think the intent of the Goldman Law was to stop the bleeding. We were just amazed at how many cases—how many families had experienced this and with their own domestic-based lawyers—some may have international experience—they just were going up against really the firewall of sovereignty.

And we were trying to find a way to pierce that and give some hope to individuals. Stories that we've had before this committee—I have had the privilege of sitting in on this committee—were ones where the family wound up in a domestic court in California, for example, and then completely obliterated in terms of that case, giving up jurisdiction.

I don't know how—I am just baffled, as I conclude, how a local court ignores the citizenship of the children, which are U.S. children, and they send them overseas. I am just completely baffled—with no showing of a parent that is not able to provide for them here in the United States.

So then when they are taken we would like at least the Goldman Law to step in and give some equality, some equal playing field. So it would be very helpful.

I think what we need to do is to really hear from all the agencies—the State Department is certainly working but you are collaborating with the Department of Justice, Homeland Security, to a certain extent some of the local law enforcement to understand that the law is in place and the law can be useful to save some of these individuals, which I would like to see.

So if we could get both of those numbers it may be helpful to this committee and the chairman and then we might be able to again look at our other agencies and how they can be—how they can be helpful in collaborating to bring some of these children home.

And I don't know, as I close—Secretary Bond, do you have any recent examples of success—whether you call it Case A or B—do you have an example of the reuniting of children that have been abducted, brought home to the United States?

Ambassador BOND. Oh, absolutely. There—in terms of what you were speaking to just a moment ago about the interagency work including the FBI, a lot of that is focused on prevention.

Discussions of what more we might be able to do to inform parents who may be at risk for this sort of thing to make sure they know what steps they need to take to protect their children and also to ensure that there is a coordinated response if we get an indication that there is an abduction underway.

That is a lot of that focus from the FBI and law enforcement and other—and other parts of the interagency working together. But there have been several hundred return.

There are also—of course, we don't know how many cases where children were protected from abduction because of advice that their parents got by calling into our team or by reading the information that is on our Web site so that they would be aware of the fact, for example, that you can—you can register with passport services, the fact that even though we require for all minors both parents have to agree to the issuance of a passport, you can take the additional step of saying I want you to contact me personally if any application for my child is filed because I want to be sure that my spouse doesn't, you know, pretend to have a notarized document from me that is false. So we have that program and we have other programs that are available for people to ensure that their children are protected or flagged so that they won't be the victims of an abduction.

But, of course, that doesn't help in every case.

We have plenty of cases where the child travelled with both parents' knowledge and agreement because one parent didn't know what the other parent was planning. So——

Ms. JACKSON LEE. And that is where the abduction comes in, and that is the problems that we would like to solve. So, again, let me add a third request.

If you have to protect the privacy but if a report could—we could find a list that is either listed by number or something that says, you know, we returned this person from Kosovo to the United States.

But I would like to see the list, to see that myself. Is it over a period of years or it is in the last year or——

Ambassador BOND. We submit an annual report——

Ms. JACKSON LEE. Right, under the law.

Ambassador BOND [continuing]. And it does include the statistics on the returns by country.

Ms. JACKSON LEE. And the most recent annual report was when? Was it——

Ambassador BOND. It was issued in April.

Ms. JACKSON LEE. In April. If you are about to give to your other annual but I would like to—I would just like to ask for that report. I know it comes to Congress but I would like to——

Ambassador BOND. We will make sure you get it.

Ms. JACKSON LEE [continuing]. Ask for it and if there is an updating between now and then I would appreciate that as well. Mr. Chairman, I could pursue a whole line of questioning but I would like to yield back. Thank you.

Mr. SMITH. Thank you so much.

Ms. JACKSON LEE. Thank you very much, Ms. Secretary.

Mr. SMITH. Can I just ask you—you know, Sheila Jackson Lee's questions prompted a question from me and that would be as you

know Title 3 outlines or makes clear that there needs to be an interagency working group headed up by the secretary of state and it would include Homeland Security, Department of Justice and it would also work with Department of Defense.

Has that interagency group met and what has been the outcome? How often do they meet?

Ambassador BOND. So far, I believe they have met twice and in addition to the agencies that you have mentioned they also include now at the last most recent session the attorney general of Utah attended because they are also reaching out to the state level officials who would be in a position to contribute to a discussion of how can we get this done better—how can we protect the kids. So those will be regularly held.

Mr. SMITH. This is the final question and then we will submit the rest for the record. But in June—at the June hearing sitting right where you are sitting was a woman, Edeanna Barbirou, from Tunisia.

She has been trying to get her son, Eslam Chebbi, back home to the United States. She testified—her testimony was very, very riveted. She has won four court orders and yet she still has not gotten her son back.

Secretary Kerry recently praised Tunisia for being an example of democracy and, again, despite these court orders she does not have her son back. What is the department doing to get her son back?

Ambassador BOND. She is present here today, as a matter of fact, and we were chatting a few minutes ago. Of course, we are familiar with her situation.

The—to be honest, I think, due to the privacy act I actually can't go into the details right now of what the current status of her case is.

But we are very engaged on it and remain hopeful that we will be able to get him home. As you say, the courts have ordered his return several times.

Mr. SMITH. Thank you. And I will submit some additional questions and the members might do likewise. Thank you for your testimony.

Ambassador BOND. Thank you.

Mr. SMITH. I would like to now invite panel two, being first with Mr. David Goldman, a father of a child abducted to Brazil. Mr. Goldman is father of Sean Goldman, who is here in the audience. He was born in Red Bank—Sean was, abducted to Brazil in 2004.

Mr. Goldman spent the next 5½ arduous years, enormous amounts of time and financial resources and had a great number of people supporting him in the New Jersey community and really around the country to secure the return of his son.

In December 2009, Christmas Eve to be exact, he actually got his son back and flew back to the United States and what a great reunion that was, not just for David but for his entire family.

We thank him for the work that he has done not just for himself but the Bring Sean Home Foundation and the other work he has done. He has been a shining example of what can be when the levers of government, the private sector, the media, all work in concert to bring about justice and a—in this case, a much needed family reunification.

We will then hear from U.S. Navy Captain Paul Toland, who has been fighting for access to and return of his daughter Erika since 2003.

Captain Toland—she was abducted, I should say, as an infant from a Navy family housing in Japan. Captain Toland has been the sole surviving parent since 2007 when Erika's mother died. But still has been prevented from unification with his daughter who is living with her grandmother.

Captain Toland recently launched a new legal effort in Japan's courts calling on the courts to recognize the fundamental human rights of a biological parent to have access to his or her child.

He is the co-founder and national director of Back Home, a nonprofit organization dedicated to the immediate return of internationally abducted children who have been wrongfully detained, especially in Japan.

I would like begin with Mr. Goldman and then go to Captain Toland.

STATEMENT OF MR. DAVID GOLDMAN, CO-FOUNDER AND DIRECTOR, BRING SEAN HOME FOUNDATION (FATHER OF CHILD ABDUCTED TO BRAZIL)

Mr. GOLDMAN. Thank you, Mr. Chairman and Mr. Meadows and Ms. Jackson. It is wonderful that you are here to support this. I know Mr. Meadows has been here on a few of these hearings and we appreciate that.

I would like to just start before I go into my actually testimony, and all these hearings that I attend and some participate in I do keep hearing about the quiet diplomacy, and I always wonder, like, the questions that you ask, instead of deflecting them what is the real reason that they won't use the tools in the toolbox?

What is it? Just come clean. We don't believe in it. It is against what we stand for. I always thought it would just be against—they are more concerned about their bilateral relations than the 100 children in this country, the 200 children in this country—they are more worried about trade, they are more worried about arms, they are more worried about drug smuggling, border control in certain countries.

But why can't they just basically come clean and say what is the reason they won't use the tools in the tool box that they need, that they wanted? I just listened and we talk about Brazil.

They have acceded to the Hague Convention in 2004 and they are always on noncompliance. They just said nine times consecutively noncompliant. When is it time to use the tools? Does it take 9 years? Some child who is kidnapped at 9 is now an 18-year-old. They're a grownup. They are not a child anymore. That goes in complete contra Hague Convention, what it stands for.

Nine times and they are noncompliant and that does show that quiet diplomacy in that case doesn't work. And as you said, a 27-percent return rate from Germany, to me doesn't seem very successful.

But I diverged because those are just points that I just hear every time. So I was—I will give you a brief history of my case. For 5½ years I was a left-behind parent. I did live in a world of de-

spondency and desperation with a searing pain through my entire being.

Everywhere I turned I saw an image of my abducted child. Sleep was hard to come by. It was never restful. If I smiled I did feel guilt.

When I saw children, whether it was in the store, a park, on television or on my charter boat, where clients often take their families for day on the water, it was more than painful.

For the longest time it was too painful to be around my own nieces and nephews. I was wondering—I wanted to be and where was my son. Where was my child?

He had been abducted. He had been illegally held. He was being psychologically, emotionally and mentally abused. I needed to help him but I was helpless. I needed to save him. He needed me, his father.

It was our legal, our moral, our God-given right to be together as parent and child. I did everything humanly possible leaving no stone unturned when for many years the result remained the same. My son, Sean, was not home.

There were court orders in place—many court orders from the U.S. demanding the immediate return of my child. The courts, as you pointed out, Mr. Chairman, acknowledged that my son had been held in violation of U.S. and international law.

However, he remained in the possession of his abductors. Why were so many laws being ignored? Why were the abductors and in my case, the Government of Brazil, allowed to flagrantly violate international law without consequence?

Why were my child and over 50 other American children still in Brazil, another plus in Mexico and thousands of other American children also held illegally in other countries in clear violation of the Hague Convention on the civil aspects of international child abduction?

It would take 4½ years, numerous court hearings, extraordinary work from my attorneys in Brazil and the U.S. and a tremendous amount of political pressure applied publically and internationally in House and Senate and State resolutions for me to finally be able to visit my abducted son for a few short periods of time.

It took Congressman Smith traveling to Brazil with me. It took Senator Lautenberg holding up a trade bill that would have given Brazil nearly $3 billion of trade preferences for my son to come home.

So as I prepared today's hearing, I began to review my own testimony from previous hearings as well as testimony of others who had given powerful and moving accounts of their own experiences with this issue.

In past, what was obvious was that our Government lacked the tools they so desperately needed to bring abducted American children home.

That is not the issue any longer. It has been over a year now since President Obama signed the Goldman Act into law, and thank you, Mr. Chairman, for authoring that legislation. It is much needed and I hope we can use it.

I hope our Government uses it. I beg, I plead on behalf of all these other left-behind parents and families and grandmas and

cousins and nieces and nephews and the community that they were ripped away from that we use the tools to get these children home. It provides our Government with a number of options to persuade countries to return abducted American children.

One of our first duties of government is to protect its citizens and the Goldman Act does just that. We no longer need one senator. Important. We no longer need one senator to hold the trade bill in which 131 countries would see tariffs on their imports to the U.S. rise sharply and billions of dollars of their trade disrupted.

The Goldman Act is designed to work country to country—on a country to country basis and may impose punitive measures against individual nations harboring abducted American children.

And I go to the press release—there can be no safe havens for abductors. That was released yesterday by Secretary Kerry. Point in case—let's take action.

We need not—our Government needs not be so concerned about upsetting a country that harbors child abductions of American citizen children. We must demand their return. We are not asking for any favors.

We are expecting the rule of law to be followed and if it isn't then let them see there are tangible consequences. And when we do, and hopefully we will use some of these powerful tools, stronger tools, they are not permanent. They send the children home and whatever penalty, whatever punitive measures they face may be lifted.

It doesn't mean it's forever. But let's make a statement and if they get angry at us—how can we be concerned a country being angry at us for demanding our American children home? These are our citizens. It is our duty to protect them. We can't be concerned if they are going to get angry at us for demanding the return as they would their own.

It's intended to work side by side with the Hague Convention on the civil aspects of international child abduction, ensuring countries honor their treaty obligations, and this way the Goldman Act almost acts like a bodyguard to the treaty, protecting it and ensuring that it is followed as it was intended.

It took several years and several markups before becoming law and we now have the ability to help bring home this country's abducted children with both Hague signatory countries as well as non-Hague countries.

I would just quickly like to address the criminal approach. We talked about Department of Justice. And in my case as well as most cases, the first instincts are to pursue criminal remedies—go to the police, hunt down the abductors and hope for a return of the child through law enforcement. I understand and sympathize with that approach and that was in fact my first instinct.

But I do think that approach adds another layer of complexities to the process. What the Hague treaty does in simple terms is put a signatory country—it puts all signatory countries in agreement on how the issue of international child abduction should be resolved without complicating it on the basis of cultural and domestic laws.

Essentially, there are two extremely important issues that arise from criminal proceedings and demand from extraditions of child abductors.

Domestic courts will often refuse the return of an abducted child, knowing that the taking parent will face criminal prosecution by coming back to the country where the child was abducted from and many countries it is in their constitution—they just simply will not extradite one of their own citizens.

And even if they do extradite one of their own citizens, so you got the abductor back but the child is still over there.

It just adds a whole other layer of complexities and that is why the basis of the Hague Convention is on the civil aspects and that is why the tools of the Goldman Act are civil actions.

And as we also talked about, with regard to the Hague Convention itself, there are two areas which are most often abused by foreign judges when deciding these cases.

One is in Article 11 about the judicial administrative authorities shall expeditiously in proceedings so act expeditiously to return the children and if they don't reach that decision within 6 weeks of the date of commencement of the proceedings the applicant or the central authority of the requested state on its own initiative or if asked by the central authority of the requested state shall have the right to request a statement for the reasons of the delay.

So, clearly, the spirit of the convention is to have these cases handled swiftly so that there is little disruption as possible in the life of a child.

We all know that is not what happens. Most of the time when Americans are abducted because of the endless legal delays resulting from motions filed by the abducting parents the convention's intent is thwarted and the spirit of the convention is lost.

And, as an example, they use Article 13(b) about you don't have to return a child if the court where the child was abducted says there is going to be grave risk or harm to return the child.

So what they do is they interpret these legal delays and proceedings as the grounds for denying the return of a child based on the assumption that the passage of time somehow eliminates the urgency of returning that child to their home country of habitual residence. Because of their own slow judicial process they say it is now going to disrupt the abduct child to return them, thus rewarding the kidnapper.

As Congressman Smith mentioned, that case in Brazil, which is going on right now, they actually denied Chris Brann's—Dr. Brann, who I take a side note, is a internist. He works at Baylor University in Texas.

He dedicated his life to helping others yet he can't help his own child. He can't nurture and help and be with his own child.

Someone whose calling in life is to help heal, he can't even participate in his own child's life and the pain he is experiencing as well as all the other parents is just tremendous and devastating there really are no true words to imagine the level of despair that these parents suffer every day.

But they—in this case the judge cited, in Chris' case, the denial of my son because of the passage of time and the well settled issue. They denied the return of his son, citing my case. I was floored when I realized that, when I read that.

This judge that decided his case must have never read the news, seen the television or looked at a legal precedence because my son

is home and he's been home for nearly 6 years. So for her to cite that case is just showing that they are looking at any reason to not return children.

Another example in Brazil, and this is about the enforcement issue, so now we have one judge just denying the return in a blatant disregard for the law. Another case is Nadia Davenport.

It's been more than 7 years since Devon Davenport's baby daughter was abducted from North Carolina to Brazil and he has fought admirably to bring his daughter home and he has even testified before this same committee last year making an impassioned plea for help.

The Brazilian court has ordered his daughter, Nadia, home and all legitimate appeals have been exhausted. Yet, nearly 2 years have passed since that decision without enforcement of the return and Nadia remains in Brazil illegally and Devon Davenport is not closer to being with his child.

So we have a country noncompliant for nine times. When they do get a judicial order it doesn't get carried out if they do get a judicial order.

There is no country that's screams, that is a member of the Hague for this long, to try your quiet diplomacy, to use the tools and these parents, like so many others, suffer so much. It is beyond words to describe and I know because I was one of them. I did feel like a dead man walking—lifeless, struggling day to day to get through the most meaningless tasks.

I am now so fortunate to be on the other side, having been reunited with my son, and to my knowledge, to answer a couple of your questions, Sean—my son, Sean Goldman—is the only American child ever to be returned from Brazil to America under a court order under the provisions of the Hague Convention.

So you asked the question. That's the answer. My son is the only child ever to be returned from Brazil to America under provisions of a court order under the Hague Convention and they have been acceded to the treaty since 2004.

We are lucky. We can't recover the years we have lost but we can enjoy our time now. We can live as parent and child. I can watch him grow and evolve and become a young adult.

We can interact with each other, participating, educating, encouraging and disciplining as a parent should be able to do with their own child. And so many other left-behind parents were given hope and, painfully, celebrated my son's return without their own children at their side.

And please don't allow their hope to be a cruel and anguishing false hope that their children may one day come home. Accompanying me to this hearing today are my son and stepson, Sean, and his stepbrother, Jesse. They are brothers and good buddies, and Sean can grow up as a normal boy with family and friends like it was intended.

I was able to assume my role as his father and he as my son. It is our legal and God-given right to be father and son. And next to me is Captain Paul Toland. The empty chair behind him awaits for his abducted daughter, Erika.

It is this government's duty to protect its citizens, to protect the rights of Erika and allow her to come home to America and grow up on the care of her father, her only living parent.

The tools are in place. Please use them. Help Paul reunite with Erika. Please help these suffering mothers and fathers reunite with their abducted American children. Our country is about keeping families together and they desperately need your help.

Paul needs your help. We have the tools. Let's use them.

[The prepared statement of Mr. Goldman follows:]

David Goldman
Co-Founder and Director
Bring Sean Home Foundation
House Committee on Foreign Affairs
Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
November 19, 2015 Subcommittee Hearing: The Goldman Act to Return Abducted American Children: Ensuring Administration Action

Good morning Members of Congress. I am honored to be here today and thank you for the opportunity to address this committee.

Let me start with a brief history of my case. For five and one half years, I walked in the shoes of the Left-Behind Parent. I lived in a world of despondency and desperation, with a searing pain throughout my entire being. Everywhere I turned I saw an image of my abducted child. Sleep was hard to come by and never restful. If I smiled, I felt guilt. When I saw children, whether it was in the store, a park, on television or even on my charter boat, where clients often take their families for a day on the water, it was more than painful. For the longest time it was too painful to be around my own family members. I couldn't even be around my nieces and nephews. Where was my son? Where was my child? He had been abducted. He was being held illegally. He was being psychologically, emotionally and mentally abused. I needed to help him. I needed to save him. He needed me, his father. It was our legal, our moral, our God given right to be together as parent and child. I did everything humanly possible, leaving no stone unturned, but for many years the result remained the same. Sean was not home.

Although, I remained determined and hopeful, I must admit, the outcome for a permanent reunion with my abducted child seemed bleak at best. I felt like a dead man walking. This void left me a shell of the man I once had been. There were orders in place. There were many orders from U.S. courts demanding the immediate return of my child. The courts in Brazil acknowledged that my child had been held in violation of US and international law, however, he remained in the possession of his abductors. Why were so many laws being ignored? Why were the abductors and in my case, the government of Brazil, allowed to flagrantly violate international law with no consequences? Why were my child and over 50 other American children still in Brazil, another 100 plus in Mexico, and thousands of other American children also held illegally in other countries in clear violation of The Hague Convention on the Civil Aspects of International Child Abduction? It would take four and one half years, numerous court hearings, extraordinary work from my attorneys in Brazil and the US, a tremendous amount of political pressure applied publicly and internally, and House, Senate and state resolutions for me to finally be able to visit my abducted son for a few short periods of time. My son had been abducted by my wife and her parents and held illegally for over four years. It wasn't until the tragic passing of his mother that my son's abduction became "newsworthy." This finally brought it to the attention of those who could and would actually assist me. It took Congressmen Smith traveling to Brazil with me. It took Senator Lautenberg holding up a bill that would have given Brazil nearly three billion dollars in trade preferences for my son to come home.

As I prepared for today's hearing, I began by reviewing my own testimony from previous hearings, as well as the testimony of others who have given powerful and moving accounts of their own experiences with this issue. In past testimony, what was obvious was that our government lacked the tools they so desperately needed to help bring abducted American children home. That's not the issue any longer. It has been over a year now since the President signed the Goldman Act into law – a law which provides our government with a number of options to persuade countries to return abducted American children. One of the first duties of our government is to protect its citizens and The Goldman Act does just that.

We no longer need one Senator holding up a trade bill (Generalized Preference bill) in which 131 countries would see tariffs on their imports to the US rise sharply and billions of dollars of their trade disrupted. The Goldman act is designed to work on a country to country basis and may impose punitive measures against individual nations harboring abducted American children. Our government need not be so concerned about upsetting a country that harbors child abductors of American citizen children. We must demand their return. We're not asking for any favors. We're expecting the rule of law to be followed and if it isn't then let them see there are tangible consequences.

The Goldman Act is intended to work side by side with the Hague Convention on the Civil Aspects of International Child Abduction, ensuring countries honor their treaty obligations. In this way, the law acts almost like a bodyguard to the treaty, protecting it and ensuring that it is followed as was intended. It took several years and several mark-ups before becoming law. We now have the ability to help bring home this country's abducted children – with both Hague signatory countries as well as non-Hague countries.

I would also like to address the criminal approach to resolving these abduction cases. Many times, first instincts are to pursue criminal remedies, go to the police, hunt down the abductors, and hope for a return of the child through law enforcement. I understand and sympathize with that approach. In fact, those were my first instincts when Sean was abducted.

Unfortunately, that approach adds another layer of complexity to the process. What the Hague treaty does, in simple terms, is put all signatory countries in agreement on how the issue of international child abduction should be resolved without complicating it on the basis of cultural differences or domestic laws.

There are two extremely important issues that arise from criminal proceedings and demands for extradition for child abductors.

1. Domestic courts will often refuse to return an abducted child, knowing that the taking parent will face criminal prosecution by coming back to the country where the child was abducted from and;
2. Many countries will not extradite one of their own citizens.

With regard to the Hague Convention itself, there are two areas which are most often abused by foreign judges when deciding Hague cases.

Article 11

"The judicial or administrative authorities of Contracting States shall act *expeditiously* in proceedings for the return of children. If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay."

So as you can see, clearly the spirit of the Convention is to have these cases handled swiftly so that there is as little disruption as possible in the life of the abducted child. We all know that is not what happens most of the time when American children are abducted.

Because of the endless legal delays resulting from motions filed by the abducting parents, the Convention's intent is thwarted and the spirit of the Convention is lost. As an example, Article 13(b) of the Convention is perhaps the most common reason for denying returns.

Article 13(b)

"... the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation."

What happens in many Hague Convention countries is that the courts interpret the delays in the legal proceedings as grounds for denying the return of the child based on the assumption that the passage of time somehow eliminates the urgency of returning that child to their country of habitual residence. In other words, the courts are penalizing the left-behind parent and abducted child under the twisted logic that the child is now settled due to the slow judicial process in that country. There is one case ongoing in Brazil in which a decision denying the return of Nico Brann, to his father Chris, was denied by the judge (Arali Maciel Duarte) solely based on a previous decision made in my case rendered over nine years ago, in which it was acknowledged that my son was being held in Brazil illegally and in violation of the Treaty but denying the return on the basis that he was now settled. The judge cited the passage of time that it took the court to hear my case, allowing them to conclude that my son was now settled in his new environment and that it would be of grave harm to uproot him from his newly established environment and thus rewarding the abductors, keeping my son and I separated and prolonging his eventual return for another four years. Apparently Judge Duarte doesn't realize that the initial decision in my case was later overturned by the Brazilian Supreme court and my son, Sean, has been home for nearly six years.

Another example of an egregious injustice in Brazil is the case of Nadia Davenport. It's been more than 7 years since Devon Davenport's baby daughter was abducted from North Carolina to Brazil. Devon has fought admirably to bring his daughter home and even testified before this same committee last year, making an impassioned plea for help. The Brazilian Supreme court has ordered the return of Nadia and all legitimate appeals have been exhausted yet nearly two years have passed since that decision, without enforcement of the return. Nadia remains in Brazil illegally and Devon Davenport is apparently no closer to being with his child.

These parents, like so many others, suffer so much it is beyond words to describe. I know because I was one of them. Again, I was a dead man walking – lifeless, struggling day to day to get through the most meaningless of tasks. I am now so fortunate to be on the other side, having been reunited with my son. To my knowledge, Sean Goldman is the only American child ever to return from Brazil by a court order under the provisions of the Hague Convention. We are lucky. We can't recover the years we have lost, but we can enjoy our time together now. We can live as parent and child. I can watch him grow, evolve and become a young adult. We can interact with each other, participating, educating, encouraging and disciplining as a parent should be able to do with their own child. So many other left-behind parents were given hope and painfully celebrated the return of Sean, without their own children at their side. Please don't allow their hope to be a cruel and anguishing false hope that their children may one day come home.

Accompanying me to this hearing today are my son and step son, Sean and Jesse. They are brothers and good buddies. Sean can grow up as a normal boy, with family and friends like it was intended. I was able

to assume my role as his father and he as my son. It is our legal and God given right to be father and son. Next to me is Captain Paul Toland. The empty chair behind him awaits his abducted daughter Erika. It is this government's duty to protect its citizens – to protect the rights of Erika and allow her to come home to America and grow up in the care of her father, her only living parent. The tools are in place, please use them. Help Paul reunite with Erika. Please help these suffering mothers and fathers reunite with their abducted American children. Our country is about keeping families together. They desperately need your help. You have the tools.

With regard to the reporting requirements of the State Department, I have read the 90-day supplemental report on IPCA and see lots of discussion of quiet diplomacy, such as meetings and demarches. What is absent is any direct action authorized through the Goldman Act to compel these countries to return these children. We need to do more. Please use the tools you now have at your disposal.

The success of the Hague Convention can only be measured by the number of abducted children returned. All of these meetings, discussions, working groups, while it all sounds good, are meaningless if they do not result in more children coming home. It is simply and obviously not enough.

In Brazil, we have heard about high level meetings and demarches, yet as far as we know, Sean is still the only abducted American child to be returned to the US under the Hague Convention, by means of a court order. The Nadia Davenport case is a prime example of the abject failure of Brazil to enforce a return order.

I would also like to make a general comment about the content of the most recent annual compliance report. It is very difficult, if not impossible, to make sense of this report. For starters, the reporting is inconsistent from year to year in terms of the most pertinent data. I reviewed the annual statistics on the issue of IPCA and in particular, was interested in the following:

1. The number of new outgoing cases of IPCA and number of children involved
2. The number of children physically returned to the US (separating Hague and non-Hague returns, if possible)
3. The number of cases closed (and number of children involved in those cases)

Unfortunately, it was difficult to find this information. I had to use a calculator to sum the country data for 66 countries. The data was inconsistent from year to year. For example, the 2013 report showed both the number of new outgoing abduction cases and the number of children involved in those cases. The 2014 data only shows the number of cases – not the number of children involved. How are our lawmakers supposed to grasp the magnitude of the problem if the data does not do a sufficient job of summarizing the situation?

Specifically, one of the statistics that puzzled me was the large percentage of cases either "closed" or "resolved" in 2014. The number of cases open at any point in 2014 was 1,467. The open cases at year-end 2014 was 758, suggesting 709 cases were either closed or resolved in 2014, meaning 48% of the open cases were closed in that calendar year. Could that really be the case and if so, how is that possible and what does it say about the rate these cases are being closed for reasons other than a physical return of these children.

Mr. SMITH. Mr. Goldman, thank you so very much for that very passionate, well informed, articulate—not only telling your own story but your concern for all of the other left-behind parents.

And with that, I'd like to yield to Captain Paul Toland.

STATEMENT OF CAPTAIN PAUL TOLAND, USN, CO-FOUNDER AND NATIONAL DIRECTOR, BRING ABDUCTED CHILDREN HOME (FATHER OF CHILD ABDUCTED TO JAPAN)

CAPT TOLAND. Thank you, and thank you, David, for that touching speech.

Congressman Smith, Congressman Meadows, Congresswoman Jackson Lee and other members of this committee, thank you for allowing me the opportunity to speak today about the scourge of international parental child abduction, specifically with regard to the country of Japan.

I am here today to explain to you why punitive measures up to and including sanctions may soon be the only viable option that will bring about the change necessary within Japan to comply with the Hague Convention and the Goldman Act.

My name is Paul Toland. I'm a captain in the United States Navy with over 26 years of active military service. I am the co-founder and director of Bring Abducted Children Home.

My daughter Erika was abducted off the U.S. Navy housing in Japan over 12 years ago. In 2007, my wife, Etsuko, committed suicide and since that time Erika has been wrongfully retained in Japan by her grandmother Akiko Futagi.

I was recently in Japan, where I filed through their family court system for physical custody of Erika. Japan signed the Hague Convention in 2014 but abduction cases like mine that transpired before Japan's ratification of the Hague are not eligible for returns under the Hague. So I am utilizing the Japanese system to see if they will in fact respect the rights of a parent over a nonparent and provide custody to me, Erika's only living parent.

Yes, Akiko Futagi is a grandparent to Erika Toland. But that also means she is not a parent. Under law in most countries she would have no right to keep my child away from me and yet to this day she has been allowed to keep Erika away from me without allowing so much as a phone call in 8 painful years.

In most countries with modern family law systems this abduction and denial of access to a parent would be perceived no differently than if a stranger abducted a child and it would be a felony crime.

But in Japan, abduction by a nonparent relative is not only accepted, it is condoned. I am the only parent in the world to Erika, yet every day I have no idea if she is sick or injured.

I have no idea if she is safe or in danger. I have not even been offered a single photo of my beloved daughter in the 8 years since the grandmother has held her, let alone a visit or a walk in the park together or the opportunity to say happy birthday even once.

Historically, Japan has stood alone in the modern world as a notorious haven for child abduction and is still considered a black hole from abduction from which no child ever returns.

The Japanese Government has never enforced the return of a single abducted child including over 400 American children abducted to Japan since 1994.

But recently there has been some hope for change in Japan. Japan has signed the Hague Convention and many Japanese politicians are speaking openly about changing Japan's views on parental abduction and shared custody between parents after divorce.

Those inside and outside Japan who want Japan to change and become a modern country in regard to parental rights see my case as an opportunity for Japan to prove to the rest of the world that it is changing and that Japan is moving forward toward joining the rest of the developed nations of the world.

For Japan to prove this to the rest of the world, we fully expect that the Japanese court will both order and enforce the return of Erika Toland to me, her father and only living parent.

The judge's ruling in this case will be a reflection of the entire Japanese Government and the entire nation of Japan. There could be no clearer case than this case for Japan to demonstrate that it has at least a very basic and rudimentary understanding of its responsibilities toward parents and children.

How can we expect Japan to ever resolve more complicated divorce and child custody issues if it cannot even resolve this very straightforward case where one parent is deceased and a nonparent is withholding the child from a loving parent who wants to care for her?

The U.S. Supreme Court has found that, and I quote, "the interest of parents in the care, custody and control of their children is perhaps the oldest of the fundamental liberty interests."

The U.S. Supreme Court has further ruled that it is cardinal that the custody, care and nurture of the child reside first in the parents and that same court has held that the relationship between parent and child is constitutionally protected.

As in U.S. courts, the rest of the modern developed world would never tolerate a custody battle between a parent and a nonparent.

In civilized countries the automatic presumption of the court would be that the best interest of a child is to be raised by her parents, not some other more distant relative or stranger.

A parent does not have the burden of proving that he or she can raise the child better than a nonparent. If Japan rules, as it should in favor of my daughter's right to know and love her father, then it would truly be a threshold step for Japan and Japan would be closer to joining the rest of the international community as a nation that respects the basic fundamental bond between parent and child.

However, after attending family court in Japan last month, I came to a single conclusion regarding the Japanese family law system. Nothing has changed.

That is right. The court system is no different than it was 10 years ago. The courts still have no mechanism of enforcement. The courts still drag cases out over many months to run out the clock and judges simply find a way to maintain the status quo.

In my clear-cut and unambiguous case, I have endured three court dates over the course of 8 months with another court date set for December and no end in sight.

Signing the Hague was simply a smokescreen devised by Japan to relieve international pressure. The Japanese Ministry of Foreign Affairs knows this. They know that Japan's family court system is

a completely broken mess and that is why they have done everything in their power to keep Hague actions out of their court system and instead attempt to resolve cases through mediation and provide access via monitored video conferencing between victimized parents and children.

These efforts have all been dismal failures. Why would an abductor want to mediate knowing that he or she can withhold a child without consequence? All they need to say is no and there is nothing that the Japanese Government will do about it.

Other recent signatories of the Hague such as Korea have made necessary reforms to their family law system but Japan simply refuses to do so and because of this they can never be compliant with the Hague. It is literally impossible.

So what are we to do about it? How will Japan make the changes it needs to join the rest of the global community? I and everyone who has been associated with this issue for years have come to a single conclusion—foreign pressure. Yes, that is the only solution that can bring about change within Japan.

Real changes to human rights issues in Japan are rarely if ever accomplished internally. Instead, it is almost exclusively foreign pressure that elicits change in Japan. Take child pornography as an example.

For years and years, Japan openly allowed possession of child pornography and did nothing about it. It was only intense and continued foreign pressure that compelled Japan to make the changes necessary to join the rest of the civilized world in this area.

Likewise, it will only be constant and intense foreign pressure that will bring about the required changes in family law that will allow Japan to comply with the Goldman Act and the Hague Convention. The State Department has been completely remiss in applying foreign pressure to Japan or demanding the return of any of the 400 children kidnapped to Japan since 1994.

They have instead actively tried to cover up for Japan's noncompliance with no regard whatsoever to the suffering of countless American parents and children.

If Japan rules against me and demonstrates that it cannot and will not protect the fundamental bond between parent and child and the inherent rights of parents and if Japan continues to deny access to parents under the Hague and fails to return abducted children under the Hague, I ask for punitive measures up to and including sanctions under the Goldman Act.

Why do you think Brazil returned Sean Goldman? It was because of the threat of sanctions. As David just alluded to, holding up that trade bill—that is what really hit home. And then after Sean was returned—thank God he was returned—then the pressure was relieved. They were no longer holding up the trade bill and no more children were returned.

That speaks for itself. Sanctions represent a real expenditure of political capital on behalf of the United States.

I once told a high ranking State Department official that our children could be returned in 1 year if the United States Government was willing to expend real political capital on behalf of our children.

If a governor or some famous celebrity's child were abducted overseas you can bet our Government would expend every resource possible to ensure the return of these children—their children.

But the sad reality is that our children are simply not important enough for the American Government to expend the political capital necessary to return them.

Additionally, if Japan cannot protect the fundamental bond between parent and child and the inherent rights of parents, then no American families are safe in Japan including military families.

If our military families' members and their families stationed in Japan can lose their children so easily in violation of our constitutional protections, then the military will need to rethink its policy of allowing family members to accompany their military sponsor to Japan.

Ever since Erika was stolen from me over 12 years ago, my only desire in the world and everything I have worked for has been done with one goal in mind—to be reunited with Erika so she can know and love her only father and so I can know and love my only child. That goal has never changed and it never will.

I have heard some people from Japan say, "Why would you want to take Erika away from her home in Japan?" Well, to that I say Japan is not necessarily her rightful home. It is not even necessarily the United States. A child's home is with her parents no matter where that may be, and that means that no matter where I may reside Erika's home is and always will be with me.

True, it's a fact that she's 13 years old now and she may not want to come to America, and if that's the case she and I will work that out together. I will ensure that I have the best team of reunification experts and medical professionals to help us through these times. Japan expeditiously ruling in my favor will sanctify the sacred bond between parent and child.

Japan expeditiously ruling in my favor will be a recognition that these difficult issues regarding Erika's future are issues that she and I must face together and it will also recognize that neither the state of Japan nor a more distant nonparent relative will come between the sacred bond of parent and child.

However, if Japan rules against me and violates this fundamental bond between parent and child and continue their pattern of denying access to parents of abducted children and fail to expeditiously return abducted children under the Hague Convention, I once again ask that punitive actions be taken by the U.S. Government to include sanctions under the Goldman Act. Only foreign pressure will resolve this situation and that foreign pressure starts right here in this room.

Thank you.

[The prepared statement of CAPT Toland follows:]

Captain P. Paul Toland Jr.
Medical Service Corps, US Navy

Co-Founder and National Director
Bring Abducted Children Home (BAC Home)

House Committee on Foreign Affairs

The Goldman Act to Return Abducted American Children:
Ensuring Administration Action

November 19, 2015

Congressman Smith, Congresswoman Bass and other honorable members of this committee, thank you for allowing me the opportunity to speak today about the scourge of International Parental Child Abduction, specifically with regard to the country of Japan. I'm here to explain to you why punitive measures, up to and including sanctions, may soon be the only viable solution that will bring about the change necessary within Japan to comply with the Hague Convention and the Goldman Act. My name is Paul Toland, I am a Captain in the United States Navy with over 26 years of active military service, and I am the co-founder and National Director of Bring Abducted Children Home. My daughter Erika Toland was abducted off of US Navy housing in Japan over 12 years ago. In 2007, my wife Etsuko Toland committed suicide, and since that time, Erika has been wrongfully retained in Japan by her grandmother, Akiko Futagi.

I was recently in Japan, where I have filed through their family court system for physical custody of Erika. Japan signed the Hague Convention in 2014, but abduction cases like mine, that transpired before Japan's ratification of the Hague Convention, are not eligible for returns under the Hague, so I have decided to utilize the Japanese system, to see if they will, in fact, respect the rights of a parent over a non-parent, and provide custody to me, Erika's only living parent.

Yes, Akiko Futagi is a grandparent to Erika Toland. But this also means that she is NOT a parent. Under the law in normal modern countries, she would have no right to keep my child away from me. And yet, to this day she has been allowed to keep Erika away from me without allowing me so much a as a phone call with my daughter in 8 PAINFUL years.

In most normal countries with modern family law systems, this abduction and denial of access to a parent would be perceived no differently than if a stranger abducted a child, and it would be felony crime, but in Japan, abduction by a non-parent relative is not only accepted, it is condoned. I am the only parent in the world to Erika, yet every day I have no idea if she is sick or injured, I have no idea if she is safe or in danger. I have no idea where she goes to school, or even what she looks like. I have not even been offered a single photo of my beloved daughter by her grandmother in the 8 years since she has held her, let alone a visit or a walk in the park together or the opportunity to say "happy birthday" even once.

Historically, Japan has stood alone in the modern world as a notorious haven for child abduction, and is still considered a Black Hole for abduction from which no child ever returns. The Japanese government has never enforced the return of a single abducted child, including over 400 American children abducted to Japan since 1994. —— BUT, recently, there has been some hope for change in Japan. Japan has signed the Hague Convention, and many Japanese politicians are speaking openly about changing Japan's views on parental child abduction and shared custody by parents after divorce.

Those inside and outside Japan who want Japan to change and become a normal country in regard to parental rights see my case as an opportunity for Japan to prove to the rest of the world that it is changing, and that Japan is moving toward joining the rest of the developed nations of the world. For Japan to prove this to the rest of the world, we fully expect that the Japanese court will both order and enforce the immediate return of Erika Toland to me, her father and only living parent. The judge's ruling in this case will be a reflection of the entire Japanese government and the entire nation of Japan.

There could be no clearer case than this case for Japan to demonstrate that it has at least a very basic and rudimentary understanding of its responsibilities toward parents and children. How can we expect Japan to ever resolve more complicated divorce and child custody issues if it

cannot even resolve this very straightforward case, where one parent is deceased and a non-parent is withholding the child from a loving parent who wants to care for her?

The US Supreme Court has found that, and I quote, "the interest of parents in the care, custody and control of their children, is perhaps the oldest of the fundamental liberty interests" The US Supreme court has further ruled that "It is cardinal ...that the custody, care and nurture of the child reside FIRST in the parents," and the same court has held that "the relationship between parent and child is constitutionally protected."

As in the US Courts, the rest of the modern, developed world would never tolerate a "custody battle" between a parent and a non-parent. In civilized, modern countries, the automatic presumption of the court would be that the best interest of a child is to be raised by her parents, not some other more distant relative or stranger. A parent does not have the burden of proving that he or she can raise a child better than a non-parent. If Japan rules, as it should, in favor of my daughter's right to know and love her father, then it would truly be a threshold step for Japan, and Japan would be closer to joining the rest of the international community as a nation that respects the basic fundamental bond between parent and child.

HOWEVER, after attending family court in Japan last month, I came to a single conclusion regarding the Japanese Family Law system ...NOTHING HAS CHANGED....that's right, the court system is NO different than it was 10 years ago. The courts still have no mechanism of enforcement, the courts still drag cases out over many months to "run out the clock", and the judges simply work to find a way to maintain the status quo. In my clear-cut and unambiguous case, I have endured 3 court dates over the course of 8 months, with another court date set for December, and no end in sight. Signing the Hague was simply a smokescreen devised by Japan to relieve international pressure. The Japanese Ministry of Foreign Affairs knows this. They know that Japan's family court system is a completely broken mess. That is why they have done everything in their power to keep Hague actions out of their court system, and instead attempt to resolve cases through mediation and provide, "access" via monitored video conferencing between victimized parents and children. These efforts have all been dismal failures. Why would an abductor want to mediate knowing they can withhold their child without consequence? All they need to say is "no", and there is nothing that the Government of Japan will do about it.

Other recent signatories of the Hague, such as Korea, have made necessary reforms to their family law system, but Japan simply refuses to do so, and because of this they can NEVER be compliant with the Hague. It is literally impossible. So what do we do about it? How will Japan make the changes it needs to join the rest of the global community? I and everyone who has been associated with this issue for years have come to a single conclusion. FOREIGN PRESSURE. Yes, that is the ONLY solution that can bring about change within Japan. Real changes to human rights issues in Japan are rarely if ever accomplished internally, instead, it is almost exclusively foreign pressure that elicits change in Japan. Take child pornography as an example. For years and years, Japan openly allowed possession of child pornography and did nothing about it. It was only intense and continued foreign pressure that compelled Japan to make the changes necessary to join the rest of the civilized world in this area. Likewise, it will only be constant and intense foreign pressure that will bring about the required changes in family law that will allow Japan to comply with the Goldman Act and the Hague Convention.

The State Department has been completely remiss in applying foreign pressure to Japan, or demanding the return of any of the 400 children kidnapped to Japan since 1994. They have

instead actively tried to cover up for Japan's noncompliance with no regard whatsoever to the suffering of countless American parents and children.

If Japan rules against me, and demonstrates that it CANNOT and WILL NOT protect the fundamental bond between parent and child, and the inherent rights of parents, and if Japan continues to deny access to parents under the Hague and fails to return abducted children under the Hague, I ask for punitive measures, up to and including sanctions, under the Goldman Act. Why do you think Brazil returned Sean Goldman? It was because of the threat of sanctions. Sanctions represent a real expenditure of political capital on behalf of the United States. I once told a high-ranking State Department official that our children could be returned in one year IF the United States government was willing to expend real political capital on behalf of our children. If a Governor, Senator or famous celebrity's child were abducted overseas, you can bet our government would expend every resource possible to ensure the return of those children, but the sad reality is that OUR children are simply not important enough for the American government to expend the political capital necessary to return them.

Additionally, if Japan cannot protect the fundamental bond between parent and child, and the inherent rights of parents, then no American families are safe in Japan, including military families. If our military members and their families stationed in Japan can lose their children to nonparents, in violation of our constitutional protections, then the military will need to rethink its policy of allowing family members to accompany their military sponsor to Japan.

Ever since Erika was stolen from me over 12 years ago, my only desire in the world, and everything I have worked for, has been done with one goal in mind… to be reunited with Erika so she could know and love her only father, and so I could know and love my only child. That goal has never changed and it never will.

I have heard some people from Japan say "why would you want to take Erika away from her home in Japan?" Well, to that I say, her rightful home is NOT in Japan. It is not even necessarily in the United States. A child's home is with her parents, no matter where that may be, and that means that no matter where I may reside, Erika's home is and always will be with me. True, it is a fact that she is 13 years old, and she may not want to come to America, and if that is the case, she and I will work that out together. I will ensure I have the best team of reunification experts and medical professionals to help us through these times. Japan expeditiously ruling in my favor will sanctify the sacred bond between parent and child. Japan expeditiously ruling in my favor will be a recognition that these difficult issues regarding Erika's future are issues she and I must face together, and will recognize that neither the State of Japan nor a more distant nonparent relative will come between the sacred bond of parent and child.

However, if Japan rules against me, and violates the fundamental bond between parent and child, and if they continue their pattern of denying access to parents of abducted children and fail to expeditiously return abducted children under the Hague Convention, I ask that punitive action be taken by the US Government, to include sanctions under the Goldman Act. Only foreign pressure will resolve this situation, and that foreign pressure starts right here in this room. Thank you.

Mr. SMITH. Captain Toland, thank you so very, very much. Again, an extraordinarily eloquent statement, an expression of a father's love for his daughter, Erika.

And I can assure you that this subcommittee and Mark Meadows and other members of the committee are steadfast. We will be unceasing in our efforts to try to get your child home, the other children who have been abducted and to use the Goldman Act as it was intended—to use it.

Words are cheap in this town and, you know, I have been here 35 years now and I can tell you far too often people make these statements.

Secretary Kerry made a very find statement yesterday that all the tools will be employed and used. Well, they have to be and Ambassador Bond did not make clear whether or not even now with the gap that they had in the original report that Japan, with its 50 plus cases and even those post-Hague not being resolved either, would be designated as a pattern—as a country with a pattern of noncompliance and that is very deeply disappointing. And I think your point about the Hague being a smokescreen, never more truer words were ever spoken.

Now, it may have a positive ameliorative effect going forward. But as we argued right from the get-go when this administration are doing the same—it is like deja vu all over again, to quote Yogi Bera—it is—they are just committing the same act vis-a-vis India with all the 75 cases that are unresolved. So I can assure you we are going to do everything we can to keep the pressure on.

I will initiate a letter. Hopefully we will get members of the House and the Senate to sign it, to the President—that the G–7 meeting that will be held—the 42nd G–7 summit on May 26th or 27th in Shima, Japan, with Japan hosting, of course, that your case and the cases of other left-behind parents, and other countries do have similar situations.

So my hope is that they will too rally. I remember meeting with Ambassadors from other nations, mostly European nations, that had a very similar track record of not having their left-behind children brought back to their families as well and their parents.

We do have 30 minutes or so of votes. If there is anything you would like to add—both of your statements were extraordinarily eloquent. Ambassador Bond's statements today—did it give you any hope?

Frankly, I was concerned by a lack of commitment to using the tools other than saying we'll use all tools—everything is on the table.

But until you start sanctioning and having—as one of our colleagues said earlier, until you really start really saying we're not kidding, they will think these are mere words and admonishments rather than actions that have penalties and consequences. So if you'd like to add anything, you know, please do at this point and then we will conclude the hearing.

CAPT TOLAND. Congressman Smith, I would just like to add one thing on behalf of a number of other parents that I'm associated with.

We are currently—me and a number of other parents are seeing our kids that were abducted at a young age moving into their teen-

age years now and we are hearing the same thing over and over from the abductors—the child does not want to see their parent, and this is from the abductor saying this, not necessarily the children.

This is happening—I will say it—I am hearing this from—regarding my daughter Erika as well as Randy Collins hearing it about his son, Keisuke, Chris Savoie hearing it about his children, Isaac and Rebecca.

We don't know if these children are really saying this or if the kidnappers are simply saying this as a last ditch effort.

But what we do know is that these children were kidnapped at a very young age and brainwashed for many years. Unfortunately, these children will never heal from the psychological damage that their kidnapping parent inflicted upon them.

But our hope is that in a few more years these victimized children will realize that most of their life was a lie and we pray that they will come to know and love us, the parent that they were taken from.

Thank you.

Mr. GOLDMAN. I am still wondering where is that disconnect. Why doesn't the State Department come out and say why they don't want to use these tools.

I have yet to hear a legitimate reason, just sort of deflections. Secretary Bond, she was an advocate in my son's return. She spoke adamantly on national television.

She's got the tools. She knows—they all know what it takes. They do have their hearts in the right places. They do work long hard hours.

But they have this right at their fingertips, which can make a difference, and if used against the worst offenders it'll send a message to the other countries.

And they are not permanent tools. Once they are invoked they can be—you send the kids home, that penalty is removed. But knowing that it's there and knowing we will use it will make all the difference in the world.

And I still am wondering—I don't hear an answer why after 9 years and only one child ever to be returned under provisions of the Hague Convention by way of court order they don't want to open up every tool, every—and use every tool in their tool box to get the kids out of Brazil specifically and also India, Japan—these countries that aren't Hague countries can use the same tools, and that is one of the questions that I still have never heard an answer from.

Thank you, Mr. Chairman. I know you have——

Mr. SMITH. We are out of time.

Without objection, a Washington Post editorial from August 12th will be made part of the record and it cites Jeffrey Morehouse, who is here with us today, and without objection be made a part of the record.

Thank you very much. The hearing is adjourned.

[Whereupon, at 1:37 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

November 19, 2015

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: Thursday, November 19, 2015

TIME: 11:00 a.m.

SUBJECT: The Goldman Act to Return Abducted American Children: Ensuring Administration Action

WITNESSES:

Panel I
The Honorable Michele Thoren Bond
Assistant Secretary
Bureau of Consular Affairs
U.S. Department of State

Panel II
Mr. David Goldman
Co-Founder and Director
Bring Sean Home Foundation
(Father of Child Abducted to Brazil)

Captain Paul Toland, USN
Co-Founder and National Director
Bring Abducted Children Home
(*Father of Child Abducted to Japan*)

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 *Thursday* **Date** *November 19, 2015* **Room** *2172 Rayburn HOB*

Starting Time *11:44 a.m.* **Ending Time** *1:37 p.m.*

Recesses [*0*] (____to ____) (____to ____) (____to ____) (____to ____) (____to ____) (____to ____)

Presiding Member(s)

Rep. Chris Smith

Check all of the following that apply:

Open Session [✓]
Executive (closed) Session [ ]
Televised [✓]
Electronically Recorded (taped) [✓]
Stenographic Record [✓]

TITLE OF HEARING:

The Goldman Act to Return Abducted American Children: Ensuring Administration Action

SUBCOMMITTEE MEMBERS PRESENT:

Rep. Mark Meadows, Rep. Curt Clawson

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

Rep. Sheila Jackson Lee*

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.)*

Question for the record from Rep. Smith for Ms. Thoren Bond
Statement of the Rep. Steny Hoyer
Statement of the Rep. Sheila Jackson Lee
Statement of the Department of Justice
Washington Post Editorial: The State Department should do more to address international abductions, submitted by Rep. Chris Smith

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *1:37 p.m.*

Gregory B. Simpkins
Subcommittee Staff Director

The Goldman Act to Return Abducted American Children: Ensuring Administration Action
Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
House Committee on Foreign Affairs
November 19, 2015

Question for the Record from Representative Chris Smith
for Assistant Secretary of State for Consular Affairs Michele Thoren Bond

Question:

With which countries has the State Department begun bilateral agreements to resolve cases not covered by the Hague Convention?

Answer:

[Response not received by time of printing]

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

Testimony for the Record: Hearing on the Return of Abducted American Children

Rep. Steny H. Hoyer

House Foreign Affairs Subcommittee on Africa, Global Health, Global Human Rights, & International Organizations, November 19, 2015

Mr. HOYER. "Chairman Smith, Ranking Member Bass, and Members of the Subcommittee, I continue to encourage efforts to bring home Eslam Chebbi, an American citizen abducted by his non-custodial father and being held in Tunisia. The return of his sister to the custody of their mother, Ms. Edeanna Chebbi, in 2012 was a great relief, but the Tunisian government has yet to facilitate the return of young Eslam as well. This is deeply disturbing, especially given that the Tunisian court system has provided clear instructions that he is to be repatriated to the United States and belongs in his mother's custody.

"Just a short while ago the Tunisian courts again ruled in Ms. Chebbi's favor and ordered that her former husband, Faical Chebbi, surrender Eslam to her. Unfortunately, this order – like those before it – has not been enforced.

"I will continue to do everything in my power to help Ms. Chebbi bring Eslam home. I thank the Committee for keeping this matter at the forefront of Congress's attention and for its efforts to encourage the State Department to press the Tunisian government to act in accordance with the ruling of that nation's courts. This is not only an issue of profound importance to Ms. Chebbi, her family, and their community but also a test of Tunisia's commitment to the rule of law in its ongoing transition to full democracy."

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

CONGRESSWOMAN SHEILA JACKSON LEE
OF TEXAS
STATEMENT BEFORE THE HOUSE
COMMITTEE ON FOREIGN AFFAIRS

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

HEARING: "THE GOLDMAN ACT TO RETURN ABDUCTED AMERICAN CHILDREN: ENSURING ADMINISTRATIVE ACTION."

NOVEMBER 19, 2015
11:00 A.M.
2172 RAYBURN

- Chairman Smith, Ranking Member Bass thank you for holding this important hearing and your continued warm reception of my participation in your Subcommittee hearings.

- Our goal in today's hearing is to get insight into the "Action Report" which was provided to the House Foreign Affairs Committee in September of this year as it relates to Brazil, Japan and bilateral agreements outside of the Hague Convention to ensure the return of American children not covered under the Hague Convention.

- **Congressional oversight and assessment of the Goldman Act, among other things requires the State Department to:**

    - Provide a report to Congress on which countries fail to cooperate on the resolution of U.S. abduction cases; and

    - Take action against countries refusing to cooperate.

  - Where there is a demonstrated pattern of non-compliance, as it appears to have been established in the case of 22 countries including Japan and Brazil, the State Department is required to take action.

  - Specifically, the Department is statutorily required to report 90 days later on actions taken by the Department to resolve abductions in the 22 countries listed in the report of May of this year.

  - Our most recent hearing in July circled around our concerns on whether or not the State Department was meeting the above delineated statutory mandate pursuant to the Goldman Child Abduction Prevention and Return Act.

  - This was after a June meeting where Members of this body were not satisfied with the data provided by the State Department.

- As you can imagine, for the parents of the 750-1,000 U.S. children reported as abducted, every briefing and hearing matters so much for bringing closure to the lives of these parents who are heartbroken but hopeful that they will see their children return home.

- The nightmare of any parent is the feeling that you are unable to protect your child.

- **This picture of parents who attended one of these hearings is a constant reminder for me of the work that lay ahead in working with parents seeking to find resolution and be reunited with their children.**

- **I thank today's witnesses.**

- **Today, we hope to get clarity on the following Administrative Actions:**

    - What are concreate steps that have been taken since the report of September of 2015 to address the behavior of non-complying countries?

    - What is being done to protect American children from the harmful effects of wrongful removal or retention?

    - What is the State Department doing to secure protection of the access rights of parents?

    - What current initiatives is the Department undertaking in judicial education of family court judges here in the U.S. on the international implications of their rulings on the rights of parental access?

    - What efforts are being taken by the U.S. Central Authority in the various countries to work with local bar associations to promote judicial education of family court judges abroad on the international implications of their rulings on the rights of parental access?

- The legislative intent of the Goldman Act to Return Abducted American Children, authored by Chairman Smith, was to empower and resource the State Department to effectively achieve all of the above and advocate for the return of abducted children.

- The Goldman Act compliments and augments the 1980 Hague Convention on the Civil Aspects of International Child Abduction, to which the United States and 73 other countries are signatories.

- The law is named after the American youth Sean Goldman, whose father is here with us today and we hope Sean is doing as well as any normal teen would be doing.

- I commend Chairman Smith and Ranking Member Bass' impeccable work in fighting to protect American youth from perpetrators abroad and at home whether through their

human trafficking initiatives, foster youth initiatives or child abduction initiatives such as the one before us today.

- As you all know, the issue of protection of youth is one that is near and dear to my heart.
- This is why I introduced H.Res 528, legislation that enjoyed bipartisan support of my colleagues including Representatives Chu from California, Dold from Illinois, Hahn from California, Kelly from Illinois, Fudge from Ohio, Watson-Coleman from New Jersey, Sewell from Alabama, Thompson from Mississippi and my good friend Ms. Wilson of course from Florida.
- My resolution seeks to create a Victims of Terror Protection Fund for the displaced children, refugees, migrants and victims of Boko Haram's terror in the region.
- It is our American value to protect our children from harm and fight for those who are seeking refuge and needing protection from Syria to Nigeria and the world over.
- As Co-Chair of the Congressional Children's Caucus, I have been spending a lot of time on the issues of advocating for the protection and security of children in all spheres of their lives, especially since the Chibok incident where over 200 Nigerian girls were kidnapped from their boarding school dormitories in the thick of the night by Boko Haram.
- **Within the issue of child abduction alone, the data is heart wrenching:**
    - Between 2008 and 2013, at least 8,000 American youth were abducted, according to State Department reports;
    - 1,000 of U.S. children are reported to the State Department as victims of international parental abduction; and
    - According to the Hague Convention on the Civil Aspects of International Child Abduction Compliance, "abducted youth are at risk of serious emotional and psychological problem ranging from anxiety to fear to eating disorders" because they are separated from their parents.
- The data shows that it is not enough to just pass laws.
- Congress has to be transmitted accurate data and reports from the State Department, so that we can ascertain that the law is being implemented as intended.
- I look forward to this hearing and thank you so very much.

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

Department of Justice

STATEMENT FOR THE RECORD

U.S. DEPARTMENT OF JUSTICE

BEFORE THE

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

FOR A HEARING REGARDING

INTERNATIONAL PARENTAL KIDNAPPING

PRESENTED

NOVEMBER 19, 2015

Statement for the Record
U.S. Department of Justice
Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
Committee on Foreign Affairs
U.S. House of Representatives
November 19, 2015

The Department appreciates the opportunity to submit this Statement for the Record before the House Committee on Foreign Affairs Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations. The Department is committed to ensuring the safety and protection of children and respect for the rule of law. The Department plays a limited but important role in addressing the issue of international parental kidnapping cases principally through facilitation of the extradition process. Extradition, however, is often a very limited avenue of redress, constrained by a variety of circumstances largely out of the control of the legal process.

Generally, child custody and visitation matters are handled by local and state authorities, and not by the federal government. Limited federal criminal jurisdiction over international parental kidnapping, however, is found in Section 1204 of Title 18, United States Code. That statute provides that a parent who removes or attempts to remove a child from the United States, or retains a child outside the United States, with intent to obstruct another parent's custodial rights is subject to federal prosecution. If convicted, a defendant faces fines and imprisonment for up to 3 years. Depending on the facts and circumstances of each individual case, additional federal charges (including false statement or passport fraud) may be available as described in the examples set forth below. In addition to possible federal prosecution under Section 1204, various state anti-kidnapping laws may also provide a basis for state or local criminal charges against the parent responsible for the kidnapping. In appropriate circumstances, the United States may seek the extradition of a person charged with international parental kidnapping, or similar state offenses, who is located in a foreign country.

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. Although a parent facing federal or state charges for parental kidnapping may be eligible for extradition, the victim child is not the subject of the extradition. In other words, 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.

The 93 United States Attorney's Offices (USAOs) are the Department of Justice components that seek international parental kidnapping charges under Section 1204. It is these charges that allow for the initiation of extradition requests. It is also the USAOs that deal

directly with the families/victims of these charges and are on the front lines in the extremely difficult process that may result in the extradition of the criminally-responsible parent, but not for the return of the abducted child.

The Federal Bureau of Investigation (FBI) provides prosecution and arrest guidance to its field offices relative to pending international parental kidnapping investigations. The assistance provided varies on a case-by-case basis but includes in-depth discussion on the options that exist for a successful return of the taking parent or custodian. FBI's Office for Victim Assistance (OVA) works with the left-behind parent and child and provides victims with services, such as referrals for counseling, legal assistance, and other assistance. Oftentimes, OVA coordinates with the Department of State's Bureau of Consular Affairs, the Office of Children's Issues when undergoing efforts to locate and recover the child using both criminal and civil resources. When a child is recovered and able to leave the country to which he or she has been taken or is residing, OVA assists in the coordination of the return, provides travel assistance and emergency victim assistance funds for travel, and follow-up assessments and support. The FBI also provides funding assistance to field offices to assist in the return of the abducting parent or custodian back to the United 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. In those cases, approximately 61 fugitives returned to the U.S. through extradition, voluntary surrender, or deportation. Approximately 17 extradition requests were denied by the requested countries. Approximately 21 such matters remain pending, 13 of which are extradition requests that have been presented to a foreign authority. The remaining cases are unresolved for a variety of reasons, including the inability to locate the fugitive. From 2013 to the present, Department records show that approximately a dozen cases concerning international parental kidnapping have been opened, some of which involved countries with which the United States does not currently have an extradition treaty. Of those cases, approximately six remain pending and OIA continues to pursue the cases. It is also worth noting that on occasion, OIA has submitted extradition requests to more than one country for the same parent when that person's location turns out to be different than originally believed.

The United States also receives requests from foreign countries seeking the extradition of persons located in the United States who are charged with criminal offenses for having unlawfully removed their child from a parent residing abroad, or having willfully failed to return the child when legally required to do so. When the wanted person is believed to be located in the United States, OIA works with the Department of State, federal prosecutors and law enforcement authorities to locate, arrest, and extradite the person. Providing extradition assistance to foreign countries in cases involving parental abductions can encourage such countries to respond favorably, when they are legally able to do so, to our requests for the extradition of persons who have absconded from the United States with their children.

Examples of successful extraditions to the United States in international parental kidnapping cases that are a matter of public record include the following:

- On May 7, 2015, Argentinan authorities extradited German national Kyla Rynn Schwaber to the United States, where he is wanted to stand trial for international parental kidnapping and two counts of passport fraud in the District of New Mexico. In March 1998, Schwaber allegedly submitted two fraudulent passport applications and took her five-year-old son to Germany, in violation of a court order granting custody to the boy's father. Schwaber travelled to Argentina on January 14, 2015, and was subsequently arrested, leading to her eventual extradition to the United States.

- On September 26, 2014, Australian authorities extradited U.S. national Dorothy Lee Barnett to the United States, where she was wanted to stand trial for parental kidnapping and false statement-related offenses in the District of South Carolina. Barnett disappeared on April 24, 1994, with her infant daughter, of whom her former husband had sole custody. Barnett's whereabouts remained unknown until 2011, when an Australian resident identified Barnett and her daughter in photographs on the website of the National Center for Missing and Exploited Children.

- On August 1, 2014, German authorities extradited Ghanaian citizen Cynthia Y. Sam to the United States, where she was wanted to stand trial in Bergen County, New Jersey, for interference with custody of a child. In December 2010, Sam's husband permitted her to take their three minor children to Ghana with the understanding that Sam and the children would return on January 10, 2011. Sam did not return with the children and informed her husband that she planned to stay with the children in Ghana. On February 18, 2011, the Superior Court of New Jersey granted Sam's husband sole physical custody of the children and ordered that Sam immediately return the children to New Jersey. Prior to extradition, the children were reunited with their father in New Jersey.

- On August 1, 2013, Spanish authorities extradited United States citizen Peter Viskup to the United States to stand trial in the Northern District of Georgia on charges of parental kidnapping. A court placed Viskup's son under the joint custody of his parents but Viskup absconded with the boy and, in the process, obtained a passport for him by falsely claiming he had sole custody over his son. Viskup travelled with boy to England, the Czech Republic, and then Spain, where he was ultimately arrested.

Despite the efforts of state and federal law enforcement officials, OIA, and other Department of Justice components, the United States faces significant challenges in securing the extradition of individuals charged with international parental kidnapping. Initially, extradition cannot be sought unless the suspect has been charged with an appropriate state or federal criminal offense on which to base the extradition request. In addition, in some situations, the country to which the offending parent fled will not be known, making an extradition request impossible. Further, in the vast majority of cases, international extradition is accomplished pursuant to a bilateral extradition treaty with the country to which the kidnapping parent took the child. The United States has no extradition treaty with approximately one-third of all countries of the world. Modern extradition treaties universally require that the conduct underlying the

U.S. charge also be criminal in the country from which extradition is requested and, under most treaties, be subject to punishment by a term of imprisonment of a year or more. In some countries, it is not considered a crime for a parent to take his or her child to another country or unlawfully retain the child abroad, even under circumstances the United States would consider to be unlawful parental kidnapping. In other countries, the conduct may be unlawful, but it may not be subject to imprisonment at all or may be punished by a term of imprisonment for less than the treaty requires, thereby possibly excluding the offense from extradition. In addition, some countries bar the extradition of any person, including a kidnapping parent, who is a national of that country. On occasion, the United States may secure custody of a parent charged with parental kidnapping if the foreign country is willing to apply its immigration laws to exclude the accused from lawful presence in that country and to deport him or her to the United States. OIA and other U.S. law enforcement officials work closely with foreign counterparts to effectuate a deportation or exclusion, if the possibility arises. Such returns of fugitives, however, are much less certain and, like extradition, do not guarantee the return of the child to the United States.

The U.S. Department of State handles the coordination of efforts with foreign officials and law enforcement agencies to effectuate the return of kidnapped children to the United States. In some circumstances, the return may be governed by the Hague Convention on the Civil Aspects of International Parental Child Abduction (1980) (Hague Convention), which was established to facilitate the return of children abducted by their parents and removed to foreign countries. The Hague Convention is the primary civil mechanism for parents seeking the return of their children from countries that are party to the Hague Convention. Countries that are party to the Convention have agreed that a child who was habitually resident in one Convention country, and who has been removed to or retained in another Convention country in violation of the left-behind parent's custodial rights, shall be returned. Once the child has been returned, any custody dispute can then be resolved in the courts of that jurisdiction. The Convention does not address who should have custody of the child; it addresses only where the custody case should be heard. The United States is a party to the Hague Convention.

Return of fugitives to the United States through extradition, deportation, or other lawful removal is not dependent upon the other country being a signatory to the Hague Convention. Extradition treaties, foreign immigration laws, and the Hague Convention operate independently of each other, although they can often be invoked simultaneously. Extradition may be possible from countries who are not parties to the Convention, as long as the unlawful taking of the child by the parent is a crime subject to extradition in those countries. Likewise, while the Hague Convention applies only if both countries involved are parties to that Convention, it does not require that an extradition treaty be in place between the two countries or that criminal charges be pending against the parent.

The Department of Justice's Office of Victim/Witness Assistance (OVWA) funds the Regents of the University of California, Berkeley, to implement the Hague Domestic Violence Project. This project provides training and technical assistance to judges, attorneys, and advocates on the Hague Convention on the Civil Aspects of International Child Abduction, and specifically, how domestic violence can have an effect on these cases. The project's activities include the following: 1) maintaining a national network of trained, pro bono attorneys who can represent (or who can provide technical assistance and support for family law or legal aid

lawyers representing) "taking parents" who report incidents of domestic violence in Hague Convention cases in U.S. courts; 2) providing one-on-one technical assistance to attorneys, advocates, and judges via email and phone; 3) maintaining an on-line clearinghouse of relevant informational materials on Hague cases involving violence against women; 4) maintaining the Hauge Domestic Violence Project website; 5) continuing to develop judicial bench guides and related training modules for state court judges; and 6) continuing to provide training on the "Practice Guide: Representing Battered Respondents Under the Hague Convention on the Civil Aspects of International Child Abduction" for Attorneys and Domestic Violence Victim Advocates through webinars and insertion trainings. The Practice Guide can be found at the Hague Domestic Violence Project website, at https://gspp.berkeley.edu/global/the-hague-domestic-violence-project.

The Department of Justice remains committed to vigorously securing the extradition of individuals charged with international parental kidnapping and continues to work with federal, state, and local prosecutors and parents in the effort to bring to justice individuals who violate our law by absconding with a child to a foreign country or unlawfully retaining a child abroad. We thank the Subcommittee for their commitment to this issue and for the opportunity to provide the Department's perspective on these difficult cases.

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

The Washington Post

The State Department should do more to address international abductions

By Editorial Board, August 12, 2015

Ever since his ex-wife wrongly took his son, now 11, to Japan five years ago, Jeffery Morehouse has been fighting for the boy's return. Mr. Morehouse had been recognized as the sole custodial parent in Washington state, and a Japanese court affirmed that the ruling applies in Japan. Nonetheless, there has been no reunion, no visits, no contact of any sort.

Mr. Morehouse sadly is not alone. Nearly 1,000 children are abducted each year from the United States by a parent and taken to a foreign country; fewer than half of them ever come home. Recognizing the need to help the American parents left behind and bereft, Congress last year gave the State Department more tools to deal with abduction cases by passing the Sean and David Goldman International Child Abduction Prevention and Return Act. The measure aims to put teeth in U.S. diplomacy by identifying a series of actions — increasing in severity from official protests to suspension of assistance — the State Department may take in bringing abducted children home or getting their cases fairly adjudicated.

A key requirement of the law is that the State Department compile and release an annual report to quantify unresolved cases and identify problem countries. But release of the first report revealed shortcomings in the State Department's willingness to hold foreign governments to account. Recent hearings held by Rep. Christopher H. Smith (R-N.J.), who sponsored the Goldman act, spotlighted what he called major gaps, even misleading information, in the report.

Countries were listed as having zero pending abduction cases even when there were cases that had been discussed in previous hearings and the State Department was involved with affected parents. Most notable, as Mr. Smith pointed out, was that in the key section of the report Japan was recorded as having no unresolved cases when there are more than 50 outstanding. The State Department gave Japan a pass for signing on last year to the Hague Convention that governs cross-border child custody disputes, not cataloguing the prior cases. That, of course, is of no help to parents such as Mr. Morehouse.

State Department officials acknowledged the report had gaps; it "did not meet all expectations," said Susan Jacobs, the department's special adviser for children's issues. After Mr. Smith conducted two hearings on the matter, the department revised its report, acknowledging the unresolved cases in Japan. But Mr. Smith said the law demands more than scorekeeping. "With more accurate data reported, it is incumbent upon the Administration to make the other critical adjustments," he said in a statement, "such as naming Japan along with the 22 other 'non-compliant' countries that are now subject to a strong response by the State Department."

These reports are not academic exercises. They provide guidance to family court judges and parents assessing the risk of abduction in a child's travel, and they inform congressional decisions about foreign assistance. If the State Department fails to call things as they are, it sends a message that nothing really needs to change after all.

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