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# The Goldman Act to Return Abducted American Children:

## Assessing the Compliance Report and Required Action

*U.S. Rep. Chris Smith, Chairman  
Subcommittee on Africa, Global Health, Global Human Rights,  
and International Organizations  
Hearing Statement  
June 11, 2015*

I want to thank all of you—especially all of the left-behind parents I see in the audience—for joining us this afternoon to review the U.S. Department of State’s first annual report under the Sean and David Goldman International Child Abduction Prevention and Return Act (P.L. 113-150).

International parental child abduction rips children from their homes and families and whisks 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, and it continues to plague families across the United States.

Every year, an estimated 1,000 American children are unlawfully removed from their homes by one of their parents and taken across international borders. Less than half of these children ever come home.

The problem is so consequential and the State Department’s previous approach of “quiet diplomacy” so inadequate, that Congress unanimously passed the Goldman Act last year to give teeth to requests for return and access. These actions increase in severity, and range from official protests through diplomatic channels, to extradition, to the suspension of development, security, or other foreign assistance.

The Goldman Act is a law calculated to get results, as we did in the return of Sean Goldman from Brazil in 2009.

But a law is only as good as its implementation.

Broken-hearted parents across America waited four years for the Goldman Act to become law and still await full U.S. government implementation of the law.

The State Department's first annual report that we are reviewing today should be a roadmap for action. The State Department must get this report right in order for the law to be an effective tool.

If the report fails to accurately identify problem countries, the actions I mentioned above are not triggered.

Countries should be listed if they have high numbers of cases – 30 percent or more – that have been pending over a year or if they regularly fail to enforce return orders, or if they have failed to take appropriate steps in even a single abduction case pending more than a year.

Once these countries are properly identified, the Secretary of State then determines which of the aforementioned actions the U.S. will apply to the country in order to encourage the timely resolution of abduction and access cases.

While the State Department has choice of which actions to apply, and can waive actions for up to 180 days, the State Department does not have discretion over whether to report accurately to Congress on the country's record, or on whether the country is objectively a non-compliant.

As we have seen in the human trafficking context, (I authored of both the Trafficking Victims Protection Act of 2000 as well as the Goldman Act) accurate accounting of a country's record, especially in comparison with other countries, can do wonders to prod much needed reforms.

Accurate reporting is also critical to family court judges across the country and parents considering their child's travel to a foreign country where abduction or access problems are a risk.

The stakes are high: misleading or incomplete information could mean the loss of another American child to abduction.

For example, a judge might look at the report table filled with zeros in the unresolved cases category, erroneously conclude that a particular country is not of concern, and give permission to an estranged spouse to return to their country with the child for a vacation. The taking parent then abducts the child and the left behind parent then spends her life savings and many years trying to get her child returned to the US.

All of which could have been avoided with accurate reporting on the danger.

I am very concerned that the first annual report contains major gaps and even misleading information, especially when it comes to countries with which we have the most intractable abduction cases.

For instance, the report indicates that India, which has consistently been in the top five destinations for abducted American children, had 19 new cases in 2014, 22 resolved cases and no unresolved cases. However, we know from the National Center for Missing and Exploited Children (NCMEC) that India has 53 open abduction cases—and that 51 have been pending for more than 1 year.

The report shows zero new cases in Tunisia for last year, 3 resolved cases, and zero unresolved cases. And yet Ms. Edeanna Barbirou will testify today to her more than 3-year battle to bring her children home from Tunisia. NCMEC's numbers show 6 ongoing abductions in Tunisia, all of which have been pending for more than a year.

Nowhere is the report's disconnect with reality more clear than in its handling of Japan, a country that has never issued and enforced a return order for a single one of the hundreds of American children abducted there, and was not listed as a country showing failing to cooperate in returns.

In March, nearly two months before the annual report was released, I chaired a hearing in this subcommittee featuring Ambassador Susan Jacobs in which it was made perfectly clear that, "Congress expects that Japan will be evaluated not just on its handling of new abduction cases after it joined the Hague Convention last year, but on its work to resolve ALL open abduction cases," including the more than 50 cases I and others have been raising with the State Department for the last 5 years.

Among such cases is that of Sgt. Michael Elias, who has not seen his children, Jade and Michael Jr., since 2008. Michael served as a Marine who saw combat in Iraq. His wife, who worked in the Japanese consulate, used documents fraudulently obtained with the apparent complicity of Japanese consulate personnel to kidnap their children, then aged 4 and 2, in defiance of a court order, telling Michael on a phone call that there was nothing that he could do, as "my country will protect me."

Her country, very worried about its designation in the new report, sent a high-level delegation in March to meet with Ambassador Jacobs and explain why Japan should be excused from being listed as "non-compliant," despite the fact that more than one year after signing the Hague Convention on the Civil Aspects of International Child Abduction, Japan has ordered ZERO returns to the U.S.

Just before the report was released in May – two weeks late – Takashi Okada Deputy Director General in the Secretariat of the Ministry of Foreign Affairs, told the Japanese Diet that he had been in consultation with the State Department and "because we strived to make an explanation to the U.S. side, I hope that the report contents will be based on our country's efforts."

In other words, Japan got a pass from the State Department and escaped the list of countries facing action by the U.S. for their failure to resolve abduction cases based on what Mr. Okada euphemistically refers to as “efforts,” not results.

Sgt. Michael Elias’s country has utterly failed to protect him. He has seen ZERO progress in his case over the last year—the 7th year of his heart-wrenching ordeal—and yet the State Department cannot even bring itself hold Japan accountable by naming Japan an offender in the annual report.

It is disappointing, discouraging, and disgraceful. The report whitewashes Japan’s egregious record on parental child abduction

Adding insult to injury, the report table that was to show the unresolved abduction cases in Japan failed to include a single one of the more than 50 cases, 36 of which have been dragging on for more than 5 years, according to the National Center for Missing and Exploited Children. Instead, the table listed Japan has having a 43% resolution rate.

Japan has never issued and enforced a return order for an American child. These young victims, like their left-behind parents, are American citizens who need the help of their government.

The Goldman Act is clear: All requests for return that the State Department submitted to the foreign ministry and that remained unresolved 12 months later are to be counted against Japan.

Nearly 100% of the abduction cases to Japan remain open; and the report’s conclusion of 43% resolution is indefensible.

Moreover, not a single left behind parent pursuing access was allowed in-person contact with their child over the last year.

The Goldman Act has given the State Department new and powerful tools to bring Japan, and other countries, to the resolution table. The goal is not to disrupt relations but to heal the painful rifts caused by international child abduction.

The question still remains, will the State Department use the Goldman Act as required by law?

I appreciate the Department’s presence today to discuss ways that we can improve the report and ensure that it fulfills the purposes for which it was intended—namely, the prevention of abduction and the reunification of the thousands of American families that have been suffering forced separation for too long.