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The Crime of International Parental Child Abduction

U.S. Helsinki Commission

Representative Christopher H. Smith

October 26, 2017

Excerpts of remarks

Good morning. Thank you for being here this morning to discuss a topic that affects every state in the United States, and almost all of the Organization for Security and Cooperation in Europe (OSCE)—that of international parental child abductions.

International parental child abduction occurs when children are taken from their home country to a foreign jurisdiction without the permission of a court in the home country or of the left behind parent.

The U.S. State Department analysis shows that every year in the United States 700 to 1,000 more children are kidnapped and taken overseas by one parent without the consent or knowledge of the other, often in direct violation of valid U.S. court orders and U.S. criminal law, as well as the Hague Convention on the Civil Aspects of International Child Abduction.

Simply put: child abduction is child abuse. Children abducted by one parent overseas and kept away from the other are at grave risk of serious emotional and psychological problems; many experience anxiety, eating problems, nightmares, mood swings, aggressive behavior, resentment, and fear. Every day the abduction continues only compounds the harm to a child. And, the left-behind parent is usually emotionally and financially devastated by prolonged litigation in a foreign jurisdiction.

To protect children from the harmful impact of international parental child abduction, 98 countries have adopted the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

The Hague Convention provides a legal framework for securing the prompt return of abducted children to their country of habitual residence, where custody determinations may be made by courts of that country. In this way, the Convention strives to protect children from the harmful effects of abductions.

Currently, 51 of 57 OSCE participating States have become party to the Hague Convention, as have 7 of the 11 partner States. In 2011, the OSCE Parliamentary Assembly in Belgrade underscored the importance of this issue and unanimously adopted a “Resolution on International Parental Child Abductions,” urging the OSCE “to take up the issue of international parental child abductions, including by considering a Ministerial Council decision.”

The beauty of this Convention is that it is based on civil law—avoiding criminal prosecution for the taking parent and left behind parent. The problem is that the Convention does not have an enforcement mechanism other than the ratifying country’s own commitment to—and implementation of—the rule of law.

Many countries take years to decide cases even though the Convention requires a decision within 6 weeks on which country has jurisdiction. And even when cases are decided in favor of the left behind parent, countries fail to enforce their own decisions. For many families, the Convention has been a huge disappointment.

In the United States, less than 20% of children come home each year.

Congress has worked to change this and nearly three years ago, we passed my legislation, [the Sean and David Goldman International Child Abduction Prevention and Return Act](#) (Public Law 113-150) in order to create real consequences when a country persistently refuses to return abducted American children.

The law is named after the case of a New Jersey father and son who were successfully reunited only after our government finally took on the cause and engaged on all fronts with the government of Brazil—where Sean Goldman had been held for 5 years while his father, David, fought mostly alone in foreign courts flouting the Hague Convention, without the decisive support of our government.

The “Goldman Act” now pushes the State Department to support left behind parents and use a series of actions increasing in severity from official protests to delay of state visits and cancellations of exchanges to suspension of assistance.

We also included extradition in the list of actions as, when civil options have failed, criminal extradition and prosecution may be the only option to convey the seriousness of the abduction and necessity of returning the child to their home.

These new tools were provided to help ensure that even our “allies” know the U.S. means business when seeking the return of abducted American children.

Tragically, the last Administration chose to continue its failed policy of writing letters and having mostly low-level meetings with—really just begging—their counterparts in countries that flout the Convention and abet abductors. We are hopeful that the new Administration will apply the Goldman Act as intended to bring home abducted American children.