

Congressman continues to push Japan to sign child abduction treaty

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Nancy Elias, mother of Michael Elias, recounts her story of discovering her grandchildren were abducted to Japan. Elias traveled with her husband, Miguel, from Rutherford, N.J., to support New Jersey Congressman Chris Smith's international child abduction treaty initiatives.

YOKOTA AIR BASE, Japan — A U.S. congressman left Tokyo on Wednesday after a whirlwind trip aimed at rallying Japanese support for an international child abduction treaty, an issue that has sparked a growing debate in Japan and abroad.

While lobbying members of the Diet and other government officials this week to ratify the 1981 Hague Convention on the Civil Aspects of International Child Abduction, Rep. Chris Smith said Tokyo and Washington must resolve the current cases of parental kidnapping in Japan involving U.S. citizens.

The treaty would essentially stop Japanese law from shielding people who have taken their children to Japan in violation of jurisdictional authority in another country. The 1981 treaty was written without retroactive authority and can only be applied when both countries — where the custody dispute arises — are signatories.

The New Jersey Republican said it would be a “gross miscarriage of justice” if the American parents of 103 U.S.-Japanese children who have been taken to Japan go without help should Japan sign the treaty — a decision the government ponders as the issue gains domestic and international media attention.

Smith said establishing government-to-government protocols for the U.S. and Japan to resolve current cases would help lay the foundation within Japan's domestic legal framework to ease ratification of the treaty.

Recent moves by Japan — such as establishing working groups within the government and legislature to study whether Japan should accede to the treaty — indicate the country is seriously considering the matter for the first time.

Smith's efforts come as diplomatic pressure from the international community on the matter has increased in the past two years.

“This problem isn't going away,” said Smith, who is working closely with Americans whose children have been abducted to Japan and with attorney Patricia Apy, a New Jersey international family law attorney.

Apy, who traveled to Japan with Smith, said she has unsuccessfully pleaded with the government of Japan at least eight times to assist in the extradition of Japanese citizens who have fled to the country in violation of U.S. custody orders. She said those failures highlight the impunity with which parental child abductors facilitate their crimes in Japan.

Japan's new consideration of the abduction issue should be viewed with “cautious optimism,” said Apy, who has worked as a legal consultant for the Defense Department and the Clinton administration.

It's too early to tell whether Japan is fully on board with the concept, she said.

With Japan's custom of sole-custody divorces that typically cut off all contact between children and their non-custodial parents, even the fundamental idea behind the 1981 Hague treaty — that both parents deserve access to their children after divorce — clashes with conventional wisdom in Japan, Japanese officials say.

Masae Ido, a Diet member affiliated with Japan's ruling party, said her biggest concern with the Hague is the disadvantage it could impose on Japanese women who flee with their children to Japan to escape domestic abuse.

“In a litigious society like the United States, Japanese women often end up fighting a lone battle (in American courts) without getting any support,” Ido said, adding that the language barrier and a lack of financial means “contribute to their decision to leave the country without due process.”

While emphasizing the polite and productive nature of his meeting with Ido and other Japanese officials, Smith said Japan no longer can condone the clear cases of parental kidnapping within its borders.

Smith said his trip is tied to legislation he plans to introduce in the House in the coming weeks that would impose economic sanctions against Japan and other countries that fail to return

kidnapped children. Smith tried to pass similar legislation in 2010 but it died in the House, and it's unclear whether the bill has any new support this year.

"These current cases must be resolved. These parents can't be left behind again," Smith said.