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## **Improving Implementation of the Hague Convention on the Civil Aspects of International Child Abduction**

*Excerpts of Remarks by Chairman Chris Smith  
Africa, Global Health and Human Rights Subcommittee  
July 28, 2011*

Thank you for joining us this afternoon for the second hearing in our series focusing on the deeply disturbing and seemingly intractable problem of international child abduction, which occurs when one parent unlawfully moves a child from his or her country of residence, often for the purpose of denying the other parent access to the child. I believe it is a global human rights abuse—a form of child abuse—that seriously harms children while inflicting excruciating emotional pain and suffering on left-behind parents and families.

On May 24<sup>th</sup>, at the first hearing in this series, this committee heard from six left behind parents. One success story, and five stories of deep and continuing agony of separation. Michael Elias, a combat-injured Iraqi veteran from New Jersey, told this committee of his anguish after his ex-wife, Mayumi Nakamura, used her Japanese consulate connections to abduct little Jade and Michael Jr., after the New Jersey court had ordered surrender of passports and joint custody.

Ms. Nakamura flagrantly disregarded those valid court orders telling Michael Elias, “My country [Japan] will protect me.” She was right. Although Japan is reportedly prosecuting her for abusing her consulate connections, they will not return the children.

Michael Elias told us that, “As a father who no longer has his children to hold in his arms I cannot deal with the sorrow so I try my best to stay strong and keep fighting for their return. All my hopes and dreams for their future now lie in the hands of others.” He continued, “I am begging our Government to help not only my family, but hundreds of other heartbroken families as well, to demand the return of our American children who are being held in Japan...”

We heard from Joshua Izzard, who explained to us that his only child, 2 year old Melisande, was “torn away from [him] and everyone and everything she had known from birth, in one cruel, selfish instant” and “abruptly plunged into a strange world of darkness, mental illness, and danger” in Russia.

His daughter, an American citizen, was taken out of the country using temporary travel papers supplied by the Russian embassy. He told this committee that, “Our great country must stop this constant bleeding of its most important resource, its citizens... As a nation we need to ... put in place effective preventative mechanisms to assure that our citizens are not subjected to the daily, unbearable sorrow that comes in the wake of an international parental kidnapping.”

We heard from Carlos Bermudez, who has been battling for custody of his son, Sage, in the Mexican courts for three years, facing every delay tactic in the book. He expressed his frustration with the courts, but also with the Office of Children’s Issues (OCI), which, from his experience, was like dealing with “the DMV.”

He explained that, when he requested government records of his son’s entry and exit from the U.S., OCI told him that it “didn’t have that information and asking them for it was like asking a plumber to fix [his] electrical.” He told them that he felt it was more like “asking a general contractor to work with the plumber” and asked for their help to interface with other U.S. government agencies that would only tell him to work through OCI. Other parents echoed his frustration with OCI.

Colin Bower, whose two young sons, Noor and Ramsey, were abducted by his wife to Egypt two years ago, with the assistance of the Egyptian government after his wife lost custody because of her drug use and psychological problems, conveyed to this committee his frustration over the lack of priority abduction cases receive in foreign policy.

He questioned why the U.S. was giving billions of dollars to Egypt in aid when Egypt was flagrantly violating valid U.S. court orders, preventing him from seeing his sons, and otherwise aiding and abetting a kidnapping.

Sarah Edwards told of how her “nightmare” began two weeks into her son, Eli’s, vacation to Turkey with his father. She allowed the vacation based on a shared parenting agreement she and her estranged husband had negotiated together, but soon realized that her husband had used the agreement as a pretext for abduction.

Turkey allowed him to divorce Ms. Edwards and gave him full custody of the son without Sara Edwards being present or notified of the proceedings. Turkey is a party to the

Hague Convention and Ms. Edwards has opened an application, but faces the daily threat of her estranged husband that he will run with the child to Syria.

She explained an experience that is much like that of many other parents, stating, “The obstacles I face fighting the abduction of my son are great. I am essentially on my own to fight a court battle in a foreign country where I do not know the language or understand the culture.”

Douglas Trombino, whose daughter, Morgana, was kidnapped to Colombia in November of 2010, echoed the feelings of many left behind parents when he said, “Families must remain families. The family unit is critical to the success and growth of a child. I want to be Morgana's dad. I want to touch her, smell her, love her, interact with her.

Not through a computer screen. I don't want to blow bubbles to her via Skype. I don't want to send Easter baskets via FedEx. And I don't want to have to go through customs for a mere 24 hours of “daddy/daughter” time. That to me is not being a father. I want to be Morgana's dad. Her hero. Her go-to, 24/7 best friend.”

David Goldman was the only parent who could tell of success—and, although the Hague Convention requires the return of children within 6 weeks, David's success was five and a half years in the making. He told this committee that, for those years, he “lived in a world of despondency and desperation, with a searing pain throughout my entire being. Everywhere [he] turned [he] saw an image of [his] abducted child.”

The lessons learned from David Goldman's brave journey have been incorporated into H.R. 1940, the International Child Abduction Prevention and Return Act of 2011. Specifically, HR 3240 seeks to: (1) establish an Ambassador-at-Large wholly dedicated to international child abduction; (2) establish a robust, fully resourced office within the State Department to aggressively work to resolve abduction cases; and (3) prescribe a series of increasingly punitive actions and sanctions the president and State Department may impose on a nation that demonstrates a “pattern of non-cooperation” in resolving child abduction cases. Diplomatic overtures and admonishing words are simply not enough.

Finally, in reading Assistant Secretary Kurt Campbell's testimony, I remain deeply concerned that, while expressing satisfaction that Japan may accede to the Hague Convention, the current 123 active cases involving 173 American children would not be covered by the treaty provisions. Patricia Apy, who testified at our May 24 hearing, noted that Article 35 of the convention provides, “This Convention shall apply as between Contracting States only to wrongful removals or retentions after its entry into force in those States.”

Moreover, while I appreciate Secretary Campbell's obvious empathy and compassion for the children and the left behind parents, and am encouraged that efforts will be made by State to “resolve existing child abduction cases and allow parents currently separated from their children to reestablish contact with them and ensure visitation rights...” the exclusive emphasis seems to be only on “visitation and access,” not return.

To that end, I and many others urge the Obama Administration to negotiate a memorandum of understanding with the Japanese to ensure that the 123 left behind parents are not left behind a second time—this time by treaty promises that won't apply to them.

My amendment to the State Authorization bill expressed the sense of congress, “[T]he United States, by way of a memorandum of understanding with the Government of Japan, and through all other appropriate means, should seek the immediate return of all United States children wrongfully removed to or retained in Japan.”

Delay is denial and exacerbates the abuse of a child and the agony of the left behind parent.

Because the Hague Convention specifically precludes its protections to all existing abduction victims, entry into force—without an MOU—will likely result in lost momentum and no return of American children.

It is on behalf of left behind parents –in recognition of the extreme pain they suffer as victims of international child abduction, and in recognition of our own duty as the U.S. government to help bring their children home—that we hold this hearing today.

I thank the State Department for making available two of the people most critical in the fight to bring children home, Ambassador Susan Jacobs and Assistant Secretary Kurt Campbell.