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“The Sean and David Goldman Child Abduction Prevention and Return Act of 2012” (H.R. 1940)

*Africa, Global Health and Human Rights Subcommittee
Mark-up Session of H.R. 1940, H.R. 3605, and H.R. 4141
Excerpts of Remarks by Chairman Chris Smith
March 27, 2012*

I would like to thank my colleagues on the subcommittee for supporting the Amendment in the Nature of a Substitute for H.R. 1940, the Sean and David Goldman Child Abduction Prevention and Return Act of 2012. It was David Goldman’s unrelenting effort to bring his son Sean home from Brazil that first alerted me to the epidemic of international parental child abduction in this country. According to the U.S. State Department, between 2008 and 2010, bereaved left behind parents like David Goldman reported over 3,200 abduction cases involving more than 4,700 children.

I had the privilege of joining David in his fight to return Sean and experienced firsthand the maddening obstacles encountered by left behind parents even in countries that have signed the Hague Convention on International Child Abduction—foreign courts, endless appeals to run out the clock, exploitation of the safeguards in the Convention, and prejudice against foreigners. As David has told this Subcommittee in numerous hearings that I have chaired on the subject, for five and a half years of that battle, 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.”

I am pleased to see David Goldman in the audience, and submit this bill in his honor and in honor of his formerly abducted son, Sean, and in honor of all of the parents and abducted children for whom the Hague Abduction Convention has been a long and bitter disappointment. My bill, H.R. 1940 as amended, will encourage effective implementation of the Hague Abduction Convention and create strong incentives for compliance by countries that currently enable abductors and perpetuate child abuse through weak Convention implementation.

H.R. 1940 as amended is also for the left behind parents and bereaved children who have been taken to countries that are not party to the Hague Abduction Convention. Parents like Michael Elias, a combat-injured Iraqi veteran from New Jersey, whose ex-wife 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.

At a hearing last May, Michael Elias told this committee 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...”

U.S. Navy Commander Paul Toland also knows the pain suffered by left behind parents. His daughter, Erika Toland, now nine years old, was living with Paul and his wife, Etsuko, in Navy-housing in Yokohama when Etsuko took Erika in 2003 and never returned. Tragically, Etsuko passed away in 2007, and yet Commander Toland has continually been denied access to his daughter.

According to the Office of Children’s Issues at the State Department, more than 111 American children are being held in Japan against the will of their American parent. More than 40 others are not allowed access to their American parent. Japan has yet to issue and enforce any court order for the return of a single American child abducted to Japan. I look forward to that day, and believe that H.R. 1940 takes us a step closer.

International parental child abduction rips children from their homes and lives, taking them to a foreign land and alienating them from a left behind parent who loves them and who they have a right to know. Their childhood is disrupted, in limbo, or sometimes in hiding as the taking parent seeks to evade the law, or to conjure legal cover for their abusive actions. Abducted children often lose their relationship with their mom or their dad, half of their identity and half of their culture. They are at risk of serious emotional and psychological problems and may experience anxiety, eating problems, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt and fearfulness. As adults, they may struggle with identity issues, their own personal relationships and parenting.

Parental child abduction is child abuse.

Too many families have been waiting too long for the return of their children. Our current system with its endless delays and lack of proper accountability has failed too many. It is time for an approach that backs our demands for adherence to international obligations with penalties and makes very clear to foes and friends alike that our children are our priority.

The amendment that was just approved by unanimous consent will achieve this goal by giving the President important tools to motivate other countries to quickly respond to applications for an abducted child's return. For even one case that has been pending for over six weeks in a foreign country's judicial system, the President may choose to at least issue a private demarche, or take more serious action commensurate with the gravity of the case.

If a country has ten or more cases of children abducted from the United States, and those cases are not being resolved in a timely manner, or if the entity responsible for working with the U.S. Central Authority, the judiciary, or the law enforcement are persistently failing to fulfill their obligations, the President can take measured, effective, and predictable actions to aggressively advocate for our children's return. Such actions range from denial of certain assistance to prohibiting the procurement of certain goods or services from the government or instrumentality responsible for the pattern of noncooperation.

Of course, the President is directed to consult with the government concerned and report to Congress when contemplating serious actions. The President also is provided with certain waiver authorities that take into account the important national interests of the United States. However, the expectation is that the President will use all tools necessary to bring our children home in a timely manner, and that the President will have to explain the minority of cases where a delineated tool cannot be used.

SECTION 205(a) PRESIDENTIAL ACTIONS

- (1) A private demarche.
- (2) An official public demarche.
- (3) A public condemnation.
- (4) A public condemnation within one or more multilateral fora.
- (5) The delay or cancellation of one or more scientific exchanges.
- (6) The delay or cancellation of one or more cultural exchanges.
- (7) The denial of one or more working, official, or state visits.
- (8) The delay or cancellation of one or more working, official, or state visits.
- (9) The restriction of the number of student (including US Information Agency and vocational training programs) visas issued to nationals of such country.
- (10) The withdrawal, limitation or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act.

- (11) Directing the Export-Import Bank of the U.S., the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to such government or the agency or instrumentality of such government determined by the President to be responsible for the unresolved case or patterns of noncooperation.
- (12) The withdrawal, limitation or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act.
- (13) In accordance with the International Financial Institutions Act, directing the U.S. executive directors of international financial institutions to oppose and vote against loans primarily benefitting the government or the agency or instrumentality of the government determined by the President to be responsible for the unresolved case or pattern of noncooperation.
- (14) The denial, withdrawal, suspension, or limitation of benefits provided pursuant to title V of the Trade Act of 1974 relating to the Generalized System of Preferences.
- (15) Ordering the heads of the appropriate U.S. agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the government or to the agency or instrumentality of the government determined by the President to be responsible for the unresolved case or pattern of noncooperation, under:
 - (A) The Export Administration Act of 1979;
 - (B) The Arms Export Control Act;
 - (C) The Atomic Energy Act of 1954; or
 - (D) Any other statute that requires the prior review and approval of the U.S. Government as a condition for the export or re-export of goods or services.
- (16) Prohibiting any U.S. financial institution from making loans or providing credits totaling more than \$10 million in any 12-month period to the government or agency or instrumentality of the government determined by the President to be responsible for the unresolved case or pattern of noncooperation.
- (17) Prohibiting the U.S. Government from procuring, or entering into any contract for the procurement of, any goods or services from the government or the agency or instrumentality of the government determined by the President to be responsible for the unresolved care or pattern of noncooperation.

I hope that it will not be necessary to use the penalties provided in this bill. In the best case scenario, just the possibility of adverse consequences will motivate the resolution of current open cases of international child abduction, and prevent additional cases from happening in the first place. If parents have no place to hide, they are less likely to run with the children.

We must act quickly and decisively to raise international awareness of the gravity of parental child abduction and galvanize the will of the international community to stop it. This Subcommittee's approval of this bill is a first step to achieving these goals.