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## Bringing American Kids Home

*U.S. Rep. Chris Smith*  
*Hearing Statement*

*The Goldman Act to Return Abducted American Children:  
Ensuring Accurate Numbers and Administration Action  
Subcommittee on Africa, Global Health, Global Human Rights,  
and International Organizations  
July 16, 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 discuss how the U.S. Department of State’s first annual report under the Sean and David Goldman International Child Abduction Prevention and Return Act can better correspond with the mandate set by Congress and achieve the return of abducted American children, which is the ultimate objective of the Goldman Act.

Every year, an estimated 1,000 American children are unlawfully removed from their homes by one of their parents and taken across international borders.

As many of you know all too well, 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.

For decades, the State Department has used “quiet diplomacy” to attempt to bring these children home. But we know that less than half of these children ever come home—even from countries that have signed the Hague Convention on the Civil Aspects of International Child Abduction.

In a hearing I held on this issue back in 2009, former Assistant Secretary of State Bernie Aronson called quiet diplomacy “a sophisticated form of begging.” Thousands of American families still ruptured and grieving from years of unresolved abductions confirm that “quiet diplomacy” is gravely inadequate.

Last year, Congress unanimously passed the Goldman Act to give teeth to requests for return and access. The actions required by the law escalate 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 late December, 2009.

But the new law is only as good as its implementation.

The State Department's first annual report that we are reviewing today is the first step in moving past "quiet diplomacy" to results. The State Department must get this report right in order to trigger the actions above and for the law to be an effective tool.

Countries should be listed as worst offenders if they have high numbers of cases – 30 percent or more – that have been pending over a year: or if their judicial or administrative branch, or central authority for abduction fail in their duties under the Hague Convention or other controlling agreement, or; if their law enforcement rarely fail to enforce return orders or access rights.

Once these countries are properly classified, 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 tools 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 non-compliant.

As we have seen in the human trafficking context– I authored 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 reform.

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– such as in the case of Japan – and erroneously conclude that a country is not of concern, giving permission to an estranged spouse to travel with the child for a vacation. The estranged spouse then abducts the child and the left-behind parent spends his or her life savings and many years trying to get the 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, or NCMEC, that India has 53 open abduction cases—and that 51 have been pending for more than 1 year.

While the State Department has shown willingness to work constructively on making the report better – for example, meeting last week with staff – our June 11 hearing left many questions unanswered as to why this report failed to hold countries accountable for unresolved cases.

We wrote the law with the belief that the State Department was formally raising these cases *by name* with the foreign ministries of destination countries, and asked that cases still pending one year after being raised would be counted as “unresolved.”

But these cases were not included in the report. A few parents who reported their cases to the State Department years ago and who have been consistently begging the Department for help were told by their case officers recently that the cases were formally communicated to India in May of 2015.

May of 2015—delay is denial.

The Goldman Act also requires the State Department to take actions against countries such as India and Japan if they refuse to resolve abduction and access cases.

The Goldman Act also requires the State Department to begin negotiations with countries like India and Japan for a bilateral agreement to secure the resolution of the more than 100 open cases we have pending with those two countries – cases that are not listed as “unresolved” in the report.

The Goldman Act requires an end to the status quo—but the first step toward change is telling the truth in the report.

Which is why I am so concerned that Japan was not listed as showing a persistent failure to work with the US on abduction cases. Japan has **never** issued and enforced a return order for a single one of the hundreds of American children abducted there.

It holds the world record on the abduction of American children never returned.

And yet it got a pass on more than 50 open cases, most of which have been pending for 5 years or more.

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 understood it would get a pass from the State Department and escape 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 7<sup>th</sup> year of his heart-wrenching ordeal—and yet the State Department cannot even bring itself hold Japan accountable by naming Japan a worst offender in the annual report.

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—and followed up with action.

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 am grateful that Ambassador Jacobs, Special Advisor for Children’s Issues, is here today to shed light on the gap between what the law requires and the report.