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## Hope Deferred: Securing Enforcement of the Goldman Act

*Rep. Chris Smith*  
*Excerpts from Hearing Statement*  
*Subcommittee on Africa, Global Health, Global Human Rights,*  
*and International Organizations*  
*7/14/2016*

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 what the U.S. Department of State’s second annual report under the Sean and David Goldman International Child Abduction Prevention and Return Act tells us about the Department’s implementation of the Goldman Act thus far.

On a positive note, the numbers of new abductions from the United States in 2015 remained below their pre-Goldman Act mark, probably due to increased abduction prevention.

According to the report, 600 more children were abducted to other countries last year, quickly replacing the 299 children, abducted in various years, who were returned. Overall, approximately 1,000 children remain in a foreign country, separated from their American parent.

As many of you have experienced, international parental child abduction rips children from their homes 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. In a hearing I held on this issue back in 2009, then-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.

In 2014, Congress unanimously passed the Goldman Act to give teeth to requests for return and access. The actions against non-cooperating governments required by the law escalate in severity, and range from official protests through diplomatic channels to the suspension of development, security, or other foreign assistance. Extradition of abducting parents also may be the case.

The Goldman Act is a law calculated to get results, as we did in the return of Sean Goldman from Brazil in 2008.

This year's report, as required by the Goldman Act, singles out 19 countries in total, including India, Brazil, Japan, and Tunisia for failures to work with the United States in the return of abducted American children.

For instance, the report notes 83 abductions to India still open at the end of the year—with 25 of those being new in 2015. Only one was closed with a court-ordered return to the United States. These numbers will continue to climb each year until India creates a mechanism for resolution. Right now India is a magnet for abductions because taking parents are almost guaranteed to get away with their crime.

Brazil had 17 abduction cases open at the end of 2015 with a 27% resolution rate. Brazil has been a Convention partner with the United States since 2003, and yet consistently fails to comply with the Convention. Devon Davenport, who has testified before this Subcommittee, has won every one of his 24 appeals in Brazil's Courts over the last 7 years—and yet he still cannot get his daughter Nadia home.

If there was ever a textbook case for sanctions, Brazil is it—they have met the legal threshold 10 times over.

The Report lists Japan as a “country that has failed to comply with one or more of its Hague Convention obligations”, specifically “in the area of enforcement of return orders”. Multiple parents have won pyrrhic victories in court, only to discover Japan has what the report calls “systemic flaws” with enforcement.

What remains inexplicable is why Japan was kept off the list of non-compliant countries for a second year in a row when even the State Department condemned them for “systemic flaws” in their ability to enforce court orders to return U.S. children. Failure to enforce return orders is an automatic triggers for landing on the non-compliant list.

One parent had to go outside the Convention framework to achieve enforcement in an extraordinary case resolved after the reporting period.

The report should have also counted against Japan the 40 pre-Convention abduction cases it mentions as still pending—most of them for more than 5 years.

Countries should be listed as worst offenders if they have high numbers of cases – 30 percent or more – that have been pending more than a year. Countries also may be so listed if their law enforcement, judiciary, or central authority for abduction regularly fails in their duties under the Hague Convention or other controlling agreement; or if the country simply fails to work with the U.S. to resolve cases.

Accurate reporting, including inclusion on the worst offenders list, is 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.

However, reporting is just step one. 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 cases.

Such actions could bring an end to the nightmare of the Elias family, whose children, Jade and Michael, have been missing in Japan for 8 years.

Such actions could end the nightmares of any of the parents testifying before us today.