

CHRISTOPHER H. SMITH

4TH DISTRICT, NEW JERSEY

CONSTITUENT SERVICE CENTERS:

MONMOUTH
112 Village Center Drive
Freehold, NJ 07728-2510
(732) 780-3035

OCEAN
405 Route 539
Plumsted, NJ 08514-2303
(609) 286-2571; (732) 350-2300

MERCER
4573 South Broad Street
Hamilton, NJ 08620-2215
(609) 585-7878

2373 Rayburn House Office Building
Washington, DC 20515-3004
(202) 225-3765

<http://chrissmith.house.gov>



Congress of the United States
House of Representatives

SENIOR MEMBER, FOREIGN AFFAIRS
COMMITTEE

CHAIRMAN, AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND
INTERNATIONAL ORGANIZATIONS
SUBCOMMITTEE

WESTERN HEMISPHERE
SUBCOMMITTEE

CO-CHAIRMAN, COMMISSION ON SECURITY
AND COOPERATION IN EUROPE

CO-CHAIRMAN, CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA

DEAN, NEW JERSEY DELEGATION

“No Child Left Behind: An Update on the Goldman Act”

*Subcommittee on Africa, Global Health,
Global Human Rights, and International Organizations
Chairman Chris Smith (R-NJ)
Hearing Statement
April 9, 2018*

Good afternoon. 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 the continuing and excruciatingly painful crisis of international parental child abduction and what the Trump Administration can and must do to stop it.

As many of you here today 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.

According to State Department statistics, almost 800 children are today held hostage in a foreign country, separated from their American parent. Several hundred additional children join their ranks every year.

If past is prologue, only 16 percent of these children will be returned to the United States.

In 2014, Congress adopted legislation I wrote, the *Sean and David Goldman International Child Abduction Prevention and Return Act* (Public Law 113-150) to change the status quo. Since 2014, we have seen a reduction in new abductions, but not an increase in percentage of returns in ongoing cases.

Despite the new legislation, the State Department has persistently refused to use the return tools in the Goldman Act as envisioned by Congress. Moving beyond letters and meetings, the Goldman Act is an enforcement tool for the Hague Convention on the Civil Aspects of International Child Abduction and leverage for return agreements with non-Hague countries.

The Goldman Act takes the lessons learned from the successful return of Sean Goldman from Brazil and lays out actions:

- a delay or cancellation of one or more bilateral working, official, or state visits;

- the withdrawal, limitation, or suspension of U.S. development, security, or economic support assistance;
- and extradition.

To my knowledge, extradition has been used once and the other options not at all. The Obama State Department said in the past that sanctions will not work. But in the one case where sanctions were tried by Congress, they worked.

The inaction by the Obama Administration has been noted and challenged. On February 14 of 2017, one month into the new Trump Administration, Japan's Minister of Foreign Affairs, Fumio Kishida, noted in a Diet discussion of abduction that, "until now there is not a single example in which the U.S. applied [Goldman Act sanctions] towards foreign countries." He went on to note that "according to the U.S. [Japan is] not included in the category of the non-compliant countries."

Three days later, the Osaka High Court overturned a return order for the four American children of James Cook in flagrant violation of the Hague Convention, Japan's own Hague implementation guide, and U.S. law. The court had reopened the case because Mr. Cook had moved into an apartment after the enormous legal bills from years in court in Japan. When did sharing a bedroom with a sibling become a grave risk to a child's physical or psychological well being?

I urge and believe the new administration can and must do better.

At least 300–400 children have suffered abduction from the U.S. to Japan since 1994, and more than 35 currently await reunification with their American parent—most of these are left over from previous Administrations. In almost all cases, the child is completely cut off from contact with the left behind parent. Most have aged out of the system without ever being reunited with their left behind parent.

Some parents have won in court only to find that Japan's law enforcement could not return their children unless the taking parent agreed to abide by the decision, and the taking parent did not.

The systematic non-enforcement of access and return orders is so bad in Japan that 26 EU countries recently issued a joint demarche to Japan, asking Japan to fix the problem. Although non-enforcement has plagued many U.S. cases, the U.S. did not join the demarche.

However, in the upcoming Goldman Act report, the U.S. has the chance to hold Japan accountable for its failures in the Cook case as well as others, like that of the Elias children, taken from my home state of New Jersey after their mother obtained duplicate passports from the Japanese consulate in contravention of the judge's order. The report can and must better reflect the reality of the child abduction and the suffering of American children separated from their American parent every day in Japan.

According to the Goldman Act, a country can find itself on the "non-compliance list" and eligible for sanctions if a country regularly fails to enforce return orders. The State Department should also put the country on the list if the judiciary regularly fails to properly apply the Hague Convention—such as in the Cook case.

Finally, a country should be put on the "non-compliance list" if 30% or more cases in the country are unresolved cases—or cases that have been pending for more than a year.

Notably, the definition of an "unresolved" case makes no mention of a country's Hague status. In other words, all of the cases that began before Japan's accession to the Hague Convention and that were communicated to the Japanese government should be counted against Japan.

No child should be left behind.

We received assurances from the State Department years ago, as they myopically pursued Japan's accession to the Hague Convention knowing that the Convention would not cover the then existing cases of more than 50 children, that they would not leave these children behind.

That they would find ways to solve these cases.

How many of these children have come home four years later? How many even have access to their left behind parent now?

Almost zero.

The Goldman Act directed the State Department to develop an agreement with Japan for the precious children that were already abducted. The Goldman Act made a way for the State Department to hold Japan accountable for these cases.

Four years later, we have no agreement with Japan for these cases. We have no action against Japan for these cases or current cases. And we have yet to see the State Department even list Japan as "non-compliant" in the annual report.

Every day these children are separated from their US parent the damage compounds.

As the State Department's own 2010 Report on Compliance with The Hague Convention on the Civil Aspects of International Child Abduction observes, "Abducted children are at risk of serious emotional and psychological problems. Research shows that recovered children often experience a range of problems, including anxiety, eating problems, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt, and fearfulness. As adults, individuals who were abducted as children may struggle with identity issues, personal relationships, and possibly experience problems in parenting their own children."

We must do better by our children. We must not leave any abducted child behind.

Congress is currently looking at new ways to put pressure on countries with low resolution rates, like Japan, Brazil, and India.

Last year, I introduced H.R. 3512, the *Bindu Philips and Devon Davenport International Child Abduction Return Act of 2017* to amend the Generalized System of Preferences system so that any country named as "non-compliant" would lose their trade benefits. The loss of trade preference would be automatic and not dependent on the Administration choosing to apply sanctions. Currently, 11 of 13 non-compliant countries receive trade benefits from the United States. This has to change.

In addition, I am working on a bill that would limit H1-B and other business visas for countries that have low abduction resolution rates—this would affect Japan, Brazil, and India, among others.

We have 13 egregious long term cases pending in Brazil, including the Dr. Brann and Davenport cases. More than 90 American children are separated from their American parent in India—India will not even appoint a person to receive the applications and has refused to join the Hague Convention.

We asked in our hearing last year, when is enough, enough?

We hope that the State Department will do its job and implement the Goldman Act. We hope that the Trump Administration will be different than the last.

But we are prepared to go around the State Department in order to ensure no abducted child is left behind.