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“Reviewing International Parental Child Abduction”

Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations

*Rep. Chris. Smith (R-NJ), Chairman
December 10, 2018
Excerpts of Remarks*

I want to thank all of you for joining us this afternoon to discuss the continuing crisis of international parental child abduction and how the Trump Administration can and must use current law more aggressively to bring American children home to their families.

I especially want to thank the brave left-behind parents in this room and hundreds of others who are here in spirit for tenaciously struggling to recover their child or children from an abduction. The deleterious physical and psychological impact on abducted children including “parental alienation” coupled with the pain and agony endured by a left-behind parent from a forced, illegal and inhumane abduction demands more effective U. S. government action.

Today we will here from three extraordinary parents who have left no stone unturned in the noble quest of bringing their kids home. Out of deep love and concern for the safety and well-being of their children, all three parents—Jeffrey Morehouse, Juan Garaioaca and Michelle Littleton—continue to strive and hope and believe.

All three parents—and far too many others like them—daily endure the absolute nightmare of having had their beloved children kidnapped and taken to a foreign land.

We can and must do better.

Child abduction is child abuse, and it continues to plague thousands of families across the United States. Each year, more than 450 new children are abducted, adding to the 11,000 children who were abducted internationally between 2008 and 2017.

The good news. Since Congress adopted legislation I wrote in 2014, the [*Sean and David Goldman International Child Abduction Prevention and Return Act \(Public Law 113-150\)*](#), we have seen a reduction in the number of new abductions each year. In fact, 450 is half of the number 10 years ago.

According to the State Department's Annual Report on International Child Abduction for 2018, the State Department's Prevention Team has been working with the Department of Homeland Security as directed by the Goldman Act to protect vulnerable children from abduction. Last year, 210 very high-risk children were enrolled in the DHS prevention program, an increase of 60 percent over 2016.

We have also seen some high-profile federal criminal prosecutions of taking parents and their accomplices, such as the prosecution and conviction of Carlos and Jemima Guimaraes for assisting in the kidnapping of their grandson, Nico Brann, to Brazil five years ago. These prosecution efforts of the DOJ and FBI are incredibly important not only for holding perpetrators accountable and for driving home the seriousness of international child abduction—but also for deterring future abductions.

Ask anyone who works in this field or any left behind parent and they will tell you that international child abductions are very difficult to resolve, even with the 77 countries that have partnered with the United States in the Hague Convention on the Civil Aspects of International Child Abduction. Two hundred and fifteen children came home last year; every return is a hard-won celebration and should not be minimized.

But every case resolved without return must be scrutinized. One hundred ninety-seven cases were closed without return. Did the parent agree to let the child stay abroad because they could not afford the financial and emotional cost of fighting in a foreign court for years on end? Did the foreign court expansively read the Hague Convention exceptions to return so that living in an apartment counted as a “grave risk of harm”, such as Japan's courts held in the Cook family case?

The Hague Convention was intended to minimize trauma to children and left behind parents, returning children to their home country for custody determinations quickly—but it is regularly flouted without consequence to the violating country.

Tragically, the State Department has persistently refused to use the return tools in the Goldman Act as envisioned by Congress to enforce the Hague Convention, and to move non-Hague countries to bilateral resolution agreements with the United States.

A 42% return rate of American children within two years of abduction cries out for improvement. We can and must do better!

The Goldman Act empowers the Secretary of State with significant sanctions that must be utilized including the authority to: withdraw, limit, or suspend U.S. development, security, or economic support assistance; delay or cancel one or more bilateral working, official, or state visits; extradite the taking parent, which puts pressure on the parent to return the child; or to come up with their own action that would have positive effect.

To my knowledge, extradition has been used once and the other options not at all. That's got to change.

At a Senate hearing on April 24, 2018, Assistant Secretary, Bureau of Consular Affairs testified Carl Risch testified that the State Department "consider[s] all the tools the (Goldman) Act provides for the most effective way to make progress with particular countries." However, more than 2,000 cases after the Goldman Act was signed, the State Department has apparently never found a case where the tools would be helpful—not even the cases where the foreign courts have decided on return, but just failed to enforce.

Devon Davenport has won all 24 appeals over the last 9 years for the return of his daughter Nadia from Brazil—she is still not home. Dr. Brann has been waiting 5 years for the return of his son, Nico from Brazil.

We have 100 American children abducted to India, with almost no hope of return home without the United States choosing to take real action, such as lowering the number of visas available to Indian citizens until abducted American children are returned.

While Japan was finally named "non-compliant" by the Trump Administration in this year's annual report, Japan is still not held accountable for the dozens of cases that were pending before it signed the Hague Convention in 2014.

I believe the Trump Administration can and must do better with backing of the Hague Convention, bilateral agreements, and requests for cooperation in return of abduction children with the actions described in the Goldman Act. Goldman Act actions were intended to get results—use the sanctions, Mr. President—because we can and must do better.