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International Child Abduction Hearing

The Goldman Act at Five Years

Rep. Chris Smith
Excerpts of Remarks
The Goldman Act at Five Years
Tom Lantos Human Rights Commission
July 25, 2019

The commission will come to order.

I want to thank all of you—especially all of the left- behind parents I see in the audience, such as Ravi Parmar from Bring Our Kids Home—for joining us this afternoon.

Today’s hearing will examine the efficacy of the Sean and David Goldman Child Abduction Prevention and Return Act at the five year mark – today is actually five years to the day when Congress passed this landmark bill.

It also is quite fitting that this hearing is held at the Tom Lantos Human Rights Commission, as the very first hearing on international parental child abduction was held by the Commission back in December 2009. My colleague and Commission co-chairman Jim McGovern was there, as was one of our witnesses, Patricia Apy.

Every year, approximately 450 American children are unlawfully removed from their homes by one of their parents and taken across international borders. The victims of international parental child abduction include not only children denied the love and attention of one of their parents, but also parents cut off from the children they love.

If there is good news to be had, it is that when we had our first hearing on implementation of the Goldman Act in March of 2015, some 1000 American children a year were being victimized. We have seen since then what appears to be a consistent downward reduction in the number of children being kidnapped each year, at least to some parts of the world.

One reason I think that we have seen a reduction is because of the annual report which the State Department files on parental child abduction.

One of the objectives of the report is to alert family court judges about which countries are high risk in terms of failure to return abducted children, notwithstanding the fact that a country may have ratified the Hague Convention on the Civil Aspects of International Child Abduction. The report now is much more accurate and user friendly than it has been in the past, including both

Convention and non-Convention countries, identifying recent developments and warning of enhanced obstacles to recovery of children.

For this, I really do want to commend our witness, Assistant Secretary Risch, and his team. It is impossible to tell how many kidnappings have been averted, yet one would think that credit should be due, at least in part, to the annual report which the State Department puts out.

However, for many left-behind parents in the audience today, that is scant consolation. These parents have not seen their children in years. These parents know all too well the financial, legal, cultural, and linguistic barriers to bringing their children home from a foreign country. These parents are well-acquainted with the heartbreak, agony and pain.

And that pain is compounded by knowing the suffering caused to your child by the separation. Child abduction is child abuse.

As the State Department itself has noted, in its 2010 Report on Compliance with The Hague Convention: “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.”

These young victims, like their left-behind parents, are American citizens who need the help of their government when normal legal processes are unavailable or have failed.

To that end, in 1988, the United States ratified the Hague Convention on the Civil Aspects of International Child Abduction to try to address abduction and access.

The Hague Convention creates a civil framework for the quick return of abducted children and for rights of access for left-behind parents. Absent extenuating circumstances, the child is to be returned within 6 weeks to his or her country of habitual residence for the courts there to decide on custody, or to enforce any previous custody determinations.

The Convention has helped some left behind parents be reunited with their children. But there are many who are still left behind.

Some Hague Convention parties are simply not enforcing legitimate return orders. These include Argentina, Brazil, Ecuador, and Peru – countries which have ratified the Convention but which fail to live up to their commitments.

There are also other non-Hague countries that are listed in the 2019 Report as demonstrating a pattern of non-compliance—in other words, countries that habitually fail to enforce return orders—which include Egypt, India, Jordan, Lebanon, and the United Arab Emirates.

In short, abducted American children are not coming home from these countries and other countries where the Convention operates weakly, or with which the U.S. has no bilateral agreement of any kind.

One country which had previously been listed as non-compliant but was de-listed in the 2019 report is Japan, ostensibly because it has legislation advancing in its National Diet, or parliament, which would address returns in Hague cases and enforcement of return orders. While that may be a positive development – though how positive remains to be seen – it does nothing to address the reported 18 open pre-Hague ratification cases where there has been no progress at all, even in cases where parents are simply seeking access to their children under the Convention.

Why is Japan a problem? As a practical matter, many of the victimized parents are member of our armed services stationed in Japan, who marry Japanese nationals. Given the sacrifice our

soldiers, sailors and Marines and airman, we should be especially solicitous of their struggles. We should go the extra mile, given the fact that they are there, deployed there to protect the people of Japan, and that region.

We have fathers like Navy Captain Paul Toland whose daughter Erika was abducted and who now is the sole surviving parent, yet still cannot get access to his daughter, who remains with her grandmother in Japan. Or Michael Elias, a Marine stationed in Okinawa whose two children were abducted after he was deployed in Iraq, where he suffered a terrible wound from an IED. His wife, who worked in the Japanese consulate, used her influence to obtain Japanese passports illegally and kidnap their children. Michael has not seen his children, Jade and Michael Jr., since 2008.

This is absolutely unacceptable, and it also inexplicable why no progress has been made in crafting a supplemental bilateral agreement with Japan to address both pre-Hague return and access cases.

India is another country with a deplorable record when it comes to returning abducted children. While many Indian government officials and judges have encouraged Hague accession, attorneys and lobbyists involved in domestic relations matters oppose accession and returns due to a cultural preference for keeping children with their mothers and a purported concern that ratifying the Hague Convention would disadvantage Indian mothers who have fled abusive marriages abroad. Such claims are belied, however, by the testimony of one of our witnesses today, Ruchika Abbi, the mother of a child abducted to India, as well as a previous witness who has testified before Congress, Bindhu Phillips, whose children were also abducted to India by her husband.

Part of the intent of the Goldman Act was not simply to reform the system, but to bring about a fundamental sea change in U.S. diplomacy so that State Department officials would see themselves as advocates for the return of abducted American children.

The Act also provides the State Department with tools to use in their advocacy.

The Goldman Act specifically lists increasingly escalating actions, from a demarche – or a protest through diplomatic channels – to a public condemnation to a delay or cancellation of one or more bilateral visits and even the withdrawal, limitation, or suspension of foreign assistance to the central government of a country.

Extradition is another tool.

Yet these tools, beyond demarches, seem to be seldom if ever used by the State Department. I would ask Assistant Secretary Risch to answer why that is.

And I really do want to call upon the members of our State Department to see themselves as advocates for heartbroken American parents and their children. And to remind them, a tough approach works.

We saw that in the case of Sean and David Goldman, when the U.S. Congress held up Brazil's Generalized System of Preferences renewal because Brazil had refused to return Sean Goldman. More recently we saw it when Congressman Bill Posey threatened sanctions against Lebanon in June of this year, resulting in the resolution of two longstanding abduction cases.

To sum up the message I have for the State Department, standing up for Americans is the duty for everyone who works at State. Sanctioning bad actors works, so please use the tools Congress gave you!

With that, I would like to turn the microphone over to our co-Chairman...