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# THE GOLDMAN ACT TO RETURN ABDUCTED AMERICAN CHILDREN: ASSESSING THE COMPLIANCE REPORT AND REQUIRED ACTION

## HEARING

BEFORE THE

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

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

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# THE GOLDMAN ACT TO RETURN ABDUCTED AMERICAN CHILDREN: ASSESSING THE COMPLIANCE REPORT AND REQUIRED ACTION

**THURSDAY, JUNE 11, 2015**

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS,
COMMITTEE ON FOREIGN AFFAIRS,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 3:03 p.m., in room 2200 Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. The subcommittee will come to order, and good afternoon.

First of all, let me apologize for starting late. We did have a series of 14 votes in succession. So, again, to our distinguished witnesses I apologize for the lateness in getting underway.

I wanted to especially thank all of you for being here today, especially all of the left-behind parents that I see in the audience and the thousands more who are here in spirit and deeply concerned about their abducted child.

And I thank you for joining us this afternoon to review the U.S. Department of State's first annual report under the Sean and David Goldman International Child Abduction Prevention and Return Act.

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 the care of the parent and family left behind.

Child abduction is child abuse and it continues to plague families across the United States. Every year an estimated 1,000 American children are unlawfully removed from their homes by one of their parents and taken across international borders. Less than half of these children ever come home.

The problem is so consequential and the State Department's previous approach of quiet diplomacy was so inadequate that Congress unanimously passed the Goldman Act last year to give teeth to requests for return and for access.

These actions increase in severity and range from official protest 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 return of Sean Goldman from Brazil in 2008. But a law is only as good as its implementation.

Brokenhearted parents across America waited 4 years for the Goldman Act to become law and still await full U.S. Government implementation of that law.

The State Department's first annual report that we are reviewing today should be a roadmap for action. The State Department must get this report right in order for the law to be an effective tool.

If the report fails to accurately identify problem countries, the actions I mentioned above are not triggered. Countries should be listed if they have high numbers of cases, 30 percent or more, that have been pending over a year or if they regularly fail to enforce return orders or if they have failed to take appropriate steps in even one single abduction case pending for more than a year.

Once these countries are properly identified, 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 a choice of which actions 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 whether the country is objectively a non-compliant nation.

As we have seen in the human trafficking context, and I would note parenthetically that I authored both 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 reforms.

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 filled with zeros in the unresolved cases category, erroneously conclude that a particular country is not of concern, and give permission to an estranged spouse to return to their country with the child for a vacation.

The taking parent then abducts the child and the left-behind parent then spends her or his life savings and many years trying to get their child returned to the United States, 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 that India has 53 open abduction cases and that 51 have been pending for more than 1 year.

The report also shows zero new cases in Tunisia for the last year, three resolved cases and zero unresolved cases. And yet Ms. Barbirou will testify today to her more than 3-year battle to bring her children home from Tunisia.

Again, the National Center for Missing and Exploited Children's numbers show six ongoing abductions in Tunisia, all of which have been pending for more than a year.

Nowhere is the report's disconnect with reality more clear than in its handling of Japan, a country that has never issued and enforced a return order for a single one of the hundreds of American children abducted there and it was not listed as a country showing failings to cooperate in returns.

In March, nearly the 2 months before the annual report was released, you will recall I chaired a hearing of this subcommittee featuring Ambassador Susan Jacobs in which it was made perfectly clear that Congress expects that Japan will be evaluated not just on its handling of new abduction cases after it joined the Hague Convention last year but on its work to resolve all open abduction cases including the more than 50 cases I and others have been raising with the State Department for at least the last 5 years.

Among those cases is that of Sergeant Michael Elias, who has not seen his two 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 four and two, in defiance of a court order, telling Michael on the phone that there was nothing that he could do because as she said, and I quote, "My country"—that is, Japan, "will protect me."

Her country, very worried about its designation in the report, sent a high-level delegation in March to meet with Ambassador Jacobs and to explain why Japan should be excused from being listed as noncompliant, despite the fact that more than 1 year after signing the Hague Convention on the Civil Aspects of International Child Abduction, Japan has zero returns to the United States.

Just before the report was released 2 weeks late, Takashi Okada, Deputy Director General of the Secretariat to the Ministry of Foreign Affairs, told the Japanese Diet that he had been in consultation with the State Department, and I quote him here, "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 apparently got a pass from the State Department and escaped 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.

Sergeant Michael Elias' country has utterly failed to protect him and his children. He has seen zero progress in his case over the last year, the seventh year of his heart wrenching ordeal.

And I traveled with his mother—in other words, the child's grandparents—to Japan and met that brick wall that he has faced now for 7 years in trying to help move that case along. And yet the State Department can't bring itself to hold Japan accountable by naming Japan as an offender in the annual report.

It is disappointing, it is discouraging, and I believe it is disgraceful. The report whitewashes washes Japan's egregious record on parental child abduction.

Adding insult to injury, the report table that was to show the unresolved abduction cases in Japan failed to include a single one of the more than 50 cases, 36 of which have been dragging on for more than 5 years according, again, to the National Center for Missing and Exploited Children.

Instead, the table listed Japan as having a 43 percent resolution rate. Japan, again, has never issued and enforced a return order for an American child. These young victims—these American victims—like their left-behind parents, again, are American citizens who need the help of their government.

The Goldman Act is clear. All requests for a return that the State Department submitted to the foreign ministry and that maintain unresolved for 12 months later are to be counted against Japan, not just 3 months.

Nearly 100 percent of the abduction cases in Japan remain open and the report's conclusion of 43 percent resolution is truly indefensible. Moreover, not a single left-behind parent pursuing access was allowed in-person contact with their child over the last year.

The Goldman Act has given the State Department new and, I would argue, 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 induction, and I remember when I was doing the Trafficking Victims Protection Act there were arguments against the bill—it took 3 years to become law—that this would hurt our relations with our allies if we stood up for women who were being turned into commodities and sold like chattel as part of human trafficking schemes.

I persisted. Those who worked alongside of me persisted. We got the law passed, and I think the TVPA has proven itself to be a way of saying friends don't let friends commit human rights abuses and we need to speak out with clarity, and with precision, and with boldness, all based on the facts.

I do appreciate the State Department's presence here today to discuss ways we can improve the report and ensure that it fulfills the purposes for which it is intended, namely the prevention of abduction and the reunification of thousands of American families that have suffered forced separation for far too long.

I would like to yield to my good friend, Mr. Donovan, a former prosecutor and a distinguished new Member of the U.S. House.

Mr. DONOVAN. Thank you, Mr. Chairman. As the chairman said, I am the second newest Member of the House. I was elected and sworn in 4 weeks ago.

But in my previous life I was a district attorney and my experience with custodial abductions was limited to within our own Nation. So I look forward to hearing from the parents and I thank you for coming to share your grief with us.

I am also the father of a newborn 3-week-old daughter so my heart goes out to you, and I also look forward to hearing from our distinguished panelists today to hear what our Government is doing for you.

Thank you very much.

Mr. SMITH. Thank you very much.

I would like to now introduce our two distinguished panelists, beginning first with Karen Christensen, who has served as the Deputy Assistant Secretary of State for Overseas Citizens Services since August 2014.

Most recently, Ms. Christensen was the Minister Counselor for Consular Affairs at the U.S. Embassy in Berlin where she coordinated consular operations at several posts in Germany.

Prior to that, she was Consul General in Manila. She has also served in Washington within the Bureau of Consular Affairs in the visa office and the Office of Executive Director.

Overseas, she has served as a consular officer served in London, Bucharest, Warsaw, and Seoul. Other Washington tours include serving as an instructor in the consular training division and a career development officer in the Bureau of Human Resources.

Then we will hear from Mr. Henry Hand, who assumed his duties as the director of the Office of Children's Issues on September 3, 2014.

His previous assignment was Counsel General at the U.S. Embassy in Kiev, Ukraine. Mr. Hand is a career Foreign Service Officer who joined the department in 1989. He was promoted to the Senior Foreign Service in 2013.

His previous postings include the American Institute in Taiwan, Consulate General Shanghai, Embassy Tallinn, and Embassy Nicosia.

He has also served in the Bureau of Consular Affairs as a country desk officer on central African affairs.

The floor is yours, Ms. Christensen.

**STATEMENT OF MS. KAREN CHRISTENSEN, DEPUTY ASSISTANT SECRETARY, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE**

Ms. CHRISTENSEN. Chairman Smith and distinguished members of the subcommittee, thank you for this opportunity to discuss international parental child abduction and to review implementation of the Sean and David Goldman International Child Abduction Prevention and Return Act, including the Department of State's first annual report under this new law.

The Department values your continuing interest and support of our efforts to prevent international parental child abduction, to facilitate the return of children to their homes and to strengthen and expand the Hague Abduction Convention to include more partner countries.

Our mission is to assist children and families involved in international parental child abduction and to prevent its occurrence.

In my career I have worked with many families affected by international child abduction and I have seen firsthand the pain it causes. This new law already is encouraging more countries to consider becoming party to the Hague Convention or to improve their performance under the convention if they are already a party.

The U.S. Interagency Working Group, for example, on prevention mandated by the law has already met twice, hosted by Special Advisor for Children's Issues, Ambassador Susan Jacobs, and it has

already resulted in enhanced coordination in preventing abductions.

We devoted significant effort to analyzing this new law, to adapting our policies and procedures to implement it and to publish the first annual report. We fully recognize that this first report will not meet all expectations and we welcome feedback from you, from other Members of Congress, from parents who are seeking the return of their children and from the public on how we can improve future iterations of this report.

As the law requires, 90 days following the annual report the Department will submit to Congress a report on actions taken in response to countries demonstrating patterns of noncompliance.

Mr. Chairman, distinguished members of the subcommittee, we are committed to using every tool we have available to prevent and resolve international parental child abductions. We need and we appreciate your continuing support including through your feedback on our work and on our reports to you.

Thank you, and I look forward to your questions later. So I will turn it over to Henry Hand.

[The prepared statement of Ms. Christensen follows:]

DEPARTMENT OF STATE

STATEMENT

OF

KAREN L. CHRISTENSEN

DEPUTY ASSISTANT SECRETARY OF STATE FOR

OVERSEAS CITIZENS SERVICES

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL

HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

HEARING

ON

JUNE 11, 2015

**Chairman Smith, Ranking Member Bass, and distinguished Members of the Subcommittee** – Thank you for this opportunity to discuss international parental child abduction (IPCA), and to review implementation of the Sean and David Goldman International Child Abduction Prevention and Return Act (ICAPRA), including the Department of State's first annual report under the new law.

The Department values your continuing interest and support of our efforts to prevent international parental child abduction, to facilitate the expeditious return of children to their homes, and to strengthen and expand the Hague Abduction Convention (Convention) to include more partner countries.

This new law is already encouraging more countries to consider becoming party to the Hague Convention, or to improve their performance under the Convention if they already are a Party. The U.S. Interagency Working Group on Prevention mandated by ICAPRA has already met twice, hosted by Special Advisor for Children's Issues Ambassador Susan Jacobs, and has resulted in enhanced co-ordination in preventing abductions.

We devoted significant effort to analyze this new law, adapt our policies and procedures to implement it, and publish the first annual report. We fully recognize this first report will not meet all expectations. We welcome feedback from you, other Members of Congress, parents who are seeking the return of their children, and the public on how we can improve future iterations of the report.

As the law requires, 90 days following the annual report, the Department will submit to Congress a report on actions taken in response to patterns of non-compliance by countries in their handling of IPCA cases.

**Conclusion**

Mr. Chairman, Ranking Member Bass, distinguished Members of the subcommittee, we are committed to using every tool available to prevent and resolve international parental child abductions. We need and appreciate your continuing support, including through your feedback on our work and our reports to you.

**STATEMENT OF MR. HENRY HAND, DIRECTOR, OFFICE OF CHILDREN'S ISSUES, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE**

Mr. HAND. Congressman Smith, distinguished members of the subcommittee, thank you for the opportunity to appear before the subcommittee regarding our work in the Office of Children's Issues to prevent and resolve international parental child abductions and to implement the 1980 Hague Convention of the Civil Aspects of International Child Abduction, the International Child Abduction Remedies Act, and the Sean and David Goldman International Child Abduction Prevention and Recovery Act.

I welcome the chance to provide further detail and answer your questions about the Department of State's first annual report under the new law.

Our office worked hard since the new law was enacted in August to analyze and translate its provisions into concrete actions such as collecting 40 new data fields for every case. Our focus was on ensuring this first report contained all the information required by the law.

The information in the 2014 report naturally is different than the previous annual compliance reports on international parental child abduction, which were drafted under previous legislation.

The 2014 report represents a first in the initial effort that we understand does not meet all of your or others' expectations.

We compiled it under a compressed timeline with data gathered in the months after the law came into effect. We worked diligently simultaneously to make sure that as we implemented the law we maintained the office's ongoing work in support of families affected by international child abduction.

Mr. Chairman, distinguished members of the subcommittee, we are committed to fully implementing the law and making the most effective tool we can in service our shared goals of preventing international parental child abduction and bringing abducted children home.

We very much appreciate the feedback we already have received and seek your comments and questions to inform the work we are doing.

Thank you, and we welcome your questions.

[The prepared statement of Mr. Hand follows:]

DEPARTMENT OF STATE

STATEMENT

OF

HENRY H. HAND

DIRECTOR OF THE OFFICE OF CHILDREN'S ISSUES

BUREAU OF CONSULAR AFFAIRS

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON FOREIGN AFFAIRS

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

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JUNE 11, 2015

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Our office worked hard since the new law was enacted last August to analyze and translate its provisions into concrete actions, such as collecting 40 new data fields for every case. Our focus was on ensuring this first report contained all the information required by the law. The information in the 2014 report naturally is different than the previous annual compliance reports on international parental child abduction, which were drafted under previous legislation.

The 2014 report represents a first effort that we understand does not meet all expectations and we value discussions like this to make it more effective. We compiled it under a compressed timeline with data gathered in the months after the new law came into effect. We worked diligently to make sure that, as we implemented the law, we maintained the Office's ongoing work in support of families affected by international child abduction.

**Conclusion**

Mr. Chairman, Ranking Member Bass, distinguished Members of the Subcommittee, we are committed to fully implementing ICAPRA and making it the most effective tool we can in service of our shared goals of preventing international child abduction and bringing abducted children home. We very much appreciate the feedback we already have received, and seek your comments and questions to inform the work we are doing.

Thank you.

Mr. SMITH. Mr. Hand, thank you very much. Ms. Christensen, thank you very much.

Could you, Ms. Christensen, tell us in what ways has the State Department made Japan's Ministry of Foreign Affairs aware of the 50-plus abduction cases predating Japan's ratification of the Hague Convention?

And do we give their Foreign Ministry or their, you know, competent entity there a list of abduction cases? Is that how we do it?

Mr. HAND. Sir—Mr. Chairman, we have discussed—we have raised specific cases with the Japanese Foreign Ministry. Right now, the Japanese Foreign Ministry there is the Central Authority which works on Hague cases.

There are other parts of the Foreign Ministry which have the lead on pre-Hague cases. We have raised the issue of pre-Hague cases with both sides of the Japanese Foreign Ministry. We have also raised it at senior levels of the Japanese Government and continue to do so.

Mr. SMITH. Since that is the case it is, perhaps, an oversight, but I think it may be more than that, the Goldman Act makes it very clear that there must be accounting of all unresolved cases, and I will read you the pertinent part of it. Title I, Department of State Actions "Each annual report shall include a list of all countries in which there were 1 or more abduction cases, during the preceding calendar year, relating to a child whose habitual residence in the United States . . ."—then it goes through specific more detailed information.

But the idea is that just one case in the whole preceding calendar year. And yet, in reading the report on page 17 it says Japan, abduction cases, unresolved cases zero, and yet elsewhere in the report it does mention the 50.

But the way of evading putting Japan on the list—and there are 22 countries, as you know, since you compiled it—who are on the list who have shown a pattern of noncompliance is somehow to just exclude these 50-plus cases that information has been given over to the Japanese Government, as just indicated, and I know that because I have been talking to our people both in Tokyo as well as at the State Department here.

They do make representation on behalf of individuals. And yet it is baffling beyond words. Unresolved cases, zero. How did that happen?

Mr. HAND. Sir, one of the things that we have been working very hard on in the past several months since the law was enacted is in devising the report with—that calls for new data, data that we were not using before.

The legislation also contains some new definitions and one of the issues that we have encountered is that the definition and the definitions in the law, an unresolved abduction case is one that remains unresolved for more than 12 months after the date in which the completed application for return of the child is submitted to the judicial or administrative authorities.

What, in our extensive review, we found is that it was determined that we cannot include many non-Hague cases where there was no application for return. There was an application for custody or application for access and so on.

Again, though, let me reiterate we look forward to working with you and with others to make this report as comprehensive, as understandable, and as effective a tool as we can because we share your desire that this report be something that members of the public, Members of Congress, judges and others can use as an effective reference and also as an effective tool to press other countries.

Mr. SMITH. I deeply appreciate that we share that concern and I do believe we do. Your intent is our intent, both Mr. Donovan and I and many others who are concerned about this.

But the definition of "unresolved abduction case"—and I will read it again and I think it needs to be clearly put on the record—

> "means an abduction case that remains unresolved for a period that exceeds 12 months after the date on which the completed application for return of the child is submitted for determination to the judicial or administrative authority, as applicable, in the country in which the child is located."

We have made representation to the Japanese Government on behalf of these case files, one after the other after the other, to return the child.

I mean, of course access is usually a part of it, but it is to return the child because custody, we all know, is something that we hope is going to be done at the place of habitual residence.

I don't think a definition could be more clear and, you know, when I juxtapose that with something that Secretary Jacobs said, in 2013 at a hearing that I chaired on this issue, I become very concerned.

She said, "I think, for cases that are not covered by the Convention, that we do need to reach an agreement with Japan," and you might want to comment whether we are close to reaching a bilateral agreement with them.

But then she said—and this is very disturbing—

> "I think that threatening countries is often an unsuccessful way to get them to cooperate with us, because most of the relationships that we have are very complex and involve many issues."

Then she said:

> ". . . I don't think we are going to sanction Japan, or threaten them with sanctions, because I think that would be detrimental to our bilateral relationship."

Now, I believe passionately in the bilateral relationship with Japan—security and economically. But, again, we have a situation here where was the fix already in back in 2013—that when it came to, if we ever passed the Goldman Act, that you would have a table where it says there are no unresolved abduction cases in Japan.

Again, I think this is theater of the absurd. There are more than 50 of them. Some of the left-behind parents are sitting in this room saying zero, how could that be zero?

The definition is as airtight as I think lawmakers can write. I don't see how you felt you could not include that, and then even in your footnotes you even acknowledge the 50 cases later on in the narrative.

I think you have done a grave disservice to all of those American children who have been abducted and to their left-behind parents. I say that with total sincerity.

Ms. CHRISTENSEN. I just want to say I don't think the fix was in. I don't think there was an intention to not cite Japan. I think, as Henry has explained, when we read through a lot of internal discussion this definition here, it was the feeling that those cases did not meet this definition as written in law.

But it was precisely because of our concern for those 50 cases that we did discuss them at length in the rest of the body of the report and they continue to remain of great concern to us.

Ambassador Susan Jacobs will be going very soon to Japan and these cases are going to be a subject of that discussion, and we continue to attempt to resolve and establish some protocols with Japan for the resolution of those cases.

Those 50 cases are very definitely at the forefront of our thinking. We also understand that among those 50 cases about 17 of them have actually filed now—filed cases—Hague cases for access and are working through those cases.

Mr. SMITH. Well, again, these are desperate loving parents who have been frustrated to nausea with the lack of responsiveness by us, the U.S. Government, and especially by the Japanese Government.

And just let me make a point. When you talk about application, we made it very clear that the term application means the case of a non-Convention country—the formal request by the Central Authority of the United States, you, to the Central Authority of such a country and that could be their foreign ministry, requesting the return of an abducted child or for rights of contact with an abducted child.

I presume on each of those outstanding cases, which is now in excess of 50 and because some have aged out and gave up, perhaps they are not even counted anymore, surely you have made an application to Japan on each and every one of those.

When I was at our Tokyo Embassy I asked those kinds of questions—are we making a representation? What do you do with the file? You know, you have this file. Of course you convey it to the Japanese in a hopefully a persuasive manner. That happened, right?

Mr. HAND. In the report, as you know, Japan acceded to the Hague Convention and the statistics in the report. We counted the applications for return as applications for return filed under the Hague.

We will get back to you with a more detailed answer on the pre-Hague cases and exactly what was done. But let me say that we have—this is very much a focus of our office. It is very much a focus of our Embassy in Tokyo.

I have been in meetings. Ambassador Jacobs, other senior officials in the department have been in meetings discussing this with the regional bureau, with senior officials at our Embassy in Tokyo and others.

So there was no attempt on our part to evade this issue or somehow push it under the table. It is an issue that is very much a focus and it is one that we care very deeply about.

Mr. SMITH. I do look forward to that explanation and we hope, if she is amenable to it, to ask Ambassador Jacobs if she would come back in July because, again, we are in the 90-day review period and if this could be amended—this report—to get it right because I believe, based on the clear language of the Goldman Act, Japan should be the 23rd nation on the pattern of noncompliance.

It is the most self-evident of all the countries, and there are some countries on here and I am glad you have Brazil, India, and other countries. I do note that in your unresolved cases number on India, amazingly, even though the National Center for Missing and Exploited Children says there are over 50 cases there as well and it is zero there, too.

I am working with several cases there myself including one, of Bindu Phillips, which she has testified twice before my subcommittee. She has been to the State Department. She is doing everything humanly possible and that is an unresolved case now for multiple years and that is listed as zero as well.

So we do need and maybe you can amend this to get that right because I do believe it is an egregious flaw. Yes, you wanted to respond, sir.

Mr. HAND. Going to say, sir, that again, we worked with the definitions as our experts determined in putting together the report. Because a case is not in the report does not mean that we are not working with that parent or that case is not a concern. But this is—again, this is something that we are very concerned with in our office is, again, we want the report to reflect the work that our office is doing.

We want the report to be an effective, useful tool. But we also want it to comply with the terms of the legislation.

Mr. SMITH. But, again, as I said in my opening getting the Trafficking Victims Protection Act—a whole another issue but it is certainly a serious human rights abuse issue—we have always argued just get it right in the report and then part two, the sanctions regime, if there are any.

There is a very generous waiver if the President thinks that it is in the best interests of the issue itself, the cause, as well as other interests like national security where he is not obliged to impose sanctions. But getting the report right is all important.

As I said before, judges will read this or could read this and say hmm, zero cases—unresolved cases in Japan—no problem there, and send somebody off and that kid or children then get abducted by an offending parent. Mr. Donovan.

Mr. DONOVAN. Thank you, Chairman. For either of our panelists, how many children and families are we talking about?

Mr. HAND. As of June 1st our office has a total of 919 outgoing, meaning children taken from the United States, abduction and access cases.

The cases may involve more than one child so the total is about 1,285 children. As Chairman Smith has said and others have noted, we rely largely on cases that are reported to us.

So we—there are cases that are out there that are not reported to the Central Authority that may not be in this figure.

Mr. DONOVAN. Does each family have a liaison at State that informs them of the progress of their case? Do they have to inquire

at a general number and try to find somebody to help them or do we have somebody that is working particularly—with each particular family?

Mr. HAND. The Office of Children's Issues is divided up by the region and each region has country officers.

If you are familiar with how regional bureaus in the State Department work where there is a country desk officer, we have a similar set-up in the Office of Children's Issues.

So we have country officers who are experts and work with families in particular countries and particular regions. So we have people, for example, who work with families who are affected by abduction cases involving Brazil or China or Russia or Japan or other countries.

Mr. DONOVAN. And as the chairman pointed out, one particular country that we feel is not complying. Are there countries that are very complying that could be models for others?

Mr. HAND. There are countries that we have a very good working relationship with. We are engaged in—like other aspects of our relations with other countries, some countries, for example, we might have a very good working relationship with the Central Authority but we might have huge problems with judicial authorities or law enforcement authorities not complying or other elements of that government.

In other cases, there is also issues with just volume. A country we work very, very closely with—Mexico—which, because of its proximity to the United States, we they have far more children being abducted to Mexico and from Mexico to the United States than any other country—that relationship is far different than a relationship with a country where maybe there is one or two abductions.

But it really varies. Some countries everything works well. Some countries, we are struggling. Some countries we are trying to work with elements within that government to bring along other elements of the judiciary or law enforcement to achieve returns of children.

Mr. DONOVAN. And my final question—is one of the stumbling blocks that some countries don't recognize the judicial determination of parental rights in our country, therefore don't recognize it in their country as a reason to assist in getting this parent back with their child?

Mr. HAND. At the Department of State we are big advocates of the Hague Convention because that is a mechanism whereby countries can—I am simplifying, but effectively recognize judicial decisions made in other countries to get children back to their habitual residence.

There are countries where a left-behind parent does have to file a custody application for a court case in the judiciary in that country. Legal systems, as you know, vary very much from country to country.

Mr. DONOVAN. Thank you very much, and before our next panel comes up I apologize. I have to go somewhere else. So if I leave during the middle of your testimony please don't be offended. Thank you.

Mr. SMITH. Thank you very much, Mr. Donovan.

Let me ask you just a few final questions. When you raise with senior members of the Japanese Government could you to tell us how senior that is—who they are?

Mr. HAND. We have raised it with senior members of the Foreign Ministry. We are actively discussing with our Embassy in Tokyo other ways that we could raise this issue.

The instances I am most familiar with are senior members of the Japanese Foreign Ministry.

Mr. SMITH. Okay, but no names? Maybe you can get back to us just—do you have an idea who your interlocutors are?

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. HENRY HAND TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE CHRISTOPHER H. SMITH

The Department of State remains committed to raising child abduction cases with senior level Japanese officials at every opportunity. Specifically, U.S. Ambassador to Japan Caroline Kennedy has discussed the issue of international parental child abduction, Japan's compliance with the Hague Convention, and the concerns about pre-Hague cases in meetings with the Vice-Minister for Foreign Affairs and the Chief Cabinet Secretary. Special Advisor for Children's Issues, Ambassador Susan Jacobs, and senior U.S. Embassy officials have met with the Director General of the First North American Division, the Deputy Director General of the Consular Affairs Division, and the Political Minister of the Japanese Embassy to the United States. On a routine basis, the Department of State's Office of Children's Issues and U.S. Embassy Tokyo staff meet with officers of Japan's Ministry of Foreign Affairs' First North America Division and the Hague Convention Division.

Mr. SMITH. Okay. If a country has allowed a case to go on for longer than 6 weeks but is otherwise complying with the requirements of the treaty, do you consider that a case resolved?

Mr. HAND. I am sorry, sir. Could you repeat the question, Mr. Chairman?

Mr. SMITH. If a country has allowed a case to go on for 6 weeks, which is, of course, what the Hague prescribes, but is otherwise complying with the requirements of the treaty do you consider that case resolved?

Mr. HAND. One of the things that we are working with is our definition of resolved and unresolved cases and we have cases that kind of fall into the middle.

The annual report defines a resolved case per the definition of the law. At the same time, our Office of Children's Issues might close a case for other administrative reasons—for example, rejected by the foreign Central Authority.

That case would still be unresolved in the annual report. We do have cases that have not been resolved, meaning they haven't come to some sort of conclusion but they don't meet the definition of unresolved, meaning they have been with the foreign judicial or administrative authorities for more than 12 months.

This is another area which we look forward to working with you and with others to make the report more clear and more useful.

Mr. SMITH. Could you tell us how many abduction cases OCI currently has open inclusive of all years? How many open cases do you have?

Mr. HAND. Yes, sir. The figure I have is currently as of—this is as of June 1 so I apologize. I don't have as of June 11. The office has a total of 919 outgoing abduction and access cases that involve 1,285 children.

As, sir, you have said and we have said before, we understand that there are cases that are not reported to us. But that is our open caseload as of June 1.

Mr. SMITH. And in talking about India I have gotten letters. I actually asked Secretary Kerry when he testified earlier this year about whether or not he raised the case with Modi and whether or not President Obama raised abduction—parental child abduction—and he just said that we continuously raise all international parental child abduction cases in appropriate meetings, which is now standard.

It is even—it is included in emails that go back and forth from your office. But just to drill down on that, again, I have some individual cases in my own State that have gone on for years and yet the unresolved caseload for India, like Japan, is zero.

I mean, that is like a body blow to a long-suffering left-behind parent in this case. Bindu is a mother who had her kids taken away from her. She's tried everything and is counting on the U.S. Government to be the one entity that can make this come to fruition and get her children back.

Mr. HAND. Sir, I very much—I mean, I understand the concern. And again, for this report we use the definitions that were in the legislation.

That doesn't mean we don't have open cases in the Office of Children's Issues and the case you cited and others are very much a concern of our office.

We are pressing the Indian Government and other governments to resolve them. And, again, one of the things that we look forward to working with you and with others is how to make this report a better reflection of what we are doing and the numbers of people and so on that we are working with and the concerns of each of them.

Mr. SMITH. We look forward to doing that. Again, and I read it and I won't read it again, but the unresolved abduction case definition in Public Law 113–150, the Goldman Act, is as clear-cut as I could possibly imagine it.

I mean, we worked hard to make sure that there was clarity, predictability. Nobody would be confused, no ambiguity.

And, again, it says unresolved means an abduction case that remains unresolved for a period that exceeds 12 months after the date on which a completed application for return to the child is submitted for determination in judicial or administrative authority.

And, again, we are tendering these requests to the Foreign Ministry and to whoever else in Japan and the same goes for India, and yet we have zeroes there.

So, please, I ask respectfully if you could reopen this issue with regards to the report immediately and resolve that because it deals a real blow, I think, to the accuracy of the report.

Let us just say it exactly the way it is, then work out what our response ought to be that is prudent and hopefully most efficacious to get the result we want, which is get the children back to their left-behind parents.

So if you could consider that.

Mr. HAND. We will take that back, sir.

Ms. CHRISTENSEN. We will take that back, and as Henry said we do look forward to having an opportunity to talk in greater detail, a more detailed briefing about exactly where these numbers came from and what definitions we were using.

Our goal here was really to try to comply with what was required in the report and since this was a new way of looking at the information, it was new definitions, we weren't sure when we started down this road exactly what we were going to end up with and where that would take us.

And it really is our goal to have a report that really is responsive to the interests and the concerns of everybody who is involved.

And if I just might say one thing also about the act, the act is much more than just the report and we really believe that a lot of the measures that are in here involving prevention are really going to have a significant impact on this problem, and so we are grateful for those measures and we look forward to developing those further.

Mr. SMITH. All right. I appreciate that. Just very briefly, I know that you report that you had a prevention interagency meeting in October and that's from Title III, of course, of the law.

Have you had any since?

Ms. CHRISTENSEN. Yes, we did. We had have another one and I know that DOD was also involved in that one and that was in April, I believe, and at those meetings what is really evident is that that sort of an interagency meeting and interagency task force does surface ways that we can remove barriers to communications within the U.S. Government, which I think will provide a lot of benefit for this and we will see a lot of good results from that.

Mr. SMITH. And again, if you could shed—this is my final question—any insight as to Ambassador Jacobs' comments on May 9, 2013 when she said we do need to reach an agreement with Japan—you know, a bilateral agreement or an MOU, which I have been arguing for for about 7 years.

Are we close to it? Is there an active discussion going on with our friends in Japan?

Mr. HAND. There is a very active discussion. This is something that, as director of the office, I have spent a fair amount of time discussing both with our Embassy in Tokyo, with others.

It is something that we are extremely anxious to achieve. We are anxious to see some progress and we will keep you updated, sir.

Mr. SMITH. Okay. And I would note parenthetically that I do believe that one part of the prevention scheme, and we have learned this from the Trafficking in Persons Report, is just getting the report accurate and it needs to be gotten accurate.

So I want to thank you, and I appreciate you coming. And please get back to us if Ambassador Jacobs might be available in July before the 90-day period has elapsed.

Mr. HAND. Thank you, sir.

Mr. SMITH. Thank you.

I would like to now introduce our second panel beginning with Ravindra Parmar is a New Jersey resident and a left-behind father of a young man who was abducted in India in March 2012 by his mother when Reyansh, who is the son, was 3 years old.

He is a CPA, works for a big four accounting firm, emigrated from India in 1994 at the age of 16 and has lived in the U.S. for almost 21 years.

He and Dimple, his wife, are both naturalized U.S. citizens and Reyansh was born in New Jersey where the family lived together from 2004 to 2012, and then that is when Dimple took Reyansh on what was supposed to be a 5-week vacation to India.

He has been fighting for his son's return for 3 years and co-founded the Bring Our Kids Home which advocates for the return of all American children abducted to India.

We will then hear from Edeanna Barbirou, who is the mother of Eslam and Zainab, age nine and six respectively, who were illegally abducted by their father to the Republic of Tunisia in November 2011.

Ms. Barbirou has successfully returned home to the U.S. with her daughter, Zainab, and continues to seek the return of her now abducted son, Eslam, from Tunisia. Following her children's abduction, she initiated an organization to bring awareness to her family's case.

Today, Return Us Home, or RUSH, has a mission to educate the public and public servants about the international child abduction issue and develop abduction prevention strategies.

RUSH advances this mission through its membership with the iStand Parent Network, a coalition of parents, organizations and stakeholders united to prevent and remedy international parental child abduction.

We will then hear from Dr. Christopher Savoie, a member of the American Bar Association's Section of Science and Technology Law's Big Data Committee. He is a licensed attorney, technology executive, and data scientist.

He is currently senior manager of enterprise architecture at Nissan where he oversees the company's global efforts in big data analytics. Dr. Savoie started his technology career in Japan where he founded Atmark, one of Japan's first Internet consulting firms, and then became founder and CEO of Dejima, where he invented and commercialized the natural language understanding technology behind Apple's Siri.

Dr. Savoie also founded Gene Networks International, or GNI, in Japan, a publically traded pharmaceutical company that utilized his inventions for novel pharmaceuticals. He will speak about his child being abducted, of course, in just a moment.

And then we will hear from Mr. Preston Findlay, who is a legal counsel for the Missing Children Division of the National Center for Missing and Exploited Children.

In his role he provides legal technical assistance and training to law enforcement attorneys, family members, and the public regarding international and domestic child abductions including children who have been taken by a parent or a family member.

Mr. Findlay edited and co-authored the National Center's Litigation Guide for attorneys handling cases under the Hague Child Abduction Convention as well as an investigation and program management guide for law enforcement agencies responding to cases of missing and abducted children.

Mr. Findlay is a former prosecutor and government attorney admitted to practice law in Texas and Virginia.

So Dr. Savoie is going to be going first.

**STATEMENT OF CHRISTOPHER SAVOIE, PH.D. (FATHER OF ABDUCTED CHILD TO JAPAN)**

Mr. SAVOIE. Thank you, Mr. Chairman, for the opportunity to speak with you today about the ongoing obstacles that victim parents face in their struggle to be reunited with their kidnapped children, and thank you for this great honor.

My name is Christopher Savoie. I am by trade a data scientist, technology executive, and licensed attorney and cofounder of the nonprofit organization Bring Abducted Children Home.

But more importantly, I am a father, a father who has been unable to meet with his children in nearly six unimaginably painful and heartbreaking years due to Japan's complicity in the kidnapping of our children.

My nightmare began back in August 2009 when my ex-wife, Noriko Esaki Savoie, told me that she wanted to take the kids back-to-school shopping. Little did I know that on that day that in a few short hours my children would be on an airplane, in the air, and on their way to Japan, a known haven for parental child abduction.

It would be slightly less painful perhaps if my ex-wife facilitated phone calls between me and my children. But like the majority of parental abductors, my ex-wife and her parents do not grant me any access to my children whatsoever.

My phone calls to them are ignored, my packages are refused and my letters are sent back to me. The State Department informed me that they are working on my case. We had meetings, we had phone calls, and we had even more meetings, town hall meetings in which I met scores of other parents in my same situation.

Their children were stolen to Japan, too. I was assured that the State Department was "raising the issue" of my case and other cases in which children were stolen to Japan in violation of U.S. law.

Now, just briefly I would like to share with you some research. The National Center for Missing and Exploited Children, NCMEC, who we will hear from later, says that parental abduction is very damaging and extremely traumatic to the child.

The Office of Juvenile Justice and Delinquency Prevention says that parental abduction profoundly affects the victim children and has long-lasting consequences for their emotional health.

The FBI says that parental abductions are often borne of one parent's selfish desire to retaliate against the other parent and the American Bar Association Center on Children and the Law says that parental abduction is child abuse and that the effects of such trauma are deep and long-lasting.

But in my first meeting with a State Department official, do you know what she said? Michelle Bond, currently the Acting Assistant Secretary for Consular Affairs, said to me, "At least they are with their mommy." At least they are with their mommy.

You would think that someone in such a high-level position would have known about NCMEC's studies or the Justice Depart-

ment's or the FBI's or the ABA's or perhaps, most glaringly, that the U.S. Congress, in passing the International Parental Kidnapping Crimes Act, stated that parental child abduction is in fact a felony crime.

So this was my first introduction into the world of OCI, flabbergasted by the other parents' stories of the State Department's passive aggressive and often demeaning treatment of left-behind parents, its ongoing obfuscation of the substance of their alleged efforts to bring our children home as well as the State Department's habit of fudging the numbers to protect a foreign country's reputation in the eyes of Congress.

I was actively communicating with the OCI from the beginning in 2009, 2010, 2011. After a while, it became more and more noticeable that the OCI staff lacked any outrage whatsoever at Japan's complicity in this human rights violation that is their sole custody regime.

I asked myself whose side are they really on anyway. Their language always seemed slippery to me. Finally, in 2011, when my children had been abducted for over 1½ years, I asked my caseworker, Courtney Houk, has the State Department ever formally demanded the return of my children.

On March 9, 2011, Courtney Houk responded by email and told me, and I quote, "The State Department has not formally demanded the return of any abducted children." Let me say that again. "The State Department has not formally demanded the return of any abducted children."

If they are not demanding the return of any abducted children, then what are they doing keeping abduction issues on their agenda?

I never received a satisfactory answer as to why the State Department has not asked for the return of any abducted children.

Well, here I am now, a few years older and a few years wiser, and I am holding a copy of the State Department's report on compliance with the Goldman Act that is the subject of today's hearing, and this report is full of numbers—42 pages of numbers.

But these are not just ordinary numbers, Mr. Chairman. Each of these numbers represents one or more actual American citizen children who has been kidnapped away from an American parent.

Each one of these numbers is a real significant human rights tragedy that is causing very real tears, and yet I believe that this report has mischaracterized and under represented the problem, again, to protect the reputation of our allies in the eyes of Congress rather than being forthright.

The truth is that when it comes to Japan in particular and its ability to abide by the Hague treaty we have a major problem. Japan's own government and legal scholars fully understand and admit that they cannot be compliant.

At a recent hearing in front of the Japanese Diet, the Parliament, Japanese lawmakers expressed explicit concern about the Goldman Act and mentioned you, Mr. Chairman, by name, and I quote, "because Japan only has sole parental rights, not shared parental rights like most other countries."

Please allow me to explain this so you and others may understand what is going on here and why, without a change in Japa-

nese law, Japan can never be in true compliance with the letter or the spirit of the Hague Convention.

You see, in Japan every divorce results in the total loss of all parental rights for one of the parents. That is right. Under Japanese law, after a divorce, even a completely amicable divorce, the parents or a court must decide which parent will maintain parental rights. Not custody—parental rights.

The result of this rule is that one parent must by law have his or her parental rights terminated, becoming legally a total stranger, a non-parent to the child. The non-parent may not have any decision making over the child anymore, never mind guaranteed visitation, decisions over medical care, access to a child in a hospital, or access to school records—none of that.

This is also why the State Department and the Japanese Government, both of which would like to maintain smooth bilateral relations, have had to contort the numbers in this report and distort the truth in order to hide this awful fact about Japanese law and cultural values.

By definition, there is only one parent after a divorce in Japan. So as far as Hague-mandated access and visitation is concerned, Japan has never developed any enforcement mechanisms because in its own country they would never create a system to enforce visitation with someone who is legally a stranger.

So when the State Department suggests that Japan is magically compliant with the Hague Convention, according to their recent report, we must ask them how is it possible when the Japanese Government itself admits in open parliamentary session that divorced parents have no parental rights at all.

How can Japan be compliant with this law without any possible parental rights or visitation rights or visitation enforcement, not only for these American parents but for their own Japanese citizen parents following a divorce?

The answer is simple. Japan cannot be compliant legally, culturally, or practically. But yet the State Department misrepresents the numbers in order to claim that Japan is compliant when they know that this is not true.

In fact, last week, in order to shine a spotlight on the underlying issue of sole parental rights in Japan, my client, U.S. Navy Captain Paul Toland, a sole surviving parent to his daughter, Erika Toland, filed a lawsuit in Japan challenging the very basis of this legal reality.

He asked for what in U.S. courts would be considered a natural human right, that the sole surviving parent after a divorce and death of a spouse be granted physical custody of his child.

Right now, the child is with a grandparent who refuses Captain Toland any and all access to his daughter. The premise of the lawsuit—that a biological parent has a fundamental right to his or her own child—has made national headlines in Japan. Why?

Because as several Japanese experts state in the Japanese press, and I quote, "This case brings to light the stark cultural differences between Japanese and U.S. culture and laws concerning fundamental rights." Again, Japan simply does not recognize that parents like me, like Paul Toland, like so many others, have any rights whatsoever to parent our children.

Now, in addition to the abduction cases, there are cases the State Department refers to euphemistically as access cases.

Simply put, access cases are cases like mine which, because our kids were abducted before the Hague Convention, Japan claims it cannot be forced to return them under the Hague Convention.

But even in these cases the Hague Convention under Article 21 requires that the Central Authority remove all obstacles to visitation with our children—all obstacles.

Yet, in an e-mail dated June 3, 2015, my caseworker, Elizabeth Kuhse, told my attorney that the JCA claims it is not their responsibility to facilitate a visitation agreement about my access to my children despite the fact that my ex-wife only wants to communicate through the JCA.

So my case, thanks to the State Department's unwillingness or inability to advocate on my behalf, remains in a catch-22. The entity responsible for facilitating access and removing all obstacles to Hague-mandated access is the only entity through which my ex-wife will communicate and is claiming that in fact it is not responsible for Hague-mandated access.

And, in fact, on a recorded interview with Australia Broadcasting Corporation, the director of the Hague Convention division at the Japanese ministry of foreign affairs, Kaoru Magosaki, admits verbatim, and I quote, "that Japan cannot enforce any sort of access."

In fact, the State Department in the report has carved out what appears to be a novel exception to the Goldman Act. Not just cases awaiting submission but already submitted cases are excluded for the purposes of compliance.

In other words, once a case is submitted to a court in Japan and forced into delayed mediation or litigation, the State Department is taking the position that the Japanese Central Authority is off the hook with these cases simply because the courts and not the JCA itself are responsible for guaranteeing timely access to the children.

So once a case is submitted, the State Department and JCA claim they can wash their hands of all responsibility to provide access to the children in a timely manner.

So even if a court takes 10 years to provide 1 hour of access to a child, a country can be considered compliant for purposes of the Goldman Act under an exception that is nowhere to be found in the language of the Goldman Act.

What is completely unforgivable, Mr. Chairman, in my opinion, is that this numerical shell game is absolutely to the detriment of American citizen children who are crime victims.

Note that there are voices of reform in Japan, including high-level officials who want to see a change in Japan's domestic laws. We need to support them in condemning the current system in Japan and not undermine their reform efforts by sugarcoating reality.

These are people who really want to see Japanese laws and practices change for the better, people like Justice Minister Yoko Kamikawa who, in direct response to Captain Toland's case, was quoted in the Sannkei newspaper saying that children custody should be based on the child's best interest and not just on who has been raising the child following an abduction. People like Japanese

Interior Minister Eda who stated in open Diet session that parental abduction should be regarded as child abuse, that abductors are not fit to be child custodians and that those who deny visitation with the other parent should be divested of custody. People like Chief Justice Terada of the Japanese Supreme Court who stated publicly there is an increasing scrutiny of these cases due to the signing of the Hague and that it is the responsibility of Japanese courts to regain the trust of the people by studying the real state of affairs of Japan and international trends in custody laws.

These reformers in Japan understand just how far behind international trends Japan truly is. So why is the State Department still covering up for Japan? At the end of the day, what we all we need to do here is acknowledge where the problem is coming from.

There's a massive elephant in this room that nobody seems to want to talk about. The elephant in the room is the inherent conflict of interest problem for the State Department in these abduction cases.

Their primary mandate, as they see it, is to maintain good relations with strategic allies such as Japan—a very good cause—and this is in direct conflict with the interests of our children and the children of Japan whose advocacy would require the State Department to publicly shame and reprimand Japan for its complicity in these kidnappings and for its truly barbaric sole parental rights regime—a regime that violates some of the most basic human rights of parents and children alike.

But as State Department officials have told us, the military bases in Japan and the economic interests that we have do not allow them to "demand" compliance from Japan. The strategic relationship is too important—too important to advocate for our children, too important even when an act of Congress—the Goldman Act in this case—requires them to publicly shame Japan in a report by simply speaking the truth.

They simply cannot bring themselves to do their job and tell the truth because their job requires them to navigate through a huge untenable conflict of interest—to maintain good relations with Japan while at the same time publicly calling them out for their horrendous human rights violations in this context.

Honorable Members of Congress, we parents implore you to require the State Department to do its job, to tell the truth, and then apply the tools that it has been given in the Goldman Act based on that truth.

We implore Congress to require the State Department to redo this report and be honest. Help the reformers in Japan by holding Japan accountable and declare Japan to be noncompliant.

I want to conclude by offering a solution. We have seen this situation before with the State Department and its conduct surrounding international trade.

The State Department was found to drag its feet, lie, and obfuscate in the interests of smooth relations with the Department's perceived client states in trade.

Until the early 1960s, the Department of State was responsible for conducting U.S. trade in investment diplomacy and have reporting responsibilities just as State does now with child abduction.

Indeed, the Kennedy administration, in its wisdom, found that the State Department had an inherent conflict of interest in dealing strongly with our trading partners who were not dealing fairly with us.

So President Kennedy created a new office, the Office of the U.S. Trade Representative. Even that was not enough because the trade deficit continued to grow and throughout the 1980s U.S. companies became quite perturbed with the State Department's perceived interference in trying to rein in huge deficits with an important strategic partner.

Remember the 80s? I do. Remember who the problematic country was? That is right, Japan. So what did Congress do about it?

The USTR's authority was further enhanced under the Omnibus Trade and Competitiveness Act of 1988. Section 1601 of the 1988 legislation codified and expanded the USTR's responsibilities. In so doing, the legislation reinforced the congressional-executive partnership for the conduct of U.S. trade policy.

The legislation required that the USTR be the senior representative on any body that the President establishes to advise him on overall economic policies in which international trade matters predominate and the USTR should be included in all economic summits and other international meetings in which international trade is a major topic.

It is my firm opinion that this is exactly what Congress will need to do if we expect for the executive branch to develop the capacity to aggressively advocate for our children without the burden of a conflict of interest.

I have learned in my many years of international business that a good cop negotiation strategy only works if there is a bad cop in the room. Asking State to be simultaneously the good cop and the bad cop simply will not work.

Like the trade czar—the USTR—what we really need is a child abduction czar outside the purview of the State Department, accountable directly to Congress and the President—a U.S. children's representative office as the senior representative on any body that the President establishes to advise him on child abduction policies and international child rights matters.

This children's rights czar should be included in all summits and other international meetings in which child abduction or child rights is a major topic and should have its own agenda that is not subject to the desires of any specific country desk at State.

This office would be staffed not by people who pass the Foreign Service exam with degrees in international relations and area studies but, rather, people with degrees and experience in child welfare, child psychology, and family law. They would be true advocates for abducted and abused children and be measured by Congress and the President on their progress in protecting our children internationally.

Mr. Chairman, I know we cannot get to such legislation and get it enacted overnight. The USTR took decades to develop to its current state.

But that needs to be the strategic direction. Our children have to be as important to us as international trade considerations. Our

kids' human rights have to supersede our other issues with foreign countries in the context of bilateral relations.

They should, but at present they don't, and this is causing an enormous amount of suffering, needless suffering, by the parents sitting before you here, the thousands of parents who are not in attendance today, and the thousands of abducted American citizen children throughout the world.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Savoie follows:]

**Testimony to the House Foreign Affairs Committee, Subcommittee on Africa, Global Health, Global Human Rights and International Organizations**

**"The Goldman Act to Return Abducted Children: Assessing the Compliance Report and Required Action"**

**June 11, 2015**

**Christopher J. Savoie, Ph.D., J.D.**
**Attorney and Co-founder, Bring Abducted Children Home**

Thank you, Mr. Chairman and Honorable Members of Congress, for the opportunity to speak with you today about the ongoing obstacles that victim parents face in their struggle to be reunited with their kidnapped children, and thank you for this great honor.

My name is Christopher Savoie. I am by trade a data scientist, technology executive, a licensed attorney, and co-founder of the non-profit organization Bring Abducted Children Home. But more importantly, I am a father. A father who, like many of those before you today, has been unable to meet with his children in nearly 6 unimaginably painful and heartbreaking years due to Japan's complicity in the kidnapping of our children.

My nightmare began back in August of 2009 when my ex-wife, Noriko Esaki Savoie, told me that she wanted to take the kids back-to-school shopping. She asked if she could come and pick them up at my house so she might buy them some clothes for the new school year. Little did I know on that day that, in a few short hours, my children would be on an airplane, in the air, and on their way to Japan – a known haven for parental child abduction.

It would be slightly less painful, perhaps, if my ex-wife facilitated phone calls between me and my children as they are cooped up in the small Japanese town of Yanagawa, but like the majority of parental abductors, my ex-wife and her parents do NOT grant me any access to my children whatsoever. My phone calls to them are ignored, my packages are refused, and my letters are sent back to me. Experts say that parental abductors block communication to keep the children from knowing the truth – that the victim parent still loves them dearly and misses them every day.

The State Department informed me that they were working on my case. We had meetings, we had phone calls, and we had even more meetings—town hall meetings in which I met scores of other parents in my same situation – their children were stolen to Japan, too. I was assured that the State Department was (quote) "raising the issue" of my case and other cases in which children were stolen to Japan in violation of U.S. law.

Now, just briefly, I'd like to share some research with you:

The National Center for Missing and Exploited Children, also called "NCMEC," says that parental abduction is very damaging and extremely traumatic to the child.

The Office of Juvenile Justice and Delinquency Prevention says that parental abduction profoundly affects the victim children and has long-lasting consequences for their emotional health.

The FBI says that parental abductions are often borne of one parent's selfish desire to retaliate against another parent.

And the American Bar Association Center on Children and the Law says that parental abduction is child abuse and that the effects of such trauma are deep and long-lasting.

But in my first meeting with a State Department official, do you know what she said? In my first meeting with the State Department following my children's kidnapping, Michelle Bond, currently the Acting Assistant Secretary for Consular Affairs (and at the time the Deputy Assistant Secretary), said to me (quote), "At least they are with their mommy."

*At least they are with their mommy.* You would think someone in such a high-level position, would have known about NCMEC's studies, or the Justice Department's…or the FBI's…or the ABA's…or, perhaps, most glaringly, that the *U.S. Congress* said in passing the International Parental Kidnapping Crimes Act, that parental child abduction is, in fact, a *felony crime*.

So this was my first introduction into the world of the OCI, flabbergasted by other parents' stories of the State Department's passive aggressive and demeaning treatment of left-behind parents, its ongoing obfuscation of the substance of their alleged "efforts" to bring our children home, as well as the State Department's habit of fudging the numbers to protect a foreign country's reputation in the eyes of Congress.

I was actively communicating with OCI from the beginning. In 2009…2010…2011. After a while, it became more and more noticeable that OCI staff lacked any outrage whatsoever at Japan's complicity in this human rights violation that is their "sole custody" regime. I asked myself, "Who's side are they on, anyway?!" Their language always seemed slippery to me. Finally, in 2011, when my children had been abducted for over a year and a half, I asked my caseworker, Courtney Houk: Has the State Department *ever formally* demanded the return of my children?

On March 9, 2011, Courtney Houk responded by email and told me (and I quote): "The State Department has not formally demanded the return of any abducted children."

Let me say that again: The State Department has not formally demanded the return of **any** abducted children. If they are NOT demanding the return of ANY abducted children, then what are they doing keeping abduction issues on their agenda?

Now, Congressman Smith and members of this Honorable Committee, I never received a satisfactory answer as to *why* the State Department has not asked for the return of *any* abducted American children. Well, now I'm a few years older and a few years wiser…

And here I am, holding a copy of the State Department's report on Compliance with the Goldman Act that is the subject of today's hearing. And this report is full of numbers – 42 pages of numbers.

But these are not just ordinary numbers. Each one of these numbers represents one or more actual American citizen children who has been kidnapped away from an American parent. Each one of these numbers is a real human rights tragedy that is causing very real tears, and yet I believe that this report has mischaracterized and *under-represented* the problem – again, to protect the reputation of our allies in the eyes of Congress, rather than being forthright. The truth is that when it comes to Japan and its ability to abide by the Hague Treaty, we have a MAJOR problem.

Japan's own government and legal scholars fully understand and admit that they cannot be compliant. At a recent hearing in front of the Japanese Parliament, Japanese lawmakers expressed *explicit concern* about the Goldman Act because Japan (and I quote) "only has sole parental rights, not shared parental rights like most other countries."

Why, you may ask, is the Japanese system incapable of enforcing Hague returns or Hague access or visitation? Please allow me to explain this so you and others may understand what is going on here and why, without a change in Japanese law, Japan can NEVER be in true compliance with the letter or spirit of the Hague Convention. You see, in Japan, EVERY divorce results in the total loss of all parental rights to one of the parents. That's right. Under Japanese law, after a divorce --- even a completely amicable divorce, the parents (or a court) must decide WHICH parent will maintain parental rights. Not custody. *Parental rights.* The result of this rule is that one parent must BY LAW have his or her parental rights terminated…becoming, legally, a total stranger, a *non-parent* to the child. The non-parent may not have any decision-making over the child anymore-- never mind guaranteed visitation, decisions over medical care, access to a child in a hospital, or access to school records. None of that.

This is also why the State Department and Japanese Government, both of which would like to maintain smooth bilateral relations, have had to CONTORT THE NUMBERS in this report and distort the truth in order to hide this awful fact about Japanese law and cultural values.

By definition, there is only one parent after divorce in Japan…so as far as Hague-mandated access and visitation is concerned, Japan has never developed any enforcement mechanisms because, in its own country, they would never create a system to enforce visitation with someone who is legally a stranger.

So when the State Department suggests that Japan is magically compliant with the Hague Convention according to their recent report, we must ask them how? How is that possible? How is it possible when the Japanese government itself admits in open parliamentary session that divorced parents have no parental rights at all? How can Japan be compliant with this law, without *any possible* parental rights or visitation rights or visitation enforcement, not only for these American parents, but for their own Japanese citizen parents following a divorce? The answer is simple. Japan cannot be compliant. Legally, culturally, or practically. But yet the State Department misrepresents the numbers in order to claim that Japan IS compliant. When they know that this is not true.

In fact, last week, in order to shine a spotlight on the underlying issue of sole parental rights in Japan, my client, US Navy Captain Paul Toland, a sole-surviving parent to his daughter Erika Toland, filed a lawsuit in Japan challenging the very basis of this legal reality. He asked for what in US courts would be considered a natural human right --- that in a case very analogous to David Goldman's case that this Act is named after --the sole surviving parent after a divorce and death of a spouse, that he be granted

physical custody of his child. Right now the child is with a grandparent who refuses Captain Toland any and all access to his daughter. The premise of the lawsuit --- that a biological parent has a fundamental right to parent his or her child --- has made national headlines in Japan. Why? Because, as several Japanese experts state in the Japanese press (and I quote), "This case brings to light the stark cultural differences between Japanese and US culture and laws concerning fundamental parental rights." Again, Japan simply does not recognize that parents like me, like Paul Toland, like so many others, have any rights whatsoever to parent our children…or to have visitation with our children…or to have phone calls with our children…

Now, in addition to abduction cases, there are cases that the State Department refers to euphemistically as "access cases." Simply put, access cases are cases like mine in which, because our kids were abducted *before* the Hague Convention, Japan cannot be forced to return them under the Hague Treaty. But even in these cases, the Hague Convention under Article 21 requires that the Japanese Central Authority (JCA) remove ALL OBSTACLES to visitation with our children. ALL OBSTACLES. (I should note that Japan could repatriate our children by signing an MOU with the United States but to our knowledge the State Department is not even pursuing such an avenue.)

Yet in an email dated June 3, 2015, my caseworker, Elizabeth Kuhse, told my attorney that MOFA **claims it is not their responsibility** to facilitate a visitation agreement about my access to my children…despite the fact that my ex-wife ONLY wants to communicate through the JCA. So my case, thanks to the State Department's unwillingness or inability to advocate on my behalf, remains in a Catch-22. The entity *responsible* for facilitating access and removing all obstacles to Hague-mandated access, the only entity through which my ex-wife will communicate, is claiming it is, in fact, not responsible for Hague-mandated access.

To my knowledge, of all the access cases pending in Japan, not one case seeking visitation with abducted children has been "resolved" with normal, face-to-face parent-child visitation. Not one! Not one abduction case has resulted in a court-ordered and enforced order of return to the United States that has resulted in the repatriation of a kidnapped American child. On a recorded interview with the Australia Broadcasting Corporation, the Director of the Hague Convention Division at the Japanese Ministry of Foreign Affairs, Kaoru Magosaki, admits that Japan (and I quote) "cannot enforce any sort of access."

Yet, according to this report, Japan somehow mysteriously "complied" by achieving a 43% success rate. Yet the Goldman Act only requires a 30% failure rate to be deemed non-compliant. The State Department **does** state one solitary "resolved" case in 10 convention and non-convention return cases. My math says that would be a 10% success rate. So while the State Department kindly provided an exhaustive, detailed table for Japan's excuses for non-compliance, they provided no such footnote or table explaining how they calculated their percentages or how they determined that Japan is compliant. An FAQ was later released but even this does not explain the discrepancy.

It gets worse. As alluded to, the State Department has attempted to whitewash the issue of access in Japan by providing an "excuse" for each one of the Japan access cases. The majority of these excuses reference Table 5, Part E, explaining that in (quote) "some situations", a private attorney or left-behind parent or other entity may be (quote) "responsible" for submitting a case to the Judicial or Administrative Authority…and this vague language is literally buried in a footnote to a table that

appears in an appendix reference that, in turn, is buried in another footnote. The result of this contortion, once one follows the verbal and numerical maze hatched by the report, is that in order to allow Japan to shirk its responsibility under the Hague, the State Department has carved out what appears to be a novel exception to the Goldman Act.

Not just cases awaiting submission, but ***already submitted cases*** are included in this category as excluded for purposes of compliance. In other words, once a case is submitted to a court in Japan and forced into delayed mediation and/or litigation, the State Department is taking the position that the Japanese Central Authority is "off the hook" with these cases simply because the courts (and *not* the JCA itself) are responsible for guaranteeing timely access to the children. So once a case is submitted, the State Department and JCA claim they can wash their hands of all responsibility to provide access to the children in a timely manner. So, even if a court takes ten years to provide one hour of access to a child, a country can be considered compliant for purposes of the Goldman Act, under an exception that is nowhere to be found in the language of Goldman Act!

What is completely unforgivable, in my opinion, is that this numerical shell game is absolutely to the detriment of American citizen children **who are crime victims**!

Note that there ARE voices of reform in Japan— including high level officials – who want to see a change in Japan's domestic laws. We need to support them in condemning the current system in Japan and NOT undermine their reform efforts by sugar-coating reality. These are people who really want to see Japanese laws and practices change for the better. People like Justice Minister Yoko Kamikawa who, in direct response to Captain Toland's case, was quoted in the Sannkei Newspaper saying that child custody should be based on the child's best interest and not just on who has been raising a child following an abduction. People like Japanese Interior Minister Eda, who's stated that parental abduction should be regarded as child abuse, that abductors are not fit to be child custodians, and that those who deny visitation with the other parent should be divested of custody. People like Chief Justice Terada of the Japanese Supreme Court who stated publicly that there is an increasing scrutiny of these cases due to the signing of the Hague and that it is the responsibility of Japanese courts to regain the trust of the people by studying the real state of affairs in Japan and international trends in custody laws.

These reformers in Japan understand just how far behind international trends Japan truly is, so why is the State Department still covering up for Japan?

At the end of the day, what we all need to do here is acknowledge where this problem is coming from – there is a massive elephant in this room that nobody seems to want to talk about.

The elephant in the room is the inherent conflict of interest problem for the State Department in these abduction cases. Their primary mandate, as they see, it is to maintain good relations with strategic allies such as Japan. And this is in direct conflict with the interests of our children and the children of Japan, whose advocacy would require that the State Department to publicly shame and reprimand Japan for its complicity in these kidnappings and for its truly barbaric sole parental rights regime. A regime that violates some of the most basic human rights of parents and children alike.

But as State Department officials have told us to our faces, the military bases in Japan and the economic interests that we have, do not allow them to (quote) "demand" compliance from Japan. The strategic relationship is "too important." Too important to advocate for our children. Too important...Even when an Act of Congress --- the Goldman Act in this case --- REQUIRES them to publicly shame Japan in a report by simply speaking the truth. They simply cannot bring themselves to DO THEIR JOB and TELL THE TRUTH. Because their job requires them to navigate through a huge, untenable conflict of interest. --- To maintain good relations with Japan --- while at the same time publicly calling them out for their horrendous human rights violations in this context.

Honorable Members of Congress, we parents implore you to require the State Department to do its job, to tell the truth, and then apply the tools that it has been given in the Goldman Act based on that truth. We implore Congress to require the State Department to redo this report and be honest. Help the reformers in Japan by holding Japan accountable, and declare Japan to be non-compliant.

I also would like to humbly suggest that we may never be able to fully resolve the embedded conflict of interest that is on display here again with the current structure. Alas, a State Department lawyer and insider, Tom Johnson, has himself pointed out this conflict and found it to be intractable. Back in the day, Tom Johnson was repeatedly claiming that the State Department was lying and submitting fraudulent reports to Congress. And he was an insider! An attorney within the department itself! He said: "This was an especially foolish and bad faith attempt by the State Department to mislead Congress in the 1999 Report, since Congress itself estimated there to be 10,000 abducted American children abroad when it passed the seldom-used 1993 International Parental Kidnapping Crimes Act. Congress knows that even the State Department admits to 500 to 1000 new cases annually, and that NCMEC estimates more than 15,000 per year. These numbers include both Hague and non-Hague cases, but nevertheless indicate the extent of the Department's fraudulent reporting to Congress with a report of only fifty-eight "unresolved" cases in the 1999 Report..."

So this is not the first time that the state department has been accused of lying and covering up on an abduction report. 16 years later... and here we are...again...in the same situation. It is said that numbers don't lie, but you can lie with numbers.

We have seen this situation before, with the State Department and its conduct surrounding international trade. The State Department was found to drag its feet, lie and obfuscate in the interest of smooth relations with the Department's perceived "client states." Until the early 1960s, the Department of State was responsible for conducting U.S. trade and investment diplomacy and had reporting responsibilities – just as State does now with Child Abduction. Indeed, the Kennedy Administration, in its wisdom, found that the State Department had an *inherent conflict of interest* in dealing strongly with trading partners who were not dealing fairly with us. So President Kennedy created a NEW OFFICE, the office of the US Trade Representative or USTR, and partially relieved the state Department of its responsibilities. Even that was not enough because the trade deficit continued to grow and throughout the 1980's US companies became quite perturbed with the State Department's perceived interference in trying to reign in huge deficits with an important strategic partner. Remember the 80's? I do. Remember who that problematic country was? That's right. Japan. So what did Congress do?

The USTR's authority was further enhanced under the Omnibus Trade and Competitiveness Act of 1988. Section 1601 of the 1988 legislation codified and expanded USTR's responsibilities. In so doing, the legislation *reinforced* the Congressional-Executive partnership for the conduct of U.S. trade policy.
The 1988 legislation required that the USTR be the *senior representative* on any body the President establishes to advise him on overall economic policies in which international trade matters predominate, and that the USTR should be included in all economic summits and other international meetings in which international trade is a major topic.

It is my firm opinion that this is exactly what Congress will need to do if we expect for the Executive branch to develop the capacity to aggressively advocate for our children without the burden of a conflict of interest. I have learned in my many years of international business that a "good cop" negotiation strategy only works if there is a "bad cop" in the room. Asking State to be simultaneously the good cop and the bad cop simply will not work.

Like the Trade Czar, the USTR, what we really need is a **Child Abduction Czar**, outside of the purview of the State Department, accountable directly to Congress and the President. A **U.S. Children's Representative Office**, as the senior representative on any body the President establishes to advise him child abduction policies and international child rights matters. This children's rights Czar should be included in all summits and other international meetings in which child abduction is a major topic and should have its own agenda not subject to the desires of any specific country desk at State. This office would be staffed **not** by people who passed the Foreign Service Exam with degrees in international relations and area studies, but rather people with degrees and experience in child welfare, child psychology, and family law. They would be true advocates for abducted and abused children and be measured by Congress and the President on their progress in protecting our children internationally.

I know that we cannot get such legislation enacted overnight. The USTR took decades to develop into its current state. But that needs to be a strategic direction. Our children HAVE to be as important to us as international trade considerations. Our kids' human rights HAVE to supercede our other issues with foreign countries in the context of our bilateral relations. They should. But at present they don't. And this is causing an enormous amount of suffering – needless suffering – by the parents sitting before you here, the thousands of parents who are not in attendance today, and the thousands of abducted American citizen children throughout the world.

Thank you.

Bring Abducted Children Home is a nonprofit organization dedicated to the immediate return of internationally abducted children being wrongfully detained in Japan and strives to end Japan's human rights violation of denying children unfettered access to both parents. We also work with other organizations on the larger goal of resolving international parental child abduction worldwide.

There have been 400 cases of U.S. children kidnapped to Japan since 1994. The Japanese Government has returned zero U.S. children.

BAC Home and Parents of Internationally Kidnapped children are still waiting for dignified, unfettered visits with, and expect the return of the following children from Japan:

Berg, Gunnar
Berg, Kianna
Bocchetti, Reon Sean
Bunnell, Anna Karen
Bunnell, Hannah Sakura
Burgess, Misoi Hime
Cameron, Stella Yoko Saya
Collins, Keisuke
Cooper, Soren Shou
Davtyan, Ishkhan Lio
Donaldson, Michiru Janice
Duke, Riki Joy
Easley, Ryosei Michael
Endo, Kai
Fukuda, Serena Miharu
Fukuyama, Mine Whitney
Gessleman, David Naru
Gessleman, Joshua Koa
Gherbetti, Lauren
Gherbetti, Julia
Halpern, Dylan
Hayes, Julia Lillian
Hickman, Hana Jean
Hickman, Saki Faith
Hirata, Koki
Hornia, Ami Elga Nakagawa
Hornia, Shintarou Amadeus Nakagawa
Ishida, Shanonyuma
Ito-Byrd, Aimi Rehanna
Johns, Takeshi Cole
Johns, Tetsuaki Wayne
Kimika, Sarah
Kinder, James
Kinder, Mizuki
Kinoshita, Wilson Atsushi
La Far, Genevieve Mariam
Lewis, Cody
Lewis, Jasmyn
Lui, Ezra
Martin, José
Massaquoi, Martin
Massaquoi, Sally Kikuchi
McCoy, Yuki Patrick
McPike, Kai Sugamoto
McPike, Koh Sugamoto
Meehan, Ashley Ayaka
Moline, Misaki
Morehouse, "Mochi" Atomu Imoto
Nagatomi, Joui
Nagatomi, Nina
Osar, Alicia Mari
Peterson, Diona Maria
Prager, Rui
Renzelman, Marcus
Rose, Kaia Sedona
Savoie, Isaac
Savoie, Rebecca
Sigal, Luna Kubota
Storms, Kiley Jean
Suzuki, Rion
Tanaka-Nielsen, Leo
Toland, Erika
Walker, Jake Joseph
Walker, John Joseph
Washington, Maximus Riku
Weed, Takoda
Weed, Tiana
Wong, Kaya Summer Xiao-Lian
Yoshida, Jack
Yoshida, Luke

Mr. SMITH. Dr. Savoie, thank you so very much for your testimony and for your tenacity in speaking up not just for yourself and your family but for all of the families.

Ms. Barbirou, you may proceed.

**STATEMENT OF MS. EDEANNA BARBIROU (MOTHER OF ABDUCTED CHILD TO TUNISIA)**

Ms. BARBIROU. For the record my testimony will be paraphrased and I would request that it be submitted for the record.

Mr. SMITH. Okay. Without objection, yours and all the other statements and any additional materials you would like to have attached to your testimony will be made a part of the record.

Ms. BARBIROU. Thank you.

Chairman Smith, thank you for committing your time today to address this issue of international parental child abduction and the implementation of the Goldman Act, henceforth referred to as ICAPRA.

I am inspired by your continued concern for the pursuit of justice in the cases of our illegally abducted children. Without your constant vigilance over ICAPRA and its implementation by the Department of State, I and the thousands of others who have been victimized by IPCA would be all alone.

Many of us have spent years begging to be heard, to be properly represented for the sake of our children by our Government. Thank you for answering our plea.

In my family's case my children, Eslam and Zainab, were illegally abducted to Tunisia by their father, a Tunisian native, in November 2011. At the time, I had full custody of both children and retained a judicial order preventing either of us from traveling outside of the United States with either child.

Because there are no formal legal agreements between the U.S. and Tunisia, I relocated to Tunis in January 2012 in order to pursue the application of my custody rights through their courts.

In October 2012, I obtained a Tunisian primary court ruling upholding my rights of custody of both Eslam and Zainab in the United States. That ruling was appealed and I later obtained concurring judgments through both the Tunisian appellate and Supreme Court upholding my rights of custody of both children, declaring that their best interest would be served by their return to the United States, their home of residence.

Despite all of these judicial decrees, the Tunisian Government has refused to implement its laws and these rulings remain unenforced to this day.

Prior to the passing of ICAPRA, State's Office of Children's Issues, or OCI, the U.S. Consulate in Tunisia, the U.S. Ambassador to Tunisia and Ambassador Susan Jacobs had been very active in our case.

This support, coupled with the avid representation I have received from Senators Cardin and Mikulski and the FBI through its legal attache in Tunis, assured me that with the passing of ICAPRA our case would be immediately resolved and our family would be reunited here on U.S. soil.

Unfortunately, that is not the case. Despite having every available tool at its disposal to secure the return of my baby, he remains illegally retained with his father in Tunisia.

I firmly believe that this is due to intentional resistance on behalf of State to ICAPRA and the likely unpopular diplomatic and political consequences of its full enforcement.

I defer to the compliance report to support these claims. I am thankful that in its testimony today State has provided an account of how many children have been represented by the report.

While the report makes consistent references to cases throughout, there is not one instance where an abducted child is counted. My question is simple.

Why? Why wasn't a single child accounted for in 2014 and how did the Central Authority for the United States lose sight of the significance for every searching parent that it represents to have his or her child counted?

After scrutinizing the 42-page report as submitted to Congress, I have no clearer understanding of how many cases of IPCA occur in the United States, how many children are affected, and no means of assessing whether the numbers of abductions have increased, decreased or remain the same.

Simply providing evasive accounting of cases without identifying a total number of children affected does not bring us any closer to an understanding of the breadth of this crime on the American public.

The compliance report is riddled with gross numerical manipulations, as exemplified by a cursory review of the Tunisia section of Table 2 where neither the unresolved case of Eslam nor that of Zainab, who returned home with me in August 2014, appear to be represented.

Aside from this, the report also explicates State's disinterest in pursuing the stronger remedies required by ICAPRA. It also clearly articulates its policy of increasing the number of signatories to the Convention as its major goal.

This policy of pushing the Convention as a remedy has not been shown to effect a resolution in any existing case and I believe the devastating repercussions for our families with abductions to Japan provide strong evidence of that.

To be clear, ICAPRA as it is written is a fair and powerful law that includes strong remedies which, if applied, will result in the return of our illegally-retained abducted children abroad.

It is my firm belief that had State applied any of remedies four through seven as provided for in Section 202(d) if ICAPRA, Eslam Chebbi would be home with the family today. The policy and directive of OCI to promote accession to the Convention and to avoid politically and diplomatically contentious remedies for the return of our innocent American citizen speaks volumes.

At this time, my baby is a vulnerable United States citizen who is being denied his constitutional rights under Tunisian law, international law, and U.S. law, and despite the extensive efforts of the various representatives of State, my United States Senators and Representative, the FBI and legal counsel, the Tunisian Government continues to eschew our case while opening its pockets to the

ever-increasing financial allotments that State provides to the Republic annually.

Clearly, if Eslam Chebbi counts and if every American child illegally retained abroad counts, then State must redouble its efforts to account for every abducted child in its report and apply every actionable remedy provided for in ICAPRA to ensure their return.

As you well know, there is so much more that can be said about this very important topic. But given time constraints, I must conclude my testimony here. So I thank you again for the honor of testifying.

[The prepared statement of Ms. Barbirou follows:]

Édeanna M. Barbirou
(formerly Édeanna Johnson-Chebbi)
Founder, Return US Home
Member, iStand Parent Network
For the United States House of Representatives Committee on Foreign Affairs

Subcommittee Hearing: The Goldman Act to Return Abducted American Children: Assessing the Compliance Report and Required Action
June 11, 2015

Chairman Smith, Ranking Member Bass, and other members of the Committee. Thank you for committing your time today to address this issue of International Parental Child Abduction (IPCA) and the implementation of the Goldman Act, henceforth referred to as the International Child Abduction Prevention and Return Act (ICAPRA). I am inspired by your continued concern for, and pursuit of justice in, the cases of our illegally abducted children. Without your constant vigilance over ICAPRA and its implementation by the Department of State (State), I, and the thousands of others who have been victimized by IPCA, would be all alone. Many of us have spent years begging to be heard, to be properly represented for the sake of our children, by our government. Thank you for answering our plea!

In my own family's case, my children, Eslam (9) and Zainab (6) Chebbi, were illegally abducted to Tunisia, a non-Convention, non- bilateral procedure country, by their father, a Tunisian native, in November of 2011. At the time, I had full custody of the children, and retained a judicial order preventing either of us from traveling outside of the United States with either child.

Because there are no formal legal agreements between the U.S. and Tunisia, I relocated to Tunis in January 2012 in order to pursue the application of my custody rights, through their courts. In October of 2012 I obtained a Tunisian primary court ruling upholding my rights of custody of both Eslam and Zainab in the United States. That ruling was appealed, and in May 2013, I obtained an Appellate Court ruling, also upholding my rights of custody of both children in the United States. In March 2014, the Tunisian Supreme Court not only upheld my custody of the children, but also declared that their best interest would be served by their return to the United States, their home of residence. Despite all of these judicial decrees, the Tunisian government has refused to implement its laws, and these judgments remain unenforced to this day.

Prior to the passing of ICAPRA, The Department of State, Department of Consular Affairs, Office of Children's Issues (OCI), through my country desk officers, the U.S. consulate in Tunisia, the U.S. Ambassador to Tunisia, and Ambassador Susan Jacobs, had been very active in our case. This support, coupled with the avid representation I've received from Senators Cardin and Mikulski, and the FBI through its legal attaché in Tunisia, assured me that, with the passing of ICAPRA, and its implementation through State, our case would be immediately resolved, and our family would be reunited here on U.S. soil.

Unfortunately, that is not the case. Despite having every available tool at its disposal to secure the return of my baby boy, he remains illegally retained with his father in Tunisia. I firmly believe that this is due to intentional resistance on behalf of State to ICAPRA and the likely

unpopular diplomatic and political consequences of its full enforcement. I defer to The Department of State Bureau of Consular Affairs 2014 Annual Report on International Parental Child Abduction (Compliance Report) to support these claims.

In CY 2011, nearly four American children were abducted by a parent from the United States every day. In CY 2012, that average became three children per day. According to reported cases of International Parental Child Abduction (IPCA) to the Department of State Office of Children's Issues (OCI), that average remained steady for CY 2013. And in CY 2014, we have no idea.

While the Compliance Report makes consistent reference to cases throughout, there is not one instance where an abducted child is counted. My question is simple: Why? Why wasn't a single child accounted for in CY 2014? How did the Central Authority for the United States lose sight of the significance for every searching parent that it represents to have his/her abducted child(ren) counted? Simply providing evasive accounting of cases, without identifying a total number of children affected, does not bring us any closer to an understanding of the breadth of this crime on the American public.

After scrutinizing the 42 page report as submitted to Congress I have no clearer understanding of how many cases of IPCA occur in the United States, how many children are affected, and no means of assessing whether the number of abductions has increased, decreased, or remained the same.

I refer you to the Tunisia section of Table 2 as an example of the incomprehensible accounting pattern utilized throughout the report. We have zero newly reported cases, zero unresolved cases, zero unresolved cases due to poor law enforcement, three resolved cases – giving us a 38% resolution rate, and zero unresolved cases involving military parents. With zero cases in any other category, how do we obtain a 38% resolution rate? And 38% of what? Of all open cases in Tunisia? Of all newly reported cases in Tunisia? And, is my daughter, Zainab, who returned home with me in 2014, included in this rate? If so (and even if not), then why isn't Eslam accounted for in either of the unresolved case columns?

Aside from the gross numerical manipulations, the compliance report explicates State's disinterest in pursuing the stronger remedies required by ICAPRA (see section 5.2 of the compliance report). It also clearly articulates its policy of increasing the number of signatories to the Convention as its major goal (see section 2.3). While the Convention is an important tool, the constant pursuit of accession in non-Convention countries is counterproductive toward the resolution of existing cases in those countries. Additionally, this policy of pushing the Convention as a remedy has not been shown to affect a resolution in any existing case. I believe the devastating repercussions for our families with abductions to Japan provide strong evidence of that.

To be clear, ICAPRA, as it is written, is a fair and powerful law that includes strong remedies, which, if applied, will result in the return of our illegally retained, abducted children abroad. It is my firm belief that, had State applied any of remedies 4-7 as provided for in Sec. 202(d) of ICAPRA, Eslam Chebbi would be home with his family today. The policy and directive of OCI

to promote accession to the Convention, and to avoid politically and diplomatically contentious remedies for the return of our innocent American citizens, speaks volumes.

Consider the families whose children are abducted to noncompliant Convention countries, where the average length of abduction exceeds three years. In these cases, State declares: For all Convention countries demonstrating a pattern of noncompliance in CY 2014 as defined by ICAPRA, noneconomic policy options have not been reasonably exhausted to resolve the patterns of noncompliance. My question again, is, why? In more than three years' time, why haven't all noneconomic policy options been exhausted? And, are we to understand by this declaration that the policy of State is to forego the most effective means of ensuring the return of illegally retained American citizens abroad to pursue more diplomatically sensitive, but demonstrably ineffective options?

At this time, my baby, Eslam, is not only an American child illegally abducted from the United States by his father. He is also a vulnerable United States citizen who is being denied his constitutional rights under Tunisian law, through international law, and through United States law. Eslam Chebbi is being arbitrarily detained in Tunisia at the behest of the Tunisian government. And despite the extensive efforts of the Tunisian country officers, the U.S. Ambassador to Tunisia, Ambassador Susan Jacobs, my United States Senators and Representative, the FBI, and legal counsel, the Tunisian government continues to eschew our case, while opening its pockets to the ever increasing financial allotments that State provides to the Republic annually. Clearly, if Eslam Chebbi counts, if every American child illegally retained abroad counts, then State must redouble its efforts to account for EVERY abducted child in its reports, and apply EVERY actionable remedy provided for in ICAPRA, to ensure their return, without haste.

Given time constraints, I must conclude my testimony here. As you well know, there is so much more that can and must be said about this very important topic of Parental Child Abduction and the use of ICAPRA to effect the return of our abducted children. I would like to offer my time and services to assist in the advancement of awareness, prevention, and return efforts as the need may arise in the future. Thank you again, for the honor of testifying before you today.

**Recommendations for actions by the government to move my case forward:**

1. Cease further engagement in any non-emergency related agreements, contracts or negotiations with the Republic of Tunisia until they ensure the enforcement of their laws, and allow Eslam Chebbi, and any other illegally retained, parentally abducted child(ren), to return home to the United States.

2. Ensure that ICAPRA is implemented with the spirit in which it was created with the primary concern for the return of Eslam, and every illegally retained, parentally abducted child abroad.

3. As a policy, every Congressional representative should routinely engage in appropriate advocacy with representatives of the country of abduction, utilizing their distinctive

influences to effectuate the return of Eslam, and every illegally retained, parentally abducted child abroad.

All of my Maryland Congressional representatives have engaged Tunisian governmental authorities, both in person, and in writing, advocating for adherence to their country's laws, and seeking the return of my children. These efforts ensure that that lesser remedies for effecting Eslam's release are continually accomplished, leaving State a documentable path toward the implementation of stronger remedies provided for in ICAPRA.

4. Utilize every opportunity to pursue the remedies afforded to State through ICAPRA for the return of Eslam to the extent afforded each Congressional Representative. For instance, more than $80 Million US dollars are requested in State's FY 2016 Foreign Operations budget for Tunisia. It should be the policy of the Congressional Appropriations committees to withhold non-humanitarian, non-security funding requested for non-compliant countries until such country takes the appropriate steps to ensure the safe and immediate return of illegally abducted American children. Each member of Congress has an opportunity to advance our case through their various committees served.

5. Update ICAPRA with an explicit requirement of accountability for the total existing cases of IPCA, by country, including newly reported cases, and the total number of children involved in each case represented in future reports by State to Congress.

6. Utilize every official visit to Tunisia as a means to share the deep concern for the return of Eslam, and every illegally retained, parentally abducted child.

Mr. SMITH. Thank you so very much for your testimony.

We will try to have an additional hearing in July because there is a 90-day window where the application of the sanctions.

Hopefully there will be significant and robust sanctions against those 22 countries and I would hope that they will revisit Japan, as I mentioned to our two previous panelists, because Japan absolutely has to be on the list. It is a glaring omission.

I would like to yield, before going to Mr. Parmar, to Eliot Engel, the ranking member of the full committee.

Mr. ENGEL. Thank you, Mr. Chairman. I want to just make a brief statement and then I think we are being called for votes.

First of all, I want to thank you for scheduling today's hearing and I want to thank you for your tireless advocacy. Through all the years we have both served in Congress together, I know of no one who fights harder than you for causes in which you believe and are effective in fighting for those causes.

So I think that everyone here should understand how much of this is driven by you. You drive the agenda and you make your mark and you do good. So I just want to say that.

I am here because I want to show my support on this issue, which affects more Americans than we know. In my district, a good constituent here, we have the case of Samina Rahman, who is the parent of an internationally abducted American child.

Mr. Chairman, I know that you have been a champion of returning abducted American children back to their home and I join you in calling for reforms to the system. There are few crimes that are more heart-wrenching than child abduction.

As a parent of three, I can't even imagine Samina's anguish and the pain felt by the other parents who have had a child abducted by their partner and taken to another country. These left-behind parents have little leverage to have their children returned home.

They are often at the mercy of foreign courts with different cultural conceptions of custody and arbitrary determinations for what constitutes abduction and what is or is not in the child's best interest. Usually, it is not in the child's best interest even when they say it is.

The most effective tool the United States has to help return abducted children is the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

This treaty creates a global standard and requires signatories to return abducted children to the country of the child's habitual residence for a custody hearing.

Unfortunately, and very regrettably, there are significant gaps in the Hague treaty framework and we need to fill those gaps. I think that is something positive that we can do.

International parental child abduction is an under-reported incident, an often overlooked crime which dramatically and traumatically impacts the lives of the children and parents involved.

We need to send a message to the world that we take Hague compliance and returning abducted children back to the United States seriously.

I want to thank my constituent for being here and for her courage and we are there with you. Keep in mind you are not alone and we are going to do everything we can to help.

And, again, I would like to end by, again, thanking my colleague, Mr. Smith for his tireless effort on this important issue. Thank you very much.

Mr. SMITH. Mr. Engel, thank you very much for your excellent statement, your leadership, and we do work—and I think the American people need to know—more and more we work across the aisle and it is always a privilege to work with Eliot Engel, the gentleman from New York, the ranking Democrat on the full committee. Thank you so much for being here.

I would like to ask Mr. Parmar, who is from Manalapan, I understand.

The abduction happened in Edison. I thank you for being here and look forward to your testimony.

**STATEMENT OF MR. RAVINDRA PARMAR (FATHER OF ABDUCTED CHILD TO INDIA)**

Mr. PARMAR. Thank you, Chairman Smith. Good afternoon. I am honored for the privilege to provide my testimony before you and I commend you for holding this important hearing.

I am here today because I am inspired by a British-educated barrister traveling on a train to Pretoria in 1893 with a paid ticket who was thrown off a train for sitting in first class compartment because of the color of his skin.

The sense of injustice and outrage within him inspired a struggle for civil rights in South Africa, which he later transformed into a fight for national independence from a colonial power.

That resulted in an independent India. I am referring to Mohandas Karamchand Gandhi, or Mahatma Gandhi.

I am not comparing myself to Gandhiji, but I am compelled to stand up and fight for the cause that transcends cultures and nations. I am here today because my little boy, whom I love dearly, isn't with me and he has been robbed of his father's love and presence for over 3 years.

Reyansh is another victim of a crime that was not perpetrated by a stranger but by his own parent. It was a calculated and malicious act committed to inflict maximum pain on me without any regard for Reyansh's well being or rights.

I am also here today because of Abdallah's mother, Samina Rahman, Nikhita's father, Vikram Jagtiani, Indira's mother, Tova Sengupta, Albert and Alfred's mother, Bindu Philips and dozens of parents whose children have been abducted to India are hoping that I have the courage to give an honest and accurate assessment of how our lives have been devastated not only by the abducting parents but by civilized nation states who have shown a blind eye to the immense human suffering that we have experienced for years.

Parental child abduction is about our children. These are precious human lives and they matter to me, to Edeanna, to Chris, Jeffrey, Avinash, Bindu, Vikram, Samina, Arvin, Tova, Manu, Nihar, George, Eric, Marla, Carolyn, Devon, David, Noelle, Alyssa, Annie, Laura, and Vibhor and the list goes on.

Our governments have failed to rise above their economic, security, cultural, and other geopolitical interests to solve what is a solvable problem. If one of the objectives of this hearing is to scruti-

nize the records of Japan, India, Tunisia, and other countries with longstanding child abductions, then I humbly request, Chairman Smith, that we add one more name and that is the United States.

Why the U.S., you will ask. Simply put, cases like mine have been lingering for years without any sign of progress, and you don't need to know the inner workings of our Government to learn why that is the case.

The Department of State's Web site, which is included in Exhibit C of my testimony, lists parental child abduction at the bottom of the section under Youth and Education. Items listed above it include Office of Overseas Schools, Exchange Visitor programs, Fulbright program, Youth Exchange programs, Student Career.

How much confidence does that give victims of parental child abduction when on one hand the Office of Children's Issues publicly state that they care about other children and are doing everything they can to bring children home yet the facts show a different picture?

How long can parents like me have to wait even for a glimmer of hope? Let us look at elsewhere within our Government where the Department of Justice, whose mission is to enforce law and defend the interests of the United States according to the law, to ensure public safety against threats foreign and domestic, to provide Federal leadership in preventing and controlling crime, to seek just punishment for those guilty of unlawful behavior and to ensure fair and impartial administration of justice for all Americans.

Has the Department of Justice lived up to its mission? How many parental child abduction cases have they prosecuted in the last decade? How many cases have they a closed without children returning? How many offenders have they successfully prosecuted?

The answers are hard to find. So here I am today presenting a victim's report card to rate our experience in terms of how a nation has acted to protect our children's rights and cooperated in their return using a rating scale that my son would understand—really bad, not good, okay, good, and awesome. I would rate our experience in the United States as not good and in India, unfortunately, as really bad.

It doesn't give me any joy to say this, but after several decades of collective hardships faced by left-behind parents and our children, the dial on international parental child abduction just hasn't moved.

From a parent's point of view, where is the leadership? Where is the urgency? Left-behind parents have been kicked around like a soccer ball from one courtroom to the next, from one government agency to another, from one elected representative's office to another and by chance, if their stars align, the left-behind parent like David Goldman, Noelle Hunter or Alyssa Zagaris may get the support and justice they deserve.

Otherwise, for most left-behind parents we hit the repeat button and do this all over again. Avinash Kulkarni's son, Soumitra, was abducted in 1990 from California when his son was only 6 months old. The abducting parent did everything she could to alienate Soumitra from his father.

Today, Avinash has no contact with his son and he spent his entire life savings, sacrificed his career to fight a legal battle to seek

justice which continues to elude him. This must change. The time to act was yesterday.

Parents all over the country and around the world are outraged by the ground reality and the mediocre response—at best—to address the real human tragedy.

For too long the voices of children have been left behind. Voices of children and left-behind parents have been ignored or silenced. If I don't stand up today and speak about injustice, Reyansh will have one less role model to look up to.

While I support a strong and growing strategic partnership between our country and India based on the foundation of shared values, including family values, it must not come at the expense of American children and families. As we enhance engagement with India, more and more people will establish social and other bonds.

Many of these relationships will lead to cross cultural and cross national marriages. For all practical purposes, if the United States and India don't establish a strong framework including considering alternatives like bilateral agreements or Executive orders on the issue of parental child abduction, this will lead to an exponential growth in abduction cases and will lead to a human rights disaster that will jeopardize our children's future.

Policymakers in India need to think beyond its borders and modernize its laws on crimes against children, family and custody matters to reflect the new global realities and align them to international standards.

I respectfully urge all Members of Congress, especially those in the India caucus, to use this opportunity to bridge the divide and create a foundation for human welfare and prosperity.

It is time to take individual and collective ownership and bring accountability wherever it is lacking. We are all aware of India's positive contributions to the world and we know as a rising power it has the aspirations to lead the world.

Upholding core values like rule of law, inclusive growth, and protections of human rights without taking stock of its own ground realities the path forward will not lead to achieving those goals.

I wish I could say that the only challenge that we face in India is systemic delays in the judiciary and that despite the delays abducted American children and left-behind parents consistently get their justice in India.

Unfortunately, neither statement is true. While I have seen some recent progress as instances of divorce and custody battles have increased within India, the fact of the matter is that those decisions are too few and far between.

Indian courts are using outdated laws or, worse, no laws in the case of parental child abduction, to address the challenges of a modern globalized world.

In a recent case in the Supreme Court of India, the court ordered the return of two British citizen children abducted from the UK predicated on the left-behind parent meeting a whole slew of criteria.

It was plainly clear that even when the abducted children are in extremely rare instances returned to their home countries, it is often with significant preconditions on the left-behind parent, which in effect penalizes the victims and rewards the abductor.

Based on direct experiences and the ground realities in India, even in 2015 left-behind parents are completely stacked up—sorry. The ground realities in India even in 2015 are completely stacked up against the left-behind parents.

We hope leaders in India will pay heed to the following observations not because America is demanding or asking for any favors but her own citizens deserve better.

The lack of policy and law recognizing parental child abduction as a crime both civil and penal has significant ramifications for not only Indian citizens but those around the world who have some sort of association with India including cross cultural ties, marriages with Indian citizens, or people of Indian origin.

India's policy decision that Indian courts are competent to decide on individual child abduction cases based on existing law in the absence of acceding to Hague and/or Indian laws addressing parental child abduction is leading to confusion, inconsistent decision-making and wasting precious legal resources for a country that has over 31 million pending cases as of September 2014.

The inconsistent, at times incorrect, application of criteria for domicile with an Indian divorce law such as the Hindu Marriage Act on foreign citizens, permanent residents of other countries, and expatriates is resulting in wrongful assertion of jurisdiction by Indian courts raising serious questions of extra-territorial application of Indian law and impinging U.S. Constitutional rights and protections guaranteed to each of us living in the U.S.

Thus, a cocktail of issues combined with a lack of joint custody provisions, gender-biased domestic violence laws, nonbailable offenses like the Indian Penal Code 498(a), which is the anti-dowry law, are routinely involved by abductors, give abundant incentives for parents of Indian origin across the United States and the world for India to become their preferred destination for child abductions.

Mr. SMITH. Mr. Parmar, if you just suspend briefly.

Mr. PARMAR. Sure.

Mr. SMITH. We have two votes on the floor and I will be back and hopefully with some other members within about 10 minutes. If you could pick up right where you are now and then we will go to Mr. Findlay, and I apologize but we will stand in very brief recess, then resume.

Mr. PARMAR. Sure.

[Recess.]

Mr. SMITH. The subcommittee will resume its hearing and, Mr. Parmar, sorry for cutting you off mid-sentence but I had to make the floor vote. So thank you.

Mr. PARMAR. I will probably take no more than 2 more minutes. The issue of domicile and jurisdiction pose the greatest risks for American children and families who have made a conscious decision to permanently settle in the United States and yet find themselves being dragged into Indian courts due to issues described about.

In my own case, we are Hindu-Americans permanently residing in the United States and Reyansh was born in New Jersey. My ex-wife and I both are U.S. citizens. I have lived in the country for 21 years. Reyansh lived here until he was wrongfully removed from New Jersey and retained in India by his mother.

Her presence in India is due to her absconding from New Jersey after multiple violations of U.S. State and Federal law. It is evident to any reasonable person that neither I nor my ex-wife were domiciled in India, thus the Hindu Marriage Act would not apply to us.

Yet, three different levels of courts in India reached the complete opposite decision. I urge this subcommittee to take special note of the broad and subjective interpretation and application of family law which is being applied in an extraterritorial manner by Indian courts to foreign nationals and nonresidents as a cause of concern.

Our rights as American citizens and protection under the Constitution of the United States are being impinged upon by Indian courts at all levels. The Hague Convention has been in place for 30 years.

How many more hearings will it take before we can see American children being returned from countries like Brazil, India, and Japan who have either failed to recognize parental child abduction as a crime or disregarded international law and their own treaty obligations?

We are not demanding any special favors from our Government, but when parents are being left behind twice, once by their abductor and then by our own Government, to fight a state machinery in another country without direct and sustained U.S. Government intervention, it is no coincidence that for every Sean Goldman there are hundreds of Reyansh Parmars.

The seeming lack of strong will, courage and urgency across different parts of our Government to address this human tragedy is baffling.

It is troubling to see that the same state actors continue to repeat their bad behavior without any consequence because it appears we are too concerned about our economic security and other interests, which begs the questions who will be the beneficiaries if our children don't return.

I have a few recommendations that I have submitted in Exhibits E and F and I would like this subcommittee to kindly consider those. I will not go into the details right now.

But in conclusion, on a positive note, earlier this month, the U.S. Attorney for the Northern District of Illinois indicted a Skokie, Illinois, father for international parental kidnapping of three children traveling with him to Turkey en route to Pakistan without their mother's consent, permission, or knowledge.

He left on May 2nd and was arrested on May 6th at O'Hare Airport on arrival as a result of swift and coordinated actions on the part of the Turkish Airlines and law-enforcement agencies. All three children are now safely in the United States.

We urge our Government to deliver the same kind of justice for our children who are victims of this terrible crime including Albert, Alfred, Archit, Siva Kumar, Reyansh, Nikhita, Abdallah, Ishaan, Indira, Trisha, Pranavan, and dozens if not hundreds of other American children currently in India.

I will conclude with what David Goldman stated in his testimony before this subcommittee in May 2013.

> "These cases typically drag on for months, which soon turn into years as the abductor creates a home field advantage with endless appeals and delay tactics in their home country's legal sys-

> tem. This is the norm, not the exception. These cases are abduction cases and laws have been broken!!! Let's remember that these cases are not custody disputes."

Let us also be clear what we left-behind families are asking for. Some people mistakenly believe we are asking for our Government to intervene in custody disputes. We are not.

All we are asking is that when our children are kidnapped to thwart a proper resolution of custody, law governing their return to our country is upheld.

When it comes to international law that deals with children abducted from the United States and other lands there is no rule of law. In the broken lives and broken spirits of left-behind parents across America, whom we represent here today, stand as a living rebuke to that failure to enforce the rule of law.

> "The plain fact is that nations who refuse to return America's children pay no price for defying the law, and unless we arm the State Department with the tools they need to do their job and unless nations who break the law flagrantly and repeatedly suffer real consequences, nothing will change . . . nothing will change."

After over 2 years, those words still hold true. The Department of State now has the tools in the Goldman Act to use them urgently and effectively to bring our children back.

We are asking for action. We are asking that you bring our kids home.

Thank you, Chairman Smith.

[The prepared statement of Mr. Parmar follows:]

**Ravindra Parmar**
*Father of abducted son to India*

June 11, 2015

**House Committee on Foreign Affairs: Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations**

The Goldman Act to Return Abducted American Children: Assessing the Compliance Report and Required Action

Good afternoon Chairman Smith and Members of the Committee and Congress. I am honored for the privilege to provide my testimony before you and I commend you for holding this important hearing. Chairman Smith, with your permission I would like to enter my full written testimony on record.

I am here today because I am inspired by a British educated barrister, traveling on train to Pretoria in 1893 with a paid ticket, who was thrown off a train for sitting in a first class compartment, only because of the color of his skin. The sense of injustice and outrage within him, inspired a struggle for civil rights in South Africa. Which he later transformed into a fight for national independence from a Colonial power, that resulted in an independent India. I am referring to Mohandas Karamchand Gandhi, or Mahatma Gandhi.

I am not comparing myself to Gandhiji, but I am compelled to stand up and fight for a cause that transcends cultures and Nations. I am here today because my little boy, whom I love dearly, isn't with me and he has been robed of his father's love and presence for over three years. Reyansh is another victim of a crime that was not perpetrated by a stranger, but his own parent. It was a calculated, malicious act committed to inflict maximum pain on me, without any regard for Reyansh's wellbeing or rights.

I am also here today, because Abdallah's mother Samina Rahman, Nikhita's father Vikram Jagtiani, Indira's mother Tova Sengupta, Albert and Alfred's mother Bindu Phillps, and dozens of parents, whose children have been abducted to India, are hoping that I will have the courage to give an honest and accurate assessment of how our lives have been devastated, not only by the abducting parents, but also by "civilized" Nation States who have shown a blind eye to the immense human suffering that we have experienced for years!

Parental child abduction is about OUR CHILDREN! These are precious, human lives, and they matter to me, to Edeanna, Chris, Jeffery, Randy, Avinash, Bindu, Vikram, Samina, Arvind, Tova, Manu, Nihar, George, Eric, Marla, Carolyn, Davon, David, Noelle, Alyssa, Annie, Lora, Vibhor, and list goes on. Our Governments have failed to rise above their economic, security, cultural, or other geopolitical interests, to solve what is a solvable problem.

**Purpose of the Hearing?**

If one of the objectives of this hearing is to scrutinize the records of Japan, India, Tunisia and other countries, with long-standing child abductions, then I will humbly request, Chairman Smith that we add one more name to this list and that is the United States.

Why the U.S. you will ask? Simply put, cases like mine have been lingering for years, without any sign of progress. And you don't need to know the inner workings of our Government to learn why that is the case.

The Department of State's website (Exhibit C, below) lists "Parental Child Abduction" at the bottom of the section for "Youth & Education". Items listed above it include: "Office of Overseas Schools", "Exchange Visitor Programs", "Fulbright Program", "Youth Exchange Programs", "Student Career" "Inter-country Adoption", etc.

How much confidence does that give victims of parental child abductions, when on one had the Office of Children's Issues, publicly state they care about our children and are doing everything they can to bring our children home. Yet, the facts show a different picture! How long should parents like me have to wait, even for a glimmer of hope?

Let's look at elsewhere within our Government. Where is the Department of Justice, whose mission is;

*"To enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans."*

Has the DoJ lived up to its mission statement? How many parental child abductions cases have they prosecuted in that last decade? How many cases have they closed without children returning? How many offenders have they successfully prosecuted? The answers are hard to find.

**Victims' Report Card**

So if I have to give a victims' report card. to rate our experience in terms of how a Nation has acted to protect our children's rights, and cooperated in their return, using a rating scale that my son would understand, namely, "really bad", "not good", "OK", "good" and "awesome!"! I would rate our experience in the United States as "not good" and in India unfortunately, as "really bad"!

It doesn't give me any joy to say this, but after several decades of collective hardships faced by left behind parents and our children, the dial on international parental child abduction just hasn't moved!

It seems, our Governments are treating abduction cases like any other statistical data point, or a legal matter that can be sorted out by the Court system, even if it take years to do so, or perhaps a bureaucratic issue that can be resolved by "annual dialogues or summits" between two nations.

From a parent's point of view, where is the Leadership? Where is the Urgency? Left behind parents have been kicked around like a soccer ball from one Court room to the next, from one Government agency to another, from one elected Representative's office to another. And by chance, if their stars align, then that left behind parent, like David Goldman, Noelle Hunter or Alyssa Zagaris, may get the support and justice they deserve; otherwise for most left behind parents we hit the "repeat" button and do this all over again!

Avinash Kulkarni's son Soumitra was abducted in 1990 from California, when his son was only six (6) months old. The abducting parent did everything they could to alienate Soumitra from his father's life. Today, Avinash has no contact with his son and he spent his entire life savings, sacrificed his career, to fight a legal battle to seek justice, which continues to elude him.

This must change! Time to act was yesterday! Parents all over the country and around the world are outraged by the ground reality and the mediocre response, at best, to addressing this real, human tragedy! For too long the voices of our children and left behind parents have been ignored or silenced. If I don't stand up today and speak out about this injustice, Reyansh will have one less role model in his life.

We know that, if the United States decides to focus on an issue, it can channel its best resources, utilize all the tools at its disposal to address it. If we can capture one man who was hiding in an underground bunker in the deserts of Iraq, or locate another one in a fortified house, within the heart of Pakistan's garrison town, we know where our children are, surely we can bring them back! So the question is does our President, this Congress and the Government of the United States have the will and the focus to do right by its people?

If India can rescue over 4,000 people from 33 countries, including its own, within a matter of days, from a war zone in Yemen; and can rescue thousands of people from a devastated Nepal within days as well, surely it can rescue American children from their abductors who are hiding in plain sight, within its own borders. Again the question is, does India have the focus and will, to do what's right?

While we support a strong and growing strategic partnership between our country and India, it must not come at the expense of American children and families. As we enhance our engagement with India in fields of trade, finance, industry, science, education, medicine, and others:, more and more our people will establish social and other bonds. Many of these relationships will lead to cross national and cross cultural marriages.

So for all practical purposes, if the U.S. and India don't establish a strong framework on the issue of parental child abduction now, this will lead to an exponential growth in abduction cases

and will lead to a human rights disaster what will jeopardize our children's future. Policy makers in India need to think beyond its borders and modernize its laws on crimes against children, family and child custody matters, to reflect the new global realities, and align them to international standards. I respectfully urge all members of Congress, especially those on the India Caucus, to use this opportunity to bridge the divide and create a foundation for human welfare and prosperity.

It's time to take individual and collective ownership and bring accountability wherever it is lacking.

**Challenges In India**

We are all aware of India's positive contributions to the world and we know as a rising power. It has the aspiration to lead the world in human development, commerce, science, while upholding core values like, rule of law, inclusive growth and protection of human rights. Without taking stock of its ground realities, the path forward will not lead to achieving those goals.

I wish we could say that the only challenge we face in India is systemic delays in their judiciary system. And that despite the delays, abducted American children and left behind parents, consistently get justice in India. Unfortunately, neither statements are true!

While we have seen, some recent progress, as instances of divorce and custody battles have increased within India. The fact of the matter is, those decisions are too few and far between. Indian Courts are still using outdated laws (e.g. Guardians and Ward Act, 1890; Hindu Minority and Guardianship Act, 1956, the Hindu Marriage Act, 1955) or worse no laws (e.g. for parental child abductions), to address the challenges of a modern, globalized world.

In a handful of recent decisions, when Indian Courts did order the return of abducted children, they were driven by <u>two principles</u>: 1) comity of courts and 2) welfare of the child, which under the best of circumstances allows for subjective interpretations, and <u>not due to the wrongful removal or retention</u>, i.e. parental child abduction; thus highlighting the challenge left behind parents face in India.

In the case of Surya Vadanan vs. State of Tamil Nadu & Ors (CRIMINAL APPEAL NO. 395 OF 2015, February 27, 2015) where the Supreme Court of India ordered the return of two British citizen children abducted from the U.K., predicated on the left behind parent meeting the following criteria:

- the left behind parent "will bear the cost of litigation expenses" of the abducting parent in the U.K. Courts;
- the left behind parent "will pay the air fare or purchase the tickets for the travel" of the <u>abducting parent</u> and the children to the U.K. and "later, <u>if necessary, for their return to India</u>";

- the left behind parent to make, "all arrangements for their comfortable stay in their matrimonial home";
- left behind parent "will pay maintenance" to the abducting parent and child support "at a reasonable figure to be decided by the High Court of Justice" (i.e. U.K Court);
- "Until then, and to meet immediate out of pocket expenses", the left behind parent, will give the abducting "prior to her departure from India an amount equivalent to £1000";
- Left behind parent to "ensure that all coercive processes that may result in penal consequences" against the abducting "are dropped or are not pursued by him"

It is plainly clear, that even when abducted children, in extremely rare instances, are ordered to return back to their country of habitual residence, often with significant "pre-conditions" on the left behind parent, which in effect penalizes the victims, and rewards the abductor.

Based on our direct experiences over the past several decades, the ground realities in India even in 2015 are completely stacked up against left behind parents and most importantly lack the sensitivity to the issue of child abuse. We hope leaders in India will pay heed to the following conclusions, not because America is demanding or asking for any favors, but Her own citizens deserve better:

1) Lack of policy and law recognizing parental child abduction as crime, both civil and penal, has significant ramifications for not only Indian citizens, but those around the world who have some sort of association with India, including; cross cultural ties, marriage with Indian citizens or people of Indian origin;

2) India's policy decision that, Indian Courts are competent to decide on individual parental child abduction cases based on existing law, in the absence of acceding to the Hague Convention and/or Indian law addressing parental child abduction, is leading to legal confusion, inconsistent decision making and wastage of precious legal resources for a country that has over 31 million pending cases as of September 2014;

3) The inconsistent and at times incorrect application of the criteria for "domicile" within Indian divorce law, such as the Hindu Marriage Act, on foreign citizens; permanent residents of other countries and Indian ex-patriots (referred to as Non-Resident Indians, or NRIs); is resulting in wrongful assertion of jurisdiction by Indian Courts, raising serious questions of extra-territorial application of Indian law, and impinging U.S. Constitutional rights and protections guaranteed to each of us living in the United States;

4) Lack of clear and transparent guidelines on a multitude of issues, including the determination of jurisdiction (i.e. domicile), child custody (including shared parenting, non-custodial parental rights), alimony, child support and distribution of marital assets; result in significant discretionary power with Judges and inconsistent quality of judicial decisions. This often leads to extensive appeals and delays justice;

5) Ex-parte "interim" Court orders, are often issued without due process (including without notice/service, no framing of issues, no examination of evidence), and then linger on for months or years, which compound the pain and suffering for litigants, including left behind parents;

6) Systemic delays and other inefficiencies in the Indian judicial system is not only leading to justice being denied to Indian citizens, but impacts U.S. Citizens and other foreign nationals who are being subjected to the jurisdiction of Indian Courts, in matters related to divorce and child custody;

7) Thus a cocktail of issues, combined with; i) lack of joint custody provisions, ii) gender biased domestic violence laws without sufficient Constitutional protections iii) non-bailable offenses like the Indian Penal Code §498a (anti dowry law); are routinely invoked by abductors, give abundant incentives, for parents of Indian origin across the United States and the world, for India to become their preferred destination for child abductions.

The issue of "domicile" and "jurisdiction" pose the greatest risks for American children and families, who have made a conscious decision to permanently settled in the United States, and yet find themselves being dragged through Indian Courts due to issues described above.

We urge Indian policy makers to recognize, that while people of Indian origin, who are citizens of other Nations or living in other countries, may have cultural, family and other ties to India, they are protected by rights under the Constitutions of countries they live in. And policy decisions, primarily driven by domestic considerations, would lead to severe unintended consequences.

According to paragraph 1(2) of the Hindu Marriage Act ("HMA"), the act would apply to those "Hindus" who live outside of India, but are "domiciled" in India, regardless of their nationality. Refer to excerpt of the Act below:

*1. Short title and extent.-*

*(1) This Act may be called the Hindu Marriage Act, 1955.*

*(2) It extends to the whole of India except the State of Jammu and Kashmir, <u>and applies also to Hindus domiciled in the territories to which this Act extends who are outside the said territories</u>.*

The statute does not clearly define "domicile", <u>nor</u> provide guidelines on how to determine "domicile". In July 2013 the Supreme Court of India in its decision (Sondur Gopal vs. Sondur Rajini, CIVIL APPEAL NO.4629 OF 2005) found that Courts across India for years have misapplied the HMA on foreign nationals, just because they were "Hindus" and the marriage took place in

India. The requirement of "domicile" must be met in order to apply the HMA stated the Supreme Court. The Court also provided some guidelines on how "domicile" should be determined. However, several decisions in 2014 and 2015, including mine, run counter to the above Supreme Court of India decision.

The issue of the HMA, applying to U.S. Citizens, is not limited to just to Hindus, but also Buddhist, Sikhs and Jains. Refer to excerpts of paragraph 2(1)(b) of the Act:

*2. Appilcation of Act.- (1) This Act applies,-*

*(a) to any person who is a Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj;*

*(b) to any person who is a Buddhist, Jains or Sikh by religion, and*

*(c) to any other person domiciled in the territories to which this Act extends who is not a Muslim, Christian, Parsi or Jew by religion, unless it is proved that any such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Act had not been passed.*

In my own case, we are Hindu Americas, permanently residing in the United States and Reyansh was born in New Jersey, until he was wrongfully removed from New Jersey and retained in India by his mother. Her presence in India is due to her absconding from New Jersey after violating multiple U.S. State and Federal Law. It is evident to any reasonable person, that neither I nor my ex-wife are domiciled in India and thus the HMA would not apply to us, yet three different levels of Courts in India reached the complete opposite conclusion.

I urge this Committee to take special note of the broad and subjective interpretation and application of family law, which is being applied in an extra-territorial manner by Indian Courts to foreign nationals and non-residents, as a cause of concern. Our rights as an American citizen and the protections under the Constitution of the United States are being impinged upon by Indian Courts at all levels. This issue isn't just a concern for Americans, but also for other foreign litigants in India, who have to defend themselves in divorce or custody cases.

**Time for Action!**

So that begs the question, is this an endless cycle of conducting hearings, parading government and non-governmental "experts" on IPCA, and left behind parents to share their heart breaking stories, with no clear outcomes? Or are we going to address the issue of IPCA in a meaningful and permanent manner, which will end this human trauma?

The Hague Convention has been in place for over 30 years. How many hearings will it take before we can see American children being returned from countries like Brazil, India and Japan, who have either failed to recognize parental child abduction as a crime or disregarded international law and their own legal treaty obligations?

We are not demanding any special favors from our Government. But when parents are being left behind twice, once by the abductors and then by our own Government, to fight a State machinery in another country, without direct and sustained U.S. Government intervention, it is no coincidence that for every Sean Goldman, there are hundreds of Reyansh Parmar.

The seeming lack of strong will, focus and urgency across different parts of our Government to address this human tragedy is baffling! And it is directly translating into the low return rates for abducted American children and the unconscionable delays in resolving these cases across the globe. It is troubling to see that the same State actors, continue to repeat their bad behaviors without any consequence, because it appears we are too concerned about our economic, security or other interests. Which begs the questions, who will be the beneficiaries if our children do not return?

Members of the Committee don't just take my word. According to the NCMEC, **86%** of all active cases of **abductions to India are open 2 years or more** and **51%** of all active India related cases are **open 5 years or more. 21%** of all India related cases **close without the child returning or child turning 18 years.**

I respectfully urge members of this Committee and those in our Government, that you consider each of the actions listed in **Exhibit E and F** (below), and take them on an urgent, sustained and consistent basis to send a strong and clear message to abductors and Nation States who continue to harbor them, that we value our children, and if you value America's relationship, then our children must come home promptly!

**Conclusion**

Earlier this month, the U.S. Attorney for the Northern District of Illinois, indicted a Skokie, Illinois, father for international parental kidnapping of his three children and traveling with them to Turkey, on route to Pakistan, without their mother's consent, permission or knowledge. He left on May 2 and was arrested on May 6, 2015 at O'Hare Airport on arrival, as a result of swift and coordinated actions on part of the Turkish Airlines and law enforcement agencies. All three children are now safely in the United States.

We urge our Government to deliver the same kind of justice for our children who are victims of this terrible crime; including Albert, Alfred, Archit, Siva Kumar, Reyansh, Nikhita, Abdallah, Ishaan, Indira, Trisha, Pranav and dozens if not hundreds of other American children currently in India.

I will conclude with what David Goldman stated in his testimony before this same committee in May 2013:

*"These cases typically drag on for months, which soon turn into years as the abductor creates a home field advantage with endless appeals and delay tactics in their home country's legal system."*

*"This is the norm, not the exception. These cases are abduction cases and laws have been broken!!! Let's remember that these cases are not custody disputes."*

*"Let us also be clear what we left-behind families are asking for: Some people mistakenly believe we are asking our government to intervene in custody disputes. We are not. All we are asking is that when our children are kidnapped to thwart a proper resolution of custody, the law governing their return to our country is upheld."*

*"..when it comes to the international law that deals with children abducted from the United States to other lands – there is no rule of law. And the broken lives and broken spirits of left-behind parents across America, whom we represent here today, stand as a living rebuke to that failure to enforce the rule of law."*

*"The plain fact is that nations who refuse to return America's children pay no price for defying the law, and unless we arm the State Department with the tools they need to do their job and unless nations who break the law flagrantly and repeatedly suffer real consequences, nothing will change...nothing will change"*

After over two years, those words still hold true. The Department of State now has the tools in the Goldman Act to use them urgently and effectively to bring our children back. We are asking for ACTION! We are asking that you BRING OUR KIDS HOME!

Thank you Chairman Smith for Championing our cause!

**Exhibit A**

**My Case Summary**

I immigrated to the United States in 1994, at the age of 16. In July 2002 I became a naturalized U.S. citizen. In November 2002 I visited India for my marriage and immediately applied for wife's green card upon my return. She immigrated to the United States in May 2004 and worked as web designer in Princeton, NJ and continued to work for the same company until July 2013, even after the abduction of my son to India. She even started freelancing her services. In December 2007, my wife (at the time) became a naturalized U.S. Citizen. In October 2008, our son Reyansh was born. We lived together in Monmouth County at the time, where I continue to live.

On March 23 2012 wife (at the time) and Reyansh left for a five week vacation to India, to attend her sister's wedding. They went on a roundtrip booking, with a return date of April 28, 2012. Three weeks later, I joined them in India. On April 24, 2008, she announces she wants a divorce and will not return home. She also refused to allow Reyansh to return with me. She said if I take him, she will not be able to live. I took it as a threat of suicide. I obviously did not wish any harm on her, and thus was coerced to leave Reyansh behind. I was in a state of shock and did not know what to do. I had work commitments to return to and I was hoping a couple of weeks will pass and she will reconsider her decision. I left India on April 28, 2012 without my son, against my own will and returned home.

It later became clear to me the extent of deception and planning that had gone into her decision to abduct our son to India. She must have been well aware of the advantages that Indian law and judiciary poses for her and carefully planned her abduction to time it with her sister's wedding which was scheduled in April 2012.

In November 2012 she filed for divorce, child custody and other matters in the Family Court, Pune. No service was performed prior to Family Court's issuance of an interim order, the Court neither asked for it, nor question the issue of jurisdiction of an Indian Court to accept a petition where both parties are U.S. Citizens and their child is U.S. Citizen. I was thus denied due process, and this "Interim" order still stands almost 33 months after it was issued.

This wasn't the only example of questionable handling of my case in the Family Court:

- Over past 33 months, two other ex-parte "interim" orders were issued, which still stand;
- In at least two other instances, the Court did not frame the legal issue on hand and examine evidence prior to issuing an order;
- In a December 2013, the Court even misrepresented in its order, facts I had submitted to the court, and issued an order restraining me from continuing my divorce litigation in New Jersey, stating that I had submitted to the Court's jurisdiction, when I had clearly stated the contrary in my Family Court filings;

- Since 2014, I have filed 2 applications requesting temporary access to my son in India, the Court has not granted parental time and access to my son even in India. My son has only spent 17 days with me out of the 1,175 days since his abduction form New Jersey..

In June 2013, the Family Court in India dismissed my petition challenging the Court's Jurisdiction to decide divorce and related issues between two U.S. Citizens. This was despite 2 orders and an opinion issued by the Superior Court of New Jersey in February and April 2013, establishing personal jurisdiction over my wife (at the time) who was the defendant in the case. I filed a writ petition in the Bombay High Court (BHC), challenging the dismissal by the Family Court. In December 2013, the BHC dismissed my petition on a technicality after 4 months of delays.

I filed an appeal in the BHC in January 2014. The matter was repeatedly delayed, even after multiple hearing dates were scheduled. Finally, on November 28, 2014, a two Judge bench of the BHC dismissed my appeal on the grounds that; I am "domiciled" in India because I was married in India (even though I was a U.S. Citizen, domiciled and permanently living in the United States); and that I owned a portion of residential property (which is my parent's matrimonial home in Mumbai); as such I had the intention of living in India and thus domiciled in India. Here's is an excerpt from the order:

*" **The fact that he has purchased property and continues to hold property in his own name is definite indicator of the fact that he did have intention to hold this property and probably return to the domicile of origin**. It is the appellant's case that he has purchased property for his parents. If that were so there were no reason to include name of the respondent as well in the purchase documents. We are inclined to believe that the respondent harboured an intention to return to his domicile of origin in future."*

In January 2015, I filed an appeal in the Supreme Court of India, challenging the BHC and Family Court orders. The Supreme Court of India dismissed my petition at admission, without examining the evidence.

It took two years to litigate the issue of Jurisdiction alone! Multiple lawyers at different levels, having spent tens of thousands of dollars in legal costs. Yet three different levels of Courts in India, failed to recognize that Reyansh was abduction from New Jersey and retained in India in violation of U.S. and International Law, and that Indian Courts should not decide the fate of an American child, who is wrongfully removed from the United States and retained in India since March 2012.

I am now forced to re-litigate my divorce, child custody and other matters in Family Court, Pune, despite the fact that in January 2014, the Superior Court of New Jersey found my ex-wife in default on multiple counts and dissolved our marriage. The New Jersey Court granted sole, permanent, residential custody of Reyansh to me, along with parental time schedule for my ex-

wife, equitable distribution of assets (contingent on Reyansh's return to NJ) and other remedies.

Without my Government's direct intervention, I will be left to fight a "David vs. Goliath" battle with the State Machinery of India.

**Exhibit B**

iStand Response DoS 2015 Annual Compliance Report

**Exhibit C**

Where is the priority of American children for the Department of State?

Web
www.state.gov
Search with Goo
U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION
Browse by:
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Enter keyword here
Search
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ECONOMICS, ENERGY, & ENVIRONMENT
ARMS CONTROL & INTERNATIONAL SECURITY
CIVILIAN SECURITY & DEMOCRACY
PUBLIC DIPLOMACY & PUBLIC AFFAIRS
ASSISTANCE & DEVELOPMENT
Climate Change Adaptation and Resilience
Secretary Kerry (June 9): "Climate change poses a threat to every country on Earth, and we all need to do what we can to take advantage of the small window of opportunity we still have to stave off its worst, most disastrous impacts." Full Text Fact Sheet
Counterterrorism
Global Criminal Justice
Human Rights
Narcotics and Law Enforcement
Population, Refugees, Migration
Trafficking in Persons
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RSS
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Wheels down in Kyiv. Here to support impt Ukr govt & civil society-led reform efforts in face of ongoing Russian aggression in E #Ukraine.
Retweeted by Department of State
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Department of State
@StateDept
13h
The bond between Washington and Lafayette was but the opening chapter of U.S.-#France relations -- @AblinKen
Show Media
1
2
3
In Other News
Daily Press Briefing: Ukraine
U.S.-China Sub-Dialogue on Central Asia

**What the State Department Can Do:**

We can provide you with information about various resources that may assist you in your efforts to return your child to the United States;

If your child is abducted to a country that is a Hague Abduction Convention partner country, we can accept your Hague application and monitor developments concerning your child's case through the Foreign Central Authority;

We can provide a list of attorneys in the country where your child is located;

We can answer questions from local and federal law enforcement about the Department's role in international child abduction cases;

We can facilitate your communication with other U.S. government agencies and non-governmental organizations that may be able to assist you;

***What about, "We will advocate on your behalf and take all necessary steps to bring American abducted children home promptly?***

**Exhibit D**

Fact of the case of Surya Vadanan vs. State of Tamil Nadu & Ors (CRIMINAL APPEAL NO. 395 OF 2015);

- Both parties were married in India, the husband was a British citizen and the wife was an Indian citizen, who later became a naturalized British citizen after immigrating to the U.K.
- The couple lived and worked in the U.K.
- The couple had two children who are British nationals by birth;
- On August 13, 2012 the mother took the two children on a round trip ticket to India;
- Upon arrival to India, the abductor immediately filed (August 21, 2012) for divorce under the Hindu Marriage Act and custody of both children, i.e. attempted to wrongfully retain the children in India.
- The father was unaware of the filing, until the Family Court in India issued a summons on October 6, 2012. No interim order was issued by the Family Court;
- On November 8, 2012 the father filed a petition in the U.K. Court to make the children as wards of the Court;
- On November 13, 2012, the U.K. Court issued an interim order asking the mother to return the children back to the U.K., among other remedies;
- Since the mother did not comply with the earlier order of the U.K. Court, on November 29, 2012, the U.K. Court issued another interim order asking the mother to return the children back to the U.K. and requested the Indian Authorities for assistance;
- In February 2013, the father filed a *habeas corpus* petition in the Madras High Court to seek enforcement of the U.K. orders
- On November 4, 2013, the Madras High Court dismissed the *habeas corpus* petition on the grounds that, 1) "since the children were in the custody of the mother and she was their legal guardian, it could not be said that the custody was illegal in any manner"; 2) It was also noted that father was permitted to take custody of the children every Friday,
- Saturday and Sunday during the pendency of the proceedings in Madras High Court; and 3) that the order passed by the foreign court had been duly complied with and that father had also returned to the U.K.;
- On April 9, 2014, the father filed an appeal in the Indian Supreme Court, challenging the dismissal of the *habeas corpus* petition by the High Court;

The Supreme Court noted that:

a) <u>If the jurisdiction of the foreign court is not in doubt, the "first strike" principle would be applicable</u>. That is to say that due respect and weight must be given to a substantive order prior in point of time to a substantive order passed by another court (foreign or domestic);

b) It would have been another matter altogether if the Family Court had passed an effective or substantial order or direction prior to 13th November, 2012 then, in our view, the foreign court would have had to consider exercising self-restraint and abstaining from disregarding the direction or order of the Family Court by applying the principle of comity of courts
c) If there is a pre-existing order of a foreign court of competent jurisdiction and the domestic court decides to conduct an elaborate inquiry (as against a summary inquiry), it must have special reasons to do so;
d) Given these facts and the efforts made so far, in our opinion, there is no reason to hold any elaborate inquiry as postulated in L. (Minors) - this elaborate inquiry is best left to be conducted by the foreign court which has the most intimate contact and the closest concern with the children.

The Supreme Court ordered the following:

a) Since the children Sneha Lakshmi Vadanan and Kamini Lakshmi Vadanan are presently studying in a school in Coimbatore and their summer vacations commence (we are told) in May, 2015 Mayura Vadanan (abductor) will take the children to the U.K. during the summer vacations of the children and comply with the order dated 29th November, 2012 and participate (if she so wishes) in the proceedings pending in the High Court of Justice. Surya Vadanan (left behind parent) will bear the cost of litigation expenses of Mayura Vadanan (abductor);
b) Surya Vadanan will pay the air fare or purchase the tickets for the travel of Mayura Vadanan and the children to the U.K. and later, if necessary, for their return to India. He shall also make all arrangements for their comfortable stay in their matrimonial home, subject to further orders of the High Court of Justice;
c) Surya Vadanan will pay maintenance to Mayura Vadanan and the children at a reasonable figure to be decided by the High Court of Justice or any other court having jurisdiction to take a decision in the matter. Until then, and to meet immediate out of pocket expenses, Surya Vadanan will give to Mayura Vadanan prior to her departure from India an amount equivalent to £1000 (Pounds one thousand only)
d) Surya Vadanan shall ensure that all coercive processes that may result in penal consequences against Mayura Vadanan are dropped or are not pursued by him.
e) In the event Mayura Vadanan does not comply with the directions given by us, Surya Vadanan will be entitled to take the children with him to the U.K. for further proceedings in the High Court of Justice. To enable this, Mayura Vadanan will deliver to Surya Vadanan the passports of the children Sneha Lakshmi Vadanan and Kamini Lakshmi Vadanan.

**Exhibit E**

List of Overt Actions in Support of Victims of Parental Child Abductions – Abductors, Aiders and Abettors:

1) Departments of State & Justice, automatically initiate, full prosecution of abductors under 18 U.S. Code § 1204 - International Parental Kidnapping Crime Act (IPKCA), upon the confirmation of abduction case by the OCI;
2) Departments of Justice and Treasury, upon confirmation of abduction case by the OCI, should immediately freeze all U.S. assets of abductors, including social security funds, and if any assets have been transferred out of the United States, seek attachment or freeze by the country they are in;
3) If the abductor is a U.S. Citizen or permanent resident, on instructions from the OCI, the IRS to immediately initiate a tax audit; block e-filing capability; and also prevent the offending parent from claiming abducted children as dependents on their U.S. Tax returns;
4) DoS should cancel and/or deny U.S. visa to foreign Judges who have failed to recognize IPCA cases of American children or have prevented the return of American children, for violation of U.S. Law;
5) DoS should cancel and/or deny U.S. visa for attorneys who have represented offending parents in foreign courts in order to deny the abduction of American children, or prevent the return of American children, or who may have provided advice on circumventing U.S. Law;
6) An interagency prosecution is initiated 18 U.S. Code § 1204, on persons who aided and abetted the child abduction from the United States, including family, friends and those attorneys in foreign countries who may have provided advice on circumventing U.S. Law, thus facilitating the abduction.
7) DoS, through its foreign missions, to cooperate with any service ordered by US Courts on the abductors, so that Central Authorities in non-Hague signatory countries, can be bypassed;
8) If the offending parent has a visa to enter the United States, the DoS should immediately cancel the visa and flag the offending parent;

With regard to actions #6-7 in Exhibit E, we have come across opportunist attorneys who provide a "recipe" for parental child abduction and/or the avoidance of foreign court jurisdictions. Here is an extract from an Indian attorney Anil Chawla's legal analysis from a website states:

*"Indian judicial system has a reputation of being slow and inefficient. This is true in some cases. However, in many cases the Indian system can be fast as well as better than of many other countries. Especially in matters concerning women and children, Indian laws and judicial system are second to none in the world. Some may even argue that Indian women enjoy such rights that men are a disadvantaged and discriminated lot. Without commenting*

*on that, **we can only advise all the women who wish to take benefit of Indian laws and legal system to avoid facing up to any foreign judicial system.**"*

The views of Mr. Chawla aren't isolated, especially given the number of parental abduction cases to India from the United States, U.K., Canada, Australia, other countries. U.S. policy makers and law enforcement need to understand the culture, attitudes and laws within each of these top destinations of child abductions, including India to tailor a specific approach to counter it.

**Exhibit F**

List of Overt Actions in Support of Victims of Parental Child Abductions – Non Compliant Nations Remedies:

1) DoS should expand and enhance their data gathering and tracking of abduction cases by leveraging sources such as U.S. Family Courts, Police Department Records, NCMEC, FBI and others, and confirm parental abduction cases if they haven't been directly reported to the Office of Children's Issues ("OCI");
2) DoS should apply the provisions of Section 202 of the Goldman Act to the fullest extent of the law for those Nations that have exhibited a pattern of non-compliance in resolving IPCA cases;
3) DoS, deploy a permanent attaché of the OCI at U.S. Missions in countries that are Top 10 abduction destinations, to ensure pending cases are being worked to fair and quick resolution;
4) DoS and Congress must attach as a condition the prompt return of American children (within 30 days) along with significant financial costs for non-compliance, for pending outbound child abduction cases, to all trade and defense agreements with those Nations who have exhibited a pattern of non-compliance in resolving IPCA cases;
5) An interagency action be initiated, comprising of the DoS, DoJ and DHS, to establish or enhance existing extradition treaties with those Nations that are Top 10 destinations for abducted American children. If those Nations do not cooperate, we must freeze all extradition requests from those nations until our extradition request are honored;
6) House Foreign Affairs and Senate Foreign Relation Committees, pass joint resolutions to seek the prompt return of abducted American children from those Nations who have exhibited a pattern of non-compliance in resolving IPCA cases;
7) Congress pass a resolution to direct the Executive Branch to engage the United Nations and it's various agencies to help raise awareness of IPCA in all countries, paying special focus to Top 10 destinations for abduction from around the world;
8) Congress either delay or block passage of key aid, agreements or treaties impacting those nations who have exhibited a pattern of non-compliance in resolving IPCA cases;

**U.S. Department of State Annual Report on International Parental Child Abduction (IPCA)**

**Position Statement**
**June 9, 2015**

iStand Parent Network is a coalition of parents, organizations and stakeholders united to prevent and remedy international parental child abduction (IPCA) and wrongful retention of American children held abroad. We have profound concerns about the veracity, structure, content and compliance of the U.S. Department of State Annual Report on International Parental Child Abduction submitted to Congress May 15, 2015 and also made publically available via the State Department website. This position statement excerpts portions of the Report that reflect some of those concerns.

We urge members of Congress to continue oversight of the State Department's implementation of the International Child Abduction Prevention and Remedy Act of 2014 (ICAPRA), also known as 2014-enacted "Sean and David Goldman Child Abduction Prevention and Return Act"(Goldman Act). **We request that members of Congress raise important questions with responsible officials at State about how the Goldman Act has been interpreted, the methods by which data was collected and translated, and the utility of the report for assessing both country compliance and State's efforts to successfully resolve cases either through successful returns or parents' access to our abducted children abroad.**

**Content and Structure**

- The report fails to answer the very basic and paramount questions of "*How many abductions are occurring over time?*" and "*What percentage of abducted children are returned over time?*" This snapshot analysis, which appears to have conflicting reporting periods, is insufficient to assess the scope of the problem and the relative successes or failures of federal intervention.

- With respect to the specified annual reporting requirement, stipulated in Title 1 Sec. 101 of the Goldman Act, State should also include a longitudinal element to track these statistics over time. Figure A. suggests a sample 10-year running chart (with mock data) that would answer these questions. This same type of chart could also be produced for individual countries.

**Data Collection and Reporting Inconsistencies**

- Two separate reporting periods are listed in the report: October 1 to December 31, 2014 and Calendar Year 2014 (CY 2014), it is unclear what is the reporting timeline. The Law stipulates January 1-December 31.

- Table 1 relates to only new cases reported in 2014. The title is very misleading and should be amended to read: Countries and areas with abduction cases opened in 2014.

- Table 2 lists several instances in which the number of resolved cases for CY 2014 exceeds the number of reported cases in CY 2014. The table also lists countries with five (5) or more cases during CY 2014, but does not reflect the total number of cases.

- On page 30, Table 4, Key A, the report defines one of the criteria for non-compliance as 30% of the total abduction cases are unresolved abduction cases as defined by ICAPRA. Yet there are countries listed in pages 15-19, Table 2 in the column marked "Resolved Cases (Number and Percentage)" that exceed the threshold that are not being listed as non-compliant on page 31. In fact using their numbers, a quick scan says that most countries listed have more than 30% unresolved cases.

- The children of at least three coalition members who are *currently* abducted and have active cases with the Office of Children's Issues during the designated reporting period are not represented in the Report numbers. We questions whether any children are actually counted

**Ambiguity**

- The definition and reported numbers of "resolved cases" is unclear. State cites one section of the Act for its definition but excludes the very specific and intentionally broad definition outlined in 22 USC 9121 sec 201 (b)(1)).

- Section 5.2 makes clear that State does not wish to pursue economic sanctions and does not specify which diplomatic, non-sanction remedies have "not been exhausted" to gain the compliance of countries with patterns of noncompliance.

**Department of State Responsiveness and Accountability in Implementation**

- The report was released to Congress on May 15, 2015, whereas State was mandated by ICAPRA to submit the report to Congress no later than April 30, 2015.

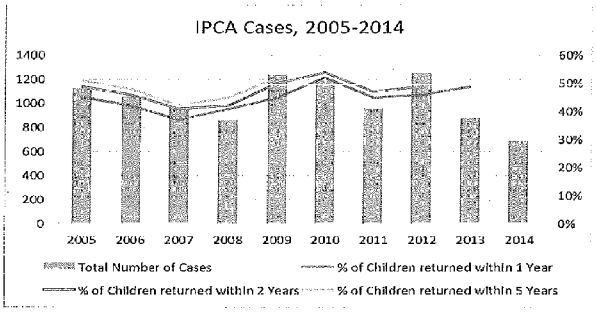
- The report routinely defaults to the U.S. Central Authority's push for countries that already are non-compliant to accede to the Hague Convention on the Civil Aspects of International Child Abduction.

- Page 26 extensively chronicles USCA efforts to gain Japan's accession, stating that there are still more than 50 cases of abduction to Japan and that none have resulted in either meaningful access or return of the child to the United States. Yet, Japan is not reported as non-compliant

- Similarly, Mexico is reported to have 169 abduction and 10 access cases in CY 2014 alone, but is not listed as non-compliant on Table 4.

We believe the intent of Title I of the Goldman Act is to bring quantitative accountability and improved federal efforts to assist parents in resolving IPCA. The annual compliance report also can be a valuable tool for gaining compliance from foreign nations where American children are held. Congress' bold action through its bipartisan passage of ICAPRA has already had an energizing effect on the parent community, giving us more tools and greater access to potential solutions to bring our children home. iStand Parent Network firmly believes that proper implementation of all elements of the Goldman Act, including reporting practices, can have a similarly catalytic effect on federal agencies who assist parents in this goal.

**Figure 1.**




BAC HOME BRING ABDUCTED CHILDREN HOME

Jerry's Army

*End Abductions Now!*

Mr. SMITH. Mr. Parmar, thank you so very much for your testimony and for your very extensive list of recommendations including for aiders and abettors of child abduction.

I think, you know, all of your testimonies are brilliant and I thank you for those very specific recommendations.

Mr. Findlay.

**STATEMENT OF MR. PRESTON FINDLAY, COUNSEL, MISSING CHILDREN'S DIVISION, NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN**

Mr. FINDLAY. Thank you, Chairman Smith and distinguished members of the subcommittee. I am pleased to be here this afternoon on behalf of the National Center for Missing and Exploited Children.

First, I would like to take a moment to thank you personally, Mr. Chairman, and other members of the committee for your tireless efforts on behalf of the families impacted by the terrible crime of international child abduction.

The enactment of the Sean and David Goldman Act provided families and their supporters with additional tools to bring their children home and I appreciate your work to help ensure it is implemented in the manner that Congress intended.

As you are aware, and it is elaborated further in my written testimony, for years NCMEC has focused on the problem of international child abduction, working with the State Department and law enforcement agencies to assist the impacted parents and families.

Today, in our distinct role as a nonprofit nongovernmental organization, we continue to work with families, as we have with each of the parents here today, to apply our experience, networks and resources to help them locate and recover their children.

You have heard today clearly that significant challenges remain. There are still several countries, including Japan, India, Tunisia, among others, in which systemic problems lead to lengthy delays and a lack of any real progress toward the recovery of U.S. children.

For just one example, India currently represents the individual non-Hague country with the highest number of active abduction cases noted in NCMEC's own statistics and those statistics illustrate the exact same depressing reality facing the individual parents who have shared their powerful stories today.

NCMEC is currently assisting families in 53 total child abduction cases to India right now and of those open cases 51, almost the entire total, have been active for longer than 1 year.

In nearly half of those cases to India the parent has been seeking the return of their child for more than 5 years. When that much time has passed since a parent was separated from their child, phrases like delay, or unresolved, or noncompliance are not adequate to describe that situation. It is much more appropriate to describe it as heartbreaking.

The statistics and outcomes that NCMEC has submitted to the subcommittee, this is not comforting information. But every single statement we have heard today illustrates that information is important.

The annual compliance report produced by the State Department has long served as the only comprehensive source for information to evaluate the performance of foreign nations in the most important metric there is—how many and how often are abducted U.S. children recovered.

The compliance report is a tool. It's a tool that NCMEC and I personally utilize nearly every day to educate parents and professionals.

For those concerned that an abduction might occur, the information it contains is utilized to assess the risk associated with the potential international abduction and it is also directly relied upon by families, attorneys, courts, law enforcement agencies, and others to support their efforts in implementing safeguards to ensure a child is not wrongfully removed from the United States in the first place.

The question that is always posed by each of these interested parties is, "What can I expect?" and the compliance report helps to fill in that answer.

For those families that have already experienced the tragedy of an international abduction, the report is a tool that NCMEC uses to inform parents of the specific challenges that they might be facing and to help them sort through what realistic avenues are available for recovering their child.

Among the most common fundamental questions asked by parents in this terrible situation is, "What can I do?" and, again, the compliance report has often helped in some small part of fill in that answer.

As you have heard, there have been numerous concerns identified about the breadth of information contained in the State Department's first compliance report issued under the requirements of the Goldman Act and whether or not it contains sufficient details to continue serving as a useful tool to answer the questions of parents, families, and professionals.

Because NCMEC serves as an information clearinghouse, we uniquely appreciate the importance of detailed information when a child has been lost.

Mr. Chairman and other members, I thank you for the chance to share with you to help ensure that the most useful and complete information is always available and, most importantly, to help you implement better solutions.

My hope and anticipation is that each successive compliance report continues to expand on existing knowledge and to serve as an even more useful tool than the last report.

I am happy to answer any questions about NCMEC's own programs and our role or to otherwise provide any additional information similar to the statistics that I have submitted to the subcommittee, anything I can answer to assist you with your work.

I thank each parent for sharing their story and I encourage this subcommittee to continue your action and ongoing support for these families who seek to bring their children home.

Thank you.

[The prepared statement of Mr. Findlay follows:]

**Statement by**
**Preston A. Findlay, Counsel, Missing Children Division**
**The National Center for Missing and Exploited Children**

**Hearing on**
**The Goldman Act to Return Abducted American Children:**
**Assessing the Compliance Report and Required Action**
**June 11, 2015**

**Subcommittee on Africa, Global Health, Global Human Rights,**
**and International Organizations**
**Committee on Foreign Affairs**
**U.S. House of Representatives**

Chairman Smith, Ranking Member Bass and Members of the Subcommittee, I am pleased to be here this afternoon on behalf of The National Center for Missing and Exploited Children (NCMEC).

NCMEC was created as a private, non-profit organization in 1984 and designated by Congress to serve as the national clearinghouse on issues relating to missing and exploited children. NCMEC provides services to families, private industry, law enforcement, victims, and the general public to assist in the prevention of child abductions, the recovery of missing children, and the provision of services to combat child sexual exploitation. NCMEC performs 22 functions, including those related to assisting law enforcement, families, and others regarding international family abductions.

**NCMEC's Historical Role in International Abductions**

Since its inception, NCMEC has been heavily involved in combatting child abductions. Because of our connections to international, federal, state, and local law enforcement agencies, and international and domestic non-profits, NCMEC frequently transmits information regarding missing and exploited children to law enforcement and other agencies across the globe. NCMEC has also been designated by Congress to track and report on the number of missing children cases, including family abductions.

Unfortunately, NCMEC has accumulated voluminous statistics over more than 30 years of helping parents deal with the worst situation their family has ever encountered. In 2014 alone, NCMEC opened more than 1,500 new cases of family abduction, including 371 reports of children wrongfully removed from the United States. Last year, 69% of those international reports involved children taken to a country that is a party to the Hague Convention on the Civil Aspects of International Child Abduction.

From 1995 through April 2008, NCMEC fulfilled the functions of the United States Central Authority under the Hague Convention for all "incoming cases," cases in which a parent abducts a child into the United States from a treaty partner country. NCMEC's work on incoming cases was performed on behalf of the United States Department of State ("Department of State") pursuant to a cooperative agreement among the Department of State, the United States Department of Justice, and NCMEC. NCMEC handled approximately 5,600 incoming cases before the Department of State assumed primary responsibility over all incoming cases in 2008.

During NCMEC's involvement with incoming cases, we assisted left-behind parents with assembling their applications for relief under the Convention, securing legal counsel, obtaining law enforcement assistance and social services as needed, and obtaining clarification of foreign custody laws from foreign authorities. Although NCMEC no longer handles incoming cases, we maintain our partnership with the Department of State and relationships with foreign Central Authorities and non-governmental organizations to continue providing technical assistance and resources to parents, attorneys, judges and law enforcement officials involved in these cases.

**NCMEC's Interaction with the Department of State**

Today, NCMEC works together with the Department of State's Office of Children's Issues to assist families in cases of international parental abduction. This complementary relationship has continued in the years since the 2008 handover of Central Authority duties, and on a daily basis, NCMEC case managers coordinate with counterpart Department of State country officers to provide the best possible service to parents. The overall goal of both agencies is to ensure that parents are aware of every available resource from each agency and that neither duplicates any efforts while aiding a parent's progress towards recovering their child.

More specifically, in complement to the services provided to parents by the Department of State, NCMEC creates and distributes missing child posters to help locate children subject to law enforcement investigations or Hague Convention proceedings. In addition to applying the same carefully coordinated support, analytical and technological resources NCMEC devotes to each missing child case, NCMEC engages in regular meetings with consular affairs management and hemisphere or region-specific teams to discuss international trends and specific international cases.

NCMEC also continues to offer assistance directly to parents, law enforcement, attorneys, and consular officers as requested in our particular areas of strength, including:

- **Training & Education** – NCMEC has trained foreign-service and civil service officers as well as provided formal courses at the Foreign Service Institute and informal presentations about NCMEC resources in multiple venues. NCMEC also continues to produce written guidance and publications for varied audiences including NCMEC's comprehensive family guidebook "Family Abduction: Prevention & Response," NCMEC's Hague Convention manual for

attorneys, "Litigating International Child Abduction Cases Under the Hague Convention," and NCMEC's guide for law enforcement, "Missing and Abducted Children: A Law-Enforcement Guide to Case Investigation and Program Management."

- **Law Enforcement Relationships** – NCMEC has extensive working relationships and years of experience providing technical assistance and training to law enforcement agencies in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children. This network of connections can provide invaluable assistance to the families we serve by ensuring each case benefits from investigative best practices and direct referrals to the appropriate agencies to locate children, enforce court orders, and apprehend fugitives. With every family abduction, NCMEC emphasizes that, regardless of distance or destination, and whether the situation is intrastate, interstate, or international, a parent reporting their missing child deserves a robust response from law enforcement. Although it does not apply to every situation, it is important to remember that, regardless of existing civil remedies and treaties, many children who go missing because they have been taken by a parent are, in fact, victims of an ongoing state or federal crime.

- **Reunification Services** – NCMEC administers a Victim Reunification Travel grant from the Department of Justice Office for Victims of Crime to provide financial assistance for left-behind parents to attend Hague Convention proceedings or be reunited with their child located in another country when the family cannot pay to travel. This is often the only time a parent may actually get some minimal financial assistance with the overwhelming expense to locate and recover their child. The Office for Victims of Crime provided $234,027 to support 73 abduction cases involving 108 children in 37 countries during fiscal years 2011 and 2012. Since the Victim Reunification Travel program began in 1996, NCMEC has distributed nearly 500 awards involving more than 700 total children.

**NCMEC's Unique Role in International Child Abduction Recovery**

Today, while assisting with an international family abduction case, NCMEC does its best to ensure that parents are aware at every stage of all possible options to safely and lawfully recover their child. For example, NCMEC can connect parents with information regarding pro bono legal resources and, in turn, NCMEC provides legal technical assistance to attorneys at any stage of a child-abduction litigation, including discussing legal questions, referring attorneys to mentors, discussing alternate legal strategies, arranging logistical support, providing third party referrals for counseling and other support, and troubleshooting.

Additionally, NCMEC regularly utilizes many of the relationships developed when we were fulfilling the incoming case functions of the United States Central Authority, with legal representatives, foreign Central Authorities, and other agencies in many Hague Convention Contracting States. NCMEC's involvement with these key stakeholders, both domestically and

internationally, provides valuable insight into the operation of the Convention inside and outside the United States.

NCMEC also continues to provide assistance to families in "outgoing" abduction cases where a parent takes a child from the United States to a Contracting or non-Contracting State. In the last 20 years, NCMEC has provided assistance on over 5,900 total outgoing international family abduction cases

**Recovery of Children from Non-Hague and Non-Compliant Countries**

When a child has been taken to a country that has not signed, or regularly fails to comply with, the Hague Convention, the most prominent option for recovery may be absent, but generally speaking, an array of strategies remains available. As a non-profit, non-governmental organization founded specifically to support child victims and their families, NCMEC fills a unique role, and often is able to provide parents with a wider range of recommendations for tools and strategies to recover their children. At times, this role also allows NCMEC to push or prompt the government agencies involved to look beyond their own typical perspective – viewing strategy beyond a diplomatic or criminal justice lens, for instance. Every case is unique, but below are examples of the array of strategies NCMEC utilizes to assist families and the professionals who serve them as we work to recover internationally abducted children.

- **Civil Remedies** – Without question, the most powerful tool in this category is the Hague Convention itself. In non-Hague countries, civil remedies may be much more limited, but *some* non-Hague countries still have a formal or informal legal process for granting comity to child custody rights that originate in the U.S. NCMEC pays close attention to ensure that parents benefit from past examples in which abduction cases were resolved under even the longest odds or most difficult circumstances in countries like India and Japan. One brief example, involved a father from California whose sons were abducted and taken to Singapore. Preventing this abduction was impossible since the children were taken without warning by their mother during a regular visitation period. Only after tremendous personal expense and exhaustive efforts throughout the following year, was the father finally able to have his custody rights recognized and enforced by the courts of Singapore. A criminal arrest warrant and law enforcement notices were not recognized, nor had the Hague Convention entered into effect in Singapore at the time, so without the father's own tireless efforts across multiple fronts he may never have succeeded.

  There are also nearly 20 additional nations that have signed the Hague Convention, but have not yet been accepted by the U.S. government so a treaty partnership has not yet entered into force. At one time, these non-recognized countries at least signaled some intention to join the international community that acknowledges parental kidnapping is harmful and that parents need a civil legal mechanism to seek the return of wrongfully removed children, so it may be appropriate to reconsider whether acceptance might serve the interests of U.S. families.

Finally, the Hague Convention itself only deals with the custodial rights that were in place at the time the abduction occurred. But because of a broader perspective, NCMEC is careful to remind parents and families that waiting too long to take action in U.S. courts following an abduction may close the window of opportunity for obtaining judicial assistance.

- **Criminal Remedies** – When enacting the federal International Parental Kidnapping Crime Act (IPKCA), Congress gave specific deference to the Hague Convention. In turn, when enforcing the IPKCA statute, the Department of Justice continues to encourage investigators and prosecutors to defer to the civil remedies available under the Hague Convention. For these reasons, it is common for parents to express frustration or describe a myopic criminal justice response when they approach law enforcement agencies for assistance. If the Hague Convention does not apply or is improperly applied in specific countries, however, deference to the treaty may not be as necessary or appropriate for all cases. The U.S. has formal criminal extradition treaties as well as Mutual Legal Assistance Treaties with a variety of countries that may still be explored as a possible bilateral solution.

  It is true that criminal charges related to international parental kidnapping apply only to the adult abductor and do not guarantee the return of the child he or she abducted, but a significant number of recoveries reported to NCMEC from both Hague and non-Hague countries were a result of law enforcement efforts in the U.S. or the destination country. In 2014, more than 22% of NCMEC's outgoing international family abduction recoveries involved children who were returned as a direct or indirect result of law enforcement action.

- **Agreed or Voluntary Resolutions** – Many cases are resolved by formal agreement or by voluntary action on the part of the abducting parent. Consistently from year to year this ranks as one of the largest category of returns recorded in NCMEC statistics for Hague and non-Hague countries alike. However, if there is no prescribed treaty or civil process (functioning properly) to invoke the foreign court's jurisdiction or otherwise legally require the parties to mediate or seek a settlement in good faith, then all leverage may ultimately tip towards the taking parent, making an agreement much less likely overall. And, without an appropriately functioning treaty, any agreed solution reached by the parents may be only temporary, since there remains no adequate recourse for any future wrongful abductions, retentions, and violations. So, while it is important to emphasize mediation, NCMEC takes care to discuss this option with parents as one among several possible solutions to international child abductions.

**Focus on Prevention**

Each day, NCMEC strives to transform accumulated statistics regarding missing, abducted, and exploited children into a positive by crafting audience-appropriate safety and prevention messaging for families. Safety messaging related to the risk of strangers and people outside the family harming a child quickly gained wide acceptance. Unfortunately, NCMEC still must often emphasize the basic message that family abductions are inherently harmful, before moving on to

address the particular risks and need to prevent family abductions. When providing information to help prevent international child abductions, NCMEC focuses on the risk of abduction, the obstacles to recovery, and the potential harm to the child.

NCMEC's emphasis on prevention should never be seen as placing blame on a victim or a family, as if they could have prevented it, or stopped this crime from occurring. Too many parents had no warning at all. No court proceedings or acrimonious separation, just an unexpected tragedy.

Title III of the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014 ("Goldman Act") incorporated an important and positive focus on prevention. NCMEC has been encouraged by the early meetings of the interagency working group established by the Goldman Act and were grateful for the invitation this year to NCMEC staff who presented and shared our perspective on preventing international abductions. We look forward to future collaboration.

Preventing international abductions requires information. In a literal sense, to stop an abduction-in-progress requires U.S. officials to have knowledge and time to act. But often, with adequate and accurate information, abductions can be prevented much earlier - before the child is already en route out of the country. With increased awareness, parents are more likely to raise concerns earlier and, with the adoption of domestic laws like the Uniform Child Abduction Prevention Act (now enacted by 14 states and D.C.), family courts are more receptive to specific information about the risks associated with international child abduction. Incomplete or non-existent official information can lead to misperceptions—like assuming a country's accession to the Hague Convention means that abductions to that country will always be resolved with an efficient return.

Nearly every day, NCMEC provides information to parents, attorneys, and courts about the overall risks of international abductions, but also about the specific outcomes and resolutions experienced with particular countries, as well as the associated length of time before resolution. In many instances, the Department of State, other government agencies, law enforcement officers, attorneys, service organizations, and advocacy groups refer parents with concerns of international abduction towards our resources because they fill a growing need for prevention information. For example, earlier this spring, NCMEC was able to assist a constituent referred by the Subcommittee Chairman's staff with her concerns about a potential abduction to India and her requests for information about the risks related to that country.

**More Work Remains**

Enacting the Goldman Act was a significant achievement, but more work remains to ensure its purpose is fulfilled. Every parent in the U.S., every family court, and every relevant law enforcement agency needs to be made aware of the possibilities and likely outcomes if a child is abducted to, or wrongfully retained in, another country. When it cannot be successfully prevented,

every parent who has already suffered from an abduction, and every agency assisting them, must be aware of what obstacles others in their situation have faced. When a parent is considering their options and seeking assistance to recover their child, they must know all possible avenues for recovery including civil, criminal, and agreed/mediated remedies.

Thirty-one years ago, NCMEC was created out of tragedy, and we work every day with the hope and goal that the next call we get from a grieving family is the last one we ever receive. The message of prevention is ingrained in our mission. At the same time, we ensure all resources are utilized to help parents dealing with the tragedy of international child abduction. It is our hope that increased knowledge and information helps ensure this will not happen to another family.

In closing, I have included with my testimony statistics regarding active outgoing international family abduction cases, and new cases reported in 2014. Please note, these statistics reflect only situations reported to NCMEC, and thus are not comprehensive nor do they represent an official U.S. government report regarding international child abduction. The information does reflect common trends observed by NCMEC in countries which have not signed the Hague Convention, or which have been cited repeatedly by the U.S. Department of State for non-compliance with the Hague Convention.

Thank you for the opportunity to provide you and the Committee with our perspective and information on international child abductions. We look forward to continuing to work with you, the Committee and other Members of Congress on ways to ensure families have the resources and support necessary to return their abducted children.

**NCMEC STATISTICS REGARDING INTERNATIONAL FAMILY ABDUCTION**

In 2014, NCMEC opened more than 1,500 new cases of family abduction, including 371 reports of children wrongfully removed from the United States ("outgoing cases"). Last year, 69% of new international outgoing cases involved children taken to a country that is a party to the Hague Convention.

In 2014, 292 existing outgoing international cases listed with NCMEC were successfully resolved with the recovery of the abducted child, including 214 from Hague Convention partner countries. One hundred twenty-six of the successful resolutions last year involved children who were returned or allowed access to the left-behind parent solely because of voluntary action on the part of the taking parent, including 83 from Hague Convention partner countries. Sixty-five of the successful resolutions last year involved children who were the subject of Return or Access Orders issued under the Hague Convention. Finally, 65 of the successful resolutions last year involved children recovered through law enforcement action in the foreign country or in the United States, including 48 from Hague Convention partner countries.

NCMEC is currently assisting with 54 active child abductions to Japan. In 50 of the active cases involving children taken from the U.S. to Japan, NCMEC has been seeking the return of the children for longer than one year, and 36 of those active cases (a full two-thirds) have remained unresolved for 5 years or longer. The Hague Convention entered into force between the U.S. and Japan more than one year ago, however NCMEC remains unaware of any case in which the treaty was utilized to return a child to the United States.

NCMEC is currently assisting with 22 active child abductions to Brazil. In 20 of the active cases involving children taken from the U.S. to Brazil, NCMEC has been seeking the return of the children for longer than one year, and 8 of those active cases have remained unresolved for 5 years or longer. Although Brazil is a Hague signatory, the treaty accounts for a small amount of the returns noted in NCMEC's records. In more than half of the successful outcomes from Brazil noted in NCMEC's records, the children were returned or allowed access to the left-behind parent solely because of voluntary action on the part of the taking parent.

NCMEC is currently assisting with 53 active child abductions to India. In 51 of the active cases involving children taken from the U.S. to India, NCMEC has been seeking the return of the children for longer than one year, and 26 of those active cases (nearly half) have remained unresolved for 5 years or longer.

NCMEC is currently assisting with 6 active child abductions to Tunisia. In all 6 of the active cases involving children taken from the U.S. to Tunisia, NCMEC has been seeking the return of the children for longer than one year, and 2 of those active cases have remained unresolved for 5 years or longer.

Mr. SMITH. Thank you so very much, Mr. Findlay, and I want to thank you and the National Center for Missing and Exploited Children.

The Senate finally had the bill on the floor, which I had introduced 5 years ago, and it was on the fifth anniversary of the introduction of the bill in the House that they finally got to vote on it.

But NCMEC was very involved. Your letters of support and endorsement were key because many Members were unaware and there were a lot of balls in the air.

A lot of people are multitasking every day of the week here, and it helped to pierce through and say, "Oh, they are for this—what does the bill do?"

So I want to thank you for that very, very important and pivotal support that you provided as well as the work that you do on behalf of the families and the families on behalf of themselves and for each of those who have testified what you do for all the others.

I mean, I have always been so encouraged and deeply impressed and how you never just fight for your own child or children. You reach out and you try to help others who are similarly hurt by the abduction. So I want to thank you for that leadership as well.

And I hope that the American public—we are very grateful that C–SPAN decided—because they get to pick, they have editorial judgment as to what hearing merit their coverage—to come and hear you as well as the administration speak to this issue.

So we are grateful that they are now able to take that message throughout the entire country so that people will know the agony that you face and the frustrations that you face as well.

Let me just ask Ms. Barbirou, if you would. I know you do support with others who are left behind. Could you tell the subcommittee, with some detail, if you would, what it is like to wake up, you know, every morning knowing that your child has been abducted, not knowing what is happening during the course of the day?

I mean, all of you might want to speak to that. As a father of four children and grandfather of four grandchildren, I can't even begin to sense how traumatizing that has to be on a daily basis, year in and year out.

You know, Captain Paul Toland is here. His daughter was abducted when he was deployed to Yokohama and the mother of his child has passed and he can't even get his own child back.

I mean, as you mentioned, Dr. Savoie, in your testimony, his case. If you could speak to the pain that it imposes upon you it would be helpful for the subcommittee to get that sense.

Ms. BARBIROU. Thank you, Chairman.

I don't know that you can verbalize the pain. I can say that it is something you have to work through. It is devastating every day to, as you said, you can't imagine it. But even when it is happening to you, you can't imagine it. It is a nightmare that continually goes on, and for me I am grateful that I do have my daughter with me and through her I am able to witness a piece of my son on a daily basis and that is a tremendous blessing that I am firmly aware that so many other parents do not have the gift of. And for them, I can say for each of us our cases are different.

Our circumstances differ. But we can feel each other's pain. We can feel each other's tragedy. I sat here and spoke with Mr. Savoie and I want to cry for him, and it is not something that I feel I can personally put into words but just ask you to try to imagine.

And knowing that you can't ever get to the point of understanding that depth of devastation realize that it is equally difficult to put into words.

Mr. SMITH. Mr. Savoie.

Mr. SAVOIE. All I can do is really echo those same statements that there really are no words for this kind of pain, this kind of trauma. Daily, hourly, every time you see a child in a supermarket it reminds you.

And I am also a stepfather as well and I have stepchildren and every time I go to a sporting event or hug my stepchildren I am reminded that I am not able to give that same love and care to my own biological children and I think all of us feel that way.

We are constantly reminded that we are parents. You don't lose that. It is a biological imperative. It is part of our fabric, part of the fabric of our beings, and that love is being denied.

And then you start feeling the empathetic pain for the child. That is the other thing. As a parent, you don't think oh, I am being denied something—I am being stopped, and that is true, we are.

We are victims. We are crime victims. But our children had no choice in this matter whatsoever and you empathize with them—all the hugs they are missing, all the sporting events that they could have with you, the opportunity to speak your native language with them.

All of that gone, and it would be great if at some point we could find a justice system that would give us back that time. But the truth is Congress cannot give us back that time. The U.S. Government cannot give us back that time. God Himself cannot give us back time with our children.

It is gone forever. And so we are left with the pain and the suffering and the parents here and many of these parents have chosen maybe as a bit of therapy to give back and help prevent these things from happening to other people and to work together to help return these children in some measure and not lose more time.

Mr. PARMAR. Chairman Smith, I 100 percent agree with what was just said. I think, again, just reminding that this is a human problem. These are lives that we are talking about.

If we just focus on that and try to decouple it with law and diplomacy and everything else, the geopolitical power games and everything else, then we can solve it.

As long as this stuff is out there in terms of technocratic stuff, we are really missing the point.

Mr. SMITH. Mr. Findlay, in their testimony just a few moments ago Ms. Christensen had said that the new law is already encouraging more countries to consider becoming party to the Hague Convention or to improve their performance under the Convention if they are already a party.

Are you seeing any similar trends? I mean, is the law beginning to make a difference, in your opinion? And again, and I would say this as a source of encouragement, if we had the report right—and I think on Japan it is egregiously flawed, it is a whitewash, it is

awful, I can't think of any more words to describe it—and as you recall earlier when—from the testimony from our friends from the administration I did ask that they go back and relook at it and reissue portions where they got it wrong.

There was nothing wrong with the definition of "unresolved abduction case," which is why I read the definition right from the text to make that clear.

They have misread that, clearly, somehow, and as I said earlier, and before you answer, I am concerned, again, at a previous hearing when Ambassador Jacobs said, "I don't think we are going to sanction Japan, or threaten them with sanctions, because I think that would be detrimental to our bilateral relationship."

A bilateral relationship, like any friendship, needs to be based on trust, it needs to be based on honesty, clarity and not putting uncomfortable truths under the table like this egregious wound that it does to your children as well as to left-behind parents of parental child abductions.

So shame on us if we do not say, looking them straight in the eye, this has to improve and this is a very serious issue between our two countries because we care about the kids—the abducted children—and we care about the left-behind parents.

So Mr. Findlay.

Mr. FINDLAY. Thank you, Chairman Smith.

I think, as you have stated and I have reiterated several times in my testimony I see the Sean and David Goldman Act as a tool—a tool of recovery but also a tool potentially of prevention and some of the most promising differences that I have seen in the time since it was enacted have been steps—slow steps toward improving our Nation's response to preventing an abduction from occurring in the first place.

I have indicated that the information the National Center submitted in our written statement regarding the active cases to Japan where 50 out of 54 active cases have been ongoing for longer than a year, 20 out of 22 active cases to Brazil have been going on longer than a year, 51 out of 53 to India have been going on longer than a year and all six of the cases we are currently working on in the country of Tunisia have been active for longer than 1 year.

That is not comforting information. We are happy and pleased with the opportunity to present that kind of information and to give that perspective and that picture to other parents and to the committee as you try and get a real perspective on whether or not these countries are complying.

But that remains a depressing picture and that remains a depressing picture even in the months since the Goldman Act has been passed. So I am hopeful and I am optimistic. But the active cases remain the way they are.

Mr. SMITH. This is—as you all know, the next shoe to drop will be on the sanctions portion vis-à-vis the 22 nations which ought to be 23.

Japan has to be on that list, and there are very serious repercussions which I hope the administration will use as that toolbox and we will hopefully hear from Ambassador Jacobs in July as to how that is going so that we don't get a designation without commensurate sanction so that the countries know that we mean business.

There are two other areas that I have worked on very closely—trafficking I mentioned and international religious freedom—and very often we have seen a lack of enforcement of sanctions when it comes to other human rights abuses.

So this, hopefully, is an opening for the administration to say if you use the toolbox right, if you say we mean business, sanctions will be deployed and the quickest way to get those lifted is to, obviously, resolve the cases in a way and return is the ultimate resolution of the case.

Let me just ask you, finally, to what extent any of you might want to speak to this do you believe that corruption abroad—Mr. Findlay, you might want to speak to this—in terms of judicial system, judges, a foreign ministry that might be susceptible to corruption.

We know that corruption is a huge problem in many countries. It is a bad problem here in the United States. What would you say to that? Has that caused some of this?

Mr. FINDLAY. I will try to do my best to answer your question—to some extent I would defer on the realities that individual parents have faced and the frustrations they have faced in their own cases to the parents who have lived it. And so I wouldn't presume to speak to each individual situation.

What I will say, especially as that question relates to the purpose of this hearing, is that one of the most useful pieces of information contained in previous compliance reports has been detailed descriptions of the performance problems in countries that are a concern for noncompliance.

When previous reports listed concerns, for instance, about judicial performance there was significant detail provided for a country that has not been spoken about today but a country such as Costa Rica where there were in past compliance reports detailed descriptions of the problems that the United States noticed in the application of the treaty's principles in their courts when considering Hague Convention cases.

They remain noted, I believe, in the current report as do numerous other countries. However, to some extent some of the detail and the level of depth on what exactly led to those designations does not exist in the current report and as I look at this as a useful tool to educate and to make everyone aware of not just existing problems but how to prevent this it is important to make sure that the level of depth and the level of detail remains and——

Mr. SMITH. Mr. Findlay, I think your point is extremely well taken. On Page 30 of the report it has countries demonstrating patterns of noncompliance and there is an A, B, C, D, E with, you know, foreign central authority performance, judicial performance, law enforcement performance and, of course, persistent failure of non-Convention countries to work with the United States Central Authority to resolve abduction cases.

Then when you turn to the next page where it has the 22 countries, it has Brazil, ACD; India, E. And you are right, so that level of reporting needs to—a point very well taken—break out so we know and so that they know and so there is real transparency about what is the depth of the problem.

More is more here and we need more. This is—I mean, you got to keep referring back to say what is E. It shouldn't be that way. So thank you for that. That is a good insight.

Would any of you like—yes?

Mr. SAVOIE. I think in Japan we have a—I would not describe it actually as corruption. I would just say that the fix is in. The law just doesn't allow for this to happen and the courts aren't changing it.

There is a problem with following rule of law even within Japan itself.

Mr. SMITH. But I think what you pointed out with even the Chief Justice of the Supreme Court in Japan, we need to become a tailwind behind the reformers in Japan so if we put a zero for unresolved cases who are we really helping there? One, it is inaccurate but, secondly, it is not helping the reformers.

Mr. SAVOIE. And we are taking the wind out of their sails, actually, and when the Chief Justice is saying that he was, you know, speaking to the family court judges in his country and saying look, you have got to get with it and actually follow the laws.

There are some laws that could be used, on the books, in Japan and lawmakers have put some things in there, like Article 766 has been reformed somewhat to help visitation. The parental rights thing hasn't changed.

But the courts themselves are not cooperating and when you have this kind of intransigency and this kind of cultural recalcitrance it is not technically corruption but it is an official problem that we have.

And by calling out Japan with its problems for what it is and saying to our friend, our compatriots over there, that look, you have a problem with your system—it is violating human rights, let us not do that—I don't think that we are hurting Japan.

We are helping Japan and we are helping Japanese children at the same time who deserve those same human rights.

Ms. BARBIROU. Thank you for the question, and I think I would echo that statement that I am not sure that it would be corruption that is the descriptive word I would use. But there is certainly an issue in Tunisia with a rule of law.

When you have a Tunisian President visiting with U.S. Senators and declaring to them that there is no final judgment in an abduction case where the Supreme Court of Tunisia has made a ruling declaring that Eslam and Zainab's home of residence is the United States and their best interest is served there, to repeatedly through various members of their administration up to the newly-elected President to respond to any request by our Government officials to say that there isn't a final judgment it is absurd.

What is your rule of law? You have just instilled a new constitution that directly upholds your Supreme Court and its rulings and then you turn around in the face of those and say well, we don't have a ruling—we don't have a final judgment.

Well, if your Supreme Court is not the final judgement then what is? And I have to say, though, personally I do applaud the Tunisian judiciary for following international law and upholding its legal obligations in the face of what is very obviously an interest

of society to protect its citizen because they see my children as Tunisians and they do not see them as individuals.

They do not see them as children who deserve the familyhood of both a mother and a father. They see them as symbols of their national symbols and my children are Tunisian. They are American as well. Their home of residence is the United States.

The Tunisian courts have ruled. The American courts have ruled. And it is simply time that those judgments be enforced and I don't know if you call that corruption. I certainly call it a problem.

Mr. SMITH. Mr. Parmar.

Mr. PARMAR. Mr. Chairman, I think there is a lot of commonalities and it is hard for us to define whether we face corruption or not.

But, you know, for example, laws that have no clear guidelines so that from one judge to the next these—under the same set of circumstances you will get different rulings, the fact that even after, for example, in India there has been very progressive thought in the law commission.

In 2006, one of the reports said that India should accede to Hague and make changes to their sole custody laws so that joint custody is allowed.

Fortunately, on the latter, there has been some movement within the Indian Parliament. They have placed a rule change. It is still probably going to take some years to implement. But I think there are changes going on.

I think the main challenge that we face is both cultural and attitude approach to that, I think. So it might not be in an overt decision to harm somebody but it is the ignorance in the issue that is probably what is hurting us.

Mr. SMITH. If you have anything else you would like to say I would like to give you all the last word or we will just conclude.

But the Trafficking Victims Protection Act, which I wrote in the year 2000, requires the TIP Report, this mammoth study, country-by-country, Mr. Findlay, as you know so well, which breaks out prevention, prosecution, and protection—the three P's of trying to combat sex and labor trafficking. Every country has a monologue.

It has a box of recommendations. And then there is a tier system—a 1, 2, 3—and watch list, and if you are a Tier 3 country you are an egregious violator in the issue of human trafficking and you get sanctioned.

Now, this didn't start out as this thick book but it quickly became that, data calls going out to our Embassies. In the Goldman Act we make very clear that we want somebody in every Embassy working this issue where it is their portfolio.

We want a seriousness of implementation for you and for your kids. My hope is that, again, correcting the deficiencies currently right now and we will appeal to Secretary Kerry, who I think is a very reasonable man, and he will hear that appeal and hopefully will take it to heart and make sure that on Japan and on India, where there are no unresolved cases—according to this we have an unresolved case too from both of those countries sitting right here—we will look to fix it and to get it right for accuracy.

And again, for the courts—and Mr. Findlay, you might want to speak to this—how important it is for current cases before judges

that this report be correct so that they make informed decisions about the vulnerabilities of someone perhaps going abroad with their child.

Mr. FINDLAY. I am happy to speak to that, Mr. Chairman.

Just yesterday, Wednesday of this week, I was on the phone and speaking to a family court in the State of Washington and to the litigants and the attorneys involved in that case and describing and answering questions related to the risks of abduction to a particular country, not one that has been spoken about or represented today.

But the resource aside from the information—the limited information that our center obtains for cases reported only to us, but aside from that information that we have firsthand, the next and the most important and the most comprehensive source I have to point to is the information that comes from the U.S. State Department.

And I value that information and I value the completeness of that information, and I do know there are 14 states plus the District of Columbia that have adopted uniform child abduction prevention laws in their family law systems that encourage or require family judges to receive information about whether or not a country is a signatory but, more importantly, whether or not they are living up to the terms of that treaty and what it means to be a signatory to that treaty.

And that is built right in. That is a factor for that court to consider when deciding whether or not to allow visitation, allow relocation or otherwise address safeguards for preventing an abduction.

So I know firsthand and our center knows firsthand that there are interested parties. There are government entities, there are parents, there are attorneys, there are advocates, there are agencies who are—who are desperate for this information and would love as much information as can be provided.

We do our best to provide what limited information we can and we share that with the subcommittee. But that is where I will leave it is that information is important. Whether or not it is comforting and whether or not it paints a happy picture it is still important.

Mr. SMITH. Mr. Savoie.

Mr. SAVOIE. I had actually yesterday an individual contact me about the report and knew that I was testifying here today and he wanted me to mention his case, which is very much on point.

He, prior to Japan signing the Hague, had been granted sole custody of his children with supervised visitation because there was a threat of an abduction.

And now that Japan has signed the Hague, the other side is now petitioning to have that supervised visitation removed in court under the premise that Japan is now a Hague country and is compliant and therefore we don't have to worry about this anymore.

And very much to that point if this report is not accurate and it says zero, zero, zero, no problem, those children may well be abducted.

They may well be abducted and they may well be abducted with the judge's permission because he or she will rely on this report saying that zero, there is no problem.

And, you know, 90 days is actually not enough time to correct that for this individual. The other side can present this report as evidence with an expert witness into that court and put it on the record and now claim that Japan has a flawless record in this area when we all know that that is not the case.

So it is very real. It is a very real concern and it has created a very real concern for this particular individual in Texas right now who is worried that this report may have given the other side, who may have nefarious intentions, the ability now to legally abduct these kids right out from under us.

Mr. SMITH. That is also the case in the report with Tunisia where there are zero unresolved cases. Did you want to speak to that?

Ms. BARBIROU. You offered for us to have a closing statement so I am going to take you up on that offer, Chairman, and thank you for that opportunity.

I just wanted to reiterate that Ms. Christensen, in her testimony, asserted that the mission of OCI is to assist children and families involved in IPCA and to prevent its occurrence.

It is a simple mission that does not mention recovery. But my assumption is that the assistance to children and families involved in IPCA means that they are offering the assistance for recovery and yet all that I heard in their testimony and all that I see through the compliance report is an interest in prevention.

And I stated in my testimony but want to restate that the Convention is a powerful tool but it is not a tool that will result in the return of our already abducted children.

And while I advocate strongly for its use in future cases, I wish for it to be made crystal clear in the record that ICAPRA, as it is written, is a fair and powerful law that includes strong remedies which, if applied, will result in the return of our illegally retained abducted children abroad.

And as a request to this subcommittee, I would ask that in the future you ensure that ICAPRA is implemented with the spirit in which it was created and that if necessary it be updated with an explicit requirement of accountability for the total existing cases of IPCA by country including newly reported cases and the total number of children involved in each case represented in future reports by State to Congress because our children count and they must be counted.

It is so important that State understands that they represent individuals and they must count. Thank you.

Mr. PARMAR. I will just end on a couple of items from the recommendations that I had. I think a path forward is while we are talking about the report, since the 30 years the Hague Convention has been in place we haven't had a consolidation of data sources.

So Department of State should expand and enhance the data gathering and tracking of abduction cases by leveraging sources such as the U.S. family courts, police department records, the NCMEC, FBI, and other sources that they can then have a more

consolidated reporting instead of waiting for the parent to report the case.

One of the other recommendations I would like to highlight is in returning the children, especially to the top destinations, the Department of State should consider deploying a permanent attache at the U.S. Mission who will ensure that the pending cases are being worked on in a fair and quick manner so that children actually come home.

That is the bottom line. And the third request I have is with you and the rest of Congress is to really take the leadership on this and make it a win-win situation for both the U.S. and India and really engage with them on this issue just like you would engage with them on any other strategic and economic issue.

If you make it important I am sure that it will be important for them as well.

Mr. SAVOIE. If I could just put on the record one last request, just to be able to say that I love my children, Isaac and Rebecca, and that I will never stop fighting for the ability to be involved in their lives.

And I look forward to the day that all of us can be reunited with them—with our children, and I thank you for all your support in trying to make that happen.

Mr. SMITH. Thank you, Dr. Savoie. Thank you all for your extraordinarily compelling testimony. I can assure you this subcommittee, this Member, will be unceasing in our and my efforts.

As you know, I learned the deficiencies and the gaps in what you face on a day to day basis through David Goldman's case. Very good welfare and whereabouts but not much when it came to policy in trying to effectuate the return of Sean, his son.

And from that ordeal, I learned through him and through his son and now through all of you just how agonizing it is and that is why we wrote the law and that is why we will be tenacious in making sure it is faithfully implemented.

Again, you are heroes and I thank you for your leadership and, Mr. Findlay, thank you for the work that NCMEC does. It is irreplaceable.

The hearing is adjourned.

[Whereupon, at 5:41 p.m., the committee was adjourned.]

# APPENDIX

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## Material Submitted for the Record

**SUBCOMMITTEE HEARING NOTICE**
**COMMITTEE ON FOREIGN AFFAIRS**
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

**Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations**
**Christopher H. Smith (R-NJ), Chairman**

June 11, 2015

**TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS**

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations in Room 2200 of the Rayburn House Office Building (and available live on the Committee website at http://www.ForeignAffairs.house.gov):

**DATE:** Thursday, June 11, 2015

**TIME:** 2:00 p.m.

**SUBJECT:** The Goldman Act to Return Abducted American Children: Assessing the Compliance Report and Required Action

**WITNESSES:**

Panel I
Ms. Karen Christensen
Deputy Assistant Secretary
Bureau of Consular Affairs
U.S. Department of State

Mr. Henry Hand
Director
Office of Children's Issues
Bureau of Consular Affairs
U.S. Department of State

Panel II
Mr. Ravindra Parmar
(*Father of Abducted Child to India*)

Ms. Edeanna Barbirou
(*Mother of Abducted Child to Tunisia*)

Christopher Savoie, Ph.D.
(*Father of Abducted Child to Japan*)

Mr. Preston Findlay
Counsel
Missing Children's Division
National Center for Missing and Exploited Children

**By Direction of the Chairman**

*The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.*

## COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON *Africa, Global Health, Global Human Rights, and International Organizations* HEARING

Day *Thursday* Date *June 11, 2015* Room *2200 Rayburn HOB*

Starting Time *3:03 p.m.* Ending Time *5:41 p.m.*

Recesses [0] (____to ____) (____to ____) (____to ____) (____to ____) (____to ____) (____to ____)

**Presiding Member(s)**

*Rep. Chris Smith*

*Check all of the following that apply:*

Open Session [✓]
Executive (closed) Session [ ]
Televised [✓]

Electronically Recorded (taped) [✓]
Stenographic Record [✓]

**TITLE OF HEARING:**

***The Goldman Act to Return Abducted American Children: Assessing the Compliance Report and Required Action***

**SUBCOMMITTEE MEMBERS PRESENT:**

***Rep. Dan Donovan***

**NON-SUBCOMMITTEE MEMBERS PRESENT:** *(Mark with an * if they are not members of full committee.)*

***Rep. Eliot Engel***

**HEARING WITNESSES: Same as meeting notice attached? Yes [✓] No [ ]**
*(If "no", please list below and include title, agency, department, or organization.)*

**STATEMENTS FOR THE RECORD:** *(List any statements submitted for the record.)*

***Statement of Mariusz Adamski, submitted for the record by Rep. Chris Smith***

**TIME SCHEDULED TO RECONVENE** _____
or
**TIME ADJOURNED** *5:41 p.m.*

Gregory B. Simpkins
**Subcommittee Staff Director**

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

**Statement by**
**Mariusz Adamski, a left behind father**

**Hearing on The Goldman Act to Return Abducted American Children:**
**Assessing the Compliance Report and Required Action**
**June 11, 2015**

**Subcommittee on Africa, Global Health, Global Human Rights,**
**and International Organizations, Committee on Foreign Affairs,**
**U.S. House of Representatives**

Chairman Smith, Ranking Member Bass and Members of the Subcommittee, I would like to submit my testimony, as I am a left behind father of two daughters:

My name is Mariusz Adamski. Today passes exactly 555 days since the illegal abduction of my daughters Natalia and Dorota from Nevada. I will extend my verbal testimony at the next possible opportunity.

Each day for me without my daughters is so traumatic that only a parent who is going through the same process will understand. Everything starts the same way. I had met my wife, we have loved each other and we both decided to start a family.

I married Anna Adamska in Las Vegas. Two daughters were born from our marriage: American-born daughter Natalia Adamska, born in New York City and Dorota Adamska, born in Warsaw.

**On December 3, 2013 my children was illegally kidnapped from the USA to Poland. It was well prepared and premeditated kidnapping.**

I filed the report about my missing children immediately when I had found out that my children and wife were gone.

Law Enforcement could have returned the plane that was flying out of LAX to London, but nothing was done. This plane was still over the US territory at the time of my call to Police.

The children were in the territory of the United States of America, together with both their parents when they were abducted by Anna Adamska with the direct help and support of her parents Teresa Chlewicka and Slawomir Chlewicki. My children are currently in the territory of Poland.

Right after I reported the missing children to the Henderson (Nevada) Police Department, I was advised to report it to the U.S. Department of State and the National Center for Missing and Exploited Children. I did this immediately.

After filing my report, the State Department Country Officer responsible for the abductions to Poland contacted me and advised me on what I should do to start the return process. I could use criminal court or The Hague court path. I decided to use The Hague Convention process as the return solution, but it looks now that this was just a waste of time and my children are still overseas. It took me just less than three weeks to complete all the required documents to begin the Hague process.

Around December 23, 2013, I submitted an application based on the provisions of the Convention on Civil Aspects of International Child Abduction, drawn-up in The Hague on 25

October 1980 - for the return of my minor daughters, Natalia Adamska and Dorota Adamska to their habitual residence in Nevada.

A few days later I instituted divorce proceedings in the District Court in Las Vegas, Nevada. The case looked to be very simple and easy. I went to Poland for the hearing with the return tickets for my children provided by the NCMEC. My children also received very good emotional support from Team Hope and I received a round trip ticket for myself to attend the hearing in Poland.

Unfortunately, as it happens in such corrupted countries like Poland, it was not a Hague Convention Court process, but it was regular Family Court that started delaying the process and did not follow the Hague law at all. I requested the observer from the U.S. Embassy to be present during the hearing to oversee the whole process in Poland. During the hearing, the U.S. Embassy observer was asked to leave on the request of the abductor. It is a well-known trick used in Polish courts to get rid of inconvenient persons from the hearing room.

All evidence required for the return of my children, including immigration process paperwork, school records, Henderson Nevada Police Department documents, and my testimony was not examined nor questioned. In fact, all of my evidence was rejected. At the same time, all testimony from the abductor was accepted with no evidence from the U.S.A. The court in Poland, that was supposed to be a Hague Court, accepted psychological interview of the children and the psychological interview from the abductor created after the abduction.

The children's interview took place a few months after their abduction from the U.S.A. It was a one sided, illegal, interview conducted in Poland. The judicial system in Poland was never reformed after the end of Communism. Even then, the expert's opinion did not give the Court in Poland the authority to refuse the return of my children. The Court did not care. In Poland, only 4% of fathers receive the custody over the children. The Hague process in Poland was just a skit.

By means of a decision of 31 March 2014, the Regional Court for Warsaw dismissed my case on the grounds of Art. 13b of the Convention and charged me with the costs of the proceedings. What the Court in Poland did was illegal from the beginning to the end of the whole process.

The appeal against aforementioned decision was submitted on 30 April 2014 by my attorney in Poland claiming:

1. A breach of the provisions of substantive law, namely Arts. 3 and 12 of the Hague Convention of 25 October 1980 on Civil Aspects of International Child Abduction, by failure to apply the same despite the fact that the prerequisites specified in the aforementioned provisions did, in fact, occur.

2. A breach of the provisions of substantive law, namely Art. 13 lit. B of the Hague Convention of 25 October 1980 on Civil Aspects of International Child Abduction, by unjustified broad interpretation thereof, and, in consequence, inappropriate application thereof, despite the fact that no required prerequisites justifying such application occurred.

3. Arbitrary determination that the participant, taking the children to Poland, committed a federal offence and criminal proceedings are pending against her in the USA and in consequence, the assumption that "the return of the children to the USA would mean the elimination of their mother from their lives", whereas it is not clear on the basis of the materials of the proceedings that there are any objective obstacles for the participant's and her daughters'

return to the USA, or that there are any proceedings of a criminal character pending against the participant.

4. A mistake in actual findings consisting of the assumption that the return of children to the place of their domicile may place them in an unbearable situation, whereas no such conclusion may be drawn on the basis of the evidence materials, and in particular the evidence in the form of an expert's opinion.

5. A breach of procedural provisions, significantly affecting the outcome of the matter, in particular Arts. 227 and 233, by failure to thoroughly consider the evidence materials gathered in the matter and inconsistency of the material findings of the Court of the first instance with the contents of the gathered evidence, which significantly affected the outcome of the matter and wrong - contradictory to the rules of life experience - evaluation of the evidence, leading to wrong determination that the applicant was guilty of an aggressive behavior towards his wife and daughters, whereas the only evidence which allegedly proves such fact is based on unilateral account of the participant, who had evident, actual interest in imputing that the applicant was guilty of violent behavior.

6. Relying, in determination of the facts on the matter, on the statements of the participant quoted by her in the course of an information interrogation, with absolute negation of the applicant's explanations submitted in a similar procedure, which constituted a breach of the principle of equality of parties in proceedings.

In addition, my attorney, submitted a motion for admission of evidence in the form of the few more documents such as:

1. Decision of the District Court in Warsaw, XXV Civil Division, of 6 June 2014 regarding the suspension of divorce proceedings before the Polish court - conclude determination of the jurisdiction of the Court in Nevada in the matter for divorce;
2. Psychological opinion of me, drawn-up at the order of the US Court, including a certified translation thereof;
3. Certificate issued by the Department of Police in Henderson, including a certified translation thereof;
4. Excerpt from the minutes on the hearing of 2 April 2014, which was held before the Court in the USA, including a certified translation thereof;
5. Letters of the attorney of the abductor in the divorce case pending in the USA, submitted to the files of those proceedings, including a certified translation thereof.

According to the above documents it was clear, in particular, that no proceedings of a criminal character are pending in the USA against the mother of the children - this issue was examined by the Court in Nevada, adjudicating on the divorce case, and the fact that, in the divorce case pending in the USA, the Court in Nevada ordered an interview of the children and the abductor notoriously fails to bring the children to the USA for such examination.
By means of a decision of the District Court in Warsaw dismissed the appeal, previously dismissing all the motions for evidence submitted by my attorney as an attachment to the appeal.

**Breaches of the Hague Convention occurred in the course of the consideration of the matter by Courts.**

Both the Court of the first and the second instance, considering the present matter, committed a number of breaches of the provisions of the Convention leading to, firstly, an issue of an unjustified judgement on refusal to order the return of the children, and secondly, on maintaining such judgement in force.

1. I was obliged by the Court of the first instance to appear in person *"under a pain of legal consequences"*. During the first hearing, set by the Court, I was interrogated. Despite that fact, the Court summoned me to another hearing and, in view of my failure to report, totally refused to accept any evidence based on my testimony submitted during the first hearing.

   *Proceedings conducted on the basis of the Hague Convention, have special character and do not require personal presence of the Applicant, because the nature of the proceedings justifies the assumption that he is often at a distance of a few thousand miles from the adjudicating court. The Court, wishing to interrogate a party living in another country, may do so by means of the so-called "legal assistance" in the country of his domicile.*

2. The Court of the first instance, practically instantly after the receipt of the application, decided:
   - To order the police to carry out a home study at the place of domicile of the children in the territory of Poland;
   - To apply to the kindergarten attended by the children in Poland;
   - To carry out a probation officer's interview at the place of presence of the children in the territory of Poland.

**The Court did not, however, request any information concerning the social situation of the children which would come from the place of their permanent residence (Nevada, USA).**

The above decision of the Court, from the very beginning, placed the parent who abducted the children in a privileged position, because all information gathered by way of the police and probation officer's investigation were based, by their nature (on the date of the investigation, the children had been in Poland for less than a month), solely on such parent's account - the account of the mother-abductor, gathered in the form of interviews, automatically gained the attribute of official documents. Attaching them to the body of the evidence materials, the Court did not in any way refer to the fact that the source of all those documents was solely the unilateral account of the parent abducting the children - quite the opposite, it stated that those documents justify the abductor's account, because they are consistent therewith.

The above constitutes a significant violation of Art. 13 of the Convention which reads as follows:

*"In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence."*

It is only that a report on the place of common residence of the party that may provide for a proper evaluation of the child's situation and family relations immediately before the abduction (Nevada, USA).

3. Between the submission of the application and the issue of the decision by the Court of the first instance in Poland, 3 months passed, and 9 months passed before the decision of the Court of the second instance was issued. The lengthiness of the proceedings which significantly exceeded the 6 weeks referred to in Art. 11 of the Convention, gave a chance to the parent who committed the abduction to set the children against me and build a negative image of me, which is clear if we analyze changes in the way the children speak to me over the time covered by the proceedings - the evidence in the form of recordings and issues connected with the fact that the proceedings - but such evidence, in the form of recordings, have never been admitted, and the recordings have never been played in the course of the proceedings or subjected to an evaluation by an independent expert - a psychologist.

4. By applying Art. 13 b of the Convention, the Court referred to the fact that

   *"The return would constitute the elimination of the mother from the children's lives, because her possible return to the territory of the USA would, with great probability, be connected with legal sanctions, including a possibility of detention, due to the fact that child abduction in the United States of America constitutes a federal offence".*

   At the same time, the Court refused to accept any evidence indicating that the abductor of the children, after her return to the USA does not face any sanctions and that no proceedings pending against her.

5. I would like to point out that both international case law and the case law of the Supreme Court supports very rigorous interpretation of Art. 13 sentence 1 letter b of the Convention, assuming that otherwise its effect would be reduced.

   The same approach was adopted by, inter alia, the American Appeal Court in the case of Friedrich vs. Friedrich, where it stated:

   *"This provision was not intended to be used by defendants as a vehicle to litigate (or re-litigate) the child's best interests. Only evidence directly establishing the existence of a grave risk that would expose the child to physical or emotional harm or otherwise place the child in an intolerable situation is material to the court's determination. The person opposing the child's return must show that the risk to the child is grave, not merely serious."*

   *"... We believe that a grave risk of harm for the purposes of the Convention can exist in only two situations. First, there is a grave risk of harm when return of the child puts the child in imminent danger prior to the resolution of the custody dispute - e.g., returning the child to a zone of war, famine, or disease.* ***Second there is a grave risk of harm in cases of serious abuse or neglect, or extraordinary emotional***

***dependence, when the court in the country of habitual residence, for whatever reason, may be incapable or unwilling to give the child adequate protection."***

Court in Poland ignored that the abductor herself acknowledged Nevada jurisdiction and is represented in a custody case in front of the U.S. Court. That means the abductor agreed that the Court in Nevada can provide the proper protection of the children until the end of the custody case.

An equally rigorous approach was adopted by the Supreme Court in Poland in its decision of 1 December 2000 (I CKN 992/99), where it stated that Art. 13 sentence 1 letter b of the Convention applies to:

*"...solely a serious risk of physical or psychological harm" a child could suffer as a result of his/her return to the place of his/her habitual residence ( ... ) ": all other difficulties and inconveniences are not sufficient to dismiss the application".*

What is more, it is assumed in the case law that, if the common return of the perpetrator and the child is not hampered by any objective obstacles, and the perpetrator does not want to return with the child, we may assume that he or she places his or her interests higher than the welfare of the child to which he or she refers, and which was threatened by him or her by the act of abduction. That is why a view that it is not justified to take into account, as part of the consideration given to the above provision, the negative consequences for the child of being separated from the perpetrator in consequence of an order for the return of the child, is commonly accepted in the situation where the return of the perpetrator is not prevented by any objective obstacles.

6. Therefore, we cannot accept as justified the reference by the Court to the alleged resistance of the children to return to the USA. Even if we disregard the issue of manipulation of the children by the parent who is guilty of their abduction, as raised in the proceedings, I would like to state, following the case law of the courts all over the world and the case law of the European Court for Human Rights, that a child who is in the kindergarten age, is not capable of taking a conscious decision in the matter of his or her place of residence. As an example, I quote the following, representative judgements.

   • Superior Court of New Jersey, Appellate Division.
   Tahan v. Duquette
   "Article 13 of the Convention excuses the duty to return if a child of appropriate age and maturity objects. This standard simply does not apply to a nine-year old child."

   • European Court for Human Rights
   Rouiller v. Switzerland ECHR 228 (2014)
   "The Court found, like the Cantonal and Federal Courts that the children's removal by their mother to Switzerland was indeed a "wrongful removal" and that The Hague Convention did not grant a child the freedom to choose where he or she wished to live."

7. Moreover, we may not accept, in the above context, the statements included in the justification of the Court in Poland of the first instance, namely

*".... Art. 13 of the Convention constitutes a certain compromise between the traditional way of considering cases concerning parental authority and the fundamental objective of the Convention ..."*

That is because Article 13 of the Convention constitutes an *ultima ratio* and the application of any broad interpretation thereof should considered to be inadmissible.

The same applies to the Court's reference to the issue of custody, because it is in contradiction both with the objective of the Convention and with the text of Art. 16.

8. All the motions for evidence submitted by my attorney in Poland in the course of the appeal proceedings were dismissed by the Court due to "the fact that copies of the documents were not certified and there were no translations from English".

**The above constitutes a breach of Art. 23 of the Convention, according to which**

"No legalization or similar formality may be required in the context of this Convention", and Art. 24 of the Convention, according to which:

*"Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or where that is not feasible, a translation into French or English".*

I would also like to note that no further appeal may be lodged against the above judgements in the territory of Poland. I point out that the legislation binding in Poland until 2000 offered a possibility of lodging a cassation to the Supreme Court against decisions issued by a Court of the second instance. There were frequent cases that the Supreme Court, after consideration of the cassation, stated that the judgements it considered had been issues with a breach of the provisions of the substantive law. In consequence of the amendment to the Code of Civil Procedure introduced by the Law of 24 May 2000 (Journal of Laws No. 48, item 554), a possibility was excluded of applying for cassation with regard to judgements passed on the basis of the Hague Convention. The present legal status is considered by distinguished representatives of the legal profession to be a cause of high concerns and as possibly having negative consequences to the welfare of the child.

**RESULTS**

Based on those illegal acts during The Hague Convention process in Poland I have filed the complaint against Poland to the European Court for Human Rights.

U.S. Department of State – Office of Children's Issues was responsible to create the Annual Report on International Parental Child Abduction. This report was presented to Congress. My case was totally ignored and not included into this report.

The Country Officer for Poland received all information and legal opinions regarding my process in Poland. He received everything he needed to include my case into this report by the November 27, 2014. He also received the same written legal opinion through the U.S. Embassy

in Warsaw. He also received all those detailed comments directly from the office of Congressman Joe Heck, Nevada District 3.

I personally called the representative at the U.S. State Department several times and sent him emails to discuss whether he needed anything else from me. All information that was provided was clear enough evidence that Poland does not comply with the Hague Convention.

Why did the U.S. Department of State hide the information and not present everything to Congress in the annual report? The annual report from 2015 only covers three months of that year, October 1 through December 31, 2014. Does an annual report only cover three months of the year? My case is very simple and clear. The decision by the family court in Poland was illegal and totally against the Hague Convention. Why my case was not included in the annual report to Congress by the U.S. Department of State evades me? It looks like a lack of supervision over the Office of Children Issues created a big issue in the information flow.

**Recommendations**

Unfortunately for me and other parents who put their faith in the legal system, the Hague Convention does not work even between parties of the Convention. It appears to me that the U.S. Department of State does not concern itself with abducted children. There is the lack of good will and it looks like the staff of the U.S. State Department doesn't have proper oversight.

There is an immediate need for both the Department of State and the Department of Justice to prioritize these parental child abduction matters strongly staffed U.S. Central Authority must take an aggressive, non-diplomatic posture with uncooperative Central Authorities like the Polish Ministry of Justice.

The Department of Justice must vigorously pursue these fugitives from justice as they would "serious" criminals and never again remain neutral on a warrant for arrest of an abductor. Extradition should be requested in every appropriate case whether it is believed it will be granted or not.

**Possible solutions include:**

1. The immediate organization of a conference of judges and administrators from the U.S., Poland and other non-compliance countries to discuss the violations of their obligations under the Hague Convention.
2. Correct the institutional mind set for both Department of State and Department of Justice that actions under The Hague Convention and criminal warrants for the arrest of abductors under the International Parental Kidnapping Act are not private child custody matters.
3. Immediate addendum issued for the 2015 Annual Report including whole calendar year period.
4. Apply political, diplomatic and moral pressure on the non-compliant countries to improve the performance of the Hague Convention.

   This is very important, because today there is more political pressure on the countries with the DVD or music piracy then on the countries that accept parental abductions and do not follow signed international conventions.

Poland, in essence, rewarded the international parental abductor of my two daughters. But the United States should not stay quiet. Please do not leave my cries for justice unanswered. I hope you will keep interest in this matter. Parental abduction is the crime and is child abuse.

Thank you for carefully reading my story and my concerns.



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