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THE GOLDMAN ACT TURNS 10: HOLDING HAGUE CONVENTION VIOLATORS ACCOUNTABLE AND BRINGING ABDUCTED AMERICAN CHILDREN HOME

HEARING

BEFORE THE

SUBCOMMITTEE ON GLOBAL HEALTH, GLOBAL HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS

OF THE

COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

September 10, 2024

Serial No. 118–128

Printed for the use of the Committee on Foreign Affairs



Available: *http://www.foreignaffairs.house.gov/, http://docs.house.gov*, or *http://www.govinfo.gov*

U.S. GOVERNMENT PUBLISHING OFFICE
54–880 PDF WASHINGTON : 2026

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THE GOLDMAN ACT TURNS 10: HOLDING HAGUE CONVENTION VIOLATORS ACCOUNTABLE AND BRINGING ABDUCTED AMERICAN CHILDREN HOME

Tuesday, September 10, 2024

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

The subcommittee met, pursuant to notice, at 2:17 p.m., in room 2172, Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN CHRISTOPHER SMITH

Mr. SMITH. The subcommittee will come to order. I welcome each and every one of you to this hearing this afternoon.

The last month, as I think many of you know, marked the 10th anniversary of the passage of the Sean and David Goldman International Child Abduction Prevention and Return Act. That legislation took 5 years to get enacted into law and was based on the tenacious efforts of David Goldman to get his son back from Brazil. He did it with great class and strength and has been an inspiration to so many of us and also an inspiration for the law itself.

And so many others, many of whom are here today, have played an outsized role in trying to ensure its effective implementation over the last 10 years. And so I want to thank all of them for being here today because it certainly does make a difference.

We do know that the heartbreaking reality is that hundreds of American children are still abducted each and every year, illegally kidnapped by one of their parents to a foreign land. They are subject to what is child abuse with devastating psychological and even physical consequences for them and their families who have been left behind. We all know it is called parental alienation, but the term doesn't even begin to suggest the devastation that that child and the family and the left-behind parent do experience.

Although the number of abducted children and cases have gone down, the rate of return actually has worsened. Fewer children are abducted; that is a good-news story. But fewer of those abducted children actually come home. The questions that remain are what is the U.S. Government doing to prevent international child paren-

tal child abduction, to hold Hague Convention violators accountable, and to bring American abducted children home?

Today, we will hear from the U.S. Department of State officials responsible for implementing the Goldman Act, family law attorneys and Hague Convention experts, and a parent and a child who have personally experienced the heartbreaking pain of separation and abduction.

The Goldman Act empowers the State Department to use the full range of diplomatic tools prescribed in the law to seek the return of abducted American children from a demarche or public condemnation to delay or cancellation of bilateral visits or an extradition request. Annual appropriations language also authorizes the Department to withhold bilateral assistance funds to the governments of countries that are not taking the appropriate steps to comply on child abduction issues.

The State Department could do better. No matter who is in the White House, there seems to be, at times, a lag. It needs to use the tool, especially the sanctioning tool, which has been given to them, to you. Only once has that gone beyond a demarche. And I say that because I have offered other laws, including our law dealing with human trafficking, and even there, while we have a prescriptive list of very, very serious sanctions, we threaten and we don't do it. So, after a while, countries that are out of compliance take note of that, and they say, "Well, it is more rhetorical, an embarrassment, rather than any kind of tangible impact."

So I admonish you, ask you, plead with you, to use those tools, those sanctions, obviously in a judicious way, which I know you can do, to hold these countries to account.

The Hague Convention enforcement within the United States and some 80 foreign countries says that countries must expeditiously return abducted children "wrongfully removed in violation of the left-behind parents' custody rights to their State of habitual residence."

The State Department's annual report named 16 foreign nations as having "demonstrated a pattern of noncompliance" in 2023, Argentina, Belize, Brazil, Bulgaria, Ecuador, Egypt, Honduras, India, Jordan, Republic of Korea, Montenegro, Peru, Poland, Romania, Russia, and the United Arab Emirates. Six countries—Argentina, Brazil, Ecuador, India, and Jordan and Peru—have not been complicit 10 years in a row. What a horrific record that is.

Recent annual reports have removed Japan from the list of noncompliant countries. I do think that is a mistake. And Japan has made some legitimate progress, no doubt, in recent years passing legislation to strengthen enforcement of court-ordered returns. Just this spring, the Japanese Diet passed a law allowing for dual custody. And we've been pushing for that for 10 years. When we first started this effort, I was shocked to learn that that is something that was not on their books of law and jurisprudence, and now it is.

Yet in other ways, Japan must improve its disturbing track record. More than 500 children have been abducted to Japan since 1994. When Japan acceded to the Hague Convention in 2014, there were still more than 50 open pre-Hague cases of abduction to Japan. Today, all but four of those cases have been resolved or

closed. What happened to the children? How many pre-Hague cases of parental child abduction were resolved, actually resolved, in a just and satisfactory way with the child's return to his or her left-behind family?

It is very unclear. Indeed, it appears that most of these children simply aged out of the system. When a child turns 16, Hague Convention protocols and State Department reporting ceases to apply. In addition, left-behind parents report extreme difficulty in obtaining rights of access, especially in pre-Hague cases.

What is the State Department doing to convey to foreign governments the importance of fulfilling their Hague obligations under international law? Are we trying to sign bilateral MOUs with non-Hague countries and with Hague countries that still have open abduction cases that precede that country's accession to the treaty?

Another question I intend to raise deals with the limited exception to the Hague Convention's rule of expeditious return. The eighth meeting of the Special Commission of the Hague Convention has stated that "While the exceptions derive from the consideration of the interests of the child, they do not turn the return proceedings into custody proceedings." Yet in some countries, untrained or unwilling judges relitigate custody rulings instead of strictly applying the Hague Convention.

What has the Department, with respect and if you could answer this, done to address that problem? I am eager to hear from our very distinguished witnesses today, beginning with Robert Koepcke—Koepcke? I told you I would get it wrong—Deputy Assistant Secretary for Japan, Korea, and Mongolia, and Michelle Brenier-Toth, Special Advisor for Children's Issues.

According to the annual report, finally, in 2023, there were 721 open active abduction cases involving 982 children, as well as 69 open access cases involving 92 children. Only 205 abducted children out of the 982 were returned to the U.S. So we have to do better. Hundreds of cases tragically remain open, and a further 227 inquiries are made by families that did not complete their Hague application or provide related documentation, indicating that the true number of child abductions from the U.S. is likely far higher than we think.

These children, of course, are gifts. They are precious not only to their families but also to our country, to the United States. And most children desire a relationship with both parents. They don't want to be forced to pick between them, which is exactly what an abducting parent does. These children have the potential to be a bridge, even, for friendship between the two countries. They serve as bonds and symbols of trust and friendship to both their countries of origin.

So I would urge you—I have introduced a new bill called the Sean and David Goldman Child Act Amendments. It strengthens key aspects of the Goldman Act by requiring this aggregated data and increased transparency from the State Department in raising the age of the child from 16 to 18 and funding research into the lifelong trauma that studies and testimoneys suggest is caused by international parental child abduction.

During our second panel, we will hear testimoneys from left-behind parents, one who founded one of the leading U.S. advocacy

groups on this issue, a child survivor of international parental child abduction, and a family law Hague Convention expert to discuss the ongoing challenges. So I look forward to their very, very important testimony.

Jeffery Morehouse, I would just point out thank you for being here, for being absolutely tenacious on behalf of your child. We have met maybe 50 times. You have testified before in a very, very civil and strong way. I wish Japan would take note of your appeal. It is so well-founded in justice and good law. But to date, they have not. So we make that request again to the Japanese Government.

I would like to now yield to my good friend, Ms. Wild, for any opening.

OPENING STATEMENT OF RANKING MEMBER SUSAN WILD

Ms. WILD. Thank you, Mr. Chairman.

And thank you to all of our witnesses and to the audience participants for appearing here today.

When I first ran for office, I would often say to people that I was getting in this for my children and staying in it for yours. And as Members of Congress, and as public officials more broadly, I believe that we have a particular and special duty to do right by children and the most vulnerable members of our society.

As a parent, the idea of being separated from my children when they were young would have been unimaginable. Heck, I could hardly deal with a workday's separation. And I don't mean to make light of it. I just can't even imagine extended separation from one's child. To all of those who have had to endure this unthinkable hardship, including the courageous advocates in this room, please know that we stand with you.

I want to take a moment to recognize multiple constituents of mine whose children have been abducted to Egypt. While the circumstances differ across each case, they all highlight what I believe to be a lack of sufficient coordination between the State Department, the Department of Justice, and local and State law enforcement. I hope we can address the need for greater coordination during this hearing and that those of us in Congress, Republicans and Democrats alike, can work together to push for solutions.

Advocating for children, including international parental child abduction cases, must be a cornerstone of our foreign policy. These cases are sensitive, complex, and difficult. Parents, legal guardians, and other American relatives depend on missions abroad to raise these cases with foreign government officials at the absolute highest appropriate levels and to ensure that the foreign government understands that the U.S. Government's concern for the welfare of its citizens overseas, particularly children, is paramount.

Pursuant to the Goldman Act, the State Department continues to improve strategies for U.S. Government engagement with numerous countries on international parental child abduction. As Members of Congress, we must continue to ensure that we are providing a whole-of-government approach to combat and resolve abductions and that we are employing strategies that are tailor-made to be effective within the political, cultural, and institutional conditions of any given country.

Civil society advocates, legal professionals, and other stakeholders play a key role in advising and informing Members of Congress and our diplomatic corps on the complexities of these cases. We must continue to strengthen cooperation to ensure countries that are in noncompliance with the Hague Convention are not only aware of these issues but act to change their laws to be in compliance with the convention. If countries refuse to do that, if they refuse to improve their laws in accordance with international standards, including as stipulated by the Goldman Act, then we have a duty to hold them accountable.

I will always stand ready to work with anyone of either party on behalf of these children and their families both here at home and across the globe.

Thank you, Mr. Chairman. I yield back.

Mr. SMITH. Thank you very much for your very fine statement and your leadership on this issue.

I would like to now recognize Mr. Keating.

OPENING STATEMENT OF REPRESENTATIVE WILLIAM KEATING

Mr. KEATING. Thank you, Chair Smith and Ranking Member Wild, for holding this important hearing today.

The issue of international child abduction demands our utmost attention, and hearings like this help bring the important light to bear to the Hague Convention violators and the victims of this horrific crime. Today, I would like to speak briefly on behalf of my constituent Michael Fallon, whose son was abducted from the United States last year to the Republic of Korea.

For more than a year, Mike has been working tirelessly to secure the unlawful return of his son, who continues to be held unlawfully by his mother and her family. He secured favorable decisions from the courts in Massachusetts, and most recently, the Hague Convention Court in Korea ruled in his favor as well. While his case is still going through the legal process, the Republic of Korea has an obligation to expeditiously conclude the legal proceedings and will hopefully do so.

With Mike's case in mind, in March, I wrote the Korean ambassador to the United States regarding Korea's multi-year noncompliance with the Hague Convention. Specifically, Korea remains unable to effectively enforce Hague Convention rulings, which are significant steps toward ensuring the safe return of abducted children.

I believe this hearing helps make clear to the Korean authorities that the United States will do all it can in compliance with its Hague Convention obligations to ensure the safe return of all children. The Republic of Korea must do the same, and I am hopeful that the Korean Government will take the necessary steps to ensure their full compliance and significantly update their enforcement procedures.

I want to thank Chair Smith and Ranking Member Wild again, as well as all our witnesses, for being here today. Your continued engagement with partner governments and communications with families and victims impacted by this devastating event has never been more important than it is today.

I yield back.

Mr. SMITH. Thank you.

Ms. Manning? Oh. Okay. Thank you.

I would like to now introduce our two witnesses and again thank them for being here and for their leadership, beginning with Robert Koepcke, who is the senior Foreign Service member in the U.S. Department of State, currently as Deputy Assistant Secretary for Korea, Japan, Mongolia in the Bureau of East Asian and Pacific Affairs.

Previously, he served as Director of the Office of Mainland Southeast Asia, as well as the Director of the Executive Secretariat Staff in the Office of Secretary of State. He served as the U.S. Consul General in Okinawa, Japan, during 2018 to 2021. As a Special Assistant to the Undersecretary for Economic Growth, Energy, and Environment, Robert developed an economic pillar of the Department's quadrennial Joint Strategic Plan 2007 to 2022, before which he was Deputy Economic Section Chief at the U.S. Embassy in Berlin, Germany.

Robert was detailed to the National Security Council during 2012 to 2013, where he was Director for Japan and Asia Regional Affairs. As Deputy Director of the Office of Economic Policy, or EAP, he played essential role in the U.S. host year of APEC 2011. He served overseas tours in Beijing, Baghdad, Tokyo, and the American Institute in Taiwan, Taipei.

He holds a master's degree from the London School of Economics and a bachelor's from Boston University. He enjoys introducing American culture through his love of playing and appreciating jazz music. He is married with two children and speaks Mandarin, Japanese, German, and Spanish. English will be preferred today, by the way.

We will then hear from Ms. Michelle Bernier-Toth, who joined the State Department in 1987, served consular positions in Damascus, Syria; Doha, Qatar; and Abu Dhabi, UAE. She also served in the Foreign Service positions in Bureaus of Near East Affairs and Consular Affairs, as well as the Foreign Service Institute, before converting to civil service in 1903.

As a civil service officer, Michelle was the Deputy Director in the Office of Children's Issues, as Director of the Office of American Citizen Services and Crisis Management, and as Managing Director of the Overseas Citizens Services.

In December 2019, she was named as the Special Advisor for Children's Issues in the Bureau of Consular Affairs. She graduated from Yale University in 1982 with a bachelor's of art in Near Eastern languages and literature, and has a master's in Arab studies from Georgetown University. She has three adult children of whom she is very, very proud.

I would like to now yield to you, Robert.

STATEMENT OF ROBERT KOEPCKE

Mr. KOEPCKE. Chairman Smith, Ranking Member Wild, and distinguished members of the subcommittee, thank you for the opportunity to speak today about the Department's efforts on international parental child abduction as it relates to Japan and the Republic of Korea. I appreciate the work you've done over many years to reunite families, and I truly appreciate the efforts of the many

parents in the audience today to advocate for this issue on a global scale.

As Deputy Assistant Secretary for the Bureau of East Asian and Pacific Affairs, I am deeply committed to protecting U.S. citizens in Japan and the ROK and to promoting the interests of the American people in the Indo-Pacific region. I want to assure you that international parental child abduction is an important part of our broader foreign policy in the Bureau of East Asian and Pacific Affairs.

Together with our consular colleagues, our bureau has pursued a strategy of persistent diplomatic efforts, legal collaboration, and public awareness to prevent future abductions and ensure the expeditious return of abducted children. We have consistently advocated on behalf of U.S. citizens in bilateral engagements, including on international parental child abduction cases, and will continue to do so at the highest levels. We are dedicated to bringing abducted children home and preventing future cases.

Over the last 4 years, we have made progress in Japan and the Republic of Korea. After Japan ratified the Hague Convention in 2014, it lacked strong enforcement mechanisms. Intensive bilateral engagement convinced Japan to enact new legislation in 2020 that strengthened its ability to enforce convention court orders. Since 2021, Japan has successfully enforced returns of children in every U.S. Hague case in which the Japanese courts ordered one.

With regard to pre-Hague cases in Japan, the State Department raises them regularly and at senior levels. In 2020, our governments undertook a comprehensive review of pre-Hague cases and committed to hold regular consultations on them. Almost half of the pre-Hague cases that resulted in the successful return or contact involved voluntary agreements reached through mediation and open dialog. So we have emphasized the importance of mediation as well as prevention.

Most recently, Japan's Diet revised its civil code on May 17 to allow divorced parents the option of joint parental authority. This will take effect in 2026 and aligns Japan with most countries around the world. We will closely track the precedents set by Japanese judges and how it will affect left-behind parents on pre-Hague cases. We have also begun another comprehensive review of pre-Hague cases to show our commitment to successful returns.

With regard to the Republic of Korea, we cited them as noncompliant in 2022, 2023, and 2024 for failure to enforce return orders. Under the Korean legal system, international parental child abduction cases are not criminal cases but civil cases. The enforcement officers, who are called bailiffs, are semi-independent entities and not subject to direct orders from the Korean Supreme Court or the Korean Central Authority. Enforcement is reliant on these bailiffs, who have a great deal of autonomy in their decisionmaking and do not answer directly to judges as court officers do in the United States.

U.S. officials in Washington and Seoul have persistently raised these enforcement issues at the highest levels. As a result of our advocacy, the ROK established an international task force in June 2023. The Supreme Court of Korea subsequently implemented new guidance in April 2024 aimed at aligning bailiffs with their Hague

enforcement responsibilities. Since then, the ROK has enforced two court-ordered returns, including one that was pending for multiple years.

Even with this new guidance, we continue to have frank discussions with the Korean Central Authority and the ROK Government to ensure bailiffs receive appropriate training to address the independence that bailiffs have under the Korean legal system and to grant the police more tools to locate an abducted child.

In conclusion, we have made significant strides in our bilateral efforts with both Japan and the ROK, but there is still more work to be done. Addressing international parental child abduction requires a concerted effort of all stakeholders, including governments, legal authorities, and civil society. We are committed to leading these efforts and ensuring that every child is returned home safely and swiftly.

I look forward to working with this esteemed committee, anti-international parental child abduction advocates, and our international partners to uphold the rights and well-being of children around the world. Thank you for the opportunity to testify today, and I am prepared to answer any questions you may have.

[The prepared statement of Mr. Koepcke follows:]

Written Testimony for EAP Deputy Assistant Secretary Robert Koepcke on International Parental Child Abduction

Chairman Smith, Ranking Member Wild, and distinguished Members of the Subcommittee:

Thank you for the opportunity to speak today about the Department's efforts on international parental child abduction (IPCA) in Japan and the Republic of Korea (ROK). I appreciate the work you've done over many years to reunite families, as well as the efforts of the parents in the audience today to advocate for this issue on a global scale.

As the Deputy Assistant Secretary for the Bureau of East Asian and Pacific Affairs (EAP), I am deeply committed to protecting U.S. citizens in Japan and the ROK and to promoting the interests of the American people in the Indo-Pacific region. The United States continues to strengthen its global partnerships, including with Japan and the ROK, on issues spanning from regional security to human rights. Our collaboration – bilaterally and trilaterally – is based on shared values as democracies, and it is because of our close relationships that we can speak candidly with one another on difficult issues like IPCA.

I want to assure you that IPCA is an important part of our broader foreign policy in EAP. Together with our consular colleagues, EAP has pursued a strategy of persistent diplomatic efforts, legal collaboration, and public awareness to prevent future abductions and ensure the expeditious return of abducted children.

We have consistently advocated on behalf of U.S. citizens through bilateral engagements, including on IPCA cases, and will continue to do so at senior levels. We are dedicated to implementing effective solutions to bring abducted children home and prevent future cases.

Over the last four years, we have made progress in Japan and the ROK:

Japan

After Japan ratified the Hague Convention in 2014, it initially lacked strong enforcement mechanisms. This weakness allowed taking parents to ignore court orders to return their children to their homes in the United States. The problems with enforcement led the Department to cite Japan for patterns of non-compliance in 2016 and 2018. Intensive bilateral engagement, including high-level meetings between the U.S. Ambassador and the Japanese government, convinced Japan to enact new legislation in 2020 that strengthened its ability to enforce Convention court orders. Since 2021, Japan has successfully enforced returns of children in every U.S. Hague case in which the Japanese courts ordered a return.

With regard to pre-Hague cases in Japan, the State Department raises them regularly and at senior levels. In 2020, our governments undertook a comprehensive review of pre-Hague cases that were pending at the time of Japan's ratification of the Convention and committed to hold regular consultations on them. Almost half of the pre-Hague cases that resulted in a successful return or contact involved voluntary agreements reached through mediation and open dialogue, so we have emphasized the importance of mediation as well as prevention.

To that end, we have published options and resources on IPCA in both Japanese and English on the U.S. Embassy website; Japan's Foreign Ministry did the same. In 2020 and 2021, the State Department provided virtual trainings for judge advocates and staff of legal assistance offices at U.S. military bases across EAP. We cooperate closely with DoD and military branches to assist service members and families on IPCA. In 2022 and 2023, we held two separate trainings on IPCA in Japan and the ROK, engaging JAG attorneys, military security, and family advocacy personnel. We have an around-the-clock duty officer program to assist parents and legal guardians protect children, including when a reported abduction is in progress. In one notable pre-convention case in 2022, the State Department worked closely with the National Center of Missing and Exploited Children and facilitated the return of an abducted child after nine years.

Most recently, Japan's Diet revised its civil code on May 17 to allow divorced parents the option of joint parental authority. This will take effect in 2026, and will align Japan with most countries around the world. We will closely track the precedents set by Japanese judges for enforcement and the use of *habeas corpus*. We are also closely tracking how it will affect left-behind parents on pre-Hague cases. We have also begun another comprehensive review of pre-Hague cases to show our commitment to successful return.

The Republic of Korea (ROK)

With regard to the ROK, we cited them as non-compliant in 2022, 2023, and 2024 for failure to enforce return orders. The ROK ratified the Hague Convention in 2012 and the Convention entered into force between the ROK and the United States in 2013. Since then, the ROK has faced challenges enforcing court-ordered returns of children under the Convention. Many of these challenges relate to the lack of effective and enforceable mechanisms under Korean law to compel compliance with return orders.

Under the current Korean legal system, IPCA cases are handled as civil cases not criminal cases. The enforcement officers, who are called "bailiffs," are semi-independent entities and not subject to direct orders from the Korean Supreme Court or the Korean Central Authority. Enforcement actions are reliant on these bailiffs, who have a great deal of autonomy in their decision-making and do not answer directly to judges, as court officers or law enforcement officers do in the United States. We have therefore seen cases where bailiffs seemingly refuse or take insufficient action to enforce a Hague judge's return order.

U.S. officials in Washington and Seoul have consistently raised these enforcement issues at senior levels. As a result of our advocacy over the last few years, the ROK established an interagency task force in June 2023 to address IPCA enforcement and potential solutions. The Korean Task Force, consisting of representatives from the President's Office, Ministry of Justice, Ministry of Foreign Affairs, Supreme Court, and other agencies, has met

three times. Following task force meetings, the Supreme Court issued new guidance aimed at aligning bailiffs with their Hague enforcement responsibilities. Since the new guidance came into effect in April 2024, the ROK has enforced two court-ordered returns, including one that was pending for multiple years.

We are watching carefully how the new guidance is being followed and whether it is bringing about effective, lasting change for our left-behind parents. Even with this new guidance, we continue to have frank discussions with the Korea Central Authority and the ROK government to ensure bailiffs receive appropriate training, address the independence that bailiffs have under the Korean legal system, and grant the police more tools to locate an abducted child.

We also regularly meet with ROK government counterparts on this issue. During the two successful enforcements in April 2024, our Embassy worked closely with KCA and others to prepare for the enforcement and ensure its completion. In addition, they worked with their Korean counterparts to facilitate the removal of unanticipated travel bans that caused a significant delay to one of the families attempting to travel immediately to the United States.

Conclusion

In conclusion, we have made significant strides in our bilateral efforts with both Japan and ROK, but there is still more work to be done.

Addressing IPCA requires a concerted effort from all stakeholders, including governments, legal authorities, and civil society. We are committed to leading this effort and ensuring that every child is returned home safely and swiftly. I look forward to working with this esteemed Committee, anti-IPCA advocates, and our international partners to uphold the rights and well-being of children and left-behind parents around the world.

Thank you for the opportunity to testify today. I am prepared to answer any questions you may have.

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

I would like to now recognize Ms. Bernier-Toth for her testimony.

STATEMENT OF MICHELLE BERNIER–TOTH

Ms. BERNIER-TOTH. Chairman Smith, Ranking Member Wild, distinguished members of the subcommittee, thank you, as well, for the invitation to speak about our work on an important issue that is important to all of us, that of international parental child abductions. I have submitted a written statement to the subcommittee, which I ask to be included in the record.

Mr. SMITH. Without objection, so ordered.

Ms. BERNIER-TOTH. Thank you.

International parental child abduction hurts children. It hurts the left-behind parents. It hurts extended families, friends, communities. We know this from the lived experience of adults who were abducted as children. We know this from the parents, the grandparents, and the families of abducted children who face what often feel like insurmountable challenges in trying to protect their children.

That is why I take my responsibilities as Special Advisor for Children's Issues so seriously. As an advocate for vulnerable children, I join my colleagues in seeking to resolve individual cases of international parental child abduction and to promote the 1980 Hague Abduction Convention efficient operation as an important framework for resolving and preventing international parental child abduction.

In the past year, my colleagues in the Office of Children's Issues and I have traveled extensively to raise awareness of this issue and promote more effective responses by treaty and non-treaty partners. Since appearing before you last May, I have traveled to Lebanon, Jordan, Belize, India, Peru, Argentina, and most recently, Honduras.

In Lebanon, I participated in a conference on international parental child abductions that included government officials, attorneys and judges, social workers, non-governmental organization representatives, and foreign embassy officers, and which has led to followup meetings and dialog among stakeholders.

In India, I met with judges, attorneys, and Indian officials in the lead-up to our annual consular dialog. In Argentina, I pressed senior officials in the Foreign Ministry, civil society leaders, and leadership within the Argentine Congress on the need for Argentina to expedite the resolution of Hague abduction cases. I have met virtually and in person with key officials from Saudi Arabia, Pakistan, and the UAE.

In October 2023, I led the U.S. delegation to the eighth Special Commission meeting on the 1980 Hague Abduction Convention. A key topic of discussion at the Special Commission was the delay in resolving cases in many countries due to the factors we identify in our annual report to Congress: problems locating children, administrative delays and central authorities, slow or drawn-out judicial processes, or problems enforcing return orders. These are some of the issues that we raise when we meet with foreign officials.

We have seen some progress on key fronts. In April of this year, the Korean Supreme Court did issue the guidance to give law enforcement officers more authority to carry out return orders. My colleague from the East Asia Pacific Bureau has talked about that.

We have started regular meetings with the Indian Government officials to discuss issues of mutual concern, including international parental child abduction and to encourage cooperation on resolving existing cases and preventing new ones.

The Sean and David Goldman Act called on us to do more with our military colleagues. In the past year, the Office of Children's Issues has conducted outreach to and training for military attorneys and community officers, who are often the first to recognize when a military family is struggling and an abduction is possible.

The act also called for regular interagency meetings to coordinate preventive efforts. In the past year, we have held two such meetings, which foster even closer collaboration between interagency partners.

The Prevent Abduction program carried out with the Department of Homeland Security is one of the few and best ways we have to stop children from being abducted from the United States. In the past year, our prevention branch has spoken to thousands of concerned parents, attorneys, and courts to assist them with preventing a child being removed overseas, sometimes with just hours to act.

We continue to build on our successes and our work across the interagency to establish a robust and comprehensive prevention program that is flexible and responsive. We know that any forward progress is still too slow for the children and parents affected by international parental child abduction. Every day matters, and too many cases stretch out for years. I stress this point in my meetings with foreign officials to emphasize the human cost of delays that could have been prevented.

I applaud the efforts of left-behind parents to raise awareness of the pain they and their children suffer when their child is abducted. Our annual report to Congress under the Sean and David Goldman Act is part of a year-round activity that includes the development of country-specific action plans, collection and assessment of data, consultations with colleagues across the Department, and ultimately preparation of the report itself before the cycle repeats.

Following a release of the report, we ask our embassies in those countries that have been cited for demonstrating a pattern of noncompliance to notify their host governments, explain the basis for the citation, and press for systemic change. I often follow that meeting with senior diplomats in Washington and always emphasize that this is an issue Congress cares about.

I hope that as Members of Congress travel and interact with foreign government counterparts, they make the same points. It is important that we work together on behalf of children and families. They are our shared constituents.

Thank you again for all you do on behalf of these vulnerable children and for your support for our efforts. I look forward to your questions.

[The prepared statement of Ms. Bernier-Toth follows:]

U.S. DEPARTMENT OF STATE

STATEMENT

OF

MICHELLE BERNIER-TOTH

SPECIAL ADVISOR FOR CHILDREN'S ISSUES
BUREAU OF CONSULAR AFFAIRS

BEFORE THE

HOUSE COMMITTEE ON FOREIGN AFFAIRS, SUBCOMMITTEE ON GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

HEARING ON

INTERNATIONAL PARENTAL CHILD ABDUCTION

Chairman Smith, Ranking Member Wild, distinguished Members of the Subcommittee – thank you for the opportunity to engage again on an issue important to all of us, that of international parental child abduction. As Special Advisor for Children's Issues at the Department of State, I have long shared your concern for the protection of children who are impacted by international parental child abduction and appreciated your support for efforts to resolve both individual cases as well as systemic challenges.

The International Framework of International Child Abduction

The welfare and safety of U.S. citizens abroad, especially vulnerable children, is one of the Department's highest priorities. We work constantly to prevent international parental child abductions, facilitate the expeditious return of abducted children to their place of habitual residence, and strengthen and expand our partnerships under the 1980 Hague Convention on the Civil Aspects of International Child Abduction (Hague Abduction Convention, or Convention).

We believe the Hague Abduction Convention is one of the most effective frameworks for resolving abduction cases and preventing new ones. The concept is simple – barring a few narrow exceptions, when children are wrongfully removed or retained from their country of habitual residence, which is where competent authorities are best able to make a custody determination in the child's best interests, they should be promptly returned there. When it works, the Convention is very effective. Unfortunately, it does not always work as intended, and in countries that are not yet our partners under the Convention, it is not a tool we can deploy at all. Promoting accession to, and proper

implementation of, the Hague Abduction Convention is therefore one of the most important tasks we have, and the focus of much of my work.

ICAPRA: Our Domestic Toolbox and Congressional Partner

On April 22, we submitted to Congress our 2024 Annual Report on International Child Abduction, as required by the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014 (ICAPRA). The 2024 report identifies 16 countries for citation for "demonstrating a pattern of noncompliance." Eleven of these countries (Argentina, Belize, Brazil, Bulgaria, Ecuador, Honduras, Montenegro, Peru, Poland, Republic of Korea, and Romania) are partners with the United States under the Hague Abduction Convention. Five of the cited countries (Egypt, India, Jordan, Russia, and the United Arab Emirates) are either not a party to the Convention or not a Convention partner with the United States. As in previous years, we also included information we hope is useful to parents, the legal community, law enforcement and others involved in addressing international parental child abductions.

It is important to note that the annual report is only one part of a continuous process of analysis and engagement throughout the year involving each cited country, as well as others in which we have concerns, and we are seeing progress in some of these countries.

Positive Progress Around the World

For example, while in **Lebanon** last year, I participated in a day-long workshop hosted by the U.S. Embassy that focused on international

parental child abduction and brought together representatives from Lebanese government ministries, law enforcement, judges, attorneys, and civil society organizations. This workshop opened the door to further dialogue among these and other stakeholders, at least raising awareness of the problem and the need for systemic solutions.

International parental child abduction was also once again on the agenda of our annual U.S.-**India** Consular Dialogue, which has resulted in regular collaboration with the Indian Embassy in Washington to prevent future abductions from the United States to India, while we continue to work through the Office of Children's Issues and our Mission in India on resolving individual cases.

We have engaged the **Republic of Korea** continually – including at the most senior levels – to urge them to enforce Convention return court orders effectively and promptly. We have also raised IPCA cases with **Japan** continually – including at the most senior levels – to resolve pre-Hague cases of abducted children and prevent new abductions.

In **Brazil**, our engagement is relentless: international parental child abduction is at the forefront of our annual U.S.-Brazil Consular Dialogues. Earlier this year, our team met with representatives from the Brazilian Supreme Court, Ministry of Justice, and other Brazilian stakeholders; in addition, the team conducted a multi-day training for our colleagues in the U.S. Mission to Brazil on how to help resolve these cases.

I traveled to **Argentina** in May where I pressed senior officials in the Foreign Ministry, civil society leaders, and elected officials and leadership within the Argentine Congress on the need for Argentina to expedite the resolution of Hague Abduction Convention cases.

In the Department's work around the world, we employ the tools that ICAPRA has provided. In addition, we serve demarches on the governments of cited countries and issue public statements as part of our ongoing diplomatic efforts to bring about better outcomes. While the tools in ICAPRA include measures like cancellation of assistance, we note that the assistance our government provides to other countries supports our national interests, which in many cases are complex and wide-ranging. Withholding assistance or invoking a sanction could undermine efforts in other areas, like promotion of the rule of law or compliance with international treaties like the Hague Abduction Convention. We also weigh carefully whether withholding assistance to one part of a foreign government will influence those who can make a difference on international parental child abduction, and what the unintended consequences might be for U.S. national interests.

We continued to make use of the International Visitor Leadership Program (IVLP) to bring foreign officials and members of civil society to the United States to raise awareness of the impact of international parental child abduction and the need to resolve cases and challenges and promote accession to and successful implementation of the Convention. In the past year, the Department has hosted IVLP groups from Bulgaria, Saudi Arabia, Iraq, Honduras, and the Dominican Republic for programs that either focused exclusively on international parental child abduction or included the topic on the agenda. As I

travel, I meet with former IVLP participants who tell me how the experience influenced their understanding of the Convention and the importance of its effective implementation. Many of these participants have spearheaded efforts in their own countries to improve understanding and operation of the Convention by sponsoring judicial seminars, drafting guidance, and promoting legislative changes aimed at strengthening compliance with the Convention.

Prevention Remains the Best Solution

We also work to prevent the heartache of international parental child abduction. ICAPRA has been instrumental in this regard by establishing the Prevent Abduction Program and enhancing collaboration among federal authorities. The Prevent Abduction Program and Children's Passport Issuance Alert Program (CPIAP) are important tools that parents can use to help prevent their children from being abducted to a foreign country. When a parent has registered their child in CPIAP, we can alert them if anyone applies for a U.S. passport on the child's behalf. In 2023, we enrolled over 3,700 children into CPIAP, bringing the total number to 66,000. Equally important, the Prevent Abduction Program can stop a child from leaving the United States via an airport. When a parent has provided us a valid, enforceable U.S. court order that prohibits the child's removal from the United States, CI works with our partners in U.S. Custom and Border Protection (CBP) and other law enforcement colleagues to seek to prevent the child from departing the United States. In 2023, CI enrolled 341 children into the Prevent Abduction Program. We value the close coordination and cooperation with CBP, as well as other U.S. law enforcement agencies, in carrying out this important function.

Parents need to know what steps they can take to prevent their child from being abducted overseas. CI conducts outreach and provides round-the-clock assistance to address parents' concerns about the possibility of an abduction. They have provided resources and guidance on the Department's website and are available 24/7 to parents and law enforcement authorities. In 2023, CI fielded over 4,600 prevention-related calls from parents, law enforcement officers, and others concerned that a child might be abducted by a parent.

These are all positive developments, but progress takes time and does not happen soon enough for the children and parents caught up in the tragedy of international parental child abduction. We recognize that these efforts do not satisfy the left-behind parent seeking their child's return. This is especially true for parents whose children were abducted to countries that are not U.S. partners under the Hague Abduction Convention, or who were abducted before our countries became partners under the Convention, and who have limited options for seeking their child's return. Even as we seek to make systemic progress with foreign governments, our teams in the Office of Children's Issues continue to work on behalf of individual children. I am proud of the work they do, and their dedication to this important mission.

We greatly appreciate the attention that you and other Members of Congress pay to this issue and value your partnership. We look forward to exploring ways that we can work together to demonstrate the U.S. government's commitment to the welfare and safety of vulnerable children by resolving challenges and preventing future abductions. Thank you.

Mr. SMITH. Thank you so very much for your leadership. And just a couple of questions to start off with.

When the Prime Minister of Japan was visiting and obviously was so well received by the Congress and by the President, when he had his after-speech meeting over in the Rayburn room, I gave him a letter—talked to him briefly, but gave him a letter on behalf of the left-behind parents in Japan, those who were left out when the Hague was signed and ratified.

My concern has always been, and it was, as—what a cruelty to those families to say, "Now we are going to get it right, or at least get on the path to getting it right," but meanwhile, all of these other families, like Jeffrey, who is here, Paul Toland, and so many others, are just left out, not being able to see their children and certainly not having the reunification that is warranted by the law and by, really, universal justice.

I gave them the letter. I'm going to put the letter in the record. I will give you a copy again. We still haven't heard back. And it is troubling in the extreme, with all the diplomatic niceties that he was afforded—and he was very well received, and I deeply respect him as well—that when a very serious set of issues are raised about very real people who are being treated so cruelly, I mean, it just—they rejoiced when the Hague was signed into law, but it was a very bitter rejoicing because they knew they were left out, grandfathered out rather than in.

So I would ask you, if you could, with the Prime Minister, with the Japanese Government, to reiterate an effort, reignite that effort to get these children home. It baffles my mind. Justice delayed is justice denied. There is no statute of limitations on justice, and certainly, this injustice and the cruelty of it is just mind-boggling.

As my ranking member said, she has no idea how she would handle it. I have no idea how I would handle it, as a father of four and grandfather of eight, if such a thing were to happen. It was just—it is mind-boggling not knowing—even when the nuclear problem occurs, many of our left-behind families were trying to find out, was their child in any way injured or put at risk during that crisis? And it was crickets, nothing. And I just find it appalling.

So I would put this letter in the record, but I would like to convey to you a copy again and see if you could at least get an answer. My hope—the answer will be, "Hey, let's just do this. I care about the abductions that have occurred big time. I was on Congressman Honda's bill of the abductions that were going to North Korea."

Well, abductions is a two-way street. We don't want any abductions. And so I appeal to you to take that back. I do hope you can put even more benign pressure on that government to do more now with these cases. They can't be forgotten anymore.

Second, I wanted to ask you with regards to the demarche—and we have had demarches, and when I wrote the law, I patterned it after both the International Religious Freedom Act and the Trafficking Victims Protection Act of 2000. The idea was that you have a very real sanction, like a sword of Damocles hanging over a country for noncompliance. But we know that when it is not used, the country and the bureaucrats in each respective country say, "We can weather a little criticism, but there is nothing that is going to follow."

When I was fighting for David Goldman so very, very hard, one of the things that I raised on my many trips was that we are going to look economically to taking away GSP, which you know you need very badly in Brazil. And we were serious about denying them the continuance of Generalized System of Preferences for their products. All of a sudden, they are all ayes. "Okay. What do we gotta do?" Please. You have got economic pressure and other pressure just staring us in the face. It is why we wrote it into the law. Ten years later, blow off the dust.

And I appeal to you again to start demarching—no. Start sanctioning countries, and we will see results across the board because they will say, "Oh, the Americans mean business now. They are not bluffing." And I do think, despite—when you are interlocutors, you probably talk to a lot of very good people who care deeply. But they are not making the decision, necessarily, in country X, Y, or Z. Somebody else is just saying, "Just talk. Reduce us on things." But again, some of these left-behind parents that go on for decades, they need a resolution.

So I would ask you, if you could, will you be looking to use the sanctions prescribed in the law going forward?

Ms. BERNIER-TOTH. Thank you, Congressman Smith.

Mr. SMITH. Yes.

Ms. BERNIER-TOTH. Each year, the Office of Children's Issues—the country officers, the branch chiefs, the Division Chief—me—sit down with our colleagues from the regional bureaus, with our colleagues at embassies and consulates abroad, and we review the list of tools in the Goldman Act to see which ones are going to be effective in trying to address some of the challenges we've seen in individual countries.

I can assure you that we look at the entire list and then beyond that, because in addition to what is in the law, we have other tools at our disposal, not just diplomatic tools, but training and things that raise awareness of the importance of implementing the Hague Convention or finding solutions to individual cases of international parental child abduction. So we do look at the entire list each and every year.

Mr. SMITH. But I would ask and I would appeal to you—you have got a very serious sanction—sanctions—that you could impose. And I believe with all my heart, soul, and my—you know, not only was I inspired by the trafficking law, which I wrote, but that was inspired by our civil rights law. Without sanctions capability, the schools wouldn't have complied the way they do and have to.

Sanctions do grab the attention. And you have countries like Argentina, Brazil, Ecuador, India, Jordan, and Peru noncompliant every year since 2015. I mean, I met with Modi personally on behalf of a case out in New Jersey. A young woman who had her two children abducted was treated like trash by her now separated husband. He stole from her. The police had reports showing that he was a thief in addition to being an abductor.

She went over there, and nothing. No help. She was even at risk of court action for trying to see her children. And she has testified here a few times as well. You couldn't find a nicer, more civil, more loving mother who has been absolutely cruelly denied her children. And I brought her to meet with Modi and appealed to him, and

nothing happened there either. After a while, you say these jobs are worthless if you're not willing to help people who are at risk and vulnerable.

And so India, I mean, one of our great trading partners, allies—we need to do more there as well.

Ms. BERNIER-TOTH. Thank you. And I would agree that India is definitely on one of my—top of my list of countries that I have been working on over the past year.

Mr. SMITH. Great. And I have asked before. I will ask one more time, then yield to my friend, Ms. Wild. Have we tried an MOU with India?

Ms. BERNIER-TOTH. We have raised that, but there has been no interest on the side of the Indian Government. I think I would note, though, that memorandum of understandings can be helpful in certain instances. For example, we have one that is more operational with Saudi Arabia, which commits both of us to meet on a regular basis to discuss issues. That has been carried out, and that goes on.

Other MOUs which have stressed the importance of facilitating parental access to their children, even as the parents seek the return of their child—I would say that is a hit or miss in terms of how we have been able to really use those effectively with the countries involved.

So we have to look at it, but we do hold it out as something we will consider.

Mr. SMITH. I would just say—Mr. Koepcke, you might want to answer this as well. We sanction India; we will get their attention. I know there will be other people in the Department, there will be bureau heads, that will say, "Oh, don't mess up the relationship." Friends don't let friends commit human rights abuses, and these are against American children and American parents.

And with impunity, they are telling us to go take a long walk on a short pier. They don't care. And having had these conversations with people directly, including Modi, he needs to step up, as does his government, the government. So please use the sanctions. You sanction; you will get results. I guarantee it.

Mr. KOEPCKE. Yes. Thank you for that, Chairman. The process that Michelle described in terms of working together with the regional bureaus and the Bureau of Consular Affairs is something that we engage in on an annual basis, and we will continue to do so to make sure we are using the tools that are going to be the most effective for getting progress on this important set of issues.

For both Japan and Korea, these issues—they are different circumstances, but they remain an important part of our bilateral agenda with both countries. We have been raising it at senior levels and kind of all the way up and down our system, and we will continue to do so.

I have had recent active conversations with my own counterpart in Japan on this topic, and you mentioned the letter to the Prime Minister and not receiving a response. I will followup on that with him because, as I said, we are actively discussing this issue as we continue to see progress.

Mr. SMITH. Thank you.

Ms. Wild?

Ms. WILD. Okay. Ms. Bernier-Toth, as I mentioned in my remarks, I have constituents whose children have been abducted to Egypt by one of the parents over the past several years. I know that Egypt is not a signatory to the Hague Abduction Convention, and that obviously is a significant factor.

And I know that you have worked aggressively to press your Egyptian counterparts on this issue, and I would just encourage you to please continue to do that. And please let us know, either my office or this subcommittee, of anything else that you think we can do here in Congress to help you in that effort.

One of the problems that we have seen in the cases from my district and cases across the country is the reluctance of U.S. attorneys to move forward with charges against the abducting parent because a court order was not in place at the time the children were abducted, which is problematic, of course, because an abduction could very well be planned before there is even any known friction, legal experience going on, or anything else.

And I understand the position of the DOJ and U.S. attorneys, but I also think that that has really hindered some of our progress in this area. And it obviously hinders our ability to press the foreign governments that are in question. And for that matter, it prevents us from being able to ensure that the parent, the abducting parent, is stopped when they travel elsewhere to third countries or potentially even back here to the United States.

So I am not going to ask you to make comment on the decisions within DOJ, but I would like to ask you how a more proactive and perhaps supportive approach by DOJ might provide the State Department with some additional authority. And I am talking about DOJ and law enforcement generally. And do you see areas where coordination between State, DOJ, and law enforcement could be strengthened?

I think, personally, there is always room for more coordination and cooperation no matter what the issue is. I am all about cooperation. I think one of the things we see is that, often, local law enforcement is not aware that there is no waiting period, if a child is reported missing, that they can enter that child's name into the——

(Simultaneous speaking.)

Ms. WILD. And when you say local, you mean local as in city, state——

Ms. BERNIER-TOTH. City, State, local. Yes.

Ms. WILD. Okay.

Ms. BERNIER-TOTH. And so that is an area where I think greater awareness is needed. We work with the law enforcement authorities on our prevention working group. We have representation there. But again, there is always more that we could do. I totally agree.

Ms. WILD. Thank you.

Do you have any comment on that, sir, about the question I just asked about coordination between State and DOJ and local law enforcement and what could be done to improve it?

Mr. KOEPCKE. I don't, no. I will just note that, in that regard, our consular sections in both our embassies in Seoul and Tokyo work on these issues very closely in coordination with the Bureau

of Consular Affairs. And that is where that kind of connective piece would play out.

Ms. WILD. And so, moving on to the challenges with South Korea, Mr. Koepcke, the Republic of Korea was named in the 2024 International Child Abduction Report as noncompliant with the Hague Convention despite it being enforced between the United States and Korea since 2013.

A State Department report to Congress noted that ROK, Republic of Korea, law enforcement authorities regularly failed to enforce return orders and abduction cases. As a result of this failure, 29 percent of requests for the return of abducted children underremained unresolved for more than 12 months.

Do you have any update on Korea's response to the report thus far and what kind of commitments, if any, have been made to address those findings? And again, that was a report of 2024, just this year. So I wouldn't necessarily have read of any improvements in the response, but perhaps you know of some.

Mr. KOEPCKE. Yes. Thank you for that question. I think it is a part of the agenda when we are speaking with Korean counterparts, Korean Government counterparts, on this. As I mentioned, our post is very much engaged on this.

We have outreached to the Korean Government seeking progress in light of the noncompliance finding, and consistently, including from senior officials, including from our technical experts in our consular section as well. I will continue to work with them on that and make sure that they understand where we are coming from on this.

As I mentioned in my opening remarks, there are challenges within the legal system. Those are challenges that we have worked with them on to try to find some solutions. And they did push out new guidelines to local authorities engaging on these things. It is not enough, but I think it is clear that we have the channels with the government that we need to have, that we can have these conversations and see progress. It clearly hasn't been enough, and we will continue to work on that.

Ms. WILD. I appreciate that. One thought that I have, Chairman Smith—congressional delegations, known as CODELs, Members of Congress, travel frequently abroad, often to the countries that we are talking about today and other countries that are cited in the report on child abduction.

And it seems to me that we have a duty, because we are often in a position when we are on those trips, to be in behind-closed-door meetings with the highest-level officials, often discussing issues that we care deeply about, sometimes uncomfortable issues. But I can tell you that I have never been—now, granted, I have never been on a CODEL to Japan or Korea, but I have never heard this issue raised.

And it seems to me that one of the things that we might want to talk about, Chairman Smith, is that every CODEL that is leaving from Washington to go to a foreign country should be educated and advised by our subcommittee or someone else on the instances of child abduction, the lack of any response from that country, and that members of the CODEL should be absolutely encouraged to raise this over and over again because, as I said, we often are rais-

ing difficult, delicate issues with countries that are our allies, but there are some issues that we care deeply about. But it seems to me that this one is—absolutely should be front and center. So thank you.

With that, I yield back, Mr. Chairman.

Mr. SMITH. Thank you very much.

I would like to now yield to Ms. Radewagen. And thank you for your leadership.

Ms. RADEWAGEN. Mr. Koepcke, Mr. Michael Fallon is another left-behind American parent whose son was abducted to South Korea last summer. While Korean courts have ruled in his favor, the taking parent has hidden his son and has slowed down judicial proceedings through multiple appeals.

What has the Department done and what is it doing today to bring Mr. Fallon's son home? And have you raised his case in engagements with Republic of Korea counterparts?

Mr. KOEPCKE. Thank you for that question. I think I am going to turn to my Consular Affairs colleague for more details. It is my understanding we don't typically get into specific cases. There are privacy considerations and other considerations.

But what I can say is that all of the cases that come to our attention are brought through our Consular Affairs Bureau to our consular section at our embassy in Seoul. So they are tracking these and will continue to work on them. And then, as we do, as I described, the broader legal framework at work and some of the reforms that have to happen there, including possibly legal remedies, are something that we are continuing to engage with them on regularly.

Ms. BERNIER-TOTH. I would just add that this and other cases involving the importance of enforcing the return order are of a high priority to our—not just to our team in Seoul, but to the Office of Children's Issues and, of course, the East Asia Pacific Bureau. This is an issue that we have raised regularly with the Government of Korea.

I would also note that the Government of Korea has definitely taken note of our annual report. I spoke with them soon after it was released because they had questions about that. So the report itself is a useful tool.

Ms. RADEWAGEN. Ms. Bernier-Toth, the eighth meeting of the Special Commission on the Hague Convention also stated that while the exceptions derive from a consideration of the interests of the child, they do not turn the return proceedings into custody proceedings.

Has the Department observed instances of foreign courts relitigating custody issues instead of strictly making the Hague Convention ruling? If so, where, and what has been done to address this problem?

Ms. BERNIER-TOTH. Thank you for that question. That is much of what I do. We often see situations where a family law judge is unfamiliar with their roles and responsibilities under the Hague Convention and, unless advised otherwise, treats the case as a custody case and relitigates those custody issues, which is not appropriate.

And so we have emphasized the importance of judicial training and raising awareness among local judges in many countries of their roles and responsibilities under the convention. And we have worked in countries such as, for example, Brazil and Argentina, where I was engaged in this, to work with their Hague network judges to make sure that they are reaching out and they are providing guidance to their counterparts across the country so that they are better informed.

We have also supported and participated in judicial training for foreign judges overseas to make sure that they know what their responsibilities are. It is a really important part of what we are doing. It is not just do they understand the actual role and responsibility, but are they acting expeditiously? Is the legal system treating these cases with priority so that they are moved to the top of the queue and so that the child can be returned promptly?

Ms. RADEWAGEN. I am not sure what the time is. Clock doesn't seem to be working. But I yield back the balance of my time. Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much.

Ms. Manning?

Ms. MANNING. It can be very dangerous if the clocks are not working.

Thank you, Chairman Smith and Ranking Member Wild, for bringing this important hearing. And I want to thank our witnesses for your service.

Many years ago, I had a law partner who was able to use the Hague Convention to get an abducted child back home, returned to this country, for her client. So I know the process can work when dealing with a compliant country to resolve this kind of a tragic situation. But sadly, not all cases work out that way.

Ms. Bernier-Toth, can you share more about what happens when State is made aware of a potential child abduction case, and are there things that we can do, we in Congress can do, to be helpful?

Ms. BERNIER-TOTH. Thank you for that. Typically, it starts when a parent or somebody on their behalf contacts the Office of Children's Issues to report that their child has been abducted to a Hague or a non-Hague country.

The country officer in the Office of Children's Issues who is responsible for that particular country will talk to the parent and explain what their potential options are, whether it is a Hague Convention case, whether it's a criminal case, because it is up to the parent, ultimately, to decide what they choose to do. It is their child, and they are best placed to decide what their path is.

Should they seek return of the child under the Hague, the Office of Children's Issues will facilitate and assist them in filing the application with the foreign central authority. They can also go directly to the foreign central authority, but that way we don't have as much visibility on the case.

From then on, it is just tracking the case there, making sure that it is being handled as appropriately as it can be. In non-Hague cases, obviously, that is more complex because the options for the parent are more limited, and often, it is a very difficult process of navigating the local legal system in the foreign country. So I hope that answers your question.

Ms. MANNING. It does. And are there any commonalities among cases that are successful that you can share with us? And does congressional involvement at any particular level seem to be productive in resolving these cases?

Ms. BERNIER-TOTH. That is a very good question. I think what you see—as you noted, when it works, it works well because it creates that bridge between legal systems, and it looks at habitual residence and not other custody issues.

And so we do have partners where the convention works. And I think, in that case, it then also serves as a preventive measure because if a parent knows that if they abducted their child, the child will be returned to the habitual residence, then they don't, hopefully, abduct their child in the first place.

Congress plays an important role. I think this was mentioned before. As CODELs go out, it is really helpful for the host government to understand that this is an all-of-government issue. This is something that Congress cares about, that the State Department cares about, that other agencies care about, because ultimately, it is about the children. And we have a responsibility to protect them.

Ms. MANNING. Well, I appreciate my colleague Representative Wild raising that issue because there are many of us who go on CODELs to Japan and to Korea. So, if those issues—I am glad to hear that Japan is doing better, but with regard to Korea, there are opportunities for us to raise those issues if we are continually made aware that there are problems in a particular country we are visiting.

Do you find that there seems to be any kind of a cultural bias in returning, for example, a child to the father when the abducting parent has been the mother or vice versa? And if so, how can those cultural biases be overcome?

Ms. BERNIER-TOTH. So I would say that that is sort of country-specific and cultural-specific. Sometimes it is biases about returning a child to the father. Sometimes it is about returning the child to the mother. Again, our point when we work on these cases with the parent is that it is about the child.

And we know, as Congressman Smith said, separating a child from one of the parents by the unilateral actions of another parent is very traumatizing for the child. And I think that is where we try to focus and make that point because, ultimately, it is not about culture; it is about the child and the child's welfare and best interests.

Ms. MANNING. So you mentioned, I think, during your remarks that there are sometimes indications that can be spotted of likely abduction with a military family. Can you talk a little bit about that and what can be done to be more aware of that situation?

Ms. BERNIER-TOTH. This is a major effort that we are undertaking, is to work, again, with the military officers, the community officers, to help them to raise their awareness of what some of the red flags might be so that they can try to prevent and counsel their clients against taking actions which, in the end, will only be detrimental to the child.

So there is an outreach program. There is a training program. We send teams out a couple of times a year to countries where we have significant numbers of U.S. military. We have had some suc-

cess. Not only have they gone to Korea and Japan and Italy, but when they have done that kind of training, they have actually then used virtual platforms to bring other bases and other officers from other countries in as well. So it is a really major effort on our part.

Ms. MANNING. Let me ask one final question because I also don't know whether my time has run out. But with regard to the 2024 annual report and also the letter included in our materials from Secretary Blinken, it is clear that Poland and Montenegro have just been added to the list. Can you tell us what happened, and are there things we can do to be helpful with those two countries?

Ms. BERNIER-TOTH. I don't have the specifics on that in front of me, but I can tell you what happens is, as part of the annual review and the assessment of countries—this is a yearlong process. So we look at what is happening in that country. We evaluate the country's performance against the criteria laid out in the Goldman Act and make a decision as to whether we should cite them or not.

This is something that is done in collaboration with our regional bureau with our embassy abroad. But again, it is based on the criteria that are laid out in the Goldman Act in terms of the numbers, in terms of the central authority operations, judicial processes, and things like that. Each country is going to be rated on those criteria.

Ms. MANNING. Thank you again for all your hard work. I know these are heartbreaking situations for families, and I am sure that the help you provide is very much appreciated.

With that, I yield back.

Mr. SMITH. Dr. McCormick.

Mr. MCCORMICK. Thank you, Mr. Chair. International parental child abduction. It is a terrible thing. Since 1994 over 30,000 children have been abducted and taken abroad by one of their parents without the consent of the other.

As a father, I can't fathom the terrible feeling of separation and heartbreak that those parents endure. I would feel if my children were abducted, I can only imagine what they are going through.

I applaud the work of Chairman Smith and what he has done historically in passing the Goldman Act 10 years ago and his continued work to secure the child's future and to protect them from this grievous occurrence.

Ms. Bernier-Toth, as you mention in your testimony, prevention is the best method of combating international parental child abduction. The Goldman Act created the children's passport issuance alert program to notify the concerned parent if someone attempts to get their child a passport without their knowledge.

You also mentioned, just in this hearing as I have been listening, that this is about the child. How many single parents have brought children across the southern border in this last 4 years?

Ms. BERNIER-TOTH. I am sorry, sir. I don't have that number.

Mr. MCCORMICK. I would say it is tens of thousands, just based on a thumbnail approach. How many of them had passports? You probably don't know.

Ms. BERNIER-TOTH. I don't know.

Mr. MCCORMICK. Got you. When we used to test to see if children were related to their parents as they came across the southern border, we had about an 8 to 9 percent failure rate is my understanding. We stopped testing.

So my question is, if this is about children, like you said, which I believe that, too, it is about the child, if we don't know how many kids—by the way we have tens of thousands of kids who came across the border by themselves, and by the way we lost them—we don't know where they are right now under the government charges. But it is about children. We don't know where those tens of thousands of children who came over here by themselves are.

We don't know if those children were kidnapped by their single parents who brought the children across because we don't know, and we didn't test. And finally, we don't even know if those kids being brought by that one person are genetically related to that person they are bringing across.

So not only do we not have accountability for the children who came here by themselves, tens of thousands lost, we don't know if that child has been kidnapped by their single parent that's coming across the border with those kids. We also don't even know if they are related to that child, and they are kidnapped from both parents. So how are we making this about the child? How do we have accountability in our own country let alone foreign countries?

Ms. BERNIER-TOTH. Sir, I really can't speak to issues that are related to the Department of Homeland Security and its responsibility for the southern border.

I do know that we do have cases in the Office of Children's Issues of children who are brought into the United States from Mexico or across the U.S. Mexico border, whether it is from Mexico or other countries and where the left behind parent has filed a Hague application or another application for the child's return.

I don't have the numbers, but there are cases we are aware of those situations.

Mr. MCCORMICK. I would suggest we have almost no accountability. First of all, we know we don't have accountability for the tens of thousands of children who disappeared when they across the border. We have no accountability because we have no idea how many single parents come here at the behest of one parent, not both. Because you don't know, and I don't know. And we have an act that says we should know.

This isn't about law because we have good laws. We just don't enforce them. And what I really want to make sure that people understand is we should make it about the child, but we are not.

We have put politics ahead of children repeatedly in our own country. And so therefore it is absolutely obscenely hypocritical that we talk to other countries about not doing their part when we in the United States are not doing our part.

Shame on us. Shame on this administration. Shame on us for not following the law and not being accountable for the very children we are supposed to be protecting. With that, I yield.

Mr. SMITH. Thank you very much, doctor. Ms. Jacobs.

Ms. JACOBS. Thank you, Mr. Chairman. Thanks to both of you for being here to testify on this important topic.

As we all here know, the Hague Convention is an important tool to protect the lives of children both globally and domestically. And I know one of my constituents, Astrid Johnson, is watching this hearing today.

Three years ago the father of her children fled to Dubai and ceased all communications with her. She has not had contact with her two young children since June 2023. And currently, she is unaware of their address and whereabouts, and they have moved several times.

I know that you are working diligently on this case. We have had many conversations on this. But I want to talk about some of the constraints that stand in your way. In particular, the fact that there are some countries like the UAE who haven't signed onto the Hague Convention and are less cooperative.

So I was wondering how do you approach international child abduction cases when it comes to these less helpful countries and countries that aren't party to the Hague Convention and how should we in Congress be thinking about that piece of this puzzle?

Ms. BERNIER-TOTH. Thank you very much for that. When I am speaking with foreign government officials, especially those in non-Hague countries, again, I make the point that I made earlier is that this is about the child. And this is a child who in many instances is both a U.S. citizen and a citizen of the host government and that we have a collective responsibility to do right by them.

And that does resonate often. In countries that are not signatory to the Hague Convention, we seek to have regular meetings, regular discussions about individual cases and the overarching issues that are creating challenges for left behind parents in trying to gain the return of their child or even just access to their child. And that is what we seek.

Again, as I mentioned, we have an MOU with Saudi Arabia that lays out a specific timeframe for meetings and issues that we will discuss. And I think that is a model that we are trying to pursue with other countries as well because it means that we open up a dialog. We understand each other. We understand where the challenges are. We can be very frank in where we see the challenges. And we can look collectively at ways to try to address them.

Ms. JACOBS. Thank you. You know, we know there are a number of these countries that show a pattern of non-compliance. The 2024 Annual Report on International Child Abduction reports a number of them. The UAE is on that list.

Unfortunately, while you have been successful in some of these cases, they do often take a very long time, sometimes several years such as Ms. Johnson's case.

So how would you—you know, how should parents of internationally abducted children in these kinds of countries that are on this list engage with the State Department and relevant governments and raise awareness for their children, like what advice do you have?

Ms. BERNIER-TOTH. That's an excellent question. And I hope that some of our parents who are here can answer that as well in the next panel.

You know, I have seen some parents conduct really successful awareness campaigns that not just got the attention of the host government in a constructive way, but also elicited both sympathy and support from civil society in that country, many of whom may have been facing some of those same challenges themselves, de-

pending on local laws. But I have also seen where those kinds of very public campaigns can be detrimental, can undermine efforts.

So I think it is important that parents consult with their attorneys, with trusted advisors, sometimes other parents who have gone through the same kind of ordeal to see what is going to work in this country, in these circumstances given the circumstances of that particular case.

But I have seen parents run very effective strategies to raise awareness about the pain that they have experienced, about the trauma to their children, and have gotten governments to pay attention, including our own.

Ms. JACOBS. Well, thank you. And thank both of you for all of your work on this issue. Mr. Chairman, I yield back.

Mr. SMITH. Thank you, Ms. Jacobs. Just one final brief question. When we were writing the law, I put a section in there about reporting to Congress, Senate, House, individuals, when an individual who has had an abduction, if they give the consent to let that Member of Congress know so they can become activists on behalf of their cause.

And it is the law, Section 104, as long as the consent is given by the left behind parent. Is that being implemented?

Ms. BERNIER-TOTH. Yes, sir, it is.

Mr. SMITH. And do you have any idea of how many Members of Congress have been notified?

Ms. BERNIER-TOTH. I don't. It is always at the behest of the agreement of the left behind parent. But, you know, again, I would assume that many left behind parents would love to have their Member of Congress involved.

Mr. SMITH. But do they know that—I mean, some people have no idea what people they should call. When they call the Office of Children's Issues, do you let them know as long as they give their authority, their consent, their member House or Senate——

Ms. BERNIER-TOTH. Yes.

Mr. SMITH [continuing]. So both can jump in?

Ms. BERNIER-TOTH. Yes.

Mr. SMITH. If you could get back with any kind of number on how often that is actually used, because I am not aware that my office is—I mean, we get lots of requests, especially from out of the State and out of the district, but some from within. And I don't know of any, but maybe I missed it, that came from State where, you know, you said this person wants you to get working on this. So please let us know.

Ms. BERNIER-TOTH. It is standard procedure that the Office of Children's Issues will ask the parent if they want us to contact the Member of Congress' office. But we can get back to you on that.

Mr. SMITH. I would appreciate that. Because I think it is a—I mean, we have a lot of very effective people, both sides of the aisle, who know how. And when we talk about delegations, traveling, you know, you bring your names with you every time, especially from your own district or State. So it is a tool that I think needs to be used very aggressively.

I thank you for your testimony and look forward to working with you going forward.

I would like now to welcome our second panel to the witness table, beginning with Jeffery Morehouse, who is the Executive Director of Bring Abducted Children Home, a nonprofit organization dedicated to the immediate return of internationally abducted children being wrongfully detained in Japan.

BAC strives to end Japan's human rights violation of denied children unfettered access to both parents and works to increase public awareness through outreach on the crisis of international child parental abduction.

He is also the founding partner of the Coalition to End International Parental Child Abduction, uniting organizations to work passionately to end, and cooperatively, to end international abduction of children through advocacy and public policy reform.

Mr. Morehouse is an award winning filmmaker, advocate, and has consulted and co-authored U.S. Department of State publications on international child abduction.

We will then hear from Nafeesah Ali Ismail, who is an adult survivor of international parental child abduction. At the age of seven, Ms. Ali was abducted by her father from New Jersey to northern Egypt, where she remained for the next 10 years. She returned home in February 2021 and has dedicated her life to helping other children and young adult survivors of international child abduction.

In 2024, she was appointed as youth Ambassador to iStand Survivors Network, an NGO that is dedicated to empowering youth survivors of parental child abduction to provide support, resources, and a safe community for those who have experienced the trauma.

Then we will hear from Melissa Kucinski, who is a lawyer and mediator based in Washington, DC. and New York. Her practice focuses exclusively on international family law, a large portion of which is international family abduction.

Ms. Kucinski has trained judges on the Hague Convention in Maryland, California, Florida. She participates on U.S. delegations to the Hague Conference on the Sixth Special Commission, a meeting on practical operation of the Hague Abduction Convention, and meetings in Tokyo, Japan in 2014 to advise on the implementation of the Hague Convention. Ms. Kucinski has served on both of those delegations to the Hague.

She teaches law at George Washington University School of Law and has authored several books on the subject. I would like to now yield to Mr. Morehouse.

STATEMENT OF JEFFERY MOREHOUSE

Mr. MOREHOUSE. Thank you, Chairman Smith, Ranking Member Wild, and to the subcommittee for inviting me here today to share my expertise and personal experience in the ongoing crisis and crime of international parental child abduction.

I request that my written testimony be entered into the record.

Mr. SMITH. Without objection, so ordered.

Mr. MOREHOUSE. Thank you. Over the past 14 years of advocacy for others and my own personal effort to locate and reunite with my kidnapped son, "Mochi" Atomu Itomo Morehouse, I have been told when our children are adults, they will be free to contact us, the seeking parent.

I understand the general public and the government are trying to offer kind words of support. These naive words dismiss the opportunity to engage and do more for the 30,000 American children that have been kidnapped to a foreign country since 1994.

Victims of international parental child abduction do not magically reunite with their seeking parent when they become adults. They have been indoctrinated for years by the abducting parents in the myths that become their reality.

Reunification staff at the National Center for Missing and Exploited Children have shared with us at the conference that abduction victims are taught by the kidnapper that the other parent is dead, didn't want them, is dangerous or harmful for them or in the case of an abducting mother, they can be told I don't know who the father is, all designed to erase the desire to seek out your other parent.

The Supreme Court weighed in on this. They recognized that family abduction is a form of child abuse with potentially devastating consequences for a child, which may include negative impacts on the physical and mental well-being of the child and may cause a child to experience loss of community and stability, leading to loneliness, anger and fear of abandonment.

The impact on this crime, on victims, is lifelong. In an article in the Sydney Morning Herald, Susuma Wataya bravely shared his experience. He said he was beaten when he asked about his father. His last name was secretly changed, cutting him off from all future contact. He said, and I quote, "I lost my identity. The pain that this Japanese system causes children is beyond description."

Last fall in Japan, I met Anthony Soma, a 26-year-old man, kidnapped to Japan from the U.S. when he was 7 years old. As a child, he told his mom that he wanted to see his dad. She would get angry at him or yell at him. So he gave up asking.

Three years ago, he started asking questions about the stories he was told about his father. He said he wants to have a relationship with both parents without the conflict.

Our children are trauma survivors. And that trauma doesn't stop when they become an adult. There should be no more survivors like Anthony Soma, who are concerned about the conflict when they want to know both parents. There should just be love and support that assists the child to reunite.

Mr. Chairman, on April 11, 2024, you handed that letter, and you mentioned it at the beginning of today's hearing, to Japanese Prime Minister Kishida Fumio—I thank you again for that—following his address to Congress. And you wrote, "To date more than 500 American children have been abducted to Japan by one of their respective parents and remain separated from the American parent. These abductions often occur against preexisting court orders and in some cases with the passport assistance of the Japanese government.

For the sake of all the children who are suffering, and for the sake of U.S. and Japanese relations, I seek your public commitment to reunite these families. The U.S. Congress has been united and outspoken on these issues for years. I am urging your government to work to return American children."

At the May 22, 2024 hearing in the Foreign Affairs Full Committee, you also asked, Mr. Chairman, Secretary Blinken about the 500 American children kidnapped to Japan. He answered, and I will quote again, "On child abduction, I am seized with this. And when we have countries that are not abiding by the Hague Convention or engaging in practices that are keeping children away from their parents that this is something we take action on. And I always welcome working with you on that."

I would love to learn what that action is. I haven't seen anything of substance to address this ongoing human and family rights crisis. If it doesn't result in demonstrable increase in the return of minor kidnapped children and the reunification of all American kidnapped children to or within Japan, regardless of age, it is all just words, words, words.

Last month U.S. Ambassador Rahm Emanuel Tweeted acknowledgment of the 10th Anniversary of the Goldman Act. In it he announced, "Working together with Japan, the United States is focused on reuniting children with their left behind parents and supporting families affected by parental child abduction."

Are they praising Japan? Is there some kind of new secret plan to actually reunite and support families? Or are they just making an unaccountable statement? Carefully, carefully crafted words.

We need actions that lead to results. Japan took action for the families of the 17 Japanese citizens kidnapped to North Korea between 1977 and 1983. The past three U.S. Presidents have met with their families and made statements of support to the press.

On April 18 of this year, the Associated Press reported that U.S. Ambassador to the United Nations, Linda Thomas-Greenfield, met with five relatives of these abductees and told them, "The United States stands with these families, with all of Japan, and with the international community in pressing for a resolution that would allow all families separated by the regime's policies to be reunited."

She furthered, "I am all too familiar with the pain and loss and the suffering that you, as family members, are experiencing. I know how painful this is for you and then how long you have had to endure this pain."

I understand enduring pain. These seeking parents that are here today behind me, they understand enduring pain. Seeking parents from all over the globe that are watching this hearing right now understand enduring pain.

Our children, cutoff from knowing their families, understand enduring pain. Who is going to take action to end our unnecessary pain? Unless Japan wants to continue to be internationally known as a black hole for child abduction, it is long past due for their government to show good faith and publicly commit to reuniting and returning our children.

There must be lasting public commitment from the U.S. Government that we will continue to help their families. And that is really important, but Japan must help ours.

Full support needs to come from the government of Japan to locate, fund, and provide for the reunification of our kidnapped children with their seeking parents.

This should extend well into adulthood. Trained experts who understand the lasting damage of parental child abduction need to be

available to assist seeking parents to bridge the gap and the barriers created by the child's kidnapping and hardened by time, the years and years these families, myself included, have had without our children.

It is estimated in Japan 150,000 children per year—that is 3 million over 20 years—are victims of loss of access to a parent. This reunification program should also include American parents who lived there and were robbed of parental rights due to Japan's single custody laws.

Now you may have read, and actually Chairman Smith, I think you mentioned also, and some of the first panel witnesses talked about Japan fixing their single custody system in the laws in an amendment earlier this year, and it was due to international domestic pressure. They didn't fix it.

Under the 2024 amendment to the Civil Code, joint parental responsibility would be an option in the future if both parents agreed. They could do that now. They could work around the existing system, I am sure.

If they don't agree, a judge could order it. But it is not written into the law to break from years and years of precedence to make joint parental responsibility a new standard.

It is going to take 2 years to implement, meaning it's not going to take effect until April 2026. After that, they are going to do a 5-year observation period. So now we are into 2031 until there will be some sort of formal review of its effectiveness or actually ineffectiveness.

And I have confirmed all of these facts with a Japanese member of Parliament, Umemura Mizuho, who has worked on this issue from within Japan for years. So there hasn't been a change as it has been reported sometimes in the press or, and I will take exception to the first panel, how it was represented in some of the testimony.

The U.S. Government designated Brazil, India, and Japan as the top three worst offenders on international parental child abduction. Our coalition partners at Bring Our Kids Home have pleaded with both the U.S. and Indian governments to established a joint intergovernmental working group to examine cases and promptly repatriate victims to their countries of habitual residence. This would allow competent courts in both nations to make custody determinations in accordance with the best interests of the child.

The government of India, they have been non-committal at best. While the U.S. continues to urge counterparts in India to accede to the Hague Abduction Convention, India has thus far refused to do so. And if they do become a Hague signatory, I am extremely concerned that all of these existing cases will be left behind again just like happened with Japan.

As we have seen it unfold when Japan became a signatory in April 2024, all of the seeking parents were barred from filing an application for return under the Convention. We were only allowed to pursue access.

The State Department's interpretation of the Goldman Act, 420 children were excluded. And I know they talked about open cases in that year, but I have been around long enough unfortunately that I saw hearing after hearing where they reduced the number

of cases in their testimony to hearings that you chaired until they finally claimed there were only 50 open cases on that first report.

There were 420 children that they have acknowledged that were kidnapped to Japan prior to that time. These cases were excluded from determining Japan's noncompliance. We must not allow this to happen again when India, if they eventually accede or any other country going forward.

Abduction cases from the United States to India, they continue to just languish. Hope for victimized American families and children has all but disappeared. The U.S. government's lack of an effective systemic response and the State Department's particular failure to utilize escalating and meaningful actions under the Goldman Act and hold the government of India accountable continue to inflict pain and suffering on a daily basis to American victims of IPCA.

Argentina, Brazil, Ecuador, Egypt, India, Jordan, Peru, Romania, and the United Arab Emirates have all been cited for noncompliance under the Goldman Act eight or more years since 2014, Costa Rica and Honduras six times, Bahamas, Dominican Republic four times, Belize, Guatemala, Japan, Lebanon, the Republic of Korea, Tunisia three times. Fifteen other countries have been cited one or two times.

How many tools provided by the Goldman Act have they used? One, a démarche, although at the hearing you mentioned there was one other tool used. News to me. I am glad they moved on once. They have used one, year after year after year, a letter. They sent 159 of these over the past 11 years.

When Congress, just like you did today, questioned them about their usage of the tools or lack thereof, they responded, each tool is carefully considered and then they choose the best tool for that country and situation and then they send another d?marche.

Dr. Jay Sun, whose son Bryan was abducted in June 2019 to South Korea, and Mike Fallon, who a couple of members talked about today, whose son Michael, Jr., was kidnapped there in August 2023, shared their experiences with me prior to the hearing. The Korean government, a Hague signatory, sees these cases as family matters and refuses to be involved.

When they are asked to take action and enforce returns, they blame the enforcement officers for their failure. And in doing so, Korea allows the abductor to prolong the ongoing child abuse and the seeking parent is suffering.

The underlying message is give up and go away. We are not giving up on our children. And we are not going away.

What can we do today, today, to address some of the problems I have outlined? Represent, co-sponsor H.R. 8365, the Sean and David Goldman Amendments Act. Get it through committee. Get it to the floor.

Section 2, Paragraph 1, redefines abduction cases so that it is any case reported involving an application with the central authority to the United States or directly with the foreign central authority by a seeking parent seeking the rights of access or return so that no child, no case, is forgotten and left behind again.

And this also is very important. It addresses a statutory order argument that State made for years on why they have excluded ac-

cess cases like Japan and 13 other countries. Access cases are abduction cases. They should not be excluded from the reporting when determining noncompliance.

Section 2, Paragraph 2, is very important as well. Right now they are required to report to the foreign affairs and foreign relations in the Senate. It would expand reporting to Justice, which has a stake in this, Homeland Security, which has a stake in this, and Appropriations, which certainly has an important role. Under the original act, there was money written into it for judicial training. It never got appropriated. State could never train judges in family courts across the country.

When I have been in court as an expert witness, I have to spend half my time trying to explain the annual report to the judge so they have a fuller understanding of the real risks with the country in question.

Section 2, Paragraph 3, updates and changes the age of majority to 18, which is what it should be. That's the age of majority in this country and most of the world.

Section 3 would require the diplomatic mission to do outreach to the victim starting at age 16 and continue. Let them know that they are an American citizen, and they have certain inherent rights. This would continue annually unless the victim, once an adult, requested to cease.

The first time they make that contact, it is not necessarily going to break through those years and years and years of psychological hold and mythology, but they have a right to know they have certain inherent rights and services as a U.S. victim and as a crime victim.

And importantly, Section 4, would call for a study of the grave, grave harm to abducted children and left behind parents as a result of IPCA. The Supreme Court recognized the devastating consequences of family abduction. The Senate has adopted multiple resolutions citing the harm done by IPCA. DOJ published a family resource guide on international parental kidnapping in 2002, last updated in 2007.

They also updated a specific law enforcement guide on international parental kidnapping in 2018. There is a need for the study of the grave harm to the children and the seeking parents in this process.

Thirty thousand U.S. children kidnapped to a foreign country since 1994. That is the size of an average American town. And it has just disappeared.

When will we see significant actions and a whole of government approach to prioritizing families and preventing future abductions? Thank you.

[The prepared statement of Mr. Morehouse follows:]

Testimony of
Mr. Jeffery Morehouse
Executive Director, Bring Abducted Children Home
and Father of a Child Kidnapped to Japan

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

"The Goldman Act Turns 10: Holding Hague Convention Violators
Accountable and Bringing Abducted American Children Home"

Tuesday, September 10, 2024

Thank you, Chairman Smith, Ranking Member Wild and to the committee for inviting me here to share my expertise and personal experience on the ongoing crisis and crime of international parental child abduction. I request that my written testimony be entered into the record.

Over the past 14 years of advocacy for others and in my own personal efforts to locate and reunite with my kidnapped son, "Mochi" Atomu Imoto Morehouse I have been told when our children are adults, they will be free to contact their seeking parent. I understand those in the general public and government are trying offer kind words of support. These are naive words that dismiss the opportunity to engage and do more for the 30,000 U.S. children kidnapped to a foreign country since 1994.

Victims of international parental child abduction do not magically reunite with the seeking parent when they become adults. They have been indoctrinated for years by the abducting parent in myths that become their reality. Reunification staff at the National Center for Missing and Exploited Children has previously shared with us that most victims are taught by their kidnapper that: 1) the other parent does not want them; 2) they are dangerous and harmful; 3) they are dead; or 4) the other parent is unknown.

The U.S. Supreme Court has recognized that family abduction—

> (1) is a form of child abuse with potentially *"devastating consequences for a child"*, which may include negative impacts on the physical and mental well-being of the child; and
>
> (2) may cause a child to *"experience a loss of community and stability, leading to loneliness, anger, and fear of abandonment."*

The impact from this crime on the victims is lifelong. In an article in The Sydney Morning Herald, Susumu Wataya bravely shared his experience.

"He says he was beaten when he asked about his father. Then his last name was secretly changed, cutting him off from all future contact.

'I lost my identity. The pain that this Japanese system causes children is beyond description.'"

Last fall I met Anthony Soma, a 26-year-old man, kidnapped from the U.S. to Japan when he was seven. As a child when he told his mom that he wanted to see his dad, she would get very angry or yell at him. So he gave up asking.

Three years ago, he started to question the stories he was told about his father. He wants to have a relationship with both his parents but he doesn't want conflict.

Our children are trauma survivors and the trauma doesn't stop when they become adults.

There should be no more survivors like Anthony Soma who are concerned about conflict when they want to know both parents. There should only be love and support that assists the child to reunite.

Mr. Chairman on April 11, 2024, you hand-delivered a letter Japanese Prime Minister Kishida Fumio following his address to Congress. You wrote, *"To date, more than 500 American children have been abducted to Japan by one of their respective parents and remain separated from their American parent. These abductions often occur against pre-existing court orders and, in some cases, with the passport assistance of the Japanese government.*

For the sake of the children who are suffering, and for the sake of U.S. and Japanese relations, I seek your public commitment to reunite these families.

The U.S. Congress has been united and outspoken on this issue for years, urging your government to work to return American children."

At the May 22, 2024 Foreign Affairs Committee hearing, Mr. Chairman, you asked Secretary Blinken about the 500 U.S. children kidnapped to Japan.

He answered, *"On child abduction, I'm like you seized with this... ...and when we have countries that are not abiding by the Hague Convention or otherwise engaging in practices that are keeping children away from their parents this is something we take action on and I always welcome working with you on that."*

I would love to learn about what action they are taking. I have not seen anything of substance to address this ongoing human and family rights crisis. If it does not result in a demonstrable increase in the return of minor kidnapped children and reunification of all the American children kidnapped to or within Japan regardless of age, it is all just words, words, words.

Last month U.S. Ambassador Rahm Emanuel tweeted an acknowledgement of the 10th Anniversary of The Goldman Act. He announced, *"Working together with Japan, the United States is focused on reuniting children with their left-behind parents and supporting families affected by parental child abduction."*

Are they praising Japan? Is there some new secret plan to actually reunite and support families? Are they just making an unaccountable statement? Carefully, carefully crafted words.

We need actions that lead to results.

Japan took action for the families of the 17 Japanese citizens kidnapped to North Korea between 1977-1983. The past three U.S. presidents have met with their families and made statements of support to the press.

On April 18, 2024, The Associated Press reported U.S. Ambassador to the United Nations, Linda Thomas-Greenfield met with five relatives of the abductees and told them, *"The United States stands with all the families, with all of Japan and with the international community in pressing for a resolution that will allow all families separated by the regime's policies to be reunited."*

"I'm all too familiar with the pain and the loss and the suffering that you family members here are experiencing," she said. *"I know how painful it is for you, and then how long you have had to endure this pain."*

I understand enduring pain. These seeking parents behind me understand enduring pain. Seeking parents from all over the globe watching this hearing understand enduring pain. Our children, cut off from knowing their families know enduring pain.

Who is going to take action to end our unnecessary pain?

Unless Japan wants to continue to be internationally known as a black hole for child abduction it is long past time for their government to show good faith and publicly commit to reuniting and returning our children.

There must be a lasting public commitment from the U.S. government that we will continue to help their families, but Japan must help ours.

Full support needs to come from the Government of Japan to locate, fund and provide for the reunification of our kidnapped children with their seeking parents. This should extend well into adulthood. Trained experts who understand the lasting damage of parental child abduction need to be available to assist seeking parents bridge the gap and the barriers created by their kidnapping and hardened by time.

It is estimated that 150,000 children per year and 3 million over 20 years are victims of loss of access to a parent in Japan. The reunification program should include American parents who lived there when they were robbed of parental rights by Japan's single custody laws.

You may have read that Japan fixed their single custody laws this year in response to international and domestic pressure. They did not.

Under the 2024 amendment to the civil code, joint parental responsibility would be an option in the future, if parents agree. If they don't agree, a judge could order it, but it is not written into the law to make joint parental responsibility the new standard. It will take two years to implement, meaning it won't take effect until April 2026. Five years after that in 2031 there will be a review of its effectiveness. I've confirmed this summary of the amendment with Japanese MP Umemura Mizuho.

The U.S. Government designated Brazil, India and Japan top three worst offenders of International Parental Child Abduction.

Our Coalition partners at Bring Our Kids Home have pleaded with both the U.S. and Indian governments to establish a joint inter-governmental working group to examine cases and promptly repatriate victimized children to their countries of habitual residence. This would allow competent courts in both nations to make custodial determinations in accordance with the best interest of children. The Government of India has been non-committal at best. While the United

States continues to urge counterparts in India to accede to the Hague Abduction Convention, India has refused to do so.

We've seen this story unfold before when Japan become a signatory in April of 2014. All of the seeking parents were barred from filing applications for return under their implementation of the Hague Abduction Convention. Under the State Department's interpretation of The Goldman Act, 420 children were excluded from determining Japan's noncompliance in the annual report on IPCA. We must not allow this to happen again with the children kidnapped to India or any other country.

Abduction cases from the United States to India, continue to languish, with little hope for victimized American children and families.

The U.S. Government's lack of an effective, systemic response and the State Department's particular failure to utilize escalating and meaningful actions under The Goldman Act to hold the Government of India accountable, continue to inflict pain and suffering for American victims of IPCA.

Argentina, Brazil, Ecuador, Egypt, India, Jordan, Peru, Romania, and the United Arab Emirates have cited for non-compliance under The Goldman Act eight or more years since 2014. Costa Rica and Honduras, six times. Bahamas and The Dominican Republic, four times. Belize, Guatemala, Japan, Lebanon, Republic of Korea, Tunisia, three times. Fifteen other countries have been cited one-two times.

Do you know how many tools provided by The Goldman Act they've used? One. A demarche. A letter. They've sent 159 of them over the past 11 years. When Congress has questioned them in previous hearings, they responded that each tool is carefully considered for the most effective option. Then they send another demarche.

Dr. Jay Sung whose son Bryan was abducted in June 2019 to South Korea and Mike Fallon whose son Michael Jr. was kidnapped there in August 2023 shared their experience. The Korean government, a Hague signatory, sees these cases as family matters and refuses to be involved. When they are asked to take action and enforce return orders, they blame the enforcement officers for their failure. In doing so, Korea allows the abductor to prolong the ongoing child abuse and the seeking parent's suffering. The underlying message is, give up and go away.

We are not giving up on our children and we are not going away.

What can we do today to address some of the problems I've outlined? Represent. Cosponsor H.R.8365 - Sean and David Goldman Act Amendments, get it through committee and to the floor.

Sec. 2 (1) Redefines Abduction Cases to include "*any case reported involving an application filed with the Central Authority of the United States or directly with the foreign central authority by a parent seeking rights of access or return.*"

This addresses the statutory order argument State made for excluding access cases for the past 10 years. Access cases are abduction cases and should not be excluded from the reporting when determining noncompliance.

Sec. 2 (2) amends reporting to APPROPRIATE CONGRESSIONAL COMMITTEES to include Foreign Affairs, Judiciary, Appropriations and Homeland Security in the House and the comparable Senate committees.

Foreign Affairs, Judiciary, and Homeland Security all have oversight for State, DOJ, and DHS, respectively. All of these play a valuable role in a whole-of-government response to this ongoing crisis. Appropriations is vital to appropriate the funds that are allocated. That didn't happen in 2014 for the funds allocated for judicial training.

Sec. 2 (3) changes the definition of a child from *"an individual who has not attained 16 years of age,"* to 18 years of age. This brings it in line with what the U.S. and most of the world recognizes as the age of majority.

Sec. 3 requires diplomatic mission outreach to the victim starting at age 16. This includes attempts to notify victims kidnapped to foreign countries of their rights as a U.S. citizen including the right to a passport. They would continue annually unless the victim, once an adult, requests these cease.

Sec. 4 calls for a study of the grave harm to abducted children and left-behind parents as a result of IPCA. The Supreme Court recognized the devastating consequences of family abductions. The Senate has adopted multiple resolutions citing the harm done by IPCA. DOJ published A Family Resource Guide on International Parental Kidnapping in 2002 and last updated it in 2007. They also published A LAW ENFORCEMENT GUIDE ON International Parental Kidnapping in 2018. There is need for study.

30,000 U.S. children kidnapped to a foreign country since 1994. That is the size of an average American town that has disappeared.

When will we see significant action and a whole-of-government approach to prioritize reuniting families and preventing future abductions?

Mr. SMITH. Thank you so much for that very eloquent and powerful statement. Ms. Ali?

STATEMENT OF NAFEESAH ISMAIL ALI

Ms. ALI. Good morning, Chairman Smith, Ranking Member Wild, and members of this distinguished committee.

My name is Nafeesah Ali Ismail, and I am an adult survivor of international parental child abduction.

I sincerely thank you for the opportunity to share my story and related the lived experience of other children and youth survivors, those who have come home like me and those who still suffer and remain abducted in foreign lands.

Three years ago, I came home from a 10 year abduction to Egypt. At the age of seven, my father took me from my birthplace in New Jersey. I didn't understand that when I left New Jersey, I was leaving my family, my language, and all that I had known in my young life.

My father then decided to move to Egypt, and we never came back. Instead, I remember settling in a small village in northern Egypt where everything was foreign to me.

In the early days, I was not directly taught Arabic language, but I was able to pick up the Egyptian dialect pretty quickly. Soon I was able to comprehend how people spoke about me. It was challenging and confusing for me to understand why I was the child with horrible skin tone that relatives slathered with whitening cream and also continuously straightened my hair.

My father enrolled me in a language school. And even as a third grader, I was able to pick up on the poor quality of education offered to me.

The school helped me speak Arabic, but the academic quality was lacking in other aspects. Regularly on my way to school, and people in the village stared at me loudly asking, why is she so dark? I can never forget those days.

I was too young to understand. Yes, I understand perfectly that I didn't belong there. When I wasn't in school, I mainly stayed in my room imagining someone from the U.S. Government would knock on the door and ask for me.

I know other survivors like me have this silly dream. I became depressed and lost hope that I would return to the United States and attempted suicide multiple times.

As the years dragged on, altercations between me and my father grew more frequent. After one serious altercation, I decided that I had enough and reached out to my mother, whom I was able to maintain some contact with.

In the beginning, my mother tried to bring me home. She appealed to the State Department, but she was told that she had to get an attorney and court orders. She was also told to work with Egyptian officials and my father to resolve the matter. She didn't know how to do that. Thankfully, my mother introduced me to Dr. Noelle Hunter, and iStand peer network.

We communicated over several months while she understood my situation, and we planned how I could get out of Egypt. And honestly at this point, I had lost hope that I would come home. But I went along with the process.

Then in December 2020, our plan gradually turned into action. First, I arranged my mother to send me money to one of my friends since I had no bank account and no Egyptian identification. I also took a chance by arranging for my online boyfriend, whom I never met, to meet me and take me to the safe house in Cairo.

Immediately after receiving the money, I told my father that I had to arrange classes. In reality, I went to go buy a new SIM card so no one could track me. I bought a new outfit so no one would recognize my clothes. And after packing my backpack and getting ready to leave, I asked my father for a hug before I left.

He told me to wait until I returned from class because he had a surprise. This broke my heart and made me feel guilty, after all I was leaving.

I boarded a microbus to Mansoura to meet up with my online friend. From there, we took a taxi. And after 3 hours, I arrived at the safe house. I still remember the fear and relief I felt that day. I also believed that in just a few days, I will be going back home with Dr. Hunter.

But this was not the case. To begin with, we went to the U.S. Embassy in Cairo to request an emergency passport. It took 2 weeks, two trips to the Embassy, and special forms for me and my mother to get the passport issued.

During this time, my father started calling the Embassy, making threats, demanding to know my whereabouts. The Embassy told me that they declined to offer any information about me as a U.S. citizen. I was so scared that he would find me.

We soon learned that having an emergency passport was not enough for me to exit Egypt because I didn't have proof of any Egyptian identification. It was arranged for me to go to the Ministry of Administration of Passports, Immigration and Nationality in Cairo to obtain a foreign residence card.

I visited the location on four separate occasions. The staff was uncooperative, leading me in circles, and ultimately denying my eligibility to obtain a foreign residence card.

During this time, we repeatedly asked the U.S. Embassy to intervene. They said they made some calls to explain my situation, but they only kept referring us back to the Ministry. For the longest time, we got nowhere, and I was disillusioned.

Finally, the woman who operated the safe house understood how to navigate the complex Egyptian system and found a loophole for me to obtain my Egyptian identification.

I was able to get a foreign resident card in February 2021. Dr. Hunter immediately booked a one-way flight to New York City. I would like to point out that at the end, I came home with the help of a brave woman, only limited support from my government, and then I saved myself with the help of others.

But what about children who are much younger than me, the ones who don't have advocates or have a safe house? Returning to the United States as a 17 year old who lived most of her life overseas still is challenging. Being on the verge of turning into an adult is terrifying, was terrifying, because my family did not show much support or guidance when I returned.

My older brother helped me enroll at St. Benedict's Preparatory Academy for my last high school years, which helped me prepare

for life after graduation. I am now a college student, and I am learning how to navigate life. It is not easy.

It has been 3 years since my return, and I am grateful to be back home in the United States. I have experienced a lot, learned many things, and grown tremendously, but the way I returned makes me feel out of place.

This brings me to my recommendations. Our government must be more proactive in preventing children like me from being abducted and prioritizing our return from foreign countries and providing a support system for us when we do come home.

When we do come home, please help us have a soft landing after such a long, painful time of separation from our family members by funding a comprehensive aftercare program from the moment we step off the airplane, an aftercare program that involves counseling, temporary financial support, education support, and opportunities for connecting and healing with other survivors.

I know for a fact that such aftercare support works because I have experienced it through iStand. They have helped me ease my transition back into normality and introduce me to other youth survivors, took me to Washington, DC, invited me to summer camp and now have appointed me as a youth Ambassador.

At our summer camp, I met survivors like Dexter, Maayi, and Liam. I also met Miyu and Amane, who are with me today behind me. We hiked, we swam, and we ate our meals. We laughed and cried and shared our experiences together in a therapeutic community. We stayed in touch through WhatsApp and regular check-ins.

Another survivor, Elyssa (?), who is also here today, she is representing her sister and her brother, Laila (?) and Yousef (?), from home from Lebanon. As one of the oldest youth survivors in our group, I feel a special obligation on their behalf as I am doing today in the sense that I rescued myself from abduction and now I want to rescue other abducted children and help them have a soft landing and long-term unification support that they need when they do return home.

I am asking Congress, and especially members of this committee, to fund a long-term aftercare initiative for abducted survivors and turn oversight into action to bring abducted American children home. Thank you.

[The prepared statement of Ms. Ali follows:]

Testimony of Nafeesah Ali Ismail
Youth Ambassador
iStand Survivor Network Inc.
for
The U.S. House Committee on Foreign Affairs
Subcommittee on Global Health, Global Human Rights, and International Organizations
Hearing: "The Goldman Act Turns 10: Holding Hague Convention Violators Accountable and Bringing Abducted American Children Home"

September 10, 2024

Good Afternoon, Chairman Smith, Ranking Member Wilds, and members of this distinguished committee. My name is Nafeesah Ali Ismail. I am an adult survivor of International Parental Child Abduction. I sincerely thank you for the opportunity to share story, and to relate the lived experiences of other children and youth survivors— those who have come home, like me, and those who still suffer and remain abducted in foreign lands when they should be home, like me. I earnestly hope that my experiences, and my call to action and accountability for my government, place a renewed focus on those who matter most, children who are victims of International Parental Child Abduction.

I am 20 years old. Only three years ago, I came home from a 10-year abduction to Egypt. At the age of 7, my father took me to Egypt from my birthplace in Newark, New Jersey. I was only seven, and I didn't really understand that when I left New Jersey, I was leaving my family, my language, and all that I had known in my young life. My father then decided to move to Egypt and we never came back. Instead, I remember settling in a small village in Northern Egypt where everything was foreign to me.

My dad and I did not have our own home in Egypt, so we lived with family and friends. My expectation as a child was that everything was going to be okay because I was with my dad. But it was not okay, at all. I was a seven-year-old American in an Egyptian village surrounded by people who did not want to understand me; people who saw and treated me as "less than" simply because I did not have the same skin color and hair texture.

In the early days, I was not directly taught the Arabic language, but I was able to pick up the Egyptian dialect pretty quickly. So, with the acquisition of basic language, I was able to hear how people viewed me, and I was able to comprehend how they spoke about me. It was challenging and confusing for me as a child to try to understand why I was the child with the horrible skin tone that relatives slathered with whitening cream, and hair that was continuously straightened.

My father was able to enroll me in a language school in the village, and as even as a third grader, I was able to pick up on the poor quality of education offered to me. Yes, the school helped me improve my Arabic, but the academic quality was lacking in many other aspects. Regularly, on my way to school, people in the village stared at me, loudly asking "*why is she so dark?*" I can never forget those days. I was too young to understand, yet I understood perfectly that I didn't belong there.

As time passed, I gradually became accustomed to life in the village, and growing up and living alone with my father. I had to become the woman in the household from an early age, which took away my childhood and teenage years inside the home. Outside the home, the village was a male-dominated environment, and being assaulted was a common experience for me. At home, my father frequently abused me out of frustration over our quality of life, so I did not dare to confide in him all that I was experiencing.

When I wasn't in school, I mainly stayed in my room— imagining someone from the United States government would knock on the door and ask for me. I know other survivors like me also had this silly dream. I became depressed, lost hope that I would return to the United States, and attempted suicide multiple times.

As the years dragged on, altercations between my father and I grew more frequent. After one serious altercation, I decided that I had enough and reached out to my mother, whom I was able to maintain contact with over the decade, usually when she would send my father money. So, my mother was sending money to my father to support us, even though he refused to send me home.

In the beginning, my mother tried to bring me home. She appealed to the State Department but was told only that she had to get an attorney and court orders, and also work with the Egyptian officials and my father to resolve the matter. She didn't know how to do that, and I know now that many parents don't know how and have to figure it out on their own.

Thankfully, my mother introduced me to Dr. Noelle Hunter and iStand Parent Network. We communicated over several months, while she understood my situation and we planned on how I could get out of Egypt. Honestly, at this point, I had lost hope that I could come home to the US, but I went along with the process.

Then, in December 2020, our plan gradually turned into action. First, I arranged for my mother to send money for me to one of friends since I had no bank account and no Egyptian identification. I also took a chance by arranging for my online boyfriend, whom I had never met, to come to the nearby city and take me to a safe house in Cairo. Immediately after I received the money, I told my father that I had tutoring classes. In reality, I went to buy a new SIM card so that no one could track me. I brought a new outfit so no one would recognize my clothes. After packing my backpack and getting ready to leave, I asked my father for a hug before I left, and he told me to wait until I returned from class because he had a surprise. This broke my heart and made me feel guilty. After all, I was leaving.

I got on a microbus that took me to Mansoura. By the time I arrived to meet up with my online friend, we'd missed the last bus that was supposed to take us to Cairo. We took a taxi instead, and after three hours, I arrived at the safehouse in Cairo. I still remember the fear and relief I felt that day. I also believed that in just a few more days, I'd be going back home to America. I thought I'd be returning with Dr. Hunter in early January 2021.

But this was not the case. To begin, we went to the U.S. Embassy in Cairo to request an emergency passport. It took two weeks, two trips to the Embassy, and special forms from me and my mother to get the passport issued. During this time, my father started calling the Embassy, making threats and demanding to know my whereabouts. To their credit, the Embassy declined to offer any information about a U.S. citizen--- me. I was still so scared that he would find me. We soon learned that having my emergency passport was not enough for me to exit Egypt, because I did not have proof of being an Egyptian resident.

It was arranged for me to go to the Ministry of Interior Administration of Passports, Immigration, and Nationality in Cairo to obtain a foreign residence card. I visited the location on four separate occasions, and the staff was uncooperative, leading me in circles and ultimately denying my eligibility to obtain a foreign residence card. Essentially, since in Egypt such residency determinations are based on the father's lineage, I refused to offer any information about my father, so I was denied.

During this time, we repeatedly asked the U.S. Embassy to intervene. They said they made some calls to explain my situation, but they only kept referring us back to the Ministry, and to a special

office for women and children's issues. For the longest time, we got nowhere, and I was so disillusioned.
There was the consideration that I stay in the safe house until I turned 18 to leave, which sounded like a nightmare, and I lost hope that I'd ever be able to leave. Finally, the woman who operated the safehouse, a Canadian expat who understood and could navigate the complex Egyptian system, found a loophole for me to obtain my Egyptian identification.

It was arranged for me to go back to the Ministry, and shockingly, I was able to get a foreign residency card in February 2021. Dr. Hunter immediately booked me a one-way flight to New York City. I'd like to point out that in the end, I exited my abduction with the help of brave women, with only very limited support from my government. In the end, I saved myself, with the help of others. But, what about abducted American children who are much younger than me? The ones that don't have advocates or a "safe house" to get to?

Returning to the United States as a 17-year-old who lived most of her life overseas was, and still is, challenging. For me, returning was like starting from zero, and not having the necessary support made it even more difficult. Being on the verge of turning into an adult was terrifying because my family did not show much support and guidance when I returned. They really didn't know how to do that, because no one had ever been internationally kidnapped before, and they didn't know of any resources specifically for families like us. My older brother helped me to enroll at Saint Benedict's Preparatory Academy for my last high school years, and my experience there helped me to prepare for life after graduation. I'm now a college student, and I'm learning how to navigate life. It's not easy.

It has been three years since my return, and I am grateful to be back home in the United States. I have experienced a lot, learned many things, and grown tremendously, but the way I returned home still makes me feel out of place. When I was in Egypt, I needed the support of my government to come home, but I didn't really get it. When I came home, my family and I really struggled to connect. My return was both wonderful and painful at the same time. Thankfully, I had the support of iStand Parent Network, and now the iStand Survivor Network. Through them, I discovered that there are many, many survivors like me who are still hurting, but are healing together in our special community.

This brings me to my recommendations of what needs to happen, how our government needs to be more proactive in preventing children like me from being abducted, in prioritizing our return from foreign countries, and in providing a support system for us when we do come home.

As I said, I used to daydream that someone from the U.S. government was going to come and take me home. I understand now that it's not that easy for our government to make such demands from another country, but I know from my own experience that more can be done. Our embassies can be more responsive to parents seeking help to locate and return their abducted children. Not just in issuing passports, but in working with other nations in very specific ways to find children and to remove legal or systematic barriers to their return.

When we do come home, please help us to have a soft landing after such a long and painful time of separation from our other family members by funding a comprehensive aftercare program from the moment we step off the airplane. An aftercare program that involves counseling, temporary financial supports, educational supports, and opportunities for connecting and healing with other

survivors. I know for a fact that such aftercare support works, because I have experienced them through programs like iStand Survivor Network. They have helped ease my transition back into normalcy, introduced me to other youth survivors, took me to Washington DC, invited me to summer camp, and now, have appointed me as a youth ambassador.

At our summer Survivor Camp, I met other survivors like Dexter, Miyu and Amane, Maayi, and Liam. We hiked, swam, and ate our meals together. We laughed and cried and shared our experiences in a therapeutic community. And, we stay in touch through Whatsapp and regular check-ins.

As the oldest among all the youth survivors in our group, I feel a special obligation to speak on their behalf, as I'm doing today. In a sense, I rescued myself from abduction, with the help of others. Now, I want to help rescue other abducted children and help them have the soft landing and long-term reunification support that they need when they come home. I am asking Congress, and especially members of this committee, to fund a long-term aftercare initiative for abduction survivors, and to turn oversight into action to require our U.S. State Department to put abducted American children first, and to bring them home.

Thank you.

Mr. SMITH. Ms. Ali, thank you so much for that amazing testimony. Thank you for your courage and your tenacity. And you are an inspiration to other abducted children that there is hope. So you have blazed a trial. Thank you so very, very much. And Noelle Hunter, thank you for your great work as always.

I would like to now—Ms. Kucinski, the floor is yours.

STATEMENT OF MELISSA A. KUCINSKI

Ms. KUCINSKI. Thank you. Chairman Smith, Ranking Member Wild, and members of the subcommittee, thank you for inviting me to participate in today's hearing, and I thank my co-panelists.

My name is Melissa Kucinski. My comments today will summarize my written statement, which I have provided for the record and for your consideration.

For U.S. lawyers, the most visible part of the Goldman Act is the Annual Report on International Child Abduction. The report's conclusions are routinely relied on in litigation of custody cases where a parent expresses a fear of parental child abduction. But in reviewing this report, there are shortcomings.

The report misses cases that are not filed through the central authority. It classifies cases as successfully resolved when a parent may have otherwise abandoned their attempt to seek their child's return.

Some countries' compliance is based on so few cases that it could be misleading. And the report conflates countries having international legal obligations to return children to the United States with those that do not have such an obligation.

The Hague Conference on Private International Law also collects data, which paints a more accurate and comprehensive picture.

Using its most recent statistics from October 2023, we see that Argentina, for example, averaged 218 days to resolve a case under the Convention. The 2024 U.S. Report classified Argentina as not compliant.

In comparison, Australia averaged 309 days according to the Hague Conference statistics but is compliant in the U.S. Report. Poland, as another example, averaged 250 days according to Hague Conference statistics and is not compliant in the U.S. Report.

The United States from its own reporting averages 253 days to resolve a case. The length of time to resolve these time sensitive cases is but one factor in determining compliance, but it is an important factor. And the raw data provided by the Hague Conference could indicate a different result than reached by the U.S. Report for some countries.

Overall, the 16 noncompliant countries that are on the current U.S. Report are chronic designees, with 10 having been cited multiple times since reporting began under the act.

The reporting and the act itself does not appear to be motivating a change in these countries. Therefore, I make the following proposals.

First, courts in the United States take significant time to resolve abduction convention cases. The United States should be the gold standard in resolving these cases, which will then better enable the Department of State to represent the value of quickly and capably

resolving these cases when they are discussing these matters with other countries.

In that regard, there should be more resources devoted to educating our judges and designating a judge in each courthouse to handle these cases.

There should be more resources devoted to educating American lawyers, including those who are members of the attorney network established by the Department of State. There needs to be more accurate and comprehensive statistics and more factual data about a country's laws and processes, which will stand alone to provide information to parents, lawyers, and judges without potentially misleading classifications.

The Department of State should also engage in dialog on complementary legal issues that could potentially reduce the number of abductions. The three issues include, No. 1, the lack of clear law in family relocation cases and the underutilization of the Washington Declaration on International Family Relocation by the Hague Conference.

No. 2, the dated research by the Department of Justice on abduction prevention. And No. 3, the concern that U.S. custody orders may not be recognized and enforced in other countries and how to better inform the United States on its next steps for the potential ratification of the Hague Child Protection Convention, which it signed in 2010.

Finally and particularly for countries where there is no international law on which to rely for seeking a child's return, there should be dialog about the use of mediation as a potential tool to secure access to and the possible return of children.

The discussion should include the lack of standards and training for international family mediators.

So I thank you for your time today and for your continued concern for cross-border families. I welcome questions today and after today.

[The prepared statement of Ms. Kucinski follows:]

Melissa A. Kucinski, Esquire
Attorney, Mediator, MKFL
House Committee on Foreign Affairs
Subcommittee on the Global Health, Global Human Rights, and International Organizations
September 10, 2024
The Goldman Act Turns 10: Holding Hague Convention Violators Accountable and Bringing Abducted American Children Home

Chairman Smith, Ranking Member Wild, and Members of the Committee: thank you for inviting me to participate in today's hearing and thank you for your attention to a topic that is very important to so many families globally. This is a topic that has comprised a large part of my law and mediation practice for almost two decades. Through my international caseload, I have had significant opportunity to engage with Taking Parents, Left Behind Parents, and their children, and I see the complicated and nuanced elements that make up these very personal and emotionally fraught family disputes.

Background on International Parental Child Abduction

The Goldman Act became law in 2014, with the stated goal of ensuring other countries' compliance with their legal obligations to return to the United States children who, through the unilateral actions of one parent, found themselves relocated to another country. The concern was, clearly, that some countries were not returning children who were abducted into that country. At present, some of the compliance concerns for individual States, outlined by the U.S. Department of State in its Annual Report mandated by the Act, range from foreign Central Authorities that fail to fulfill their responsibilities, to foreign judiciaries that fail to implement the Convention, to countries that fail to work with the United States to resolve cases.

In January of 2020, the U.S. Department of State, Bureau of Consular Affairs reported that an estimated 9 million U.S. citizens were residing overseas, and 66,595 U.S. citizens had been born in another country the prior year.[1] Increasingly, Americans are living overseas, moving their families to other countries, starting a family in another country, marrying a foreign national, and, at times, availing themselves of the legal system in another country to resolve a family dispute. One of the most acrimonious and emotionally draining of those family disputes involves the movement of children.

Pursuant to the Goldman Act, the U.S. Department of State is required to report statistics that relate to children who had been unilaterally removed from the United States to another country. This statistical report is perhaps the most visible part of the Act to U.S. lawyers and their clients, and is often consulted as part of custody cases where one parent is concerned about their child's potential abduction. However, these statistics have some shortcomings. They only include cases reported to the U.S. Department of State by a presumptive Left Behind Parent, but do not include cases filed directly in courts without notification to the Department of State or that are in

[1] https://travel.state.gov/content/dam/travel/CA-By-the-Number-2020.pdf, last accessed 08/27/2024

negotiation without a formal judicial or administrative proceeding. Cases marked as "resolved" in the report may include cases that are resolved voluntarily. A voluntary resolution, while seemingly a good thing, may include situations where a parent simply abandoned their attempt to seek their child's return, including in situations where the foreign litigation was too onerous, time-consuming, or expensive. For some countries that meet the criteria of a "pattern of noncompliance" under the Act, this conclusion is drawn from only one or two cases, and with the subtleties in each case, that statistic may be misleading. Additionally, the countries listed as not compliant on the most recent report are chronic "offenders" according to the report, with most being listed in 2023 and 2022, and almost as many having been listed several more times since the report was first prepared in 2015. The report is an excellent tool. It provides a good starting point when assessing issues that may exist diplomatically with other countries that should provoke additional deeper investigation, but it should not be the final conclusion as to whether a country will return an abducted child. In reality, parental child abduction is founded on the bad acts of a private individual, and less so on those of a foreign country. Each case and each family will have unique characteristics that cannot be accurately reflected in a few pages of incomplete statistics.

The United States, along with most other Contracting States to the Hague Abduction Convention, voluntarily provides case statistics to the Hague Conference on Private International Law approximately every five to six years, in advance of that organization's Special Commission meetings to analyze the practical operation of its Hague Abduction Convention.[2] The most recent statistical report, presented at the 8th Special Commission meeting in October 2023 analyzing statistics from 71 countries from calendar year 2021, provides some additional details that may be at odds with some of the Annual Report's statistics. Most notably, in the Hague Conference's analysis, is the stark statement that most countries, with the United States included, significantly miss the mark in how quickly these cases are resolved. While the most recent statistics are from a year when some countries were only just starting to re-open their borders after COVID lockdowns, they do give some instruction, and, frankly, are not so far off past statistics as to disregard them. For 2021, the overall global return rate of children using the Hague Abduction Convention was 39%. The average number of days to resolve a case globally, from filing an application with the Central Authority to a final outcome was 207 days. Cases where parents pursued an appeal increased from 31% in 2015 to 42% in 2021. However, appellate courts reached the same conclusion as trial courts 81% of the time.

These statistics do not reflect practices of countries that are not Contracting States to the Hague Abduction Convention. Additionally, not every Contracting State responded to the Hague Conference's request for data. Further, some countries have so few cases overall that it is hard to draw meaningful conclusions. But even countries that are considered compliant in the most recent State Department Annual Report take significant time in resolving cases. Australia, for example, reported 309 days to a final outcome; Ontario, Canada reported 248 days; Colombia at 296 days; Cyprus at 307 days; Georgia at 320 days; and the United States at 253 days. These delays are not appreciably different from delays reported by countries considered not compliant by the State Department Annual Report, such as Argentina at 218 days; Bulgaria at 281 days; and Romania at 221 days. In fact, in looking at a handful of cases in the past three years, filed in U.S. District Courts pursuant to the International Child Abduction Remedies Act (ICARA), many courts in the

[2] https://assets.hcch.net/docs/bf685eaa-91f2-412a-bb19-e39f80df262a.pdf, last accessed 08/29/2024

United States set trial 100 to 200 days after the filing of the initial petition, and then took several more months after the trial to issue a final order. When an appeal was lodged, the appellate process routinely took 1 to 2 additional years. This does not even account for some cases, similar to Mr. Goldman's case, that had several appeals and took between four and six years to resolve.

There are a wide range of reasons why many U.S. district courts will take upwards of a year to reach a conclusion. The United States does not have specialist judges, and some districts see so few Hague Abduction Convention cases that it is not a priority to train judges in Hague Abduction Convention cases, or to put in place different docketing and administrative processes to expedite these cases. In the private bar, there are presently about a dozen experienced Hague Abduction Convention litigators or mediators in the country. In litigation, some parties have incentive to delay, and some lawyers may use aggressive litigation tactics that perpetuate those delays. Some Taking Parents may hide, making it complicated and time-consuming to find the child to pinpoint the courthouse in which a lawsuit should be filed. Furthermore, the most recent two Hague Abduction Convention cases addressed by the U.S. Supreme Court established law that has resulted in more expansive litigation. *Monasky v. Taglieri,* 589 U.S. 68 (2020), has led to significantly expanded trials so that parties can put forth sufficient evidence to meet the amorphous, judge-dependent principle for deciding where a child is habitually resident. *Golan v. Saada*, 596 U.S. __ (2022), has created a need in many cases, where the Taking Parent argues that a child would be exposed to a grave risk of harm upon return, to gather evidence in the other country and address what ameliorative measures exist, which routinely includes a need for expert witnesses, including psychological evaluations, which are time-consuming and expensive.

I applaud Congress for taking proactive steps in trying to address this topic head-on, using the resources it has at its disposal. Today, I hope to highlight, from my practice, potential paths to continue improving the situation for these families, who find themselves caught between multiple legal systems and vast geographic divides. By improving the system, we remove the incentive to create delays and abuse existing law and practice.

Proposals to Address International Parental Child Abduction

The Goldman Act combines countries that have very distinct legal obligations to the United States and countries that have no international legal obligation to the United States in regard the problem of parental child abduction. I distinguish between those countries in this written testimony.

The Hague Abduction Convention

Of the 103 Contracting States to the Hague Abduction Convention, the Convention is in force between the United States and eighty of those countries.

I would like to note that the Hague Abduction Convention, while premised on an expedited return of an abducted child as the outcome, does not mandate the return of all abducted children in all situations. There are some situations where children are not returned, and the legal system has worked. The concern of this body should focus on those countries where the other country's

legal system may not work – there are significant and unjustified delays; there are biased arbiters who do not apply the law properly; there are Central Authorities who fail to meet the basic Convention requirements. These situations are best analyzed on a country-by-country basis and require a bona fide analysis to determine the shortcomings in each legal system. These shortcomings are best addressed by encouraging legislative changes and having engagement and education among the members of other countries' independent judiciaries, rather than a cursory review of incomplete statistics.

The Goldman Act provides for remedies, many of which were already legally available to the Executive Branch. Those remedies authorize engagement in productive dialogues with government officials and practitioners from Convention partners, which requires appropriate funding to ensure our U.S. Department of State is able to have these conversations, such as when the United States sent a delegation of diplomats, judges, and lawyers to Japan immediately after Japan's ratification of the Hague Abduction Convention to discuss its implementation, and how our U.S. Department of State has continued to engage in productive conversations with their Japanese counterparts in the Ministry of Foreign Affairs with regard to amendments to Japan's implementing legislation.

While the U.S. Department of State has been able to engage in robust dialogue with its Convention Partners, some countries may better receive statements of concern and offers of assistance from an independent organization, such as the Hague Conference on Private International Law. The Hague Conference engages in post-legislative work. Voluntary contributions from the United States should be considered to support targeted, enumerated activities by the Hague Conference, such as collecting better, more frequent, statistics and having more outreach to countries who are experiencing implementation problems, and to enable a more productive and robust working of this Convention.

While I encourage the appropriation of funds for targeted dialogue and work, I caution against funneling money to organizations that are intending only to justify their existence, feed into false narratives, and that are not vetted and dedicated to undertaking the task at hand from a neutral standpoint. Any funding decision by Congress or the Executive should require a more focused approach that addresses the clear delays and inefficiencies in resolving Hague Abduction Convention cases. I am concerned about the proposed Goldman Act amendment that qualifies its appropriation of funds towards a vague analysis of the "grave harm" (a term that can easily be conflated with a term in the Convention) that befalls children and Left Behind Parents. While both children and Left Behind Parents might suffer, if this provision remains in the proposed amendment, a focused and more directed instruction will lead to better equipping our U.S. government in seeking the data it needs to engage in its diplomatic dialogue with other countries.

The United States tends to lead by example. Our implementation of the Hague Abduction Convention should not be an exception. We should set the gold standard for ourselves and other countries. This will best enable our diplomats to engage others and encourage other countries to fulfill the obligations of the Convention. In this regard, I have several suggestions.

In the United States, Hague Abduction Convention cases may be filed in any courthouse in the United States – state or federal – depending on where the child is located after the abduction. Because of the widespread nature of abductions to the United States, many courthouses and judges will never see a Hague Abduction Convention case in their career, making proper training on this complicated legal issue a low priority. The Federal Judicial Center publishes a guide to handle these cases, but training should be more widely available, and quick, easy access to legal resources in the United States should be readily available and kept current for our bench and bar. The clerk's office within each courthouse, as the office who may be responsible for the expedited docketing of these cases, could also benefit from training.

Aside from a small specialized private bar that handles cases under the Hague Abduction Convention routinely, many lawyers who handle these cases are undertaking their work without access to training. The U.S. Department of State maintains a list of lawyers who agree to undertake these cases pro bono or at low cost, but these attorneys are left mostly to their own devices to educate themselves about the law. They need training and continuing education and could be offered free training and resources to maintain their place on the U.S. Department of State's roster. Likewise, aside from this roster of volunteer lawyers, many legal aid agencies in different U.S. states have existing relationships with large law firms, to whom they refer cases, often to assist the Taking Parent on a pro bono basis. These large law firms, while offering a vital service, can often overwhelm the litigation process by adding a half a dozen or more lawyers to their side of the case. They often lack the prerequisite knowledge to settle the case because they are not trained in the underlying legal issues that require resolution, such as cross-border parenting, custody plans, and state court jurisdiction in family law matters. Training should also exist for these legal aid organizations, and the firms to whom they refer cases, to ensure lawyers discharge their duties in the most economical and civil manner, including through pursuing bona fide voluntary resolutions.

It goes without saying that all courts in the United States are overwhelmed with litigation. Statistics show that, at trial, Hague Abduction Convention cases rarely conclude within the Convention's aspirational six weeks, and often take nearly one calendar year to an outcome at the trial level. U.S. state and federal courts should be encouraged to designate a judge within each courthouse to be assigned these cases who is specially trained and best equipped to handle these cases quickly and expeditiously. Florida and California state courts have already been employing this technique with some success. The International Hague Network of Judges, organized by the Hague Conference, has three U.S. judge liaisons, all who are state court judges (not federal), who are often called on to reach out to judges within the United States. The American Bar Association recognized the sensitive ethics rules that are implicated in direct judicial communication and the complicated process in pinpointing an appropriate judge because of the disparities in how courts are organized state-to-state and approved a Resolution in 2013 supporting such a judicial network. Courts throughout the United States should be encouraged to designate a point of contact for these cases, and a network of contacts should be created, trained, and engaged, to streamline an exchange of information within the United States.[3] Further work could be done through the American Bar

[3] See ABA Resolution 107B encouraging the establishment of a network of U.S. federal and state judges, https://www.americanbar.org/content/dam/aba/directories/policy/annual-2013/2013-annual-107b.pdf, last accessed 08/31/2024

Association's Judicial Division, the Federal Judicial Center, and the National Center for State Courts. Again, court administrators should also be engaged in this discussion.

The United States should set the bar and encourage each federal and state court where a Hague Abduction Convention case is filed, to report directly to the U.S. Department of State when a petition for a child's return is filed, and when a final order is entered, so the government can have more robust and accurate statistics, and stave off potential problems that may exist in certain courthouses. This could be done administratively, including through clerk's offices when cases are filed and closed. U.S. trial courts are, however, not responsible for all of the time taken to resolve Hague Abduction Convention cases. A parent who loses in their Hague Abduction Convention trial has an automatic right to appeal in any U.S. state or federal court, and the appellate court process can be lengthy, often taking another year to resolve the case, and, many times, if overturned, resulting in a remand and a new trial. Therefore, any engagement that the U.S. Department of State has with the domestic judiciary should not overlook appellate courts.

When a judge in another country is examining whether or not to return a child to the United States pursuant to the Hague Abduction Convention, it is becoming more routine that they want to understand what measures exist in the United States to protect the child upon that child's return. It is difficult for foreign courts to understand the complicated legal and social service systems within the United States. This can add time to the foreign proceeding while that foreign judge attempts to collect information about the relevant U.S. state's laws, legal system, access to justice, social services, etc. There should be better access to information about our complicated, yet highly protective resources for families in the United States, so that foreign courts can quickly and confidently access this information, whether through the U.S. Central Authority, through a public facing website, through the International Hague Judicial Network, or elsewhere. This can serve to assist foreign courts in more expeditiously returning children to the United States. These same courts who are exploring protective measures in the United States may also have questions, and concerns, about the criminalization of child abduction in the United States, and this information should also be available to courts overseas.

Finally, while our U.S. Department of State undertook an audit of its public-facing website within the past decade, and made improvements, there remain problems with the information found on the website, including inaccuracies as to whether the Hague Abduction Convention even applies between the United States and another country. A parent trying to gather sufficient information to start their long journey towards seeking their child's return should not be at the receiving end of inaccurate information from what is an otherwise reliable government entity.

Situations Not Involving the Hague Abduction Convention

Perhaps some of the more complicated international parental child abduction cases are those where there are no international legal obligations in the other country to return an abducted child to the United States.

The Hague Conference recognized that there will simply be countries that may never become a Contracting State to the Hague Abduction Convention, and therefore embarked on what

it calls the Malta Process. The Malta Process was developed to promote cooperation among States with legal systems based upon or influenced by Islamic law for the resolution of complex trans-frontier family conflicts, including parental child abduction cases. The Malta Process had been stagnant in recent years, most likely due to a lack of funding and a shift to other priorities. It is, however, the subject of a meeting on September 24-27, 2024[4] with the hope that future work may come from that meeting, if funding permits.

One of the biggest suggestions that previously arose from the Malta Process and one that was a focal point in the work of International Social Service (ISS), a nongovernmental organization headquartered in Geneva, Switzerland, was the use of family mediation in complex cross-border family law cases. Particularly where there are no legal remedies available to families, family mediation may be a tool that could help some families achieve an outcome that, while not always perfect, is an improvement on the family's situation. There is no global training scheme or standards for international family mediators. ISS created a template for a global network of cross-border family mediators, to establish criteria for their training and engagement, but lacked funding to pursue the network further. ISS's U.S. Branch in Baltimore, Maryland, previously sought funding to create a network of U.S.-based international family mediators but was met with rejection because there is an absence of accurate statistics on these cases to justify providing money to this type of project. Right now, a cross-border family who wants to use mediation as a process, is left with very few options to locate a competent and skilled mediator. I have even discussed, with the National Center for State Courts, whether it could offer, at a minimum, video mediation training about these cases to state court mediation offices (knowing that court-annexed mediation programs may be the only or best option to mediate these cases), but the continuing concern was that there were no available statistics to justify the funding of this undertaking.

Complementary Legal Issues

There should also be dialogue on complementary legal issues, such as international family relocation. A consistent complaint of Taking Parents is that they engaged in unilateral self-help because they felt that the legal system of the country in which they were sitting prior to an abduction was ill-equipped to address their request to legally relocate their child to another country. It is true that there is inconsistent practice and law when it comes to international family relocation, even within the United States. The Hague Conference adopted a set of principles in a document called the Washington Declaration[5] almost 15 years ago that has gone under-utilized but can be the foundation of a discussion about how to address this concern.

There remains a concern among U.S. practitioners that even a family that has a valid U.S. custody order, that dictates parenting arrangements and legal rights to their child, may have significant hurdles in seeking that order's enforcement in another country. Whether a child travels to another country for a holiday or legally relocates to that other country, leaving one parent in the United States, if the parental relationship sours, there may be need for legal remedies that are unrelated to seeking an abducted child's return. Parents need to have confidence that their custody arrangements are recognized, and will be enforced, globally. In 2010, the United States signed the

[4] https://www.hcch.net/en/publications-and-studies/details4/?pid=9048&dtid=46, last accessed 08/31/2024
[5] https://assets.hcch.net/docs/8a45655a-c8fa-4789-8df8-d5187d69512f.pdf, last accessed 08/31/2024

1996 Hague Child Protection Convention, which is another international treaty that may provide assistance in this area of concern. It has not yet taken steps to ratify this Convention. The U.S. Department of State may benefit from additional research and discussion with other States as to the obstacles to the recognition and enforcement of U.S. custody orders overseas, to bolster debate as to the next steps to be taken, or not, towards ratification of this Convention.

Finally, as is likely evident to everyone in this room, the United States, even with the most robust legal tools at its disposal, cannot dictate what another sovereign nation does. Therefore, it is incumbent that U.S. courts, lawyers, and parents have options, in appropriate circumstances where a parent presents a legitimate risk of abducting their child, to seek a U.S. court order that prevents that child's travel overseas. The U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention last undertook research in this area in 2007[6]. The Uniform Law Commission drafted the Uniform Child Abduction Prevention Act, enacted in seventeen U.S. states and the District of Columbia[7]. The U.S. Department of State has an Abduction Prevention team, and a collaboration with U.S. Customs and Border Protection where, if a parent has a clear court order that prevents a child's removal from the United States, the government can assist in stopping that child's removal in violation of that court order. The gap, however, is that parents are not getting sufficient information about the potential legal pitfalls before they relocate overseas. They are confused as to where to go for assistance after a legal problem arises. The first line of defense for some are U.S. consular officers in U.S. embassies and consulates overseas, who need robust training. These family members may seek assistance from their employer, who may have been the entity that sent the family overseas for a work assignment. There must be training before parents move overseas, and for the individuals who work with these families from the beginning of their legal concerns and who need to expeditiously advise their expatriate staff and nationals. Without proper education, these parents seek out any information they can find, which may be inaccurate. Their legal advocates likewise need sufficient training, and many lack knowledge of even the most fundamental resources (and what those resources do and do not do) that exist within the U.S. government, including the Prevent Abduction Program with U.S. Customs and Border Protection and the Child Passport Issuance Alert Program with the U.S. Department of State.

Conclusion

Overall, Congress has an opportunity to improve the processes in place in the United States and to equip our U.S. diplomats with the information and resources to actively engage other countries in resolving these cases. To secure resources and have the data-driven diplomacy that is necessary to persuade other countries, the United States needs better, more accurate statistics from legitimate organizations that have been engaged in these efforts for years and who have a track record of respect and reliability. The Goldman Act is the beginning. I applaud this Committee's ongoing efforts and I thank you for inviting me to share my views.

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[6] https://www.missingkids.org/content/dam/missingkids/pdfs/publications/pdf2a.pdf, last accessed 08/31/2024
[7] https://www.uniformlaws.org/committees/community-home?CommunityKey=c8a53ebd-d5aa-4805-95b2-5d6f2a648b2a, last accessed 08/31/2024

Mr. SMITH. We do have votes that have just been called. And I apologize for that. So we will have to leave momentarily.

But each of your testimoneys were blueprints, you know, in terms of what didn't happen in Ms. Ali's case and how we need to rectify that. And I will personally get your oral as well written statements over to panelists in the first panel. I would have hoped that they would have stayed to hear you because it so, so powerful, and so compelling, all three of you.

But you have given us a roadmap. Where do we go now? And I thank you, Melissa, for those thoughts. They were really, really good and, of course, Jeffery, you have been giving us insights from the very beginning. So I thank you for that.

And we will take everything you have recommended and act on it to the best of our ability as a committee, as individuals because we care deeply about this issue, what you have endured. And, again, Ms. Ali, standing up for all of the other children, which is a perspective that we have not really had enough focus on year to date. So I thank you for that.

You know, when you said that you had fantasized about the U.S. Government rescuing you, you know, the government did not. It failed you. Our government failed you. That's awful in the extreme. So that can't happen.

And, of course, Jeffery, your child—we just need to step this up. Again, I think sanctioning is something they have got to matriculate from admonishing and sending our demerches to we are not kidding. And that is going to be my battle cry going forward on behalf of these children and adults to left behind parents.

So I thank you from the bottom of my heart. We are going to keep pushing. We will get those other amendments passed. We are trying hard right now. And I would just like to yield for a final comment from the ranking member. Thank you.

Ms. WILD. Thank you, Mr. Chairman, I concur on everything that the chairman has just said. And I want you to know that just because we have not asked you questions today, please do not feel that you have not made an impact. You have made a huge impact on us and the work that we will do going forward.

Speaking for myself, I will remember you, Ms. Ali, forever and that you will help guide the work that I continue to do in this area.

I do want to allow time for us to step down so that I can meet each of you personally, and I am sure Chairman Smith wants to also and the others in the audience. So with that, I do suggest that we adjourn. But I do want you not to feel that just because we haven't asked you questions this hasn't been tremendous impactful. Thank you.

Mr. SMITH. Thank you. The hearing is adjourned, and I thank you.

Mr. MOREHOUSE. If I could just request that parents and other NGO's that wish to submit statements for the record be allowed to do so.

Mr. SMITH. Without objection so ordered, please.

Mr. MOREHOUSE. Thank you.

Mr. SMITH. Oh, yes, pursuant to the rules, of course, members may have 5 days to submit statements, questions, and extraneous materials for the record subject to the length limitations. Without

objection, the committee stands adjourned. And again, thank you again.

[Whereupon, at 4:07 p.m., the subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

FOREIGN AFFAIRS COMMITTEE
CHAIRMAN MCCAUL

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

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

September 10, 2024

Revised

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 Global Health, Global Human Rights, and International Organizations at 2:00 pm in room 2172 of the Rayburn House Office Building. The hearing is available by live webcast on the Committee website at https://foreignaffairs.house.gov/.

DATE: Tuesday, September 10, 2024

TIME: 2:00 pm

LOCATION: 2172 RHOB

SUBJECT: The Goldman Act Turns 10: Holding Hague Convention Violators Accountable and Bringing Abducted American Children Home

WITNESSES: Panel I

Robert T. Koepcke
Deputy Assistant Secretary for Japan, Korea, and Mongolia
Bureau of East Asian and Pacific Affairs
U.S. Department of State

Michelle Bernier-Toth
Special Advisor for Children's Issues
Bureau of Consular Affairs
U.S. Department of State

Panel II

Jeffery Morehouse
Executive Director
Bring Abducted Children Home

Nafeesa Ismail Ali
Youth Ambassador
iStand Survivor Network

* ~~Patricia Apy~~
~~Legal Expert on International Parental Child Abduction~~

Melissa A. Kucinski, Esquire
Attorney and Mediator
MKFL

**NOTE: Witnesses added or changed
*NOTE: Witnesses may be added.

By Direction of the Chair

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 -226-8467 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 FULL COMMITTEE HEARING

Day ***Tuesday*** Date ***Septmber 10th*** Room ***Rayburn 2172***

Starting Time ***2:13 pm*** Ending Time ***4:04 pm***

Recesses ____ (____to ____) (____to ____) (____to ____) (____to ____) (____to ____) (____to ____)

Presiding Member(s)

Rep. Christopher 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 Turns 10: Holding Hague Convention Violators Accountable and Bringing Abducted American Children Home

COMMITTEE MEMBERS PRESENT:

Attached

NON-COMMITTEE MEMBERS PRESENT:

NA

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.)*

Letter written by Rep. Christopher Smith to Prime Minister Fumio Kashida
Written Statement by Mr. Jay Sung
Written Statement by Mr. Michael Fallon

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED ***4:04pm***

Meg Wagner
Full Committee Hearing Coordinator

Committee on Foreign Affairs

Subcommittee on Global Health, Human Rights, and International Organizations

118th Congress

ATTENDANCE

Meeting on: The Goldman Act Turns 10: Holding Hague Convention Violators Accountable and Bringing Abducted

Date: 9/10/2024

Convened: 2:13 P.M.

Adjourned: 4:04 P.M.

Representative	Present	Absent	Representative	Present	Absent
Mr. Smith	X		Ms. Wild	X	
Ms. Salazar			Mr. Bera		
Ms. Radewagen	X		Ms. Jacobs	X	
Mr. Hill			Ms. Manning	X	
Mr. McCormick	X		Mr. Keating	X	
Mr. James					

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Congress of the United States
House of Representatives

CHAIRMAN, **CONGRESSIONAL EXECUTIVE COMMISSION ON CHINA**

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

CO-CHAIRMAN, **TOM LANTOS HUMAN RIGHTS COMMISSION**

SENIOR MEMBER, **HOUSE FOREIGN AFFAIRS COMMITTEE**

www.chrissmith.house.gov

April 11, 2024

The Honorable Kishida Fumio
Prime Minister of Japan
HAND DELIVERED at U.S. Capitol

Copy:
Via Yamada Shigeo, Ambassador to the United States
The Embassy of Japan
seiki.mizutani@mofa.go.jp

Your Excellency,

As our two countries continue to take steps to strengthen our democratic, economic and security ties, I would like to draw your attention to an open wound that threatens to derail many ongoing efforts.

To date, more than 500 American children have been abducted to Japan by one of their respective parents and remain separated from their American parent. These abductions often occur against pre-existing court orders and, in some cases, with the passport assistance of the Japanese government.

While it was hoped that Japan's 2014 accession to the Hague Convention on the Civil Aspects of International Child Abduction would help properly address this crisis, it simply has not fostered greater access or the rightful return of these children and hundreds of American children endure, daily, the pain of separation from their American parent.

For the sake of the children who are suffering, and for the sake of U.S. and Japanese relations, I seek your public commitment to reunite these families.

The U.S. Congress has been united and outspoken on this issue for years, urging your government to work to return American children.

In 2010, the U.S. House of Representatives passed H. Res. 1326 calling on Japan to *"address the urgent problem of abduction to and retention of United States citizen children in Japan, to work closely with the Government of the United States to return these children to their custodial parent or to the original jurisdiction for a custody determination in the United States, to provide left-behind parents immediate access to their children..."*

In 2014, Congress adopted and the president signed, the *Sean and David Goldman International Child Abduction Prevention and Return Act* (Public Law 113-150) to prevent the terrible crime of international parental child abduction and empower the U.S. executive branch with tools to address this problem bilaterally with countries of particular concern.

Regrettably, the abduction of American children to your country remains an ongoing human rights crisis that cannot be sidelined or overlooked. As I have said before, "when a country such as Japan has failed to resolve 30 percent of abduction cases that have been pending more than 12 months, U.S. law requires the Secretary of State to take action."

Over the years, I have chaired 16 comprehensive congressional hearings in the U.S. House of Representatives on the issue of International Parental Child Abduction with numerous experts and left-behind parents testifying about this horrific human rights abuse—many focused on the crisis in Japan. While all of the abduction cases are tragic, some are the epitome of injustice.

- Jeffery Morehouse has been fighting since 2010 for the return of his young son. He has testified multiple times before U.S. Congress and most recently at a hearing I chaired on May 23, 2023. He had legal custody in Washington State which was recognized by Japanese courts—but he still cannot gain access to his son in Japan.

- Retired Navy Capt. Paul Toland is his young daughter's only living parent, and he cannot even visit her in Japan.

- Marine Corps Sgt. Michael Elias suffered the abduction of his two children to Japan after courts in New Jersey decreed shared custody and that the children were not allowed to leave the United States. The children's mother, a former employee of the Japanese consulate in NY, abused her Japanese consulate connections to obtain replacement Japanese passports—a crime for which she has yet to be held to account. With the replacement passports, she abducted little Jade and Michael Jr. just before Christmas in 2008 and has not permitted Sgt. Elias any contact with them.

- Randy Collins has been unable to contact his son in the 16 years since Reiko Nakata Greenberg-Collins abducted him from California to Japan, in violation of U.S. court orders.

Mr. Prime Minister, there is no doubt that child abduction is a form of child abuse. Children who are kidnapped by one parent to live overseas and kept away from another are at grave risk of serious mental trauma, and may experience anxiety, eating disorder, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt, and fearfulness.

According to the National Center for Missing and Exploited Children parental child abduction victims are often taught by their kidnapper one or more of the following: 1) the left-behind parent does not want them; 2) the left-behind parent is dangerous and harmful; 3) the left-behind parent is dead; or 4) the other parent is unknown. This trauma is not easily erased.

Your Excellency, it is my sincere hope that these Japanese American children will become a source of strength between our two countries rather than a reminder of an ongoing injustice and a barrier to a robust United States-Japan relationship.

I respectfully request that you work with the United States to create a process by which families can be reunited and heal.

Sincerely,

CHRISTOPHER H. SMITH, MC
Chairman
Global Health, Global Human Rights, International Organizations Subcommittee, House Foreign Affairs Committee

CC: Takeru Terao
Counselor, Congressional Affairs Section,
Embassy of Japan in the United States of America
takeru.terao@mofa.go.jp

Written Statement for the congressional hearing

My name is Jay Sung, and I'm the dad of Bryan Sung. My son Bryan Sung was abducted to South Korea more than 5 years ago.

The most important thing about my case is that at the time Bryan was taken to South Korea, there were **court orders** and a **legal agreement** in place between the parents. The agreement was made with the Hague convention in mind to protect him from a possible international abduction. He entered Korea for a 3 week trip, according to the agreement.

This legal document, signed by both the Taking Parent and her attorney had the following statement:

"Both parents recognize that a decision to remove the child from the state or country without the other parent's consent or failure to return from a planned trip as scheduled is a major violation of this parenting plan, which could give rise to civil contempt and criminal action. Such actions are strictly forbidden."

However, after **more than 5 years** of continuous legal battle and **five times of enforcement attempt**, my son is still in Korea.

I would like to emphasize here that along with the **11 Korean court orders** (including the Korean Supreme Court order), I am the **sole legal custodian** in both United States and Korea; The Washington state court deemed the **Taking Parent to be dangerous**; The Taking Parent is **prosecuted** by Washington state and the Federal government.

We should be aware that although Korean Supreme Court made some amendments to their enforcement rule in 2024, that did not solve the problem. I tried two more enforcements after the rule change, and they did not work.

Korean legal system is not just incompetent but it is dishonest and corrupt.

Last year there was a judgment that the **Taking Parent pays me money**, which was a way of the court putting monetary pressure on the Taking Parent. However, the Taking Parent appealed and the court **dismissed the original order** saying "The Left-Behind-Parent has not tried the new enforcement rule, and is only making this particular request". As stated earlier, I had tried twice after the new enforcement rule and both attempts did not work.
I filed a **criminal report** to Korea, but that was also thwarted by an immoral act of the judge. The judge **lied in the judgment** that I had not presented a counter argument and therefore the Taking Parent's argument that I had no financial capabilities or health insurance to take care of the child was believable. This was not true because I provided my proof of six-digit income and how I can reinstate my child's health insurance. If the judge is willingly making false statements like this, there can be no hope that Korea has the capability to self-rectify their problems.

Currently the enforcement officers (bailiffs) that are assigned to the enforcement of my case are not motivated to enforce the court orders. The constantly leak out the information to the Taking Parent that they are planning an enforcement. The Korean Central Authority **does not assign a different official** to carry out the enforcement. Taking Parent ran away, and the Korean Central Authority says **they cannot locate the child**.

During the last 5 year period, my son has been made to believe that dad is scary. He's been receiving all different kinds of **medical service without my knowledge or consent**, even though I am the sole legal decision maker in the US and Korea. I would like the United States congress to have this immoral act and the failure of Korean justice system in history so that Bryan could be saved soon and ultimately prevent other children from going through the same kind of suffering, too.

September 13, 2024

Jay Sung, Bryan's dad and the award-winning director of "Do You Remember Dad?"



Letter to the Foreign Affairs Committee Reg. Sept. 10, 2024 Meeting

To the Members of Foreign Affairs Committee,

My name is Michael Fallon. I am the father of Michael Fallon, Jr. abducted on August 18, 2023, to South Korea by his mother, Ahyun Lee Fallon, and her parents, Dong Seung Lee and Junghwa Ju. Our case does have a few key factors that need to be addressed from both countries. In the US, my son never should have been allowed out of the country. We were informed through the MA State Police that they found them at JFK International at 11pm on a Friday night. When the abduction happened, my wife and I were still married. We were not divorced. There was no pending divorce at that time. There was a lot of stress in the last few weeks, and that was supposedly worked out just the day before the abduction. So, when I called the Port Authority on that Friday night in total shock that this was happening. I begged and pleaded with them to not let them leave with my 13-month-old son. I pleaded with them to at least allow for mediation. I was told that they could do nothing without a court order previously in place. And was even told that they needed to get off the line in case someone calls in for an emergency. There are several reasons why this statement is not completely true. When you have one parent refusing an unplanned trip out of the country with a minor child involved. There was absolutely no reason for the requested mediation to not be allowed. I was 3 states away. Even if they made false claims of fear or abuse, what fear is there of mediating a child's possible abduction when one of the parties is so far away? The Port Authority are police officers. The police have not only the right, but the obligation to act if they believe a possible crime is being committed. This was one parent pleading on the phone, and other family members also calling on my behalf to please not let them leave with my son. There is no excuse for them to not do some sort of investigation prior to allowing them to get on that flight nearly two hours later. Yet, they did nothing! As for Korea's dealings with our case, it shows that they are still not complying with The Hague Convention agreement that they signed. Since we filed in October of 2023, they have still not bothered with pretending to attempt any urgency in moving these cases along. Waiting months and months to schedule hearings. Falsely scheduling a hearing for January knowing that the judge wouldn't hear the case because of the annual February shift of the judges. We were told nothing of this until we flew out to Korea and we were sitting in front of the judge were we told that the judge would not be hearing the Hague portion of the case. The judge did however grant us visitation and video calls. All of which were either refused or interfered with by the TPs. In March when I came out to Korea again for the actual Hague hearing, I finally got to see my son four times. But even those were tainted and interfered with by the TPs. They even proved to the court, by submitting their own pictures that they were having me followed and stalked throughout my stay in Korea. Still, nothing was addressed. When I came back out in May, I was informed that my son was taken on two-week road trip by his mother's parents. They refused again all visitations. On May 17th I was awarded the victory in the Hague hearing. I was also granted a provisional execution of return. Since then, I have not been told where my son is being kept. What little contact I have gotten has been very short video calls where my son is hardly ever seen on camera. I attempted to have this addressed with the local police, the breaking of the court orders, the hiding of my son and the stalking. They dialed the US Embassy, handed me the phone and walked away. In July I was

awarded another victory for the 1st Appeal, as it was dismissed due to lack of a case by the TPs. So said the court. In between those two hearings, my lawyer filed for criminal charges with the Saha police. They have now been sitting on the case for nearly 3 months. The Detective in charge, Det. Sangkook Kwon, after several requests from myself and my lawyer, finally interviewed my, now, ex-wife on August 19, 2024. The Det., then informed my lawyer that he would now have to investigate if an actual crime had been committed. If he does believe there is a crime, only then will he interview the other two accomplices. We are currently waiting for his response. And we are also awaiting the Final decision from the Korean Supreme Court which the TPs filed for on August 23, 2024.

As it relates to the actual meeting of the Foreign Affairs committee on Tuesday, Sept. 10, 2024. I have had to re-write this several times to release the anger I felt after hearing the absolute absurdity, straight up lies, refusals to answer, political run around when asked direct questions. And then to have the audacity to leave just before some of the actual victims of these crimes had a chance to speak. In my opinion, Michelle Bernier-Toth and Robert T. Koepeke need to, not should be, but NEED to be fired immediately. When asked directly about why they haven't pursued a more aggressive, allowable approach in handling these cases and the noncompliance, they avoided any sense of answering the questions. The work speaks for itself. They are not willing to apply actual pressure to these noncompliant countries. Countries of whom are supposed to be allies of our and should want to work with us to resolve these cases. Yet, the countries don't want to do so. And they are doing so repeatedly for years now. As both Representatives Smith and Wild both stated very eloquently and directly, there is no reason that sanctions have not already been brought against these repeated noncompliant nations. While Representative McCormick clearly came to the meeting with his own agenda, his passion for the cause is needed. And he was right about this being about the children. The rest of his speech ventured down that personal agenda road. I did, however, find myself very impressed with both Representative Christopher Smith and Representative Susan Wild for their tenacity and passion for this cause. It is unfortunate that most politicians these days are more known for what they are not doing for their constituents. Seeing politicians actually fighting, not only for a cause, but for a cause with meaning, not a financial gain was very admirable. Thank you for that. We need a whole lot more of that in our government. It is a shame how politics has ruined so many with original good intentions. Good to see some haven't gotten lost in the mix.

With that being said, where do we go from here? And what needs to be addressed beyond this meeting? First and foremost, we need the right people in the positions to actually fight for the children. We need people that actually care about the issues they are hired to defend, protect and go to battle for. Those two named earlier are not it. Addressing issues with what is in the Hague itself currently is another major point of interest. All treaties and documents are technically living documents. Meaning they must be evaluated, corrected and updated on a regular basis. The Hague is one of documents that we must evolve as we see what works and doesn't work for the majority of the cases. Obviously, the Noncompliance issue. Any country found to be on the noncompliance list for repeated years should fall into a category of immediate monitoring and sanctioning. Any country with cases within those noncompliant countries should

be allowed to enter and extract the children should once the final decision is ruled and should two enforcement attempts fail for any reason. The Hague is about ruling on what the habitual residence of the child is. It is that habitual residence country that has jurisdiction over the child's wellbeing. Once that jurisdiction is ruled on, there is no reason why that country with the jurisdiction cannot intervene and procure the children back to the habitual residence. Any interference or refusal to allow this procurement should be seen as attempt at more than just noncompliance to the Hague and immediate sanctioning should be applied to the impeding nation. As part of the Hague Cases and handlings throughout the entirety of the case, there should be a set of standards, not guidelines, but standardized rules for the TPs and LBPs. Should one side interfere or refuse to comply with those standards immediate action should be applied. Firstly, the children's passports should be turned over to the court the child has been taken to. Either the court, or the Embassy of the country the child was taken from should hold onto the passports until a final decision is made and then the passports should be handed over to the winning side of the case. This will relieve the extra stress caused by delays should a return order of the case be awarded. Next, visitations and video calls should be a standard practice and remain for the entirety of the case. The video calls should be designed in a way that the child is in front of the camera, on good WiFi, acknowledging the LBP's presence and not purposely being distracted during the calls by the TPs side of the call. Should the taking parent refuse to comply with these, or interfere in anyway with these visits and calls, they should be subject to be detained or heavily fined. If a fine is the finalized decision it must be collect on a per day fee withdraw directly from the TP. That money should be collected by the court and held until the case is finalized. If the court rules for the return, the money is turned over to the LBP. If the TP wins the case, the money must be turned over to the LBP. The taken to country is responsible for collecting and maintain the funds. There are no exceptions for non-collection. The cost should be electronically taken from the TPs bank accounts or paystubs on a regular basis. Penalties should be standard within the Hague agreement. Leaving this up to the noncompliant countries has led to more noncompliance. For instance, Korea is known to hardly ever fine or pressure in anyway compliance. If fines are ordered they mostly go uncollected or simply expire prior to collection. Exactly what is this teaching those who refuse to comply? Having a set of standards makes it equal across the board. It makes it easier to navigate and essential speed up the processing of these cases, because things will be directed more towards the end goal, of getting through the case. While following a designed order for those issues can help aid the progression and avoid some of the hold ups that some of these noncompliant countries tend to fall into. As well as move along all of the other cases within compliant countries. Other information that must be shared throughout the entirety of these cases from the TP and the LBP. All medical records and appointments must be shared. If the child is sick and need to go unexpectantly to the doctor or hospital, the parent not with the child at that time should receive a video call while the visit is underway so they can be kept in the loop. If both side can agree to be cordial, the parent not with the child at the time of the doctor visit should be allowed to attend the visit, especially of it deemed a severe issue. School records and access to the children school should be allowed to both parents while the case is ongoing. Being that the passports are being held during these cases, the fear of a re-abduction/ reverse-abduction should be minimalized.

Keeping in mind the number one goal in these cases is trying to minimize all stress to the child. Alienation, brainwashing or false memory association will be kept to a minimum should the child have regular access to both parents throughout the case. If the parents cannot or will not comply to the rules and regulations throughout the entirety of the case, then it should be first the local police that must step in and force compliance. Should the local police fail to act, the "taken from" Embassy should have a team of experts, granted the rights to enforce the compliance with aid from the federal police force of the "taken to" nation or the military representative should a federal police force not be available within the "taken to" nation. Obviously, if there is documented proof of violence towards the children, not just one side stating it. But if there is proof of this, then the visitations and contact with the children is subject to be altered and controlled by the courts.

Again, it is the children's best interest that must remain of utmost importance throughout the cases. Therefore, consistent contact with both parents is best. While we know these cases are based mostly on the selfishness of one parent towards the other. It is extremely important that that selfishness is not rewarded as it has been throughout these previous cases, especially in these noncompliant countries. The TPs should not be led to believe that their actions are acceptable just because they chose to act on their belief. It is only through going through the legal process that the victorious side of the case be awarded that right of being in the right.

I hope the US Foreign Affairs Committee can take this and other ideas to heart and bring it The Hague for possible implementation. I'm sure I could come up with more ideas as well. But this already way too long of write up. Thank you for your time and consideration.

Sincerely,



Michael Fallon
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Mcfallon_99@yahoo.com

Questions for the Record Submitted to
Deputy Assistant Secretary Robert Koepcke by
Chairman Christopher Smith
House Foreign Affairs Subcommittee on Global Health, Global Human Rights, and International Organizations
September 10, 2024

For DAS Koepcke: Dr. Jay Sung's son Bryan was abducted to South Korea in 2019 and is still missing. While the courts have ordered his return, at least four enforcement attempts have been made with no success.

a. Why have enforcement attempts still failed even after the new administrative rule came into effect?

No Response

b. Have you raised this specific case in your engagements with RoK counterparts? If not, would you consider doing so?

No Response

c. In response to a question during the hearing regarding raising the case of Mr. Michael Fallon with your ROK counterparts, you stated, "To my understanding, we don't typically get into specific cases. There are privacy considerations and other considerations, but what I can say is that all of the cases that come to our attention are brought through our Consular Affairs Bureau to our consular section at our embassy in Seoul, so they are tracking these and will continue to work on them." Does the Political Affairs Section ever bring up specific cases with foreign counterparts? If not, why not?

No Response

Questions for the Record Submitted to
Special Advisor Michelle Bernier-Toth by
Chairman Christopher Smith
House Foreign Affairs Subcommittee on Global Health, Global Human Rights, and International Organizations
September 10, 2024

For Special Advisor Bernier-Toth:

1. When I wrote the Goldman Act, I included a section (104) that requires the Department of State to submit a written notification to the appropriate Members of Congress when a child has been abducted, so long as the left-behind parent constituent give their consent. This is done so that the Member of Congress can act as an advocate for the left-behind parent and become involved in securing the abducted child's return.
    a. Is this section being implemented?

    No Response
    b. Is this notification done only at the behest of the left-behind parent? Or does the Department proactively inform parents of the option of notifying their Senators and Representative?

    No Response
    c. How many Members of Congress have been notified through this provision?

    No Response
    d. How often is such a notification to Congress made?

    No Response

2. Kyle O'Malley is one New Jersey father whose daughter was abducted to Brazil. He has been fighting in court for over a year to get her back. When I raised this case in last May's subcommittee hearing, you said, "I'm afraid I am not intimately familiar with his case."
    a. Are you familiar with Mr. O'Malley's case?

    No Response
    b. On August 20th, the Brazilian Superior Court of Justice ruled in favor of Mr. O'Malley and declared that the original return order must be enforced. Yet the taking parent can still delay by continuing to file appeals to that court or to the Supreme Court of Brazil. Has the Office of Children's Issues done anything to advocate for Mr. O'Malley?

    No Response
    c. Will you consider sending a letter to the Brazilian Central Authority and Supreme Court, communicating that the U.S. government is closely tracking this case and will provide the necessary support to return the child to the United States?

    No Response

3. The Annual Report on International Parental Child Abduction has listed certain countries as noncompliant with cooperating with the U.S. on resolving IPCA cases for several years running. In fact, Argentia, Brazil, Ecuador, India, Jordan, and Peru have been noncompliant every year since 2015.

a. In light of their intransigence, can we assume that these repeat offenders are just not motivated to change their behavior by demarches?

No Response

b. After ten years of non-compliance, do you believe it is time for the Department to exert more public pressure on these six countries?

No Response

c. In 2017, Japanese Foreign Minister Fumio Kishida stated during a parliamentary debate that "until now there is not a single example in which the United States applied these actions [Goldman-authorized actions beyond issuing a demarche] toward foreign countries." Has the Department ever taken a Goldman-authorized action besides a demarche against any noncompliant country?

No Response

d. If not, what message does U.S. inaction past demarches send foreign nations who are not compliant with their obligations under international law?

No Response

4. Do U.S. embassies regularly attempt to locate and contact an abducted child? Please describe this process.

a. Is there a standardized and regular process, or does it vary by post?

No Response

b. Does this contact include informing the abducted child of their rights as a U.S. citizen, including the ability to get a passport or any applicable GI bill benefits?

No Response

c. Does this contact include information from or about their left-behind parent?

No Response

d. Do consulates regularly communicate to the main embassy information on the whereabouts of abducted American children? Are there routine case management calls on abducted children to discuss, update, and strategize on next steps every month or quarter?

No Response

5. Japan has taken positive steps to come into compliance with the Hague Convention in the past several years, but its record on pre-Hague cases of remains of serious concern. The vast majority of children abducted to Japan before it acceded to the Hague Convention in 2014 have "aged out" of the Hague system and are not included in Department of State reporting. In addition, it is unclear whether Japan has granted rights of access to any left-behind parents in cases that pre-date 2014.

a. Does Japan's record appear better than it is, given that many abducted children have turned 16 and thus are no longer reflected in the Annual Report?

No Response

b. The very first Annual Report in 2015 said: *"The USCA [U.S. Central Authority] continues to urge Japanese action on non-Convention cases. There are still more than 50 non-Convention cases of abduction to Japan, all of which predate Japan's ratification of the Convention. Many of these have been pending for years. In these cases, parents are not able to seek return of their children under the Convention.* How many of these non-Convention [pre-Hague] cases were resolved

with either the abducted child's return or access granted to their American left-behind parent?

No Response

c. Only four pre-Hague IPCA abduction cases remain open. Have you raised these four specific cases with your Japanese counterparts? What has been the result?

No Response

d. The first Annual Report in 2015 also said: *As of December 31, 2014, U.S. left-behind parents have filed 31 Convention access applications.* How many of the 31 Hague Convention access cases that were filed as of December 2014 under the Convention have been successfully resolved?

No Response

Questions for the Record Submitted to
Mr. Jeffery Morehouse by
Rep. Rich McCormick
House Foreign Affairs Subcommittee on Global Health, Global Human Rights, and International Organizations
September 10, 2024

[Mr. Morehouse] As you mentioned in your testimony, the State Department primarily uses formal diplomatic protests or positions statements known as "demarches" to express concern to another country over a parental child abduction case. Do you consider this an effective strategy? Should the State Department make more frequent use of the other measures authorized by the Goldman Act?

Answer: The short answer is, it is not an effective strategy and the State Department must make use of the other measures authorized by the Goldman Act.

A review of the State Department's annual reports on International Child Abduction and annual Action Report[1] demonstrates their strategy of relying on demarches is not effective. This is evidenced by many of the same countries being cited for non-compliance year after year. There has also been a clear intent to avoid reporting cases as intended by the Goldman Act. One of the ways is by excluding pre-convention era cases from countries that accede to the Hague Abduction when determining non-compliance.

Their emphasis on opaquely reporting and testifying about cases being resolved is misleading. There are multiple reasons why they resolve a case without the child actually returning home.[2]

These include:

- The judicial or administrative authority is complying with the Hague Abduction Convention;
- The parents reach a voluntary arrangement;
- The left-behind parent withdraws the application for return;
- The left-behind parent cannot be located for one year despite documented efforts by the Department of State to locate the parent; or
- The death of the left-behind parent or child.

Additionally, cases are closed when the child victim reaches age 16.[3]
Since the Hague Abduction Convention is not an enforceable treaty, judicial or administrative

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[1] U.S. Department of State, Annual Reports on International Child Abduction, https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html

[2] The 2024 Annual Report on International Child Abduction, Understanding the Data Pages, Abduction Cases Resolved During the Year, page 18 (PDF page 28), https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html

[3] The 2024 Annual Report on International Child Abduction, Understanding the Data Pages, Abduction Cases Closed During the Year, page 18 (PDF page 28), https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html

authority rulings can be created to appear to comply, but circumvent the intent of the convention. Parents may be pressured to reach voluntary agreements in foreign jurisdictions that entirely unenforceable. An application for return might be withdrawn because the seeking parent is advised to pursue a different strategy or they cannot afford the mounting legal costs. Seeking parents frequently report they rarely hear from their country officer at the Office of Children's Issues or they don't know who it is. This calls into question the efforts to locate the parent within the one-year time limit.

The measure of effectiveness of the tools is simple. Has it resulted in a systemic change in the offending country that results in abducted children being consistently reunited and returned?

Demarches are only one of eight actions under 22 U.S. Code § 9122(d). When a country is a repeat offender or as a first-time offender fails to respond to a demarche with a plan that can be implemented with urgency and effectiveness, it is time to use stronger actions. This is essential so foreign countries realize the United States is serious about reuniting and returning kidnapped American children.

Currently the world does not take the U.S. seriously on this. On February 2, 2017 in Japan's Diet, then-Foreign Minister Fumio Kishida (and current outgoing Prime Minister) declared there is not a single example of sanctions under the Goldman Act and the Government of Japan is of the opinion that they are sincerely compliant with the Hague Convention.[4]

In this month's September 10, 2024 hearing, Special Advisor for Children's Issues Michelle Bernier-Toth responded to a question on use of sanctions.

"Each year, the Office of Children's Issues -- the country officers, the branch chiefs, the Division Chief -- me -- sit down with our colleagues from the regional bureaus, with our colleagues at embassies and consulates abroad, and we review the list of tools in the Goldman Act to see which ones are going to be effective in trying to address some of the challenges we've seen in individual countries.

I can assure you that we look at the entire list and then beyond that, because in addition to what is in the law, we have other tools at our disposal, not just diplomatic tools, but training and things that raise awareness of the importance of implementing the Hague Convention or finding solutions to individual cases of international parental child abduction. So we do look at the entire list each and every year."

Deputy Assistant Secretary for Japan, Korea, and Mongolia, Robert Koepcke mirrored this in his response to a question on sanctions.

"Yeah. Thank you for that, Chairman. The process that Michelle described in terms of working together with the regional bureaus and the Bureau of Consular Affairs is something that we

[4] "Japan Declares Sanctions Not Used, " https://www.bachome.org/news/japan-declares-goldman-act-sanctions-not-used

engage in on an annual basis, and we will continue to do so to make sure we are using the tools that are going to be the most effective for getting progress on this important set of issues."

They sit down. They look. They review. Then they again decide to send more demarches.

This same line of resistance has been exhibited by State Department witnesses in previous oversight hearings.

For example, the April 24, 2018 Senate Committee on the Judiciary hearing[5] and on April 11, 2018 in this same House Foreign Affairs Subcommittee.[6]

Excerpts from Senate Hearing with Carl Risch, Assistant Secretary for Consular Affairs[7]

Time	Statement(s)
0:24:43	**Chairman Grassley-** *"Sadly, besides a single public condemnation 3 years ago, the State Department to my knowledge has refused to use any of these tools to secure the return of American citizen children."*
0:36:40	**Mr. Risch-** *"I consider all the tools the (Goldman) Act provides as my team and I look for the most effective way to make progress with particular countries."*
0:40:40	**Chairman Grassley-** *"How many demarches have been issued since the passage of the Goldman Act?"* **Mr. Risch-** *"There's been many... We feel that type of diplomatic engagement is the key to success in these cases."*
0:57:20	**Sen. Booker-** *"Are we using the tools in The Goldman Act (beyond demarches)?"* **Mr. Risch-** *"Not to my knowledge."*
1:00:18	**Sen. Blumenthal-** *"...None of those tools have been used. Correct?"* **Mr. Risch-** *"We are focusing more on engagement."* Sen. Blumenthal requests immediate feedback on the number of times State has used public condemnation.
1:01:30	**Sen. Blumenthal-** *"Have you used any of the other tools?"* Mr. Risch avoids the question. Sen. Blumenthal presses further. Mr. Risch concedes they have not.

[5] U.S. Senate Committee on the Judiciary, "Abducted Abroad: Exploring the Plight of International Parental Child Abduction and its Effect on American Families." https://www.judiciary.senate.gov/committee-activity/hearings/abducted-abroad-exploring-the-plight-of-international-parental-child-abduction-and-its-effect-on-american-families

[6] U.S. House Subcommittee Hearing: No Abducted Child Left Behind: An Update on the Goldman Act https://foreignaffairs.house.gov/hearing/subcommittee-hearing-no-abducted-child-left-behind-update-goldman-act/

[7] The condensed video of the Senate hearing including these excerpts is available at http://www.bachome.org/news/congress-asks-state-why

Excerpts from House Hearing with Suzanne Lawrence, Special Advisor for Children's Issues[8]

Time	Statement(s)
0:23:50	**Chairman Smith-** *"Since 2014 we've seen a decrease in the number of new abductions, but not an increase in the percentage of returns... The State Department has persistently refused to use the return tools contained in The Goldman Act."*
1:00:57	**Rep. Jayapal-** *"We have provided a number of steps in The Goldman Act... What can we possibly tell our families about what we are going to do differently than what we've been doing, because clearly that has not produced the results we are looking for."*
1:04:13	**Ms. Lawrence-** *"We do consider all the tools we have at our disposal and we do that with our interagency partners and try to use the best tool at the best moment on a case-by-case basis... We consider them when we think they will be effective."* **Rep. Jayapal-** *"What would move the threshold in order to use those tools?... What can we tell our families about what we are going to do differently than what we've been doing?"* **Ms. Lawrence-** *"... I don't have a specific answer for you on what the threshold is... I will take back the frustration of Members of Congress on not using the full range of tools."* **Rep. Jayapal-** *"At some point we need to move down that list (of tools). Otherwise, The (Goldman) Act is not really being implemented."*
1:12:17	**Chairman Smith-** *"Sanctions work. If Japan doesn't get it through your persuasion, and I thank you for trying so hard, it is time to lower the boom!"* Rep. Harris then asks line by line about whether each tool has been used. Ms. Lawrence responds that she is not aware of a tool being used.
1:17:42	**Rep. Harris-** *"Is it going to take literally an act of Congress and an appropriations bill to get you ramped up through the escalating sanctions that can occur in some of these countries that the State Department has been unwilling to pursue?"*
1:26:00	Rep. Jayapal quoted a foreign minister who stated publicly that there is not a single incident of the U.S. Department of State using the sanctions. Ms. Lawrence responds that she doesn't know why this was said. **Rep. Jayapal-** "*I think I know why he said that. Because it's true."* **Rep. Jayapal-** *"We'd like to see our seriousness reinforced around these cases and bring these children home."*

[8] The condensed video of the House hearing including these excerpts is available at http://www.bachome.org/news/congress-asks-state-why

Questions for the Record Submitted to
Ms. Melissa A. Kucinski by
Rep. Rich McCormick
House Foreign Affairs Subcommittee on Global Health, Global Human Rights, and International Organizations
September 10, 2024

[Ms. Kucinski] What is your assessment of the 2024 Annual Report and Action Report? What was notable? What was good? What needs improvement?

I would like to thank Representative McCormick for these thoughtful follow-up questions.

Assessment of the Annual Report Required by the Goldman Act

My assessment of the 2024 Annual Report and Action Report, as with each of the reports issued pursuant to the Goldman Act since the first in 2015, is inextricably linked to the Act itself. Based on the provisions of the Act, the Reports constitute good starting points for Congress and for families as they collect information. However, the Reports should not be relied upon in a vacuum, without further information, including that specific to a particular family.

The Annual Report may draw misleading conclusions because of the limited information on which it bases these conclusions. International parental child abduction is a legally complicated situation that is dependent on the unique facts of each family in that situation. The Report provides limited statistics drawn from self-reports to the U.S. Central Authority by parents of children removed from the United States to another country. Some of these cases may not actually meet the standard for an abduction once investigated by authorities. The Report's statistics do not necessarily include cases filed directly with a foreign Central Authority or foreign court. Many parents may choose to go directly to the courts in the other country to minimize costly delays, particularly if that is where they must make the proper legal request for their child's return. There should be better, more comprehensive, global statistics included in, and relied upon for, any Report.

There are more comprehensive, global statistics available, which may provide a more accurate picture. The Hague Conference on Private International Law collects global statistics, but only approximately every five to six years, immediately before its Special Commission meetings to discuss the practical operation of the Hague Abduction and the Hague Child Protection Conventions.[1] The Hague Conference collects a wide range of data that could be useful. The data comes from voluntary responses from Contracting States to the Hague Abduction Convention, and while some States do not respond, in 2023, seventy-one States provided data, including the United States. The reports generated by the Hague Conference reported the data, and provided assessment of it, without reaching arbitrary conclusions on any one country's "compliance." The Hague Conference data includes reporting on the number of applications received and sent by each State; an assessment of which parent is typically the abductor; outcomes in cases; the stated reasons for

[1] https://assets.hcch.net/docs/bf685eaa-91f2-412a-bb19-e39f80df262a.pdf, last accessed 09/20/2024.

judicial refusals to return children under the Hague Abduction Convention; and, the time applications took to reach a conclusion, among other data points.

The global statistics reported by the Hague Conference provides more concrete data, across more categories, and is very useful to U.S. families in assessing a particular country's response, under the Hague Abduction Convention, to a request to return an abducted child. Of note, the Hague Conference statistics show, for example, that some of the countries listed as "compliant" in the U.S. Annual Report, are, in reality, as slow, if not slower, in resolving cases pursuant to the Hague Abduction Convention than countries that the U.S. Annual Report lists as "not compliant." Also, of note, is that the United States reported its own statistics for the Hague Conference's data collection, and the United States is on par with some of the countries that the United States lists as "not compliant" in its Annual Report.

It is important to have a truly global picture with more data on all cases of parental child abduction. International parental child abduction impacts U.S. families whether these cases involve a child being abducted from the United States or into the United States. The Goldman Act focuses only on cases of children abducted from the United States to other countries, but this is short-sighted. There are millions of Americans living overseas who are there by choice or by obligation, such as U.S. military. These U.S. families are impacted by parental child abduction when one parent unilaterally returns to the United States prematurely and without the agreement of the other parent. In these situations, it would typically be a U.S. court that is asked to resume the family situation to the status quo and return a child brought into the United States. Many U.S. families overseas have dual citizen children. Numerous foreign nationals who reside in the United States have children born in the United States, resulting in their children receiving U.S. citizenship. These cases are more complicated than the Goldman Act implies, and so it is important to look at statistics of all parental child abduction cases, into and out of the United States.

The most useful parts of the Annual Report are the narratives provided by the U.S. Department of State, because the statistics, as already noted above, are incomplete. For most countries, however, the narrative follows a pattern year-to-year, and rarely changes. The narrative uses terms that may make more sense to Department of State employees than to families or judges. The narrative itself does not seem to correlate to the actual statistics presented in the Report. The narratives, however, provide information that would permit a parent to further investigate how the concerns raised in the Report could legally impact their family. In some situations, the concerns highlighted in the narratives gives information that would permit a parent and their lawyer to ask more sophisticated questions of, for example, a foreign lawyer in seeking key legal advice.

One example of a useful narrative, that presumably came from discussions between officials within the U.S. Department of State and another country, was when the Report included information about Japan's amendment to its implementing act for the Hague Abduction Convention. However, it would be more useful if the drafters of the Annual Report took it a step further and included more relevant information from its discussions with its counterparts. For this example, the Japanese Ministry of Foreign Affairs maintains monthly data on its Hague Abduction

Convention cases, published on its public-facing website,[2] which shows the statistics for enforcement of its return orders before and after the amendment of its implementing act. For a family who may rely, improperly, on only the snapshot that is included in the Annual Report, they receive a less than robust picture of the situation between the United States and Japan.

Possible Improvements to the Annual Report Through Amendments to the Goldman Act

There are a wide range of ways to improve the Annual Report, although the current language in the Goldman Act does not presently require any of these potential changes, which would necessitate amendment of the Act. I make the following proposals to address what I perceive as the shortcomings in the Annual Report.

1. The Annual Report can and should have better statistics over a wider range of data points, on a more global scale. It can and should integrate data collected by the Hague Conference and by other countries. The Hague Conference only collects statistics once every few years but has been urging countries to use an online portal to report statistics more routinely.[3] The United States should support the Hague Conference in pursuing this endeavor more earnestly. These global statistics will better equip the U.S. Department of State to have conversations with other countries about the prompt return of abducted children. Further, an independent global organization, like the Hague Conference, is best situated to make requests for data on this global scale.

2. The Annual Report should segment countries into those countries where there is an international legal obligation to return abducted children, and countries where there is no such international legal obligation. At present, because of the statutory drafting of the Goldman Act, the Annual Report conflates the two categories of countries, and this leads to confusion.

3. The Annual Report could include a section on incoming parental abduction cases, not just outgoing cases. As stated above, even though the Goldman Act focuses on efforts to obtain the return of children to the United States, the global problem of child abduction is more complicated, and numerous U.S. families overseas are impacted by parental child abduction of their children into the United States, or even to third countries. It is shortsighted to focus only on outgoing cases. To adequately report incoming abduction cases, the U.S. Department of State should be asked to expand its data collection. It currently maintains statistics on incoming cases but does not provide detailed reporting in its Annual Report for incoming abduction cases. It should also expand its data collection to collect data from U.S. District Courts and U.S. Courts of Appeal. Many incoming U.S. cases are filed directly in courts, with many of these, under the Hague Abduction Convention, filed in federal courts. The Goldman Act could be amended to include a requirement for the courts to share, at a minimum, the date of a case being filed under the Hague Abduction Convention and the date the case is closed. These statistics will better equip the U.S. government in ensuring its money is spent on appropriate and useful projects, such as training for judges, lawyers and mediators, and ensuring that if any district is falling behind others, the U.S.

[2] https://www.mofa.go.jp/files/100012160.pdf, last accessed 09/18/2024.
[3] See https://www.hcch.net/de/news-archive/details/?varevent=138, last accessed 09/18/2024. Also see https://www.incastat.net/console.php, last accessed 09/18/2024.

Department of State can provide this information to Congress and the appropriate judicial conference.

4. Congress should consider whether the Annual Report should continue to designate countries as compliant or not compliant. For the most part, when a country is designated as "not compliant," the designation means little and effectuates no action. Furthermore, the United States may miss certain benchmarks itself in resolving these cases, which impacts the U.S. Department of State's ability to engage other countries in discussions about individual cases. Instead, the Report should focus on data-driven information and focus more on expanding the narrative to explain the data. The narratives in the Report make more difference to a family in assessing the risks of parental child abduction than limited, incomplete data and a superficial designation of a country as "compliant" or "not compliant." Additionally, the narratives provide more context in which a parent can engage foreign counsel to discuss their legal situation. Focusing on a narrative-driven report will also encourage the U.S. Department of State to more earnestly engage with its foreign counterparts to discuss outstanding cases, and better achieve the other objectives within the Goldman Act.

5. The Annual Report should consider augmenting the current information on abduction prevention. The 2024 Annual Report notes that the U.S. Department of State fielded over 4,600 prevention-related inquiries in 2023. The Report could share more information in this regard. The Report could, for example, share information on the countries that were named by parents in their prevention-related inquiries, the options that were suggested to the parent by the Department of State, additional contact from the parent with the Department of State after the initial inquiry, and, whether the child was ultimately enrolled in either of the government's two programs (the Child Passport Issuance Alert Program or the Prevent Abduction Program), among other data points.

The Goldman Act required the government to establish the Prevent Abduction program, and the Annual Report noted that it enrolled 341 children in this program in 2023, which is significantly fewer children than the reported prevention-related inquiries that same year. In this program, a parent may enroll their child by presenting the U.S. Department of State a clearly drafted court order that prohibits the child's exit from the United States. This is critically important, and the U.S. Department of State notes, throughout the Annual Report, its recommendation to focus on abduction prevention. There needs to be more data collection on whether the parents who were advised by the U.S. Department of State about the Prevent Abduction program proceeded to seek a court order, and any obstacles in securing one.

6. The Annual Report should also include statistics about the number of parents who request information about mediation through the U.S. Department of State. The Annual Report references mediation, and states that the government facilitates access to mediation when requested. The Report provides a link to the U.S. Department of State's website.[4] The website

[4] https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/abductions/legain-info-for-parents/using-mediation.html, last accessed 09/18/2024.

further includes links to a variety of outside resources, very few of which actually provide mediation services or can answer questions for parents who may contact them. One of the links provides some information on the way the U.S. Department of State refers interested parents to mediation.[5] These requests are referred to U.S. law school mediation clinical education programs. These law students are in the process of learning how to mediate and are being referred some of the most complicated family law cases by the U.S. Department of State. There are no statistics reported from these referrals, how many families engage these law schools, the result (agreement or no agreement), and whether the cases are handled to the satisfaction of the family.

7. The Annual Report can be used as a vehicle to educate judges, lawyers, and families overseas about U.S. practice and policy. Foreign lawyers and judges read the Report. When a foreign court is asked to return a child to the United States using the Hague Abduction Convention, the foreign court may need to examine what measures exist within the United States to protect that child upon their return. A void of information on these protective (or, "ameliorative") measures in the United States may delay an outcome in a legal proceeding aimed at expeditiously returning children. At the 8th Special Commission meeting in October 2023, the delegates discussed the need for more sharing of information by countries on these protective measures, to assist foreign courts (or authorities) who are being asked to decide whether to return a child. If there is information that can be shared in the Annual Report about our system and its functioning that could better enable foreign courts to uphold their legal obligations under the Hague Abduction Convention, I think it is worth exploring.

Overall, the Annual Report is much more than a legal obligation for the U.S. Department of State. It can and should be a key diplomatic tool for our U.S. government to educate families, advise parents, engage with other countries, and monitor progress among a variety of key actors. Some of the work is being done by the Hague Conference or by other governments, but is not being harnessed by the U.S. Department of State to provide a more comprehensive picture to those who consult the Report.

[5] https://travel.state.gov/content/dam/NEWIPCAAssets/pdfs/MediationProgramFactSheet.pdf-23, last accessed 09/18/2024.

Questions for the Record Submitted to
Special Advisor Michelle Bernier-Toth by
Rep. Rich McCormick
House Foreign Affairs Subcommittee on Global Health, Global Human Rights, and International Organizations
September 10, 2024

[Ms. Bernier-Toth] As you mentioned in your testimony, prevention is the best method to combating international parental child abduction. The Goldman Act created the Children's Passport Issuance Alert Program (CPIAP) to notify a concerned parent if someone attempts to get their child a passport without their knowledge. What is the Department's strategy for increasing awareness and usage of programs like CPIAP by parents concerned their child might be at risk for abduction?

No Response

[Ms. Bernier-Toth] What additional safeguards do you think the United States should implement, like letters of consent for international travel? Are there initiatives the U.S. could adopt that have been successful in other developed countries when dealing with International Parental Child abductions?

No Response

[Ms. Bernier-Toth] The 2024 Annual Report on International Child Abduction named 16 countries as demonstrating a "pattern of noncompliance" with their responsibilities to address IPCA. What is the Department of State's strategy for improving compliance among these countries?

No Response

