



Tom Lantos Human Rights Commission

**The Rights of Parents and Children: How to Better Implement the Goldman Act on
Child Abduction**

Wednesday, September 29, 2021

1:00 p.m. – 3:30 p.m.

**2172 Rayburn HOB, and
Virtual via Cisco WebEx**

Rep. Chris Smith (R-NJ)—Co-Chair

Excerpt of remarks

The commission will come to order.

I want to thank all of you—especially the left- behind parents—for joining us this afternoon. There were many more that would have loved to join us in person today, especially since the International Parents Conference is taking place today here in Washington.

Today’s hearing will examine the implementation of the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014 (Goldman Act).

Our very first hearing on international parental child abduction was held by the Commission back in December 2009. Internationally recognized legal expert Patricia Apy—who will address us today—was not only David Goldman’s amazing attorney and testified at that hearing but helped us write the Goldman Act.

Between 2008 and 2020, more than 12,350 American children were reported abducted internationally by a parent.

If there is good news to be had, it is that since the signing of the Goldman Act on August 8, 2014, there has been a decline in the number of American

children abducted overseas, from an average of 1,250 a year (between 2010 to 2014) to 690 a year (2015 to 2020). However, the rate of return of children to American parents has worsened, from an average of about 50% to about 40%.

One reason I think that we have seen a decline in abductions is because of the Goldman Act and its Department of State’s Annual Report on International Child Abduction. However, the worsening rate of abducted children returns is curious, and raises questions about whether the State Department is using the full range of diplomatic tools provided by the Goldman Act.

In order to address concerns like this, we had invited the Department of State Office of Children’s Issues—which is considered the U.S. “Central Authority” pursuant to the Hague Abduction Convention—to provide background and explanation with respect to the 2021 Report on International Child Abduction, including country compliance trends, and to discuss the implementation of the Goldman Act. However, State declined our invitation to testify in the hearing, which is deeply disappointing.

The invitation to testify, however, remains active. We want to hear from the Biden Administration on these critical matters. Delay is denial. Left behind parents and the children they love and cherish absolutely deserve answers.

As many of you know, the Goldman Act requires that the Secretary of State issue diplomatic or sanction actions to address international parental child abductions with countries that have a “pattern of noncompliance” and that bilateral agreements are pursued with countries that are unlikely to become Convention countries or that have unresolved abduction cases that occurred pre-convention.

To date, MOUs have only been negotiated with five non-Convention countries over a 16-year period, and none since 2019. One question we have for the State Department is why aren’t there more MOUs—including Japan—including for Convention countries to help resolve pre-Convention cases?

Furthermore, since FY 2021, the annual Department of State, Foreign Operations, and Related Programs (SFOPS) appropriations legislation has included a provision authorizing the Secretary of State to withhold certain bilateral economic assistance funds for the central governments of Convention countries that the Secretary determines are “not taking appropriate steps”. To date, the Secretary of State does not appear to have withheld *any funds* pursuant to this provision, despite Congress providing them with this tool.

What are the costs of this failure to advocate on behalf of abducted children and left-behind parents?

As the State Department itself has noted, in its 2010 Report on Compliance with The Hague Convention: “Abducted children are at risk of serious emotional and psychological problems. Research shows that recovered children often experience a range of problems, including anxiety, eating problems, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt, and fearfulness. As adults, individuals who were abducted as children may struggle with identity issues, personal relationships, and possibly experience problems in parenting their own children.”

As one who has not experienced this directly can only imagine, this can be an extremely painful and traumatic experience for children but also for the parents who are dealing with heartbreak, agony, and pain from being separated from their children. This separation can have long-term psychological consequences for both.

We must remember that we are dealing with the wrongful separation of children from their parents, a violation of the rights of both. Many of these parents have not seen their children in years, and struggle to overcome the financial, legal, cultural, and linguistic barriers to bringing their children home from a foreign country.

We—as Congress and as the U.S. Government—must do what we can to reunify parents with their children. Child abduction is child abuse. These young victims, like their left-behind parents, are U.S. citizens who need the help of their government when normal legal processes are unavailable or have failed.

While following the Convention process has helped some left behind parents be reunited with their children, there are many who are still left behind, including pre-Convention cases dating back to before a country has ratified the Convention.

Nor is Convention ratification a magic bullet. Some Convention countries have a pattern of non-compliance including Brazil, Costa Rica, Romania, and Trinidad and Tobago— These are all countries which have ratified the Convention but failed to live up to their commitments.

Why is this so?

Each country and each case is unique, as are the cultural values that are reflected in the laws of each country. Why, for example, do we face such challenges in Japan, a country with which we otherwise enjoy good relations?

Japan apparently does not recognize the concept of joint custody, which is unusual among developed countries. Instead, courts give custody to one parent, applying what is known as the “continuity principle” —in other words, if the child is settled in one household, one shouldn’t disturb him or her.

Not only does the law not punish a parent who absconds with a child, it rewards the abductor parent. This arguably is rooted in Japanese culture. Traditionally, as has been explicated in a fascinating article in the Washington Post, children are not viewed as individuals with rights, or as belonging to their parents, but as the “[property of the household](#)” where they live. As soon as children move to a new household, the estranged parent becomes an outsider.

This is why bilateral agreements can be effective – they can be crafted to the specific country to address the unique obstacles in returning American children to their parents. It can also be used to address pre-Convention cases.

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

The Act also provides the Department of State with tools to use in their advocacy. The Goldman Act specifically lists increasingly escalating actions, from a demarche to a public condemnation to a delay or cancellation of one or more bilateral visits and even the withdrawal, limitation, or suspension of foreign assistance to the central government of a country.

Extradition is another tool. Yet these tools, beyond demarches, are seldom if ever used by the Department of State. I urge the Department of State to use all these tools!

Meanwhile, in Congress, we should consider tools that are tailored to meet situations in certain countries that are perennial violators.

In the case of Japan, I can disclose to you that we are in the process of drafting legislation that will provide the State Department with additional tools that should be helpful specifically with respect to Japan. This hearing – and your testimony – will help inform that legislation.

All these tools are aimed at uniting American children with their parents, all of whom had been denied their rights.

We saw success when Congressman Bill Posey threatened sanctions against Lebanon in June 2019, resulting in the resolution of two longstanding abduction cases.

The Goldman Act has empowered the executive branch with serious tools—sanctions— to promote adherence to law and return American. Use them!

