



DEPARTMENT OF STATE
STATEMENT
OF
SUZANNE I. LAWRENCE
SPECIAL ADVISOR FOR CHILDREN'S ISSUES
BUREAU OF CONSULAR AFFAIRS
BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL
HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS
HEARING
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Chairman Smith, Ranking Member Bass, and distinguished Members of the Subcommittee
– Thank you for the opportunity to be here and address you today.

My colleagues and I welcome your continued interest in the work we do to prevent and resolve international parental child abductions (IPCA). We recognize the importance of your efforts to advocate on behalf of the families affected by the heartbreak of abductions. We look forward to our continued collaboration on our shared goals of preventing abductions, expeditiously resolving cases, and strengthening and expanding our partnerships under the 1980 Hague Convention on the Civil Aspects of International Child Abduction (Convention).

The tools you gave us in the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014 (the Act) are critical to aiding us to leverage our diplomatic engagement with countries, and we are getting results.

I would like to start by recognizing my hard-working colleagues in the Bureau of Consular Affairs at the Department of State. They advance the foreign policy goals of the Department by assisting thousands of U.S. citizens affected by political crises, natural disasters, abuse, mental illness, and crime in all parts of the world. The Office of Children's Issues (CI) in the Bureau of Consular Affairs, which serves as the U.S. Central Authority for the Convention, leads the U.S. government's work in attempting to prevent and aid in the resolution of hundreds of international abductions each year. In 2017, the Office of Children's Issues opened cases for almost 500 children who were reportedly abducted by a parent from the United States to another country or retained in a foreign country.

Overall, our efforts are a success story. In the past 10 years we assisted in the return of over 4,500 children to the United States. Further, we believe the existence of the Convention's return mechanism deterred an untold number of abductions. In fact, the number of new abductions reported to the Department of State has declined by over 60 percent in the past ten years. However, there are still many cases where the children have not been returned. Many of these cases, in some countries, pre-date the entry into force of the Convention between the country and the United States. I want to assure you, Mr. Chairman, and Members of Congress, that we are redoubling our efforts and looking at all available options to resolve these cases.

Each day we work tirelessly both in the United States and at our embassies and consulates abroad on behalf of children involved in IPCA cases. Our dedicated staff perform welfare and whereabouts checks, help locate missing children, and issue passports to children returning home.

Diplomatic Efforts

Much of the day-to-day diplomatic engagement on abduction matters is handled by country officers in the Office of Children's Issues. Our team of experts, based here in Washington, is continuously in direct touch with foreign counterparts abroad and embassies in Washington, and our U.S. diplomatic missions overseas.

We work with parents, counterparts in foreign governments, and the interagency to help resolve individual IPCA cases. Each country, like our own, has its own judicial system, law enforcement entities, and cultural and family traditions. We tailor our strategy to deploy the most effective approach toward resolving each abduction case, including facilitating a child's return to their country of habitual residence or parental access to children.

As we elicit cooperation from foreign governments on abduction cases, we actively encourage countries to become party to the Convention, which, in addition to being the best option for parents seeking the return of their children, is also the best means of ensuring that countries share the same objectives for resolving IPCA.

Since his confirmation last year, Assistant Secretary for Consular Affairs Carl C. Risch has personally raised IPCA in bilateral meetings with the governments of India, Brazil, and Indonesia. I can assure you that Assistant Secretary Risch is highly engaged with the issue and raises IPCA at every available opportunity both in Washington and overseas.

In February of this year, I traveled to India to encourage government officials there to resolve the numerous abduction cases they have, and for India to join the Convention. Although India is not party to the Convention and has demonstrated a pattern of noncompliance as defined in the Act, I believe, based on my recent trip, and due to persistent engagement on IPCA from other officials, India is beginning to work with us to find practical solutions for children who are abducted between our two countries.

Also in February, the Director of Children's Issues, Ted Coley, traveled to South Africa, Botswana, and Zambia with a member of CI's Africa team. As partners under the Convention, our meetings with South Africa's Central Authority, and other government offices served to strengthen our relationship and promote the Convention in the region. The visits to Botswana and Zambia were to determine the viability and development of accession to the Convention and partnership under the Convention, respectively. All three countries positively received the visit, and we came away with optimistic messages and a plan for forward action in the region.

In addition to my work and the work of CI, our embassies and consulates around the world play an important role in addressing IPCA. From the highest levels within our embassies to the dedicated staff of American Citizens Services sections, our colleagues abroad work tirelessly to raise the profile of this serious issue while advocating for local laws to assist parents seeking their children's return to the United States, accession to the Convention, and effective implementation of the treaty.

In 2017, we welcomed Fiji as our 76th partner under the Convention, and we welcomed Jamaica's, Pakistan's, and Tunisia's accession to the Convention. Our work, therefore, in 2018 has been to build on this success and strive to bring additional countries into the Hague community.

Our goal is to see abducted children returned to their communities as quickly as possible and in accordance with the Convention.

The Annual Report on International Parental Child Abduction 2018

Since 2007, we have reported the impact of IPCA around the world. Our 2018 Report will be released soon. We continue to strive to not only meet the requirements of the Act, but also to provide useful information to parents, courts, and organizations to help prevent and resolve these heart wrenching cases. We have taken feedback from previous years and are committed to providing a valuable resource to the American public. We believe the 2018 Report will be a responsive and helpful tool for all stakeholders.

Continued Efforts for Resolutions

Despite the progress made, there are families that continue to suffer as their children are wrongfully removed or retained across an international border. We continue to use all appropriate tools to help facilitate the resolution of abduction cases globally.

The judicial delays that affect most of our Convention cases in Brazil are unacceptable. First instance courts often take one to two years to make determinations, and the appeals process can add years to the life-cycle of a case. We raise these issues publicly and with senior Brazilian officials whenever appropriate. In 2017, we continued our persistent efforts to resolve cases and improve compliance throughout the year. The Brazilian government also undertook initiatives to improve judicial compliance with the Convention. Over the last year, several of our long-standing cases were resolved; the Brazilian judiciary facilitated the return of four children to the United States, and ordered access agreements for three other children. We are pleased by this progress and will discuss it further in our upcoming report.

In our 2014 testimony to the Senate Foreign Relations Committee we stated that while “Japan has been one of the most intransigent countries regarding IPCA cases for many years, Japan’s decision to ratify the Convention opens a new chapter in its approach to IPCA.” As we have reached the fourth anniversary of Japan’s becoming party to the Convention, I would like to share with the Committee my candid view of the strengths and weaknesses we have seen in Japan both as a Convention partner and in regards to abductions that occurred before the Convention came into effect. Prior to joining the Convention, Japan was historically resistant to the idea that access to both parents is usually in a child’s best interest. As a result, Japan had a wide cultural and legal gulf to cross when it ratified the Convention.

Over the past four years, we established a close working relationship with Japan’s Central Authority and have regular discussions with our Japanese counterparts about steps we can take to improve the resolution of IPCA cases. We have seen many positive developments in Japan. There was a 46 percent decline in the number of new reported abductions to Japan in the three years after the Convention came into force compared with the previous three years. Japan made significant efforts to educate its citizens and government officials to prevent abductions. We have also seen a significant improvement in the resolution of abduction cases. Since the Convention came into force, we submitted 18 applications for return to the Japanese central authority. Of these, nine were resolved by voluntary arrangements between the parents and five were resolved by judicial decisions. We are also aware of four additional cases where the parents reached a voluntary agreement prior to an application being submitted to the JCA.

In spite of all of these positive developments, there is a serious flaw in Japan's implementation of the Convention. When a taking parent refuses to comply with a return ordered pursuant to the Convention, Japanese authorities have very limited means to enforce the order. In 2017, we had two cases in Japan that were unresolved for over twelve months as a result of the failure of Japanese authorities to enforce return orders. This is unacceptable and I am deeply concerned that, as a result, there is a pattern of Japan not complying with its obligations under the Convention. I am personally engaged on this issue with the Japanese government. I urged them to create a mechanism ensuring that judicial orders will be enforced in a timely manner. While this issue remains unresolved, I am pleased to report that there is progress.

The Government of Japan is reviewing its enforcement procedures, and recently, the Japanese Supreme Court ruled that a taking parent's failure to comply with a Convention court return order violated Japanese law, constituting the illegal detention of the child. As a result, it appears that Japan's civil courts can apply habeas corpus measures to compel the return of a child to the United States. While these are hopeful signs, we will not rest until Japan's enforcement system is fully compliant with Convention obligations.

Regarding the abduction cases that occurred prior to Japan's ratification of the Convention, we have met regularly with the Japanese Foreign Ministry to review these cases and see where there are opportunities to resolve these cases. Here again, there has been progress, but also disappointment. Since Japan ratified the Convention in 2014, more than half of the left-behind parents in pre-Convention abductions cases achieved some form of access to their children. The remaining cases are some of the most difficult and heartbreaking cases that we have. In the international arena, custody orders entered by State courts in the United States are generally not enforceable outside the United States, and the reach of the United States may be limited by decisions of separate sovereign states and their independent judiciaries.

In all of the pre-Convention cases, we continue to support the left-behind parents and their children to the best of our abilities. Each case is different, and each person must decide what steps make the most sense in his or her case. Their options may include criminal measures, mediated solutions, and legal action in civil court. We work tirelessly to bring mediation and legal resources to left-behind parents, and with our colleagues in law enforcement to resolve cases where criminal charges exist. With remaining pre-Convention cases in Japan, we stand ready to support parents when they decide what steps are right for their families.

Prevention

Fighting for individual returns is not enough. Getting a child back can be infinitely harder than preventing the abduction in the first place, so we have made prevention a cornerstone of our efforts. From a child's first U.S. passport application, we work to prevent children from becoming victims of international parental child abduction.

In 2017, we enrolled over 4,000 children in Child Passport Issuance Alert Program (CPIAP) and helped enroll over 200 children in the Department of Homeland Security's program aimed at preventing IPCA. In both cases this represents an increase and for CPIAP, a 13 percent increase,

over the prevention services we provided in 2016. We work with U.S. and foreign law enforcement agencies, airlines, and others to prevent children from being unlawfully removed from the United States. Our prevention officers are available around the clock and through our broad public affairs campaign, we encourage parents to reach out to us for information that can help thwart abductions before they happen.

The Department of State works closely with U.S. Customs and Border Protection (CBP) to help ensure that parents who have court orders prohibiting the international travel of a child can request assistance from CBP and U.S. law enforcement to prevent outgoing abductions.

Conclusion

Mr. Chairman, Ranking Member Bass, distinguished Members of the Subcommittee; the Act has significantly reinforced our work to address the complex problem of IPCA.

In our efforts to return abducted children to their places of habitual residence, we are using all effective means available to us under the law. This is our mission. The Department of State weaves our concerns about IPCA into our diplomatic discourse with nations around the globe. We remain convinced that the Convention's framework is a worldwide standard and we continue to encourage new countries to accede to the Convention. Where that may not be an option, we continue to use all available tools to encourage the resolution of abductions through persistent diplomatic engagement, an approach that has produced results with many countries around the world.

We appreciate the tools provided to us, including the option of actions provided in the Act. We take actions based on the conclusions of the Annual Report and on the Act, and take action any time we consider it to be timely and effective. We frequently deliver demarches and discuss cases with senior government officials in countries that have demonstrated a pattern of noncompliance. These are very frank conversations, and we are adamant that each country be aware of the importance of this issue and, when appropriate, point out the possible consequences provided in the Act. For example, Tunisia was cited every year since the passage of the Act. We consistently held frank discussions with all levels of government, including the President, on the importance of resolving cases and joining the Convention and used the tools within the Act to demonstrate the seriousness we place on these actions. In 2017, as a result of sustained diplomacy, all open abductions were resolved with the return of the children to the United States. Additionally, Tunisia acceded to the Convention. We will report on our continuing engagement with foreign countries in the follow up Action Report.

We constantly strive to increase our effectiveness and always look for ways to collaborate with our partners, including you, Members of Congress, who have committed so much time and energy to addressing this very important and urgent issue.

Thank you.