

Ravindra Parmar

Father of abducted son to India

June 11, 2015

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

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

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

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

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

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

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

Purpose of the Hearing?

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

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

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

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

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

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

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

Victims' Report Card

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

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

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

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

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

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

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

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

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

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

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

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

Challenges In India

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

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

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

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

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

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

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

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

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

- 1) Lack of policy and law recognizing parental child abduction as crime, both civil and penal, has significant ramifications for not only Indian citizens, but those around the world who have some sort of association with India, including; cross cultural ties, marriage with Indian citizens or people of Indian origin;
- 2) India's policy decision that, Indian Courts are competent to decide on individual parental child abduction cases based on existing law, in the absence of acceding to the Hague Convention and/or Indian law addressing parental child abduction, is leading to legal confusion, inconsistent decision making and wastage of precious legal resources for a country that has over 31 million pending cases as of September 2014;
- 3) The inconsistent and at times incorrect application of the criteria for "domicile" within Indian divorce law, such as the Hindu Marriage Act, on foreign citizens; permanent residents of other countries and Indian ex-patriots (referred to as Non-Resident Indians, or NRIs); is resulting in wrongful assertion of jurisdiction by Indian Courts, raising serious questions of extra-territorial application of Indian law, and impinging U.S. Constitutional rights and protections guaranteed to each of us living in the United States;
- 4) Lack of clear and transparent guidelines on a multitude of issues, including the determination of jurisdiction (i.e. domicile), child custody (including shared parenting, non-custodial parental rights), alimony, child support and distribution of marital assets; result in significant discretionary power with Judges and inconsistent quality of judicial decisions. This often leads to extensive appeals and delays justice;

- 5) Ex-parte "interim" Court orders, are often issued without due process (including without notice/service, no framing of issues, no examination of evidence), and then linger on for months or years, which compound the pain and suffering for litigants, including left behind parents;
- 6) Systemic delays and other inefficiencies in the Indian judicial system is not only leading to justice being denied to Indian citizens, but impacts U.S. Citizens and other foreign nationals who are being subjected to the jurisdiction of Indian Courts, in matters related to divorce and child custody;
- 7) Thus a cocktail of issues, combined with; i) lack of joint custody provisions, ii) gender biased domestic violence laws without sufficient Constitutional protections iii) non-bailable offenses like the Indian Penal Code §498a (anti dowry law); are routinely invoked by abductors, give abundant incentives, for parents of Indian origin across the United States and the world, for India to become their preferred destination for child abductions.

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

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

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

1. Short title and extent.-

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

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

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

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

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

2. Application of Act.- (1) This Act applies,-

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

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

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

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

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

Time for Action!

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

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

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

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

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

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

Conclusion

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

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

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

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

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

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

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

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

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

Thank you Chairman Smith for Championing our cause!

Exhibit A

My Case Summary

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Exhibit B

iStand Response DoS 2015 Annual Compliance Report

Exhibit C

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

Web | www.state.gov Search with Google

U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

Browse by:
Topic | Speaker | Publication | Location | Date

Enter keyword here Search

SECRETARY KERRY | MEDIA CENTER | BLOG | TRAVEL | CAREERS | BUSINESS | YOUTH & EDUCATION | MYSTATEDEPARTMENT

ABOUT STATE | POLICY ISSUES | COUNTRIES & REGIONS | ECONOMICS, ENERGY & ENVIRONMENT | ARMS CONTROL & INTERNATIONAL SECURITY | CIVILIAN SECURITY & DEMOCRACY | PUBLIC DIPLOMACY & PUBLIC AFFAIRS | ASSISTANCE & DEVELOPMENT

Climat
Secretary K
change pos
on Earth, an
we can tota
window of o
stave off its
impacts." F

Afghanistan
China
Climate Change
Counterterrorism
Cyber Issues
Democracy and Human Rights
East Asia and the Pacific
Economic Issues
Energy Security
Food Security
Health
Iran
Israel
Nonproliferation
Pakistan
Sub-Saharan Africa
Syria
Trafficking in Persons
Ukraine
Women's Issues
Youth

and Resilience

1 2 3

U.S.-China Sub-Dialogue on Central Asia

Stay Connected with State.gov

Mobile Video RSS Subscribe Contact

Tweets Follow

Samantha Power @AmbassadorPower 4h
Wheels down in Kyiv. Here to support impt Ukr govt & civil society-led reform efforts in face of ongoing Russian aggression in E Ukraine. Retweeted by Department of State Expand

Department of State @StateDept 13h
The bond between Washington and Lafayette was but the opening chapter of U.S.-France relations -- @ABlinken Show Media



U.S. DEPARTMENT OF STATE

DIPLOMACY IN ACTION

Browse by:

Topic | Speaker | Publication | Location | Date

Enter keyword here

SECRETARY KERRY | MEDIA CENTER | BLOG | TRAVEL | CAREERS | BUSINESS | YOUTH & EDUCATION | MYSTATEDEPARTMENT

ABOUT STATE | POLICY ISSUES | COUNTRIES & REGIONS | ECONOMICS, ENERGY & ENVIRONMENT | ARMS CONTROL & INTERNATIONAL SECURITY | CIVILIAN SECURITY & DEMOCRACY | PUBLIC DIPLOMACY & PUBLIC AFFAIRS | ASSISTANCE & DEVELOPMENT

Climate Change Adaptation and Resilience

Secretary Kerry (June 9): "Climate change poses a threat to every country on Earth, and we all need to do what we can to take advantage of the small window of opportunity we still have to stave off its worst, most disastrous impacts." [Full Text](#) [Fact Sheet](#)



1 2 3

Conflict and Stabilization
Counterterrorism
Global Criminal Justice
Human Rights
Narcotics and Law Enforcement
Population, Refugees, Migration
Trafficking in Persons
Women's Issues
[More...](#)

Followed with State.gov

[RSS](#) [Subscribe](#) [Contact](#)

[Follow](#)

Power [4h](#)

In Other News

Daily Press Briefing: Ukraine

U.S.-China Sub-Dialogue on Central Asia

[Wheels down in Kyiv. Here to support impt Ukr govt & civil society-led reform efforts in face of ongoing Russian aggression in E Ukraine.](#)

[RT Retweeted by Department of State](#)

[Expand](#)

 **Department of State** [@StateDept](#) 13h

The bond between Washington and Lafayette was but the opening chapter of U.S.-France relations -- [@ABlinken](#)

[Show Media](#)



U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

Browse by:
Topic | Speaker | Publication | Location | Date

Enter keyword here Search

SECRETARY KERRY | MEDIA CENTER | BLOG | TRAVEL | CAREERS | BUSINESS | **YOUTH & EDUCATION** | MYSTATEDEPARTMENT

ABOUT STATE | POLICY ISSUES | COUNTRIES & REGIONS | ECONOMICS, ENERGY & ENVIRONMENT | ARMS CONTROL & INTERNATIONAL SECURITY | CIVILIAN & DEMOCRACY

Climate Change Adaptation and Resilience

Secretary Kerry (June 9): "Climate change poses a threat to every country on Earth, and we all need to do what we can to take advantage of the small window of opportunity we still have to stave off its worst, most disastrous impacts." Full Text Fact Sheet



1 2 3

In Other News

Daily Press Briefing: Ukraine

U.S.-China Sub-Dialogue on Central Asia

Discover Diplomacy
Global Youth Issues
Diplomatic History
Office of Overseas Schools
Exchange Visitor Program
Fulbright Program
Student Career Programs
Youth Exchange Programs
U.S. Diplomacy Center
Intercountry Adoption
Parental Child Abduction
More...

Wheels down in Kyiv. Here to support impt Ukr govt & civil society-led reform efforts in face of ongoing Russian aggression in E Ukraine.
Retweeted by Department of State
Expand

Department of State @StateDept 13h
The bond between Washington and Lafayette was but the opening chapter of U.S.-France relations -- @ABlinken
Show Media

What the State Department Can Do:

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

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

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

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

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

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

Exhibit D

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

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

The Supreme Court noted that:

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

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

The Supreme Court ordered the following:

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

Exhibit E

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

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

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

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

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

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

Exhibit F

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

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



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

Position Statement

June 9, 2015

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

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

Content and Structure

- The report fails to answer the very basic and paramount questions of "*How many abductions are occurring over time?*" and "*What percentage of abducted children are returned over time?*" This snapshot analysis, which appears to have conflicting reporting periods, is insufficient to assess the scope of the problem and the relative successes or failures of federal intervention.
- With respect to the specified annual reporting requirement, stipulated in Title 1 Sec. 101 of the Goldman Act, State should also include a longitudinal element to track these statistics over time. Figure A. suggests a sample 10-year running chart (with mock data) that would answer these questions. This same type of chart could also be produced for individual countries.

Data Collection and Reporting Inconsistencies

- Two separate reporting periods are listed in the report: October 1 to December 31, 2014 and Calendar Year 2014 (CY 2014), it is unclear what is the reporting timeline. The Law stipulates January 1-December 31.
- Table 1 relates to only new cases reported in 2014. The title is very misleading and should be amended to read: Countries and areas with abduction cases opened in 2014.
- Table 2 lists several instances in which the number of resolved cases for CY 2014 exceeds the number of reported cases in CY 2014. The table also lists countries with five (5) or more cases during CY 2014, but does not reflect the total number of cases.
- On page 30, Table 4, Key A, the report defines one of the criteria for non-compliance as 30% of the total abduction cases are unresolved abduction cases as defined by ICAPRA. Yet there are countries listed in pages 15-19, Table 2 in the column marked "Resolved Cases (Number and Percentage)" that exceed the threshold that are not being listed as non-compliant on page 31. In fact using their numbers, a quick scan says that most countries listed have more than 30% unresolved cases.
- The children of at least three coalition members who are *currently* abducted and have active cases with the Office of Children's Issues during the designated reporting period are not represented in the Report numbers. We questions whether any children are actually counted



Ambiguity

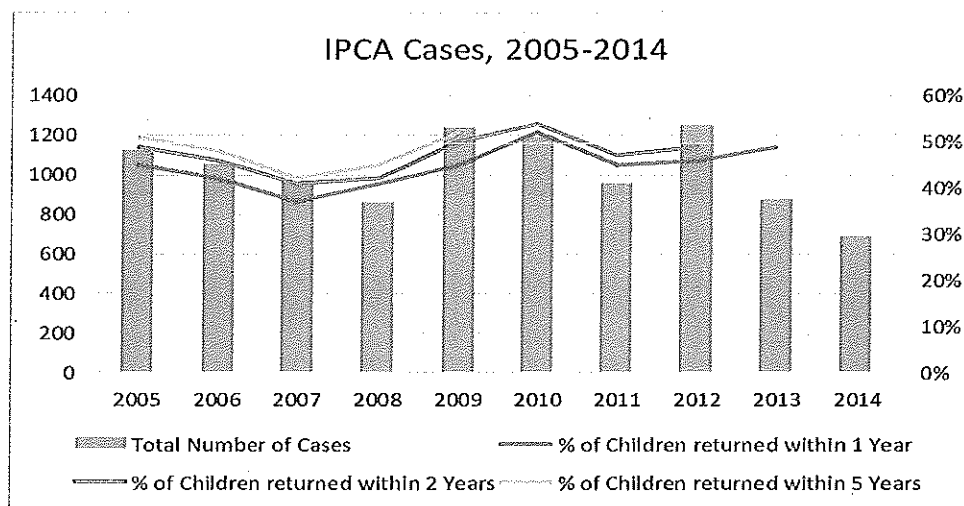
- The definition and reported numbers of “resolved cases” is unclear. State cites one section of the Act for its definition but excludes the very specific and intentionally broad definition outlined in 22 USC 9121 sec 201 (b)(1).
- Section 5.2 makes clear that State does not wish to pursue economic sanctions and does not specify which diplomatic, non-sanction remedies have “not been exhausted” to gain the compliance of countries with patterns of noncompliance.

Department of State Responsiveness and Accountability in Implementation

- The report was released to Congress on May 15, 2015, whereas State was mandated by ICAPRA to submit the report to Congress no later than April 30, 2015.
- The report routinely defaults to the U.S. Central Authority’s push for countries that already are non-compliant to accede to the Hague Convention on the Civil Aspects of International Child Abduction.
- Page 26 extensively chronicles USCA efforts to gain Japan’s accession, stating that there are still more than 50 cases of abduction to Japan and that none have resulted in either meaningful access or return of the child to the United States. Yet, Japan is not reported as non-compliant
- Similarly, Mexico is reported to have 169 abduction and 10 access cases in CY 2014 alone, but is not listed as non-compliant on Table 4.

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

Figure 1.



Jerry's Army

End Abductions Now!

