

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The 1988 legislation required that the USTR be the *senior representative* on any body the President establishes to advise him on overall economic policies in which international trade matters predominate, and that the USTR should be included in all economic summits and other international meetings in which international trade is a major topic.

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

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

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

Thank you.

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

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

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

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

