

UNSR VAWG Reem Alsalem - UK and Northern Ireland visit February 2024

Submission by FiLiA Hague Mothers

The Hague Abduction Convention and the enabling of abuse.

Introduction

Hague Mothers is a FiLiA project, part of the broad range of male violence against women and girls work undertaken by the charity. Our overarching aim is to end the injustices created by *The Hague Convention on the Civil Aspects of International Child Abduction*, specifically for mothers and children who are victims of domestic abuse. Our initial focus was on the UK, USA and Australia – we are now working globally and have a volunteer team of approximately 60 women, including Hague mothers themselves.

Although we are not a front-line organisation, mothers often contact us, not knowing where else to turn. They are frequently in a state of desperation; some know about the Hague and therefore feel unable to seek safety in their home country for themselves or their children; some have already fled their abuser and now find themselves facing a summary hearing with the likely outcome that their children will be sent back; some have returned in order to protect their children only to lose custody, or to be forced in to poverty, unable to get a work visa or support from the state. Some have fled to a non-Hague country and remain there, isolated and exiled; several mothers have become outlaws, constantly on the move and in permanent fear.

Many of their stories are dramatic - the stuff of nightmares. Others are stories of everyday misery; mothers whose lives and freedom of movement are now entirely controlled by their abusive ex-partners, enabled by international law. Here are two of those stories from UK citizens. They have been anonymised since both mothers fear repercussions if they speak out.

Shelley's story

Even before my estranged husband invoked the Hague Convention, this country, in very real sense, became my prison. Travel to see my family in Wales was deemed 'too costly', or 'not convenient' and so I only returned a few times within the seven years of being here. This was made more difficult as I became a stay-at-home parent to look after my autistic daughter. Since being brought back here via the Hague Convention, it has become even more difficult to see family, or indeed to travel anywhere. Abusers isolate, and the constant heartache of being away from family and friends has been like mourning their deaths.

Before coming here I was a Head of Languages in a secondary school. It was well paid. Due to now being a carer, having young children who would need childcare, and being trapped by the means test for legal aid, I have lost a thriving career. Without legal aid, I would get into terrible debt as my



estranged husband - whilst failing to turn up to court for access hearing - also threatens legal abuse against me, citing parental alienation. Even when he fails to appear, I still have to pay for representation. The one court session he did come to was to try to stop me travelling using the Hague as 'proof' that I will 'abduct the children'.

The last time I wished to travel home, I had to pay a solicitor the equivalent of almost £900 and had to rely on financial help from my parents to pay for the cost of the journey as the little money I had was used up on the legal fees.

My circumstances mean that even though I would dearly love to return home, so that we could all be near my family and support networks, I cannot. The courts I'm sure, would not be so lenient if I attempted to return a second time and I cannot afford the cost of a High Court civil action to make my case for returning with the children. My husband fails to pay any maintenance towards the upkeep of our children and continues to weaponise them, extending access times using my daughter as a go-between.

I fear that freedom from his abuse may never come. If there are children involved, abusers know that they can still manipulate and control our lives through the legal system, finances, and the children themselves.

Jessica's story

Most people are aware that domestic violence and abuse isolates the victim-survivor. Few understand, however, the ways by which the court system is complicit in perpetuating the isolation, especially after separation. For victims and their children who have family residing across international borders, the threat of the Hague Convention, or intimidation through local and national courts, stymies access to relatives who are usually their key or only means of support.

A small example: last year my ex-partner agreed but then withdrew consent for my two children and me to visit family abroad, right before our departure. I was forced to file an emergency motion in the courts (costing approximately £1600) or pay for new flights for the three of us. He did this simply because he knew it would cause pain and havoc, and because it fell just below the line of 'legal abuse', meaning he would face no repercussions.

This behaviour follows a pattern. Three years ago he accused me of child abduction when I applied for permission to temporarily reside abroad with my children (this was in relation to a short-term freelance project). The case went through the courts, with the decision being made in my favour. However, fighting the case cost me over £18,000 in legal fees that I had no means to pay; a clear case of forced debt.

One of the most debilitating aspect of this abuse is the extent to which it is condoned and facilitated (often wittingly) by the courts. In a twisted way, this makes perfect business sense: these lawsuits involve many players - lawyers, family assessors, guardians - who are as eager as anyone to cash-in.

Solutions

Changing an international convention is not easy. However, as the Australian Government has shown, making changes at a domestic level is both possible and, we would suggest, essential, if mothers and children who are victims of abuse are to be protected.

At the very least we would ask the UK Government to establish an automatic right to legal aid for 'taking parents', and to mandate training in domestic abuse for both judges and lawyers dealing with these cases.

In addition, we would like to see changes to the implementation of the Convention in the UK to ensure that the Child Abduction and Custody Act 1985 is compatible with the Domestic Abuse Act 2021 (including the definition of domestic abuse and the recognition that children living with domestic abuse are victims in their own right).

In relation to the Convention itself, domestic enabling legislation must make it explicit that 'grave risk of harm' and 'intolerable situation' arise from circumstances of domestic violence/abuse.

And that:

- removal is not 'wrongful' when the taking parent is fleeing domestic violence/abuse
- the definition of 'intolerable situation' should be along the lines of the Swiss model
- there should be a rebuttable presumption of no return in domestic abuse cases
- circumstances in which it is appropriate to rely on 'protective measures' must be restricted and, in any event, the UK must ensure that courts cannot accept undertakings as a means of defeating the Article 13(1)(b) defence in domestic violence/abuse cases
- courts must undertake a proper risk assessment, including exploring the views, wishes and feelings of the child
- perpetrators/alleged perpetrators of domestic violence/abuse must be disallowed from counter-claiming so-called parental alienation.

As a global campaign, we appreciate that a country-by-country approach to change would necessarily result in unequal treatment of mothers and children depending on the jurisdiction. However, individual countries could provide examples of good practice in relation to safeguarding victims of domestic violence and abuse, and potentially inspire change in others. We would very much appreciate your assistance in encouraging the UK Government to take a lead in this regard, particularly in the lead-up to the Pretoria Forum on the Hague Convention and Domestic Abuse.

Thank you for all you do to safeguard and support women and girls across the world.