

Forms of sex-based violence against women and girls: new frontiers and emerging issues

What forms of sex-based violence against women and girls are underrecognized or underreported, and what measures can be taken to identify and address them?

Sex-based legal abuse (also known as paper abuse) occurs when civil, administrative or legal processes are repeatedly used by a perpetrator to threaten and control an ex-partner. Rarely, if ever, acknowledged by those implementing the relevant systems (judges, lawyers, court officers, social workers), it is a highly gendered, global form of abuse utilised by ex-partners post-separation, often over a period of many years. The impact on victims - especially when mothers and children are targeted - is profound.

"The abuser retains or regains control by bringing the victim back to court repeatedly. Each day in court takes a tremendous toll on the victim in lost wages and lawyer's fees. Victims of domestic abuse have often already suffered from financial abuse. The court battle may stretch them financially beyond the breaking point, forcing them and the children to move into a shelter or even—sometimes—return to the abuser. Psychologically, the [stress](#) of prolonged court battles can be devastating to the protective parent and to the children." (Clements et al., 2021).

There is ample research which attests to the prevalence of legal abuse, and its efficacy in ensuring that the perpetrator is able to continue to control and abuse their victim. The underlying gender-bias within all legal systems, the spurious notion of 'high-conflict divorce' (which ignores the power differential), a pro-contact culture which obliges the victim to maintain contact with her abuser, and the use of 'parental alienation' claims, all allow legal abuse to flourish, virtually unchecked.

Addressing this form of abuse

- All those involved in court proceedings - judges, lawyers, court officers, designated experts, social workers - to receive training in the patterns of behaviour used by abusers and to proactively look for signs of abuse during the court process.
- Sanctions should be used to deter vexatious or repeated claims.
- Abusers should not be allowed contact with children post separation.

ref: Clements, K.A.V., Sprecher, M., Modica, S., Terrones, M., Gregory, K., & Sullivan, C. (2021). The use of children as a tactic in intimate partner violence and its relationship to survivor mental health. Journal of Family Violence, DOI: 10.1007/s10896-021-00330-0

To what extent are women and girls – as well as organizations that represent them- able to meaningfully and effectively participate in all processes that affect them?

This answer specifically relates to the Hague Abduction Convention and its implementation. The Convention was intended to be used against foreign fathers who kidnapped their child or children after a relationship breakdown and took them to their home country. This act was rightly seen as a

form of child abuse. The Convention enables the full force of the law to be used to swiftly return the child, generally within six weeks. However, in over 75% of cases the Convention is now used by perpetrators against protective mothers who are attempting to escape an abusive relationship and find safety in their home country.

This startling change of demographic remained essentially unacknowledged and unaddressed, both by the HCCH and the 103 signatory countries, until 2023 when FiLiA Hague Mothers and GlobalARRK began an international campaign to challenge the Convention and its implementation. We have made significant inroads and were able to create an opportunity for Hague mothers to speak (in person and via video) at an HCCH Forum on DV and the Convention held in South Africa in 2024. However, our participation, and that of mothers and children affected by the Convention, has to be constantly re-negotiated with those in power. For example:

- We applied to become members of the Hague Special Commission but their regulations do not permit this.
- We were included on the 48-strong South Africa Forum Steering Group but our participation was 'balanced' by the inclusion of fathers' rights representatives. Mothers who had direct experience of the Convention were not invited on to that group. The 30-strong Brazil Forum Steering Group similarly excludes victim-survivor mothers.
- After extensive negotiations, it was agreed that we could facilitate an 'experts by experience' session at the Forum. Two mothers attended in person. No HCCH funds were available to enable them to come (from Europe and from New Zealand); one mother managed to raise the money via friends, family and the local church; the other was gifted the costs by an individual member of FiLiA Hague Mothers.
- More locally, we approached the UK Ministry of Justice to request a meeting to discuss how DV victims (mothers and children) might be supported and safeguarded in the context of the Convention. The request was rejected.
- In general, those in power appear disinclined to involve Hague mothers in their discussions at any level. We have consistently called on the HCCH to work with all stakeholders, and offered advice about facilitation methods that can help ensure that all voices are heard. We will continue to do so in the lead up to the next Forum which is due to be held in Brazil in October 2025.

In addition, Hague mothers are silenced by the courts themselves. Speaking out could lead to contempt of court rulings, or to further legal abuse by the perpetrator including for libel.

It is hard to know how to address this issue. Currently we have to rely on the good will of individuals and that is not always forthcoming. The power imbalance is acute.

What are the consequences of the inadequate consideration of the relationship between sex as a ground for violence against women and girls in law, policy and practice including the ability to access effective assistance and protection from State and non-State actors?

The 1980 Hague Abduction Convention is based on two key assumptions: the abductor was assumed to be male; the act of abduction (taking a child across an international border without permission of the other parent) was assumed to be a violent and abusive act. No consideration was given to the possibility that the 'abductor' might be a female victim of domestic abuse, or that the 'abduction'

might be a desperate attempt to find safety - for both mother and child - having been entirely let down by the State in this regard.

As a result, primary-carer mothers are labelled abductors and perpetrators of abuse; the father becomes the victim. The consequences of this reversal can be extreme.

- A Spanish mother whose children were being abused by their father, was jailed for 5 years after fleeing to another country with her children. The father was given custody of the children.
- A mother in the US was arrested at gunpoint after escaping to Canada with her two small children. She was jailed and then tagged on release and ordered to move out of state since she was considered to be a danger to her children. The loss of her home and business has bankrupted her. The loss of her children who live with their violent father, has led to serious health issues and almost brought her to suicide.
- A French mother discovered that her daughter was being abused by her husband. Her well-evidenced allegations were dismissed by the courts who ordered overnight visitation. She has taken the children abroad and is attempting to claim asylum. Such asylum claims are rarely successful.
- A UK mother who had a restraining order against her ex-husband returned home in order to rebuild their lives. She lost the Hague case that her ex brought against her and has returned to the country of her abuser. She now endures a vicious campaign of post-separation abuse, psychological, financial and legal. He is citing her poverty and precarious mental health in the repeated custody battles. She is suicidal.

In all of these cases, assistance from the State or from those who should be protecting victims of domestic abuse, has been inadequate at best and, in some cases, non-existent.

The problem for mothers in this situation, and for those attempting to support them to leave the abusive relationship, is exacerbated by the fact that there is often no legal route to safety. Some countries allow parents to apply for a relocation order but, even when available, this is expensive and time-consuming. Also, the applicant must show that they are not intending to undermine the relationship between the child and the other parent - not easy when the need for relocation is due to abuse.

We would argue that the Convention should not be used to prevent a mother and child moving to another country when there is proof of domestic violence or coercive control.

How should national, regional, and international frameworks and standards on women and girls be reviewed, adjusted, clarified, or complemented in order to enhance efforts to identify, prevent, and respond to sex-based violence against women and girls?

Perhaps the key problem is in the lack of effective implementation of frameworks. For example, the Hague Abduction Convention can operate with the full force of the law. In contrast, a UNCRC intervention in a Hague case is advisory only and can be ignored by the jurisdiction it applies to. Signatories are not held accountable in any meaningful way.

The other problem is in a lack of joined-up thinking, especially in countries with good domestic legislation.

In the UK, for example, we have the excellent [Harms Report](#) which offers an evidence-based roadmap to safeguard victims of domestic abuse in private law children cases. If this guidance was applied, in both family court and Hague court cases, and if the safety of mothers and children was prioritised over contact or return, many of the problems outlined above could be solved.

Similarly, in Hague Convention cases, the desire for comity across signatory countries, has undermined the original intentions of the Convention. A treaty intended to prioritise the 'best interests of the child' has become an exercise in obedience to the swift return default.

It would help if existing research into outcomes was used to test the efficacy of these frameworks and standards, or new research commissioned if there are gaps in our knowledge. Where there is a gap between stated intention and real-life result there needs to be both action and accountability - at all levels. And we need more transparency. The silencing of victims, especially those who have been further victimised by the justice system, enables the abuser and perpetuates the harm.

Recommendations

We would like the report recommendations to reference the increasing use of legislation and legal systems by perpetrators. This would help to clarify that these individual behaviours, and the systemic discrimination that enables them, are forms of sex-based violence against women, and abuses of both women's and children's rights.

In general, we are hugely concerned about the extent to which both international and domestic judicial/state systems and structures are violating core human rights, and by the related silencing of women, especially of victim-survivors of domestic abuse, which is enabled and enforced by the courts.