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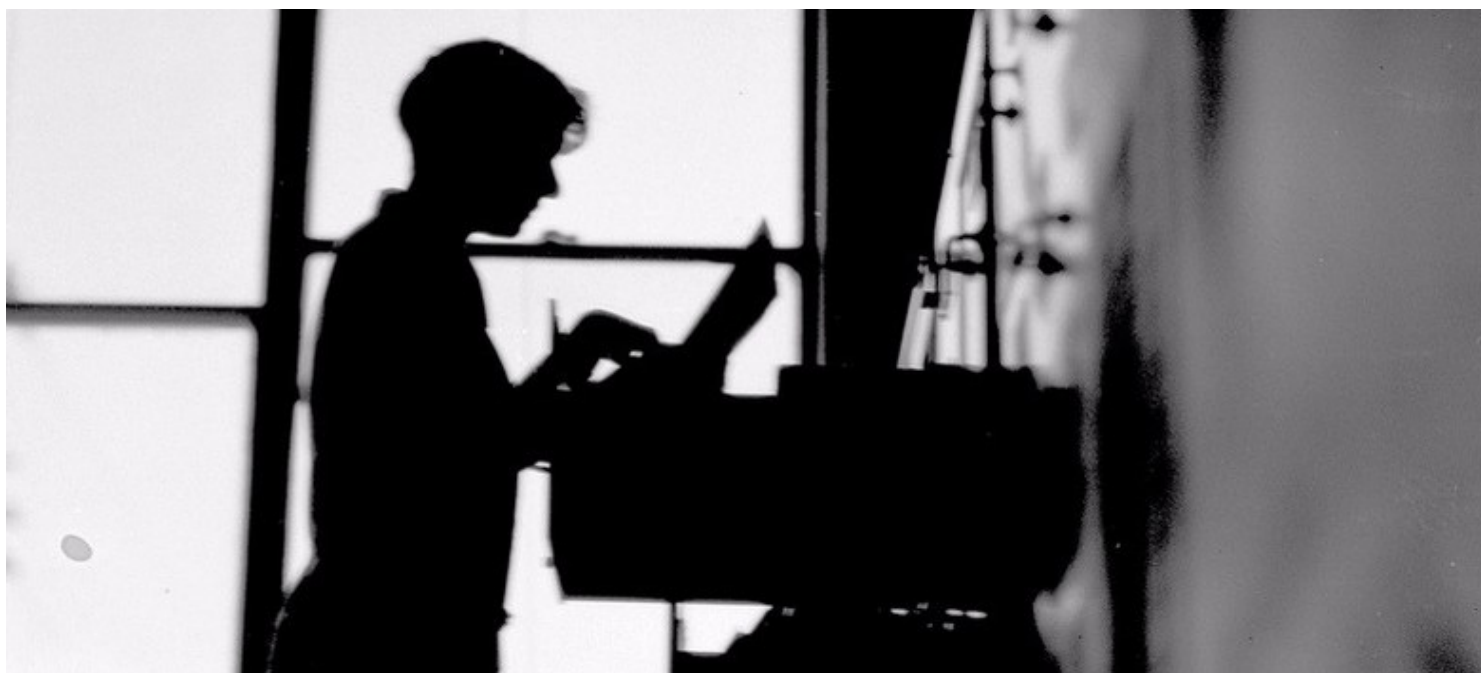
CHILD SAFETY

Why domestic abuse victims are opposed to India's new bill on international child abduction

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Children might end up being returned to abusive parents under the proposed bill.



In the middle of 2014, Nalini Goel*, a newly confirmed resident of the United States of America, realised that she had had enough. Her abusive husband had almost killed her once, had hospitalised her several more times including when she was pregnant and had even threatened her daughter when she was born.

“Living with him was hell,” Goel said. “I tolerated him a lot before, but when our daughter was born, I could not take the abuse anymore.”

When she finally threatened to walk out, her husband’s parents, who had been verbally abusing her for dowry from India – her husband once did not allow her to sleep for two days while they harangued her for money – convinced her to return to India to resolve these issues.

Goel reluctantly agreed. Within a month, her husband filed for divorce in India and she had to move out with her daughter, who was not even a year old. In response, she filed a case of domestic violence

and dowry harassment against him.

A month later, he phoned USA authorities from India and registered a case of child abduction against Goel. This effectively blocked her from ever returning to the USA without facing a criminal trial. All three cases continue to be in court.

Then in July, Goel's situation became slightly more precarious.

The Women and Child Development ministry issued a draft bill that would bring India in alignment with the Hague Convention on the Civil Aspects of International Child Abduction.

The Abduction Convention, as it is commonly known, was ratified in 1980 in response to a growing number of cases of broken international marriages, where one parent removed a child from its country of residence without the consent of the other.

Without an international treaty to legally mandate the return of these abducted children from the destination country, parents who had been left behind had few options to see their children again. This convention provides a framework for countries to facilitate children to return.

With this bill, India ends decades of resistance to becoming a signatory to the international treaty. Once passed, it will formalise a mechanism through which Indian courts can return children who they deem to have been wrongfully removed from their countries of habitual residence.

However, a group of mothers, including Goel, is campaigning against this. In their view, the bill has a crucial flaw: it does not protect parents who have taken their children and left their partners because of domestic abuse.

Fear of abuse

Reshma Kataria* had a son more than a decade after she got married. Her son, born two months premature in 2010, was only seven months old when her husband threatened her.

“A mass shooting had just happened then and he used to tell me that I too should kill myself,” Kataria recalled. “One time he took me to a bridge and told me to jump off and die. My son was so young and I wanted to protect him.”

This was not the first time he had urged her to kill herself and "end his troubles". But since he only ever verbally threatened her, Kataria had no proof of abuse when she called the police in fear for her life.

“I called the police multiple times, but because he threatened me inside the house without third party witnesses, he got off scot free,” Kataria said. “And because of spousal privilege, I could not record him

without his consent. My son was in danger. I told my husband he could visit as often as he wanted, but I was going to return to India.”

Back in India, Kataria continued to maintain contact with her in-laws and her husband. Her son, who is a US citizen, speaks to his father almost daily on Skype, she said. Then one day, she got a child welfare visit from the US consulate. Their representatives said her husband had complained that he was not sure of the status of his child. The two had spoken just the previous day.

Kataria now lives in fear of having a case of child abduction filed against her.

“We are being branded as child abductors and Interpol has us on their lists,” Kataria said. “But is anyone asking what is the family and cultural set up that allows this to happen? That is why these cases must be tried in India.”

Even having documentary evidence of abuse is no guarantee that the legal system will work in the favour of a parent thought to have wrongfully removed a child from the United States. Goel, for instance, has recorded evidence of abuse, including one time her husband almost choked her to death and discussed with his parents where to abandon her body.

Despite this, Goel might still face separation from her child since her husband was the first to file an abduction case.

These mothers are not alone. An ongoing project at the Goldman School of Public Policy in the University of California Berkeley is campaigning to raise awareness of the risks of forcing partners in abusive marriages to return to violent situations.

"Decisions taken under the Hague Convention may effectively determine child custody by requiring children to be returned to the 'left behind parent,' who may be a perpetrator of violence against the child's mother," the project **says** in its description.

Left behind, helpless

But parents whose children have been taken from them disagree that there is a need for a domestic violence clause to the bill in India. These parents, who describe themselves as “left behind” believe that any dilution will not be to the benefit of the child.

“There are cases where the mother who is abused is the left behind parent,” explained Ruchika Abbi, of the Bring Our Kids Home campaign that has been lobbying in India and the United States to convince India to sign the abduction convention. “We want to convey to the Women and Child Development ministry that these are two separate issues. Yes, there might be cases where women left because of violence, but this is not a gender issue. It is a child rights issue.”

Abbi herself faced severe domestic violence in public from her husband, who took their child back to India without her consent.

Ravi Parmar, of the same campaign, added: "There is no legal mechanism to bring children back and no law that would prevent abduction in India."

As to domestic abuse, Parmar believes parents should not wrongfully take away their children without their partner's consent even if in an abusive situation as the United States, he said, has adequate protection for such individuals.

"I am not undermining or questioning a parent's right to seek assistance," Parmar said. "But is taking the child thousands of miles away the solution? [...] The vast majority of abduction cases have no record of domestic abuse. But the abduction of a child is child abuse and abuse to the other partner. It is abuse in itself."

Kataria rubbished this.

"Going to the US and having that life was my dream. If a mother with a small child runs away from that, doesn't it show you a red flag? Why would she come back? There must be something seriously wrong. But the district attorney does not consider that."

**Names have been changed and details concealed to protect the identity of these individuals.*

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