

## Ruchika Abbi

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Testimony before Tom Lantos Human Rights Commission  
July 25, 2019

### The Goldman Act at Five Years

Co-Chair Chris Smith, Co-Chair James McGovern, Members of the Tom Lantos Human Rights Commission, Members of Congress and other supporters in the room who have gathered to demand action and results for the return of America's stolen children - good afternoon and thank you for providing me this forum to give my testimony. My name is Ruchika Abbi and I am a left-behind parent, mother of Roshni Seth, who will soon turn 12 years old. Roshni was abducted to New Delhi, India by her father when she was 6 years old. Roshni is an unfortunate little girl, led to believe by her father that her mother abandoned her and broke the family.

I have testified before the Committee on Foreign Affairs, Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, in July of 2016, for the hearing *"Hope Deferred: Securing Enforcement of the Goldman Act to Return Abducted American Children"*<sup>1</sup>. After 3 more years of fighting since then, of fearing, begging, and giving in, 3 more years of alienation, heartbreak and disappointment, I concede that hope deferred is now hope lost for me. While I will never give up on my daughter, Roshni, I have lost all hope that during these critical formative years of her life, I can ever be a mother to her, to shape her world view, to influence her thinking or support her development. Thanks to the inaction of the governments of two powerful nations, so called allies, USA and India, I was unsuccessful in returning my daughter to her home in USA even though I legally had physical custody of her in India. This was still a time when she was eager to return to USA to resume her normal life, reunite with her friends, enjoy the activities she used to love, graduate from Kindergarten, and graduate from being a Girl Scout Daisy to a Brownie. Instead, she was constrained to stay back in India, forced to find a new normal, forget her past in the U.S. and even come to hate it. My daughter, Roshni Seth, is one of the many unfortunate abducted children, the ultimate victims of International Parental Child Abduction (IPCA), who don't even realize that they have been uprooted from their homes

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<sup>1</sup> [Ruchika Abbi's Testimony on July 14, 2016 for the Committee on Foreign Affairs](#)

to find a new normal. These innocent children don't realize that they are being denied their most fundamental right to both parents, a right enshrined by the United Nations Convention on Rights of Child (UNCRC), ratified by India in 1992. Even if they did realize it, even if they had the maturity to understand and express their loss, the repressive cult like control of the abducting parent denies them the freedom to speak their mind. These children are the true victims and do not realize it until it is too late to undo the damage.

To those who have gathered here today and see international parental child abduction for the heinous crime it is, a violation of basic human rights of voiceless abducted children; to those who can understand that the invisible wounds of this act of parental alienation, an invariable part of the abduction, cause deep irreversible scarring, distorting the child's self-esteem and world view; to those who understand damaged children make damaged adults and broken societies - I urge you all to demand immediate action from the U.S. Dept. of State and the Secretary of State against countries that demonstrate a pattern of non-compliance with the Hague Convention. That justice delayed is justice denied, is never truer than in the case of children. The time to act is NOW. The 2019 Annual Report on International Child Abduction by the U.S. Department of State identifies 9 such countries including India (non-partner to Hague Convention with 102 abducted children reported in 2018) as well as Japan and Brazil (partners to Hague Convention) consistently topping the chart. We, the left-behind parents and supporters, appreciate the diplomatic efforts by the U.S. Department of State to combat this issue including Special Advisor Lawrence travelling to some of these non-compliant countries one of which was India, as cited in the report. But if all of these efforts at persuasion have been of no avail, with no child returned to the U.S. consequent to these efforts, the authorities must use the additional tools they have to get results. The U.S. Dept. of State should not simply play the role of an office for mere record keeping and reporting. Time is of essence in child abduction cases and just reporting such disappointing statistics in these annual reports without escalating efforts, what we are losing is the precious childhood of our abducted children.

### [Roshni's Abduction at Five Years](#)

After enduring multiple proceedings in multiple courts in India, more than 8 interviews of my daughter in these courts, obtaining several favorable interim custody and visitation/access orders (that were willfully disobeyed and never enforced), two rounds of petitioning in the U.S. court, 3 failed mediations and 1 successful mediation in India where I recently conceded to all the unfair asks from the abducting parent including agreeing to give up my custodial rights in the U.S. just to be included in my daughter's

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life – it all seems to have gone in vain. I have gained nothing out of it. I have zero access to my daughter and zero hope left that things will change.

My previous testimony in July 2016 has all the details of the first two years after Roshni was abducted along with excerpts from the court orders. Let me summarize it before I fill in some important updates about what followed after that:

On Apr 15, 2014, the day my nightmare started, I had to cut short an overnight business trip to North Carolina due to a family emergency. Roshni, my then 6 year old daughter had been suddenly and secretly whisked across international borders (from Virginia to New Delhi) by my estranged spouse. I returned to my silent and empty house, left with nothing but belongings and bittersweet memories of Roshni. Her father refused to ever come back again. He had carefully planned his exit strategy to take Roshni, for months. He used brute force and other tactics to convince me to remove Roshni from Children's Passport Issuance Alert Program (CPIAP) program and get her new passport, he lied to me and hid the old passport with the India visa, and he quietly filed a motion to surrender his driving license to DMV to escape the DUI, DUI violation charges and anticipated jail time. Thus, there was neither a case of defiance of an existing custody order nor an incident of no return from a planned vacation, as we see often. It was a very deviously planned and successfully executed attempt to flee from the U.S. and wrongfully remove my daughter.

As a left-behind mother, who had already faced years of verbal, emotional and physical abuse but stuck with the marriage just so the little one would at least have a “family”, I was now grieving sudden loss of my daughter who is alive. My only recourse was to report this case of International Parental Child Abduction promptly to the U.S. Dept. of State and take legal action. I knew there were other parents facing this but I did not know who they were and we had no organizations to help parents like me in distress. The only lifeline I had was recommendations from the Dept. of State and based on what I heard regarding pressing criminal charges (now documented on US DoS website<sup>2</sup>) versus civil actions, in spite of IPCA being a federal crime in the U.S., I followed the civil route so it would be easier for me to negotiate with my estranged spouse for my daughter’s return along with his. I filed for a divorce and emergency custody in VA, went to New Delhi in Aug 2014 with an Interim Sole Emergency Custody Order from VA and filed a Habeas Corpus seeking enforcement of the U.S. order and Roshni’s

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<sup>2</sup> [Travel.State.Gov: Pressing Criminal Charges](#)

return. I went for 3 weeks but stayed in India for 8 months. I got my daughter's physical custody in India but with a constraint on her travel out of Delhi. During this period, Roshni showed signs of major separation anxiety like never before and would express her feelings through soulful illustrations of a bond between a mother and a daughter. I have a book of her drawings with the same pattern. Delhi high court disposed the case with directions to the Family Court as a competent court, where the father had filed a Guardianship and Wards Act (GWA) petition for Roshni's custody, to decide the matter.

I knocked on the doors of the Supreme Court of India (the highest judicial court in India) instead and meanwhile, due to significant financial stress, I was forced to leave Roshni in my parents' care and travel to the U.S. for work. Roshni was wrongfully retained again during visitation with her father from my parent's house. In other words, my daughter was abducted for the second time and this time, all contact and communication was completely blocked. The last text messages she sent from her iPad were – *"How will I be happy without you. I love you"* and the last words I heard on the phone while she was crying were *"Please come and pick me from here as soon as you are back"*. I dropped everything and went back to India to pick her up backed by an interim custody order from the Supreme Court which was not complied with and not enforced by local law authorities or the court itself. I stayed in India again for 8 more months, in the same neighborhood, but no access to Roshni while she was being slowly poisoned against me. My daughter was interviewed several times by the Supreme Court and then her interim custody was given to her father despite recognizing the parental alienation factor and again the Family Court was directed to decide the case, without any prejudice.

I spent a year and a half in India and got no detailed hearing in any court. That didn't break me but what did was Roshni turning her back on me and walking away with her father. She, who would not stay for 5 minutes without messaging me that she loved me and was missing me, didn't look back, even once. Rejected and dejected, I returned to the U.S. alone in Dec 2015 optimistically awaiting the decision from the Family Court with respect to the Guardianship petition. I had filed an application of dismissal of the petition based on Order VII Rule XI of Code of Civil Procedure (CPC) that as India did not have jurisdiction in this matter, Virginia being Roshni's Habitual Residence, it could not adjudicate on the matter of her custody.

In July 2016, when I testified, I had no access to my daughter. Given below are the relevant updates after that:

- In August 2016, I thought I had a breakthrough. The Family Court dismissed the abducting parent's Guardianship (GWA) petition and allowed my application by denying Jurisdiction [Exhibit B]. Once again I had a ray of hope. To my dismay, the Family Court did not have the power to restore custody since it had held that it did not have jurisdiction. As expected, the order was appealed in the High Court by the father and I completed a 360 degree full circle: High Court to Supreme Court to Family Court to High Court. Many of the left-behind parents will relate to this ping pong game Indian judiciary plays with us. Another round of summary hearings started with the judges rotating and interviewing Roshni, asking for her wishes and empowering her as well as her father to believe that her wishes are beyond all the facts, law and court orders.
- As I waited patiently, I connected with several parents going through the same plight, both fathers and mothers with some of the mothers being domestic abuse survivors in the U.S. None of us could comprehend how India, on one hand claims to be a safe haven to abducting mothers who they unquestioningly believe are victims of abuse and on the other hand show no understanding of the abuse faced by left-behind mothers of Indian origin when they are faced with the greatest cruelty and abuse imaginable, the forced separation from their children. Above all, we couldn't understand how the Ministry despite a lot of empty talk about being champions of children's rights, about their commitment to UNCRC, can ignore the most fundamental right of a child – the right to both parents while also violating many articles of the United Nations Convention of the Rights of the Child (UNCRC)<sup>3</sup> ratified by India in 1992. In November 2016, on behalf of several left-behind mother, I sent an open letter titled "*Help Return Our Abducted Children*"<sup>4</sup> to the former Minister of Ministry of Women and Child Development, Government of India (MWCD), Ms. Maneka Gandhi and got absolutely no response.
- In Nov 2016, on top of everything else I was dealing with, I lost my mother, my only strength. She watched the livestream of my previous testimony in the middle of the night from India. My mother shared a special bond with Roshni. When Roshni was born, she rushed from India on an emergency visa to take care of the new born baby since I had serious medical complications that took months to recover from. My mother had been longing to see Roshni for over 18 months before she passed

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<sup>3</sup> [United Nations Convention of the Rights of the Child \(UNCRC\)](#)

<sup>4</sup> [Open Letter to Ms. Maneka Gandhi \(MWCD\): Help Return Our Abducted Children](#)

away. I went to India for her funeral and stayed for a month in Dec 2016. I was 5 minutes away, yet got no access to my daughter.

- After that, months passed, everything became a big blur - ongoing proceedings in India in the High Court for my case alongside ongoing dialogue of whether or not India would accede to the Hague Convention and the worry that even if it that happened, what would be the fate of our children with cases pending from before.
- In May 2017, I finalized my divorce in the Loudoun County Circuit Court of Virginia and was given the final sole, legal custody of my daughter, Roshni, on account of cruelty, desertion and the father, Suraj Seth, being an unfit parent [Exhibit C].
- I visited India again in Oct 2017 and despite having visitation order, I barely got to spend time with Roshni.
- During the next trip to India in July 2018, I urged Delhi High Court again to give me meaningful access to my daughter. With the court's intervention, I agreed to work on a mutual compromise with the father keeping Roshni's best interest in mind, through a 4<sup>th</sup> round of court appointed mediation process. I took this step for Roshni – I saw no benefit to her from continuing the tug of war. I chose mediation instead - to relieve Roshni of the court pressure, open new avenues for her and above all, to slowly get included in her life again, as a mother. The mediation started in-person and continued remotely for months with several drafts of the settlement terms between the two parties.
- According to the terms of proposed settlement, Roshni would continue to stay in India, in her father's custody till she turns 16 or completes 12<sup>th</sup> grade, but travel to the U.S. for vacations. Then she would be free to choose if she would like to come to the U.S. for higher studies. I would be free to spend quality time with Roshni whenever I visit India. But in order to negotiate Roshni's travel to the U.S. and other countries with me, I agreed to give up my custodial rights in the U.S. to provide reassurance that Roshni would return to India after the vacation. I also agreed to work with the local law authorities in VA and the U.S. Department of State to clear Roshni's father's name from any abduction charges so he could freely travel to the U.S. as well. And in turn, the father agreed to close all pending proceedings in India.
- During the next trip to India in Dec 2018, all my well-wishers advised me against the settlement, given that the father seemed to show more interest in mere clearing his name from abduction charges than to set things right for Roshni by fostering her relationship with me. I feared that he

would use Roshni's choice again as a reason to not send her to the U.S. But by now, I was able to get some time with Roshni and to my shock, I was being emotionally blackmailed into signing this piece of paper by none other than her. I was determined to go to any extent to make Roshni happy and free her from her insecurities and more trauma arising from the ongoing court proceedings. I thought I was opening the world to her as she would get a legal status in India, a valid U.S. passport which she doesn't have and in the best case scenario, she would be able to travel with me to the U.S. and other countries.

- I signed the settlement agreement on Jan 8<sup>th</sup>, 2019 [Exhibit D]. On Jan 9<sup>th</sup>, the appeal in the High Court was disposed-off with the terms of settlement and one last hearing was set up in summer 2019 to check compliance from my side, for the reversal of custody order in the U.S. The only good thing that came out of this settlement was that Roshni started connecting with me and would talk to me remotely every now and then.
- In March 2019, I filed a motion in Loudoun County Circuit Court, VA to reopen my custody case and acknowledge the terms of the custody arrangement based on the mutual settlement agreement I signed in India. The goal was to bring Roshni to the U.S. for a short, first visit during summer vacation in 2019.
- I testified during a hearing in VA court on May 6<sup>th</sup>, 2019 and was questioned why I thought the settlement terms were in best interest of Roshni and how the father, who was deemed unfit parent by the same court, now was fit to be the sole, legal custodian [Exhibit E: official transcript]. My testimony on his improved behavior and habits, due to lack of contact over the years with him, wasn't enough. Due to the father's background [Exhibit C], the motion and my request to give directions to local law authority to drop any pending charges against the father arising from a missing person complaint I had filed in 2014, were denied. The court gave an option to appoint a Guardian Ad Litem (GAL)<sup>5</sup> to assist in determining father's capability as a fit parent but as the movant, I would have to pay for this engagement [Exhibit E: order]. I was desperate to make this settlement work and was eager to even move forward with the GAL option. However, after due consideration, I realized that I could not afford to spend an unanticipated amount of money, with no certainty that this path would yield any results, just to prove a point so I could be allowed back in my own daughter's life. I stopped and drew a line there.

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<sup>5</sup> [Guardian Ad Litem](#)

- I had the best intention to make the settlement work for Roshni and did everything in my power and in a timely manner to comply with my side of the terms. Unfortunately, the outcome of the motion I filed was not in my control. During a recent trip to India in May 2019, the father did not allow me to spend any time with Roshni despite her summer holidays and the terms of visitation in the settlement and I faced rejection again from Roshni. We are in a deadlock situation. Proceedings for the case that was disposed of in Jan 2019, are still pending. So far, there has not be much pressure from the court on the father to give me physical access to Roshni when I am in India or remote access when I am in the U.S., also according to the settlement terms.
- I am stuck in limbo again and Roshni is heartbroken and angry. She has been made to believe that I willfully did not follow through with the terms. I hope she will understand one day that I went all in but hit a new wall, every single time. This is where I am now. Behind this new wall, it's all dark and I have no direction.

Roshni continues to live in a neighborhood called Paharganj in New Delhi, India with her father. While several independent studies have ranked New Delhi along with São Paulo, Brazil as the worst places in the world for sexual violence against women, Paharganj has become the biggest hotel hub for low-budget foreign tourists in New Delhi, leading to an increasing rate of illegal activities and crime. The irony is that, over two decades ago, I worked really hard to get out of Paharganj and my daughter, was taken back to the same place and growing up there.

### [From an Alienated Parent – a Perspective](#)

Allow me to digress a little bit - I have worked for Amazon for over 5 years. Amazon's mission is to be the earth's most customer-centric company, and this mission drives our work in Diversity and Inclusion. A few days ago, for an assignment to gain a broader perspective for Inclusion in the society and understand the human component which cannot be sectioned or quantified or visualized by any data, statistics or reports, I was watching a video "Humanizing Diversity & Inclusion". The speaker showed a picture of a child's back with him facing a circle of children at a distance immersed in a fun activity, with this child clearly excluded from that group and their activity. The audience's immediate reaction was one of dismay. The speaker then asked the audience to think about instances from their life when they did not feel "included" and explain what they felt in a single one-word adjectives. Many vocalized their experiences and their feelings at being excluded using words such as - insecure, shattered, and shocked; felt like a loser, a failure and so forth. I too participated in spirit by trying to



recall such instances. But later that night, I woke up halfway, with a big lump in my throat, struck by the realization that the most hurtful experience of being "excluded" was not an "instance" but a daily fact of my life - I am not "included" in my own child's life. Every single day, the pain of this rejection, the exclusion from her life is my companion whether I am going to bed, getting up, getting through my day; every single day I go through a roller coaster of emotions that cannot be described with a single word, a sentence or even a whole book – I am not included to parent a child I gave birth to, to my own flesh and blood, through joy, through little sweet things she said, through falls and scrapes, through the small physical and emotional bruises – I have not been allowed to nurture her, be a part of her life. I have been forced out. Excluded. NOT included.

More importantly, I have to stop and think - what about Roshni's pain. What about her? For a child to reject a formerly loved parent, it takes psychological manipulation that wounds them – from inside, invisible to the world, as children laugh and live in the moment. This is their only way to cope. These wounds leave scars that run so deep that they distort their reality, distort their relationship with their own self, leave them with low self-esteem, and mistrust for people, especially for the absent parent. I cannot fathom Roshni's pain and how she feels. She has shut herself from me, built these walls that I can't break through, yet. I am looking forward to the day when my daughter will confide in me and share how she felt all those years when she needed me, her mother, by her side and didn't have me. And I hope she will be able to share her true feelings with her father one day about how she felt when she was asked to stay indoors and ignore me every time I showed up screaming and begging from the street to get a glimpse of her.

### Challenges Faced by Left-Behind Parents and their Abducted Children

Our pain is real, our children's silent suffering is real, parental alienation is real and most of the left-behind parents and their children are victims of Parental Alienation Syndrome (PAS). While we keep bringing this up with government officials in both the U.S. and in India, we have lost a child, Kiara, to a tragic and mysterious death while she was in the unlawful custody of her abducting mother in India, one child, Daksh, has lost his abducting father to suicide, yet his mother, Nidhi Sharma, in the U.S. cannot get custody of her child; another child is autistic and her mother in the U.S. doesn't have any meaningful access to take care of him. Several fathers are scared to even travel to India due to fear of being put behind bars and thus haven't even seen their own families in years. Some parents have had no access

for months and years and for some, the remote access is mere a formality and again children are influenced to look the other way or hang up on us.

My heart goes out to Nidhi Sharma and despite our own legal and emotional battles, all of the parents are baffled by inaction from the governments of two countries to at least resolve her case. Nidhi's 4 year old son, Daksh, was abducted twice by his U.S. Citizen father, from India to USA and then back from USA to India in 2015. Even with enough intimation from Nidhi, the U.S. authorities failed to prevent Daksh's abduction from the U.S. After a painful chase and seeking justice with the judiciary in India, Nidhi found out in 2017, that Daksh's father committed suicide for unknown reasons. Daksh has been in his grandparents' wrongful physical custody, brainwashed to treat his biological mother, Nidhi, as a ghost. Neither government has come forward to reunite this unfortunate boy, a U.S. citizen, with his alienated mother. The aging grandparents are fighting for custody cases even though there are criminal charges against them for abetting the abduction of their grandson. Daksh has illegal resident status in India due to his expired passport and Nidhi has requested the U.S. Dept. of State to issue a new passport. But despite being fully aware of the circumstances and the severe alienation he has been brainwashed into, the Dept. of State insists on his physical presence for issuance of passport. There are no provisions for considering the extraordinary circumstances under which Nidhi is requesting the issue of passport. Nidhi has tried the new mediation process in India but that is going absolutely nowhere, as mentioned before. I wish the authorities in the U.S. and in India did more to rescue this little boy Daksh, now 9 years old, whose father is actually dead and mother is supposedly a ghost.

The State Department is also inadvertently creating obstacles for left-behind parents, compounding the trauma, when it comes to issuance of passports. In cases of Raj Kumar Sasidharan and Arvind Mathur, both left-behind parents have a U.S. Court order for sole custody/issuance of passport. However the State Department still declined passport issuance insisting on physical presence of the child, who is obviously not available as the victim of an abduction. It is extremely difficult to bring the child to an embassy in a foreign country via foreign court orders due to the vice-like grip exerted on the physical access to the child by the abducting parents. Unwillingness of the State Department to consider exigent circumstances ironically facilitates the abduction. We strongly urge Congress to push the State Department to shift the presumption against one party consent passport with waivers of personal appearance into a presumption in favor of issuing such a passport in cases where the left-behind parent

has an order of sole custody in a U.S. court and where that court found there was an abduction, that the child must be returned, and where the abductor has not abided by that order.

I wish I could bring to your attention the heart-wrenching stories of so many parents I know of. Among the parents who have testified before and still struggling or are actively working to bring about changes at the systemic level - Bindu Phillips has been fighting for over 10 years to reunite with her twin boys, Albert and Alfred, abducted to India on the pretext of a family vacation by their father. Rep Chris Smith introduced a bill in July 2017 that is awaiting enactment and will prohibit certain trade benefits to noncompliant countries – “H.R.3512 - Bindu Philips and Devon Davenport International Child Abduction Return Act of 2017”<sup>6</sup>. Dr. Samina Rahman, mother of Abdallah, abducted from New York to a remote city in India at the age of 6 years, continues to face extreme challenges for her attempts to establish physical contact with her son in India. Two years ago she had to flee back to safety of her home in the U.S. when she was assaulted by the abducting father and suffered injuries. She has some level of remote access to her son but fearful of meeting him in India. Ravi Parmar and Vikram Jagtiani, loving and dedicated fathers I know of and founders of Bring Our Kids Home Organization, continue to face access and parental alienation challenges. Vikram has barely talked to his daughter, Nikhita, for years. Kiran Sanjeeva's son, Arnav, a 2 year old innocently accompanied his mother to India on the pretext of a 6 month vacation, not knowing that he was being lied to by her. Since then, Kiran, not only has restrained physical access to his son for the last 5 years, he has had an insurmountable challenge with the judiciary even in the U.S. that has treated a consent to "vacation" in India same as consent to "reside permanently" in India and denied jurisdiction.

### [No Remedies for Left-behind Parents in the U.S. – only Hope](#)

There are no absolutely no remedies for left-behind parents, victims of International Parental Child Abductions and they are left on their own to suffer for years as they seek justice and return of their abducted children.

Left-behind parents in the U.S. have two pillars of hope. The first pillar is the 1980 Hague Convention on the Civil Aspects of International Child Abduction<sup>7</sup> that has provisions in place to secure

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<sup>6</sup> [H.R.3512 - Bindu Philips and Devon Davenport International Child Abduction Return Act of 2017](#)

<sup>7</sup> [1980 Hague Convention on the Civil Aspects of International Child Abduction](#)

prompt return of abducted children to their country of habitual residence, USA in this case, and minimize the emotional damage to these innocent children. The second pillar is the Sean and David Goldman International Child Abduction Prevention and Return Act (ICAPRA)<sup>8</sup>, that came into effect exactly five years ago, in August 2014, *“To ensure compliance with the 1980 Hague Convention on the Civil Aspects of International Child Abduction by countries with which the United States enjoys reciprocal obligations, to establish procedures for the prompt return of children abducted to other countries, and for other purposes”*. 5 years ago when this bill sponsored by our champion, Rep. Chris Smith, was enacted after being signed by President Obama, I was in India, all alone, starting the long-drawn legal battle to secure my daughter’s return to her home country. I saw this new Act (ICAPRA) as very timely and thought it would speed things up for me. Little did I know, 5 years later, parents like me would still be waiting for the promise of the Goldman Act to be realized in actions that are clearly listed against non-complaint countries to be implemented by the U.S. Department of State.

#### [USA: 2019 ICAPRA Report](#)

International Parental Child Abduction is a criminal offence as per the U.S. Federal law, under the International Parental Kidnapping Crime Act “IPKCA”<sup>9</sup>. The 2019 International Child Abduction Prevention and Return Act (ICAPRA) Report shows 102 abducted children in the cases reported for 2018 and clearly states - *“India does not adhere to any protocols with respect to international parental child abduction. In 2018, India demonstrated a pattern of noncompliance. Specifically, the competent authorities in India persistently failed to work with the Department of State to resolve abduction cases. As a result of this failure, 71 percent of requests for the return of abducted children remained unresolved for more than 12 months. On average, these cases were unresolved for 2 years and 10 months. India was previously cited for demonstrating a pattern of noncompliance in the 2014-2018 Annual Reports”*.

The report calls out judicial authorities in India - *“There is no clear legal procedure for addressing international parental child abduction cases under Indian law, and parents face difficulties resolving custody disputes in local courts. Some left-behind parents reported difficulty with serving taking parents in India causing delays in court proceedings. Additionally, judicial action in custody cases in India has been slow, and Indian courts tend to default to granting custody to the taking parent”*. It also clearly states the issue of enforcement of any interim custody or access orders - *“While courts in India*

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<sup>8</sup> [Sean and David Goldman International Child Abduction Prevention and Return Act](#)

<sup>9</sup> [18 U.S.C. § 1204 – International Parental Kidnapping](#)

*sometimes granted rights of access to left-behind parents, rights of access were generally not enforced. The United States is not aware of any abduction cases in which a judicial order relating to the return of a child needed to be enforced by the Indian authorities".* This comes as no surprise for parents like me running from pillar to post around the judicial authorities in India, court date after court date, year after year, spending hard-earned money that could be contributed to our children's future.

The Mediation cell is cited as being a significant new development, however it is nothing but a hogwash considering that participation by abductors is "voluntary", and there is no decisive next step if mediation fails – *"In July 2018, India's Ministry of Women and Child Development directed the National Commission for Protection of Child Rights to constitute a mediation cell to resolve international child custody disputes. Since its inception, this group has been accepting applications from parents in order to assist them with mediating their cases. Mediation is voluntary, and both parents must agree to participate. The United States is not aware of any abduction cases that were resolved through this service in 2018."* India's Ministry of Women and Child Development (MWCD), continues to refer international child abduction cases as international child custody disputes, thus distracting from the real question, which remains jurisdiction. The few parents that have engaged with the mediation cell, had no success even in obtaining access to their child(ren), leave alone the return of their children. The abducting parents easily derail the process and reaching a resolution through a process like this has proven to be a non-viable solution.

No success is reported regarding the Central Authority recommended by the Hague Convention - *"In 2018, the competent authorities in India regularly failed to work with the Department of State toward the resolution of pending abduction cases. Moreover, the competent authorities have failed to resolve cases due to a lack of viable legal options, which contributed to a pattern of noncompliance."* The Office of Children's Issues, which serves as the Central Authority of the United States for the purposes of the Hague Convention indicated in Dec 2014 that formal applications were sent to India requesting my daughter's return along with applications for return of several other children abducted to India. To this date, we have no update on which authority in India received these applications and what was their action or official response.

### [India: Justice Rajesh Bindal Committee Report – an Appalling Response](#)

With India's consistent push back on joining the Hague Convention over the years, finally there seemed to be hope - hope that was pinned on the Bindal Committee, headed by Justice Rajesh Bindal, Judge,

High Court of Punjab & Haryana, Chandigarh which was to examine the Civil Aspects of International Child Abduction Bill, 2016<sup>10</sup> by MWCD and the Protection of Children (Inter-Country Removal and Retention) Bill<sup>11</sup>, 2016 by the Law Commission of India and make a recommendation to the WCD. The committee held two hearings, ostensibly for involved parents in 2017. Several left-behind parents from the U.S. participated remotely in the committee meetings, including me. In India, several abducting parents, mostly mothers, participated in person but battling for them were some deeply vested, high-powered divorce attorneys supported by a very powerful NGO that promotes human rights, Lawyers Collective, which put out a video tearing down The Hague Convention, and then followed that up with a written statement laying out all manner of objections. Apparently their objections were all framed as “Hague Convention is anti-women and ignores women fleeing violent marriages.” However strangely, the testimony of left-behind mothers was completely ignored as that was an uncomfortable truth and did not fit their narrative. Many left-behind parents submitted (via email), details of their legal case proceedings and also documentary evidence to rebut all the imaginary objections raised by Lawyers Collective. Despite all our efforts, the report on Inter-country removal & retention of children submitted by the Bindal Committee<sup>12</sup> to the WCD Minister, Ms. Maneka Gandhi was deeply disappointing and biased, influenced by the anti-Hague lobby, nationalism and the financially vested lawyers speaking on behalf of “abused mothers” with no mention of mothers like me who have been separated from their children, often by spouses who have been abusive or violated U.S. law in the first place.

The report included a proposed statute which would establish a quasi-judicial “Inter-Country Parental Child Removal Disputes Resolution Authority” in India to handle international child abduction cases through mediation, with no time bound framework and no mandatory participation. This is the same mediation cell called out as a significant development in the 2019 ICAPRA report. The Committee rejected the use of term “abduction” and diluted it to mere “removal”, rejected the fundamental thesis of the Hague Convention for “prompt” return of children to the country of their habitual residence for decisions on custody issues unless there are some exceptions. Instead, the Committee carved out a broad list of reasons that would allow the authorities to not send the children back in the name of best interest of the child – a reality easily distorted by vague rationale and predominant culture/gender bias.

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<sup>10</sup> [India MWCD: The Civil Aspects of International Child Abduction Bill, 2016](#)

<sup>11</sup> [Law Commission of India: The Protection of Children \(Inter-Country. Removal and Retention\) Bill, 2016](#)

<sup>12</sup> [Justice Rajesh Bindal Committee Report](#)

The report dedicates an entire chapter to emphasize the psychological impact on children who witness and are victims of domestic violence, making a false assumption that the vast majority abduction case are actually flight to safety for mothers and children. Short term and long term harmful effects of Parental Alienation, a well-studied phenomenon observed in victims of parental child abduction, have been completely left out from the report.

As a result of this report, India will continue to reward sole custody orders to abducting parents, regardless of their gender and further legalize parental abductions to India. Collective feedback from left-behind parents in the U.S. on the Bindal Committee report has been published on [fight-ipca.com](http://fight-ipca.com).<sup>13</sup>

### Call to Action

Left-behind parents have tried every avenue possible as recommended by the U.S. State Department, from pursuing civil, criminal, mediation and other remedies, to no avail. The U.S. State Department on the other hand hasn't tried all the avenues and has in fact dragged its feet on using the full power of the Goldman Act. A list of suggested overt actions in support of victims of parental child abductions to prioritize the return of their abducted children and prevent of future abductions through collaborative efforts of the U.S. Dept. of State (DoS), the U.S. Dept. of Justice (DoJ), the Dept. of Homeland Security (DHS), recommended by Bring Our Kids Home Organization, is included in Exhibit A.

**Our forgotten children, a majority of them American citizens, deserve a stronger and honest enforcement of the Goldman Act. Bring ALL of them back from India, Japan, Brazil, and other countries. Time and childhood are not a luxury for them.**

#### A Note for Roshni:

*"I am extremely sorry that I had to leave you for some time with Nani. I dropped everything and came back to get you. Many times. I have always been around the corner. You may have forgotten the story I left you with but I will keep coming back and remind you. And you will see the world again. Hopefully very soon. Love, Always – Mamma."*

Thank you once again, Co-Chair Smith and Tom Lantos Human Rights Commission, for giving me a chance to speak for Roshni and our children abducted from the United States to India.

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<sup>13</sup> [Hague Committee Report Feedback - by fight-ipca.com](http://Hague Committee Report Feedback - by fight-ipca.com)



Art by Roshni: 2015



Testimony of Ruchika Abbi for Roshni Seth, July 25, 2019



## Exhibits – Call to Action and Relevant Details from U.S./India Court Orders

### Exhibit A: Call to Action

#### Bring Our Kids Home: List of Overt Actions in Support of Victims of Parental Child Abductions:

1. With the objective of prioritizing return of abducted American children, kidnapped to other nations, Departments of State & Justice, shall coordinate investigation and prosecution of abductors under 18 U.S. Code § 1204 - International Parental Kidnapping Crime Act (IPKCA), upon the confirmation of abduction case by the DoS;
2. Congress enact law to provide full legal, financial and reunification aid to victimized parents and children both within the U.S. and in the country where the child(ren) are wrongfully retained;
3. Department of Home Security and DoS streamline procedures to enroll children in the Prevent Departure program, including allowing a concerned parent to temporarily (period of 90 days) enroll children in the program until a Court order can be obtained;
4. Congress enact laws or amend existing ICAPRA legislation, to automatically impose visa restrictions and halt trade concessions for countries that are cited as non-compliant on the DoS Annual Report on International Parental Child Abduction. These restrictions remain in place until all abducted American children are returned;
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;

**Exhibit B:**

Order (last few pages) from Family Court, New Delhi, dated Aug 12, 2016 for dismissal of abducting parent's Guardianship and Wards Act (GWA) petition:

47. Non-applicant brought the child to India stealthily by using her old passport lied to the applicant that old passport of the child was kept by passport authorities. This shows that he was having the mala fide intentions of abducting the child and did so on the first available opportunity.

48. It becomes crystal clear from the record that on the night of 15.04.2014/16.04.2014, the petitioner/father had taken the custody of minor daughter baby Roshni forcibly/clandestinely. He removed the minor child stealthily from Virginia USA to India without consent or information to the applicant/mother. He returned to India and thereafter, did not allow to speak the applicant/mother to minor child till directions were issued by the Hon'ble High Court of Delhi. The minor child (baby Roshni) in the circumstances is deemed to have remained in the care and custody of mother. The "ordinary residence" of the child, a US citizen, is Virginia USA.



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49. The contention of Id. Counsel for the petitioner/father that this Court cannot go into the issue of jurisdiction since the Hon'ble High Court of Delhi and even the Apex Court have already decided the issue of jurisdiction, have not entertained the petitions of the parties, has no merits whatsoever. Neither the Hon'ble High Court of Delhi nor the Apex Court considered the issue of jurisdiction and the orders placed on record clearly reveal that there is no finding as to the jurisdiction of courts in Delhi (India). The contention is, therefore, rejected outrightly.



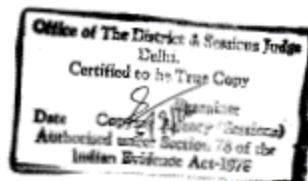
50. I, accordingly, hold that this court has no jurisdiction to entertain and try the petition. The ordinary residence of the minor child baby Roshni Seth is, thus, Virginia USA. The application is, therefore, allowed and the petition is accordingly dismissed.

51. File be consigned to record room.

Announced in open Court  
today i.e. on 12.08.2016

  
(Dilbag Singh Punia)  
Principal Judge (Central District)  
Family Court  
Tis Hazari Court, Delhi

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Exhibit C:

Final Order of Divorce and Custody from Loudoun County Circuit Court, Virginia, dated May 26, 2017 – findings about the abducting parent (defendant) that prevented the reversal of the custody order for the Motion hearing in May, 2019 (Exhibit E).

6. After consideration of the required factors set forth in Va. Code Ann. §20-124.3 and for the reasons set forth in this paragraph, Defendant is not a fit and proper person to have any access to the Minor Child at this time. The evidence revealed that Defendant has a problem with alcohol, an inability to control his anger, and was abusive towards

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Plaintiff in the presence of the Minor Child. He has not demonstrated a willingness to promote the Minor Child's relationship with Plaintiff, and in fact, has cut off all contact between Plaintiff and the Minor Child. Defendant has demonstrated poor parental judgment and an inability to put the needs of the Minor Child ahead of his own. His removal of the Minor Child from her home environment and school was clearly contrary to her best interests and demonstrated a complete and utter lack of parental judgment. Accordingly, it is the conclusion of this Court that it is entirely contrary to the best interests of the Minor Child for Defendant to have any contact with her at this time.

Exhibit D:

Important terms from the Mutual Settlement Agreement, New Delhi High Court Mediation Center, dated Jan 8, 2019:



- (iv) It is further agreed between the parties that whenever Second Party visits India she shall be free to meet the child till the time of her attaining the age of 18 years from 6:00 p.m. to 8:30 p.m. everyday from Monday to Friday. Over and above, Roshni shall spend time with the Second Party on the weekends from Saturday 6:00 p.m. to Sunday 8:30 p.m. and stay overnight with the Second Party. The Second Party shall inform the First Party regarding her visit(s) to India in advance and the First Party on being informed, shall allow and facilitate the minor daughter to be with her mother and to go with her to her residence or to other place(s) in India. All such meetings, their venues and durations shall be agreed between the parties keeping in mind the convenience, academic schedule and other co-curricular activities of Roshni. If the Second Party is in Delhi/India during a period of time when Roshni has her school holidays, then for half of the duration of holidays, Roshni will stay with the Second Party and can travel within India with the Second Party during her stay in India.
- (v) It is further agreed that the Second Party, on submission of the present Settlement Agreement in the matters pending decided before the Virginia Court(s) and getting amendments in the decree(s) or the final order(s), as per the present Settlement Agreement, she shall be at liberty to take the minor daughter to USA and such other International destination during Summer, Autumn and/or Winter break. It is further agreed that such outings of the minor child Roshini with the Second Party shall be for a maximum period of four weeks in a year at the Second Party's residence at USA or other holiday locations in USA and up to two weeks in a year for other **International destinations**. During such outings, the Second Party shall bear all the travel, boarding, lodging and excursion expenses for the minor child. The Second Party agrees and undertakes to give complete travel plan along with boarding and lodging arrangements in advance to the First Party. The First Party agrees and undertakes to play a proactive role to promote and facilitate the minor child's travel with the Second Party. The Second Party agrees and undertakes

  
8/1/19






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to safely return the minor child to the First Party, in New Delhi, India.

- (vi) It is agreed between the parties that if in future, the Second Party opts for a long-term employment/ assignment in India or is otherwise in India for a longer duration, then the minor child shall stay in close proximity to the Second Party for an extended period of time as opposed to short visits which shall be planned and decided by the parties mutually keeping in mind the convenience, study schedule and other activities of the minor child Roshini.
- (vii) The First Party agrees and undertakes to co-operate with the Second Party to facilitate remote access to the minor child via phone, video-messaging (Skype/FaceTime), text-messaging and email etc. by using all the modern technology that are at their disposal. To ensure such access, the parties shall work on a schedule that will align with the minor child's daily activities.
- (viii) The Second Party agrees and undertakes that keeping in mind the present Settlement Agreement, she shall get cleared all notices raised against the Second Party on account of International Parental Child Abduction.
- (ix) It is agreed and undertaken by the Second Party that she will submit a copy of the present Settlement Agreement before the Circuit Court of Loudoun County, Civil Division, Virginia, USA and will get a modification of the final order dated 26.07.2017 in terms of the present Settlement Agreement. The Second Party agrees that henceforth the present settlement and the terms stipulated herein shall govern the custody with the First Party and visitation of the Second Party and not the order passed by Virginia Court, U.S.A. The Second Party agrees and undertakes to withdraw all the cases pending at various courts at Virginia and submit an undertaking to the Circuit Court of Loudoun County, Virginia that she will be bound by the terms and conditions stipulated herein this Settlement Agreement.
- (x) On complete compliance of the preceding clause (ix) by the Second Party and

  
8/1/19



## Exhibit E:

Relevant details from the official transcript and order for the motion filed in Loudoun County Circuit Court, Virginia, in May 2019 by left-behind parent, Ruchika Abbi, for reopening the custody case and acknowledging the terms of mutual settlement in India to comply with clause (ix) in Exhibit D.

13           THE COURT: When this divorce order was entered, it's a  
14 pretty unusual order and there are long recitations of findings  
15 of fact that Judge (indiscernible) made, in particular,  
16 paragraph six. "Defendant, who is the father, is not a fit and  
17 proper person to have any access to the minor child at this  
18 time. The evidence review that the Defendant has a problem  
19 with alcohol and an inability to control his anger and was  
20 abusive towards Plaintiff in the presence of the minor child.  
21 He has not demonstrated a willingness to promote the minor  
22 child's relationship with Plaintiff. And in fact, he has cut  
23 off all contact between Plaintiff and the minor child.  
24 Defendant has demonstrated poor parental judgment and an  
25 inability to put the needs of the minor child ahead of his own.

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1 His removal of the minor child from her home environment and  
2 school is clearly contrary to her best interest and  
3 demonstrates a complete and utter lack of parental judgment.  
4 Accordingly, it is the conclusion of this Court that it's  
5 entirely contrary to the best interest of the minor child for  
6 the Defendant to have any contact with her at this time." I  
7 haven't heard any of that stuff addressed.

10 I'm also not satisfied that what is being proposed here  
11 is in this child's best interest. You all heard me express my  
12 concerns. What I'm hearing is, in the evidence that if this  
13 order is modified, it's better for the mother because she'd get  
14 to see her child more often. I can see how it's also better  
15 for the child from the current circumstances or the most recent  
16 circumstances that she would -- or the de facto situation to  
17 see the mother more often. But I'm looking at this from the  
18 standpoint of the order that was entered here in this Court,  
19 which gave the mother full custody and visible custody, so on  
20 the question of how is, under the circumstances, that were  
21 found by Judge Horne even understanding the information that  
22 was provided by the mother here, which was admittedly with less  
23 -- with little contact and through third parties. I don't know  
24 how it is in the child's best interest for this order to be  
25 entered. I'm not certain that under the entirety of the

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1 circumstances that the best interest of the child are being put  
2 forward in this case by the way the litigation stands right  
3 now.



③ " Upon considering the evidence, the Court has determined that the child's best interests are not being represented and informed. Ms. Abbi + her counsel that the Court would intend to appoint a Guardian ad litem in this matter, but that Ms. Abbi, as the movant, and only

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party properly before the Court at this time, would be required to pay the GAL's fees. Upon counsel's request, the issue of GAL will not be concluded this date, as counsel requested time to discuss the issue with Ms. Abbi + her other counsel in India. The Court informed the counsel that no new date would be set and that he would need to properly schedule + notice this matter for appointment of a GAL if his client desires to proceed on her motions.