



INTERNATIONAL CAREER SUPPORT ASSOCIATION  
FOR WOMEN'S CAREER AND CHILDREN'S RIGHTS

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**NGO Joint Submission for UPR 42nd Session  
Japan**

**Parent-Child severance caused by judicial system in Japan  
ANNEX 1**

## Minutes of Parental Child Abduction issue

On January 20, 2020, with the help of a member of Congress of whom Shunichi FUJIKI of ICSA is familiar with, we attempted to "raise the issue of child abduction" with Supreme Court high officials. The following is a record of the meeting.

Attendee:

Ms. Tomoko SAWAMURA, Chief of the First Division of the Family Division of the Supreme Court's General Secretariat

Mr. Hideaki YAMAGISHI, Deputy Director of the Family Division of the Supreme Court's General Secretariat

Shunichi FUJIKI

Attorney at Law, Patent Attorney Hirokazu NAKANO (responsible for this record)

[Origin of discussion]

There was no disagreement that parental child abduction (removal without prior consent) would cause the child to be unhappy and unstable.

There was a disagreement on the point that "therefore, parental child abduction must not be tolerated. Hereafter, this point is taken as the origin.

[Problems caused in accordance with parental child abduction]

- FUJIKI and NAKANO (here in after referred to as "we" in this section) explained that parental child abduction has become a means for divorce lawyers to obtain economical profits.

- We explained that Attorney A was accused by name in the proceedings to the United Nations filed by Zimeray & Finelle Avocats.

- We explained that Lawyer B had incited how to abduct a child at the seminar at the Japanese Cultural Institute in Paris on May 15, 2018, co-hosted by the Ministry of Foreign Affairs and the Japan Federation of Bar Associations.

- We explained that the number of cases involving provisional measures of child handover has quadrupled in 15 years.

- We explained cases of suicide and homicide caused by parental child abduction.

- We explained the reasons France is angry with Japan as follows.

- We explained that approximately 10% of the French population is aware of the issue of Japanese child abduction and that they are sympathetic to it through documentaries and other media that deal with the issue in Japan.

- We explained that in France, both parents are responsible for the custody and visitation of their children, and that in the United States, there are penalties on obtaining a driver's license for interfering with visitation, but in Japan, there are no penalties.

- We expressed concern that NGOs and other organizations are working together to strengthen the siege on Japan, and it could lead from the family disintegration to the disintegration of nation body if the situation continues. Ms. SAWAMURA and Mr. YAMAGISHI did not have any comments, but we found their strong disapproval.

- We explained the differences in the concept of illegality of parental child abduction.

Japan: legal; France: illegal and human rights violation

[Arguments about the illegality of child abduction.]

NAKANO: Is parental child abduction itself illegal?

SAWAMURA: There is no law which makes it illegal.

NAKANO: There is an article in the Civil Code to the effect that custody of the child shall be exercised jointly ("Parental authority shall be exercised jointly by married parents" Civil Code Article 818(3) main clause).

SAWAMURA: Whether or not a violation of that provision is illegal is merely a matter of words.

YAMAGISHI: Aside from removal during visitation, the family court has not directly determined whether parental child removal is illegal or not.

NAKANO: You're saying that parental child abduction is legal in Japan?

SAWAMURA: I dare not say that it is legal. We are considering the circumstances of the removal as an element. There is no special meaning in making that distinction between illegal and legal. With regard to removal, it is one of the factors to be judged by taking into account the custody situation of the past and the prospect of future custody. The Court recognizes that it makes appropriate decisions from the perspective of the child in each case (hereinafter referred to as "Supreme Court's Recognition").

[How to review on the Supreme Court's recognition]

FUJIKI: The reality is not as the Supreme Court recognition; I know of only about 200 cases, but I am aware of many absurd cases, such as a parent who was unable to see the child because of a false allegation of domestic violence, or a parent who was found to be highly emotional and unable to see the child because he or she showed tears during visitation.

SAWAMURA: These are individual cases.

FUJIKI/NAKANO: Shouldn't you check whether the reality is as the Supreme Court's recognition? Do you track the percentage of parental authority/custody rights granted to the party who abducted the child? Shouldn't you have the statistics?

SAWAMURA: We don't intend to. We have not. We can't do that. We don't have the means to figure it out. We don't have the manpower.

[Working towards a solution]

FUJIKI/NAKANO: Only the courts have the data on which to base statistics. Without statistics, it would be impossible to solve the problems caused by child abduction.

SAWAMURA: There is no intention of conducting a survey. In the first place, the General Secretariat of the Supreme Court is the department that deals with administrative matters of the court and cannot influence the judges (of the lower courts).

NAKANO: In a marginal case where decisions can differ depending on the



consideration of parental child abduction, shouldn't the Supreme Court rule that parental child abduction is illegal?

SAWAMURA: It is impossible to intervene in the decisions of the Supreme Court judges. This is a matter of legislation.

NAKANO: The only solution to the problems arising from the acceptance of parental child abduction is to operate to make parental child abduction illegal.

SAWAMURA: The courts hold an annual training session with people from courts all over the country to discuss what kind of solution is desirable for children.

[Conclusion (FUJIKI/NAKANO)]

In order to discuss the system to solve the problems, it should be based on statistics. The courts are the only state institution that has data on family court practice and is probably the only one capable of resolving the problems stemming from the admission of parental child abduction. Unfortunately, the proposal for a study of family court practice to obtain the prerequisite statistics was rejected. Therefore, the above-mentioned problems are unlikely to be resolved.

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