

Japan remains haven for parental abductions

By Sayo Sasaki, Crisscross News, January 6, 2006.

TOKYO — Murray Wood, an elementary school teacher from Richmond, British Columbia, was expecting the return of his children by Christmas in 2004.

Ten-year-old Takara and 7-year-old Manami had just left for Japan on a 12-day trip to the country in November with his Japanese ex-wife to see their grandfather who was reportedly very ill.

But they did not return, and Wood found himself becoming one of thousands of parents around the world whose children have been abducted across borders by the other parent.

The 39-year-old teacher, despite being given sole custody of his children by a Canadian court, has been kept from directly communicating with the children except for a brief meeting at a courthouse in Saitama Prefecture.

Wood said he has encountered "setbacks after setbacks after setbacks" in his effort to get his children back. He attended a recent international seminar in Tokyo on parental child abduction.

Parents such as Wood face great difficulties retrieving or even contacting children who were abducted by the other parent, particularly in a country that is a non-signatory to the Hague Convention on the Civil Aspects of International Child Abduction.

The 1980 treaty, ratified by 75 countries so far, states that children must be promptly returned to the country of habitual residence if they have been removed or retained against the custodial rights given to a person under the law of the state of habitual residence.

Japan won't sign abduction treaty

Japan, however, remains the only country among the Group of Seven industrial nations not to have signed the treaty, and it also has no substitute mechanism to help parents with abducted children as it has no means of enforcement.

"Forcible removal of an abducted child is extremely rare in Japan because it will have to be a voluntary return," said Annette Marie Eddie-Callagain, an American lawyer who practices law in Okinawa Prefecture.

"Court orders from other countries are not recognized because an order from another jurisdiction, according to Japan, is an order that they do not have to follow," she said.

As a result, Japan is serving as a "safe haven" for international parental child abduction, she said.

Clinical psychologist Jim McRae, who practices in Japan, said another factor that bars foreign nationals from gaining access to their child in Japan is the fact that "maintaining family ties after divorce is a foreign concept" to the Japanese.

"In Japan, when there is a divorce, you don't have anything to do with your ex-spouse...you don't have anything to do with your ex-children, and you are sort of like an ex-parent," he said.

As international marriages and divorces increase, cross-border parental child abduction cases are on the rise.

No. of international divorces tops 15,200

More than one in 20 marriages in Japan in 2004 involved a foreign spouse. The number of international divorces has been topping 15,200 in recent years, according to a survey conducted by the Health, Labor and Welfare Ministry.

"If Japan has been fortunate enough to not yet have a case where one of their citizens has lost access to their child, that day will come," Maura Harty, assistant secretary of the State Department's Bureau of Consular Affairs, warned at a press conference in Tokyo. In the United States, an average of 1,100 families are seeking the return of a child every year, she said.

The Japanese government has repeatedly told foreign officials, including Harty, that complex legal issues are preventing the country from signing the convention at this stage.

An official at the Foreign Ministry said, "We consider it an important treaty, but as we have to go over its legal aspects as well, we do not yet know when we can sign it."

The Justice Ministry has been reviewing the convention with the help of legal experts for some years.

But there are a host of questions standing in the way of Japan signing the convention immediately, including which governmental section should primarily deal with parental abduction, how relevant government agencies can coordinate with each other and how many Japanese nationals actually need government support in parental abduction, another official said.

At a joint press conference held in Tokyo in December following the international parental child abduction seminar, the United States, Canada and Britain, which represented the 25 members of the European Union, urged Japan to join the convention in the wake of growing abduction cases worldwide.

The U.S. Embassy in Japan is currently dealing with the abductions of about 20 children while the Canadian Embassy is handling 21 cases and the British Embassy five cases,

according to their officials.

The United States said Japan ranks top among East Asian countries in the numbers of parental abduction cases.

Harty said, "The Hague Convention, while not perfect, is the best available hope" for resolving the issues of parental abduction, and expressed a desire for the Japanese government to join the convention.

But Yuko Nishitani, an assistant professor of private international law at Tohoku University, said, "This is not easy to do."

She said that providing administration or judicial authorities with effective enforcement measures to comply with the Hague Convention's obligation is the primary impediment in Japan's signing the treaty.

But Nishitani also voiced concern that if Japan remains a non-signatory, "Japanese nationals living abroad will be at a disadvantage" as foreign authorities may become reluctant to return Japanese nationals who were abducted.

Wood said, "If Japan wishes to be seen as a world leader or a candidate of permanent membership in the U.N. Security Council, the Japanese government must make the changes necessary to protect children from the abuse of parental abduction."