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[Susan] A father's fight for his children. He has sole custody, but when his ex-wife took their two kids to Japan on a trip, she never came back. In spite of a court order and Canadian warrant for her arrest Japan has refused to help return the children. We will talk to the Japanese Ambassador to Canada, but first, the children's father, Murray Wood. Coming right up on The Current.

[Susan] When Murray Wood kissed his son and daughter good-bye at Vancouver International Airport, he expected to see them back 12 days later, after a visit with their sick Grandfather in Japan. That was more than two years ago. The only time Mr. Wood has seen his children since was in a Japanese courtroom, fighting to bring them home to Canada. Mr. Wood's ex-wife, and the mother of the children, is Japanese, but both children were born in Canada, and even though a British Columbia Court gave Mr. Wood full custody, and there's a Canadian warrant out for his ex-wife's arrest, the Japanese Courts say it's in the children's best interest to stay in Japan. In a moment we'll hear from an International Family Law specialist who says that Japan is particularly difficult place from which to rescue abducted children and we'll also hear from the Japanese Ambassador to Canada, from Ottawa, but first, I'm joined from our Vancouver studio by the children's father, Murray Wood. Good morning Murray.

[Murray] Good morning.

[Susan] Just to be clear, you and your wife are divorced, you have sole custody of the children, so, when your ex-wife left on this trip to Japan, we're you at all worried that she might not come back?

[Murray] I was worried. There was an order entered by consent the day before she left that was very specific that the children would go to visit their grandfather, who was very ill, and they would stay at their grandparents home in Saitama, which is just outside of Tokyo, and visit their grandparents for 12 days, and return on the 9th of December, 2004. The order stated that the Supreme Court of British Columbia had sole jurisdiction over the children, and that their mother was not to make application for custody in any other jurisdiction. So given that, I felt that knowing that it was in the children's best interest to be able to go to Japan, to maintain their connection with their Japanese family, I've always supported that. That to deny them that would be hurtful to them so I thought, well, they should go and if there are any difficulties, then we'll deal with them, but we can't deny the children the ability to see their family in Japan.

[Susan] So how did you first realize that they were indeed not coming back?

[Murray] Well, their mother had fallen behind in her court ordered child maintenance payments, and she gave me some checks at the airport, actually, when I dropped the children off, and when I went to the bank, with the checks, they told me that they had been reported lost. And then they asked me if I knew... actually, shortly after that, you know, I explained the situation to them that these were maintenance checks, and that I was the person they were made out to, and they'd been given to me by Ayako Wood, the bank investigated and found that her telephone number had been disconnected. And so, I went by her residence, and, former residence, and found that it had been emptied out and left open. And it was clear that she had no intention of returning.

[Susan] So this was planned?

[Murray] Yes.

[Susan] Now, what have you done to try and get your children back in the interim?

[Murray] Well, initially I made contact with Ayako through the Canadian Embassy in Japan, who has been very supportive of me throughout this, and she told them in no uncertain terms that she had no intention of abiding by the Canadian orders and returning to Canada. And so, I then contacted people at Foreign Affairs in Ottawa and was told that this is a really serious problem, despite the clarity of the Canadian Law, Japan is notorious for not returning children who have been abducted there. I contacted a Lawyer in Japan and he recommended that given the strength of the orders and the clarity of the law that it would be worthwhile making a Habeas Corpus application arguing that the children were being unlawfully detained in Japan and should be returned to my custody. And so, that's what we did.

[Susan] But that failed?

[Murray] That failed. That was supposed to be a procedure that would take a matter of weeks, but it took months for us to explain the Canadian Law to the Japanese Court, essentially, is what we were doing. And just before they finally heard the matter, before the actual trial, so to speak, the Japanese Family Court stepped in, claimed jurisdiction over the children, and made a temporary order which undermined my application, and the application ultimately failed.

[Susan] So the, in Japanese Law currently the children are in the custody of their Mother?

[Murray] That's right. The Japanese Family Court found that it was in the children's best interest to transfer the parental authority to their mother. They made this decision based on her testimony in Japan essentially, they completely ignored the evidence that was used at the Supreme Court of British Columbia, and just accepted the children's mothers argument that, you know, yes, she had sold off her belongings and shipped the rest of them to Japan before she left, she had given up her job and her home, but she needed money to finance the trip to

the beach, which she took in contravention of the Canadian Order, and when the children got to Japan, they were so happy there that she thought they should just stay on.

[Susan] Did the Court talk to your children and ask them what they wanted?

[Murray] They did. And my son Takara was 10 years old at the time, going on 11, and there is some argument as to whether or not you can ask a child that age what they would like to do, but there is no doubt about the fact that you can not ask a child who had been abducted by a parent and denied all access to the other parent for over half a year, what they want to do.

[Susan] What did Takara say?

[Murray] He said that he liked it in Japan, that, he told them that if he came back to Canada he would never get to see his mother again.

[Susan] Is that true?

[Murray] Well, no. It's true if his mother chose never to come back to Canada again, which clearly she had told him she wasn't prepared to do. But, it's absolutely untrue. Even though I have sole custody of the children the Supreme Court in British Columbia was very careful to structure regular access for the children's mother.

[Susan] Now Murray, throughout this long ordeal, it's been two years, how much contact have you had with your kids? Your son is, Takara, is 11, and Minami is 9?

[Murray] That's correct. We've had no contact whatsoever. We've... I know where they are, and I've telephoned their home, their grandparents home, hundreds of times, and I'm always told that the children are not there. We've sent countless postcards and letters and have never received any response, so we just don't know if the children, if they're even aware that we're sending these things.

[Susan] What keeps you going? It must be terribly difficult not to be in contact with your children and fighting this.

[Murray] Well, it is terribly difficult, but the needs of the children are what keep me going. They have been completely cut off from their whole life that they knew up until the time they left in November of 2004, I mean the damage that's being done to the children is huge. So what keeps me going is the need to have the children returned home, and to make this issue more widely known. I mean parental abduction is child abuse, and it's not being recognized as such. Particularly by the Japanese Family Court, who completely, their decisions have not ever acknowledged the fact that when the children were in Canada, they had full access to both their Canadian and Japanese family and heritage, and that they're, that dual heritage was valued, and that they were made to feel proud of who they are. In Japan they've been completely cut off, and that is going to

have huge repercussions for these children as they're growing up.

[Susan] In a word, Murray, cause we need to move on here, have you exhausted your legal roots?

[Murray] Well, they're never exhausted, but they become increasingly difficult, I mean the last applications we made to the Supreme Court were just dismissed. So after a huge long process it got us nowhere. So, you know, I'm never going to give up, but it's extremely expensive and difficult to continue, so I need to consider what resources are available and what the best avenue is to try to have these children returned home, and right now I think it is to raise public awareness of this issue, because I believe that people in Canada, and if people in Japan, were aware of this situation there would be pressure to make changes to protect children.

[Susan] All right, well we are going to continue this discussion. Thanks so much for talking to us.

[Murray] You're welcome.

[Susan] Buh-Bye.

[Murray] Bye.

[Susan] Murray Wood is the father of two children who are now in Japan with their Japanese mother. He was in our Vancouver studio. Murray Wood's story is all too familiar to Jeremy Morley, he's a lawyer in New York who focuses on international family law and he represents many cases like Mr. Woods. Here's what he had to say about dealing specifically with custody disputes in Japan.

[Morley] Children are not returned from Japan, period, and it is a situation that happens a lot with children of international marriages with kids who are over in Japan, they do not get returned. Usually, the parent who has kept a child is Japanese, and under the Japanese legal system they have a family registration system whereby every Japanese family has their own registration with a local ward office. And the name of registration system is the koseki system. So every Japanese person has their koseki, and a child is listed on the appropriate koseki. Once a child is listed on the family register, the child belongs to that family. Foreigners don't have a family register and so there is no way for them to actually have a child registered as belonging to them in Japan. There is an international treaty called the Hague Convention on the civil aspects of international child abduction, and Japan is the only G7 country that is not a party to the Hague Convention. I think it's horrible. It is an international outrage and it is an enormous problem that is not being addressed by the international community.

[Susan] Jeremy Morley is a lawyer in New York City who specializes in international family law. Now as he mentioned, Japan is not a signatory to the 1980 Hague Convention on the civil aspects of international child abduction.

That's the convention that ensures the prompt return of abducted children to their country of residence. So to help us understand this case, and Japan's position, we've reached Sadaki Numata, he is Japan's Ambassador to Canada. He's in Ottawa. Good Morning Ambassador.

[Numata] Good morning, Susan.

[Susan] Ambassador, what's your response to what we've heard from Mr. Wood, and Mr. Morley, saying this is an international disgrace.

[Numata] Well, obviously I don't agree with that. First is very important to realize that this is primarily a case between private parties and we should let the courts decide what is in the interest of the children and the parties concerned. Mr. Murray said that the case has been dismissed by the Supreme Court, is not entirely correct, the Habeas Corpus case has been dismissed, but the transfer of custody case is still pending before the Supreme Court of Japan.

[Susan] He clearly feels very pessimistic that it will rule in his favor.

[Numata] But the verdict is not out and I would not say anything that would try to prejudice the outcome of that procedure. One other point, one very important point. Japan has its own legal system. Canada has its own legal system. And if there is any implicit assumption behind the statements made, that one system is superior to the other, obviously I don't subscribe to that.

[Susan] But help me understand this Ambassador; the children were awarded to their father. He was given sole custody in Canada and there is an outstanding warrant for his ex-wife's arrest in Canada. Why does Japan not consider that, why is it denying that custody order.

[Numata] Now firstly, I have some difficulties in your talking about 'Japan' as if the government is making this decision. This is in the judiciary process. That's my first point. My second point is that the Japanese, in the Japanese legal system, the Family Court deals with these issues, and when the Family Court deals with these issues, they take all relevant factors into account. And in the Family Court, which dealt with this case, they did take into account the fact of the court order by the Supreme Court of British Columbia, they did take into account the action on the part of the mother, which you could say is questionable, in terms of its legality. But they also took into account the situation which arose after the court order in Japan, as was indicated, the Court officers did interview the children concerned, and it was found the children were very well adjusted to their Japanese, adapted to the Japanese environment, but they were, the older child was mentally equipped to make his own judgment. So it is in consideration of all these factors that the Family Court decided that it was in the best interest of the children and the parties concerned to let them stay with their mother.

[Susan] Is there any recourse now for Mr. Wood, I mean, is there any possibility of extraditing his ex-wife to, based on the fact that there is a warrant for her arrest in Canada?

[Numata] Well, we have no extradition treaty with Canada, and under those circumstances, should there be an extradition request, and to the best of my knowledge there has been none, it will be dealt with on a case-by-case basis, but neither Japan nor Canada is under obligation to extradite its own national.

[Susan] Hm. Why doesn't Japan sign onto the Hague Convention?

[Numata] The Hague Convention has its relevance to a number of these cases of international marriages, and unfortunate cases and if the marriages break up. I might note, that there are a number of these cases in countries like Canada, the United States, and the European countries, and we do fully appreciate that the convention is of considerable importance to the people of those countries. In the case of Japan, it is true that in recent years there have been an increasing number of international marriages, and in some cases, there have been unfortunate cases where the children's custody has been fought. Incidentally I take issue, with a capitalization, that Japan number of children have been abducted by people in Japan and so forth, I don't think the number is that big.

[Susan] Foreign [unintelligible] Ambassador, that there are 21 cases like Mr. Woods of custody disputes between Canada and Japan. Leaving some to suggest, and you heard the international lawyer, that Japan has a reputation as a haven for internationally abducted children.

[Numata] That is precisely, precisely, what I am disputing. And to cause suspicions, like saying Japan is a haven for abducted children and so forth, I don't think it's just, it's not the way I go about this business of diplomacy. And, and, and we are considering the question of whether or not to become a party to the convention, but there are a number of factors that need to be taken into account. It's impact on the Japanese Family Law system, and also what I might call the sociological impact on the question of to what extent it would serve, it would be in the interest of the Japanese people. And we are in the process of studying all of these issues carefully.

[Susan] Ambassador, one final thing, of course, what we are all worried about here is the impact on the children. Are you persuaded that these children's interests are uppermost, are being taken care of currently?

[Numata] As I said, the case is still pending before the Supreme Court, so I would not try to prejudge that, but I do feel that in the process that has taken place so far, the children's interest has been very seriously taken into account. And one last point I would like to make is I'm not quite sure whether it would really serve the children's interest, for this case, to be talked about in the glare of publicity. Should the children happen to know about it, what do they think about it.

[Susan] All right Ambassador, thank you so much for joining us.

[Numata] Thank You.

[Susan] Sadaki Numata is the Japanese Ambassador to Canada. He was with us in our audio studio.