Submission to the UN Human Rights Committee for the Periodic Review of Japan

130th Session

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1. Relevant Articles of CCPR which are violated:

**Article 2-3(a)**: To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.

**Article 3**: The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

**Article 14-2**: Everyone charged with a criminal offence shall have the right to be presumed innocent until guilty according to law.

**Article 17-1**: No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.

**Article 23-1**: The family is the natural and fundamental group unit of society and is entitled to protection by society and the States.

**Article 23-4**: …In the case of dissolution, provision shall be made for the necessary protection of any children.

1. Summary of the problem:

In Japan, many parents are taking their children away from their spouses without approval of their spouses. If wives take their children away, they often go to shelters, falsefully claim that they are the victims of domestic violence thus concealing their whereabouts, and demand divorce through divorce lawyers. Meanwhile, left-behind parents have no idea what happened to their wives and children. Divorce lawyers, who represent abducting parents, often tell left-behind parents to get divorced and pay child support to abducting parents so that they can see their children. Many left-behind parents, being so desperate to see their children, got divorced and started paying child support; however, they are still unable to see their children. Some of those left-behind parents have not seen their children for over 10 years and nobody knows how many left-behind parents there are.

1. Case of Hiroyuki Nakamura (pseudonym):

 Mr. Nakamura is an ordinary hard-working man, who had a great pleasure in playing with his only child, Anna, in a nearby park on weekends. On Oct 13th, 2011, coming back home he realized that his wife and daughter had disappeared. Shortly afterward, he received an email from his wife, who said that she wanted to live apart from him for a while and did not want him to look for them. Being at a loss, he went to a nearby police station to ask them to find their whereabouts, but all they said was “they could not help him” (violation of article 2-3A). About three months after the disappearance of his wife and child, he also visited a city office hoping that he might get their forwarding address. However, to his dismay, they could not help him either.

A week after their disappearance, he received a call from a divorce lawyer, who stated, “Your wife wants a divorce, and she has no intention to talk to you” (violation of article 23-1). During the mediation process through a court, he had paid his wife the living expense of 130,000 yen a month, which was deposited to her lawyer’s account, for three years and three months until the divorce became final on Jan. 18th, 2015.

Hoping that he might be able to see his daughter, he agreed to the divorce. The terms for the divorce settlement were: (1) he can start communicating with them, (2) he can have visitation every Saturday afternoon (even though the term stipulated that the starting day of the visitation was not to be determined at that time), (3) he should pay child support of 80,000yen a month, and (4) he should pay the amount of money for the distribution of assets. Ever since the divorce, he has been paying child support without failure and 18 million yen was deposited to the lawyer’s account as the distribution of assets. However, when he requested visitation, he was only told that the daughter was psychologically unstable and did not want to see her father. His daughter was ten years old when his wife took her away from him and she is now 19 years old. He has not seen his daughter for nine years.

Since it is customary for lawyers in Japan to take 15 to 30% commission out of monthly living expenses paid to wives, monthly child support and the distribution of the assets paid at the time of divorce, he has no idea how much money his wife actually received and how much child support is going to the lawyer. These commissions are indeed a good source of income for divorce lawyers in Japan.

During the process of mediation, he found out that his wife started frequenting a nearby women’s center shortly before she left home, and at the center she was introduced to a divorce lawyer. Under the lawyer’s instruction, she left the house with her daughter, went to a shelter, where her daughter was prohibited to attend school (violation of article 23-4), submitted official paperwork (*shiensochi mooshiidesho* in Japanese) to a city office claiming she was a victim of domestic violence (violation of article 17-1), and moved to Kumamoto Prefecture, which is more than 1500km away from his house. The submission of this paperwork was the reason neither the police nor the city office could help him. He asked the city office to investigate the accusation of the domestic violence since he had never been violent against his wife. The city office’s reply was, “we do not have any authority to investigate domestic violence cases.” He was falsely accused of domestic violence without due process of law to clear his name (violation of article 14-2).

He also found out that at the time of the divorce settlement, his daughter was not attending school and locked herself in her room for more than one year and even her mother had not seen her. This was probably the reason they did not want to stipulate the starting day of visitation. After moving to Kumamoto, his daughter attended elementary school for one year. But when her mother moved for the second time and transferred her daughter to a different school, the daughter demanded to go back to the first school in vain and stopped going to the second school (violation of article 23-4). When they were living together, she was academically a very good student, but after moving to Kumamoto the sixth grade is the last grade she attended. Even now, she hardly leaves her apartment. Fearing the wellbeing of his daughter, he submitted a change of parental custody over his daughter to a court. The court decision is currently pending.

1. Conclusion:

Mr. Nobuhiko Ichii, who organizes a support group for left-behind parents and has interviewed more than 100 such parents, states that many of the left-behind parents go through similar experiences as Mr. Nakamura. Further, he states that the left-behind parents are the victims of divorce lawyers, whose only concern is to gain monetary profits through divorce. The first thing divorce lawyers ask wives is the income of their husbands. Doctors, lawyers, bureaucrats, and employees of big corporations are easy targets for divorce lawyers. They tell wives to abduct children so that it is easier for them to get custody over children, to go to shelters with their children because just being in the shelter wives are often considered to be the victim of domestic violence, to submit official paperwork claiming domestic violence, and to move far away from husbands. Hoping desperately to see their children, husbands agree to terms of their divorce settlements and start paying child support, of which 15 to 30 percentage goes to the lawyers until children reach 20. Even if husbands go to court for mediation, judges tend to rule in favor of the divorce lawyers since many judges start working for law firms after retirement. Mr. Ichii blames those divorce lawyers and judges as the collaborators for the divorce business in expense of left-behind parents. One of the parents he interviewed has committed suicide and many of the others suffer from psychological breakdown.

1. Recommendation:

We sincerely ask CPPR to recommend the following to the Japanese government:

1. To enact legislation that any children, who are removed from home without appropriate reasons, should be restored to the original home immediately.
2. To enact legislation that any spouse, who falsely claims domestic violence without evidence, should not be granted parental authority or physical custody of children.
3. To enact legislation that any lawyers, who instruct parents to remove their children from their spouse to get child custody, should have their lawyer’s qualification evoked
4. To enact legislation that divorce lawyers’ commissions should be one time only and should not be allowed to be deducted from monthly child support, alimony or the distribution of assets.
5. To enact legislation that judges should not be allowed to work for law firms he/she dealt with when they were on the bench.