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Spirited Away

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By Lucy-Claire Saunders

Next month is Takara's fourteenth birthday –the fourth one his father will have missed since his ex-wife abducted the little boy with his baby sister, Manami, and fled to her home country, Japan.

Vancouver resident Murray Wood is just one of 29 Canadian parents searching for his abducted children in Japan-- the highest number in any one country, according to Bill Crosbie, the Canadian Foreign Affairs and International Trade Department's deputy minister for consular services.

Japan is known for having virtually no established family law and no tradition of dual custody. Once a couple gets divorced, there is no concept of visitation rights. Children are generally assigned to one parent, never to have contact with the other parent.

Canadian parents like Wood find themselves mired in endless court battles that go on for years and produce nothing but drawn out heart ache.

Without faltering, judges continuously uphold the cultural imperative that it is in the child's best interest to stay with whomever she or he is with at that moment. The status quo is protected as police don't intervene on family matters and judges have no authority over enforcement.

“In cases where it is a parental abduction, and where that parent is foreign-born, 90 per cent of the time they have fled Canada and returned to their home country, feeling that they're safe there,” said Barbara Snider, the international case director for Missing Children Society of Canada. “And right now in Japan, they are extremely safe. There is no way we can get these children back.”

After years of lobbying the Japanese government to participate in an international legal framework, governments around the world, including Canada's, and child rights advocates say the first thing Japan should do is sign the Hague Convention. More than 75 countries have

affected the treaty, formally agreeing to return any child abducted from his or her country of residence.

And it seems, as international pressure mounts, Japan is starting to feel the heat.

"The Hague convention is also one of the bible tools, we believe and we are internally considering the possibility of ratifying the convention, itself," said Natsuko Sakata, a spokesperson for the Japanese Embassy in Ottawa.

But she added that the government has not been moving quickly because officials are judging the domestic impact the international framework would have.

"We are seriously considering the Hague Convention because we want to maximize the child's welfare...but it is important that government officials and specialists consider how the Hague Convention would affect Japan's social, cultural and judicial system."

Since 1976, the time of the Hague treaty's inception, the rate of marriage between Japanese nationals and foreign spouses has increased more than 800 per cent, according to the Japanese Ministry of Health, Labour and Welfare.

If Japan signed the Convention it would be a sign to many that the government is serious about changing its image as a "safe-haven" for child abductors.

"Unfortunately the situation has not improved at all, and there have not been any new legal developments," Walter Benda, co-founder of the Children Rights Council of Japan said in an in an e-mail. "Basically the Japanese government has chosen to completely ignore this issue. In the meantime the number of unresolved cases continues to rise and more and more children are being denied their rights to both parents."

Snider says that while the Hague Convention not the end-all and be-all, it would certainly be a step in the right direction for governments looking to facilitate family reunification.

"The Hague is simply another tool," she said. "But it would be a lot more helpful if we could get more countries involved."

In the meantime, for non-Hague countries like Japan, Snider says it's

important that they recognize Canada having jurisdiction in parental abduction cases where a Canadian national is involved.

“Unfortunately though, often that country will take jurisdiction and the parent will be left to fight it in the court of that country, which Mr. Wood had to do.”

Natsuko said while the Japanese government considers the Hague Convention, it is also taking steps to create a procedural guide for parents who have lost their child to a Japanese parent. The information would include relevant governmental agencies, a contact list and an introduction to the legal system.

“If you have a one-stop manual, it would make the process quite easy and convenient,” she said.

That certainly could have helped Wood who had to learn the foreign justice system as he went along.

In February 2004, the B.C. Supreme Court awarded Wood full custody of his two children. In his judgment, Justice Sherman Hood said: “[Murray wood] is a loving and caring father . . . and he has the means and skills to meet their needs in every way. . . . On the other hand, the defendant [Ayako Wood]'s . . . injurious misconduct in relation to the children must come to an end.”

Although not present at the trial, despite repeated notifications, Ayako conceded to the orders of the B.C. Supreme Court. She did not appeal the decision and when she signed the consent order agreeing not to seek custody in any jurisdiction other than B.C., she also consented to Justice Hood's rulings related to custody.

A Canadian warrant for Ayako's arrest was issued in January 2005. She is charged with two counts of child abduction, an indictable offense with a maximum sentence of 10 years imprisonment.

The RCMP has informed Interpol of the warrant and the Canadian government has made repeated formal requests of the Japanese government to return the children to Canada.

But there is no extradition treaty between the two countries.

As a result Wood was forced to take his battle to the Japanese court system, where he would be bogged down in lengthy investigations and

ted in foreign legalities.

“The courts sent out a retired judge who didn't know anything about psychology to interview my children to determine whether they were happy living in Japan,” he said. “They didn't even acknowledge that evidence used in the Canadian courts was valid. And because the investigation took so long, they found that the situation had changed and that the kids were now happy in Japan.”

Children adapt to the new situations fairly readily according to Dr. Marlene Dalley Young, the chief researcher for National Missing Children Services, a division of the RCMP. As a result Wood believes that the prolonged and lengthy investigation unfairly worked against him.

Over the years, Wood tried his luck with the family court, the Supreme Court of Japan and then the Appellate court.

At first, Wood's lawyers recommended that submit a habeas corpus application at the District Court of Saitama. But the process, which should have taken a few weeks, ended up stretching over months and then years.

Wood's lawyer also petitioned the Family Court arguing, among other things, that contrary to Japanese law, the Family Court failed to consider the Canadian evidence when it reversed the Canadian custody orders.

The Supreme Court dismissed every last petition.

It has now been four years since Wood has spent any real time with his children. He managed to see them for a brief moment on their way back from school in Saitama City, about an hour from Tokyo, but when he came to their home later that night, his ex-wife called the police. Since then her phone number has been blocked to prevent all unapproved calls.

Wood has developed a website, www.public.sd38.bc.ca/~MWood/Press, where he hopes his children will one day visit and make contact with him.

An April 9th entry, which Wood wrote to his children, illustrates just how a father communicates with his estranged children:

Dear Taka and Mana,

How are you doing? I guess you are starting a new school year. Takara you will be beginning Grade Eight, your second year in junior high school. Manami you are starting your last year at elementary school. I hope that you are both doing well at school and are happy. We would love to hear from you some time. We have lots of exciting news to share with you. Please take care of each other.

I love you.

Dad

As the years pass without any word from his children, Wood must imagine what type of young adults they are growing into. Concerns, longings and hopes fill his head only to be met by more unanswered questions.

Until he hears from his son, Wood prays that Takara is alright.

"He's turning 14 next month-- an adolescent. It's common for there to be a lot of bullying in Japanese schools and I just hope he's alright," Wood said. "I really have no idea what's going on and it's an important time in his life. It's really scary."