



# General Assembly

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## Human Rights Council

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### Human rights situations that require the Council's attention

## Written statement\* submitted by International Career Support Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2019]

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\* Issued as received, in the language(s) of submission only.



## **Child abduction business in Japan**

### **I. The problem of the “Divorce Business” by divorce lawyers:**

In Japan, it is a common occurrence that one of the parents often kidnaps his/her child when the relationship between the couple get worse. Also, it is becoming a serious international problem that Japanese wives take their children away from the country where they live back to Japan without consent of their spouses. Such abductions of children by a spouse is increasing due to the lack of appropriate enforcement of the laws within the judicial system.

For example, under the current laws, the judicial system does not consider the abduction of children by a parent as being illegal. Many judges and lawyers consider that removing the child from a troubled marriage is for the best interest of the child. However, when the abandoned parent tries to take the child back, the parent is punished under Article 244 of the Criminal Code as a violation of the “abduction of minors” and can be imprisoned for more than three months and less than seven years. Even if the child expressed his/her desire to live with the abandoned parent, the court completely ignores the voice of the child.

Under such a system, once a parent abducts his/her child, there is no recourse for the abandoned parent to regain custody of the child. “Divorce lawyers” abuse such a system of the court and instigate the parents, who want a divorce, to abduct their child. Some of those lawyers are the members of the UN-NGO with ECOSOC and therefore should support human rights. However, they are the major instigators of the child abduction and they even state on their website that “if you abduct your child, it is easy to get the parental custody or child authority.”

Once a child has been abducted and is living with the abducting parent for a certain period of time, the court automatically grants child custody to the abducting parent under the “Principle of Continuity.” Once the abducting parents are granted child custody, they demand child support from the abandoned parents, and a certain percentage of the child support is taken by divorce lawyers as commission. The child support payment is often deposited in the lawyer’s bank accounts, and they keep 10 to 30% as commission for as long as five years or until the child reaches 20 years old. Unless such a system is changed, abductions of children by parents will continue to increase, and divorce lawyers will continue to benefit by such a practice. Divorce lawyers are getting secure income by instigating the abduction of children.

In November 2016, the above lawyers’ organization, the Japan Federation of Bar Association, arbitrarily came up with a new calculation chart for child support and increased the rate 1.5 times more than before. The Legal Training and Research Institute of the Supreme Court is currently reviewing the chart. Once the new calculation chart is approved, it automatically increases the commission of the lawyers; thus, they are trying very hard to have the new chart approved.

Divorce lawyers promote divorce for their own benefit and increase single-parent households as a result, and now they are trying to change the basis of calculation to acquire more monetary benefit. Further, it should be noted that many judges, who rule in favor of the divorce lawyers, often work for the divorce lawyers’ offices after their retirement.

### **II. Poverty and Psychological Breakdown as a Result of Child Abduction**

The most troubled victims of the abduction of children are the children themselves. Many of the abducted children state that they want to live with their parents as before. However, divorce lawyers and judges, who benefit from the divorce business, completely ignore the children’s desires and thus violate the human rights of the children.

Many of those children, after being abducted by a parent, can no longer see the abandoned parent nor their grandparents and are forced to change their kindergartens or schools. Due to the psychological stress caused by such a dramatic change, many of them suffer from serious depression and stop going to school. Their lives have been completely destroyed by the divorce lawyers.

Many of the abducting parents often deny visitation rights to the abandoned parents. Being depressed by not being able to see their children many of them have committed suicide. Further, being unable to see their biological fathers, many of the children have been abused by their step-fathers, and some of them have even been killed. Last year, a cute girl called Yua was one such victim.

The government of Japan, in response to the Child Rights Committee, stated that they are promoting visitation. But such visitation occurs only when parents cooperate. In the majority of cases, many children and abandoned parents have been separated for good without being able to see each other.

### **III. Abuse of the Domestic-Violence Law**

Another problem is falsified complaints of domestic-violence by the abducting parents so that they can easily acquire custody of the child. Such falsified complaints are also advised by divorce lawyers.

If wives complain about domestic violence at city offices or other government agencies, their husbands are labeled as “DV-husbands” without any proper investigation by the police or courts. Once they are labeled as DV husbands, their wives’ residence can no longer be revealed to them. Thus, wives can easily abduct their child without worrying about being found by their husbands. Wives often abuse this system even when they want to divorce after having an affair.

Further, women’s shelters work hand in hand with divorce lawyers, and in order to acquire subsidies for their operation, they instruct abducting parents to falsify a domestic-violence complaint. The more there are DV victims, the more subsidies they can get. Their purpose is nothing but to make profit, not to help victims of domestic violence.

### **IV. The Necessity of the Police Involvement**

In many DV-cases, only those who claim to be victimized are interviewed by agencies at the time of complaint. Those agencies can be different women’s consultation centers, civic groups or police stations. They may listen to wives’ claim but will never interview husbands; thus, the husbands have no way to counter-argue the wives’ allegation.

Under the current system, police are not supposed to be involved unless physical violence is evident. This non-involvement is based on the “Principle of the Civil Affair Nonintervention.” The current system is not protecting wives who are suffering from verbal abuse by their husbands nor husbands who are falsely accused and labeled as a “violent husbands.” Once husbands are labeled as “DV husbands,” there is no way for them to locate their abducted children.

Thus, it is an absolute necessity for the police to be involved in the domestic violence cases in order to protect wives from psychological abuse as well as husbands from falsified allegation.

Under the current police system, once physical abuses are evident, those cases are handled by “Community Safety Section.” But it is necessary to establish a specialized section within the police to handle domestic violence cases, both physical and psychological, and they should listen to both parties involved, not just the story of wives. Such system will prevent majority of false allegation. Further, this section should be staffed by professionals such as psychiatrists or clinical counselors. This task is so important that it should not be left with civic groups, where most often part-timers without proper training handle domestic violence cases and they only care to make profit for themselves.

Based on the above, we request the United Nation Human Rights Council to recommend the Japanese government to do the following:

1. The Japanese government should set up a law which prohibits divorce lawyers to exploit child support money.

2. The Japanese government should punish a parent who abducts their child.
3. The Japanese government should revoke the lawyer's license from divorce lawyers, who destroy a family just for their monetary benefit.
4. The Japanese government should set up a law, which prohibits judges from parachuting to a divorce lawyers' office with whom they have dealt with as judges for at least two years.
5. In order to prevent innocent husbands to be accused of domestic violence, the domestic violence law should be revised, and parents, who falsified a domestic violence complaint, should be punished.
6. A complaint of domestic violence should be investigated by interviewing both parties. The police should investigate domestic violence fairly so that nobody is wrongfully accused.
7. 7. The Japanese government should establish a "DV section" within the major police stations staffed with professional counselors so that they can interview both wives and husbands. In this way, they can protect wives from psychological abuse as well as physical abuse and can also protect husbands from false allegation of domestic violence. When the police find the false accusation of domestic violence, the false accusers should be punished. The Japanese government should acknowledge that falsely accusing somebody for the crimes they did not commit is itself a very serious crime.

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