

Submission for the 89th session at Committee on the Elimination of Discrimination

against Women:

[Japan's Judiciary and Society Prevent Women from Advancing in Society with sole custody or Brand Women as "Incompetent Mothers" / Unredeemed Domestic Violence and Abuse, Further Exacerbated by the 2026 Family Law Revision.]

Submitter: GAAD/Global Alliance for Anti-Discrimination

This submission can be published.

Related state: Japan

Please imagine the following.

There is a family with children. A lawyer, who knows of some concern between a financially prosperous couple, whispers to them, "If your partner takes your child away first, you may never live with your children again, and you may never see them again. If you take them away first, it will be financially advantageous for you."

This whispering allows many women to raise their children with almost 100% custody.

Women who do not obey these whispers are conversely taken away and never see their children again, spend their lives in society labeled as "She must be a very bad parent to not be able to live with her children" because she does not live together with her children against her will.

In the lucky cases, where the children and left behind parent are able to see later, it is for one or two hours a month in a space of about 12 square meters, monitored by a magic mirror, just like a visit in a prison cell. The person monitoring them is former court staff members. It is a paid service.

This is everyday life happens often in Japan. Many women targeted by lawyers are 100% responsible for the upbringing of their children, and the burden is very heavy on their profession, cultural activities, and various social interactions. On the other hand, left behind women are labeled as incompetent mothers by society and are unable to live with or see their children for the rest of their lives, or if they do see them luckily, only for one or two hours a month in surveillance at a paid service run by a court alumnus or similar service. The children not only lose lives with one parent, but are made to abhor the other.

This reality in Japan, on the other hand, also leaves victims of domestic violence and abuse unattended, and is contrary to the following Convention on Elimination of all forms of Discrimination Against Women:

Article 2(d) [To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation]

*In many cases, the judiciary and society give women two options: 100% custody ratio, or no custody and being labeled as incompetent mother by society.

Article 5(b) [To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.]

*There is no recognition in society or the judiciary of the common responsibility, and the concept of the "best interests of the child" in the

Convention on the Rights of the Child is being misused to deprive the children of their interests.

Article 11(a) [The right to work as an inalienable right of all human beings.]

*The opportunity for shared custody, which is intended to secure the woman's right to work as well as the child's interest, continues to be taken away.

Article 13(c) [The right to participate in recreational activities, sports and all aspects of cultural life.]

*When the custody ratio is 100%, participation in cultural activities is more burdensome compared to shared custody.

Article 16, 1(c) [The same rights and responsibilities during marriage and at its dissolution.]

*Same rights and responsibilities during marriage and at the time of dissolution of marriage do not exist.

Article 16, 1(d) [The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount.]

* The same rights and responsibilities during marriage and at the time of dissolution of marriage do not exist, in addition, the child's interest are not only lost but harmed.

The reality in Japan is also against following the Convention on the Rights of the Child:

Article 9,1 [State parties shall ensure that a child shall not be separated from his or her parents~]; Article 5 [State parties shall respect the responsibilities rights and duties of parents~].

In addition, the revision of the Family Law to respond superficially to recommendations and recognitions from the United Nations; paragraph 27(b) of Fourth and Fifth Recommendations of the Convention on the Rights of the Child [Revise the legislation regulating parent-child relations after

divorce in order to allow for shared custody of children~]; Paragraph 44,45 of the Summary of the seventh session of the International Covenant on Civil and Political Rights [~while acknowledging the responses provided by the State party on the matter, the Committee is concerned at reports of frequent cases of parental child abduction, both domestic and international, and a lack of adequate response by the State party.] , are expected to grow the violation of human rights even larger, because the revision of the Family Law allows the judiciary to take a more active role in determining sole custody.

The revision of the Family Law will take effect in 2026.

These discrimination and human rights violation above against Convention on Elimination of all forms of Discrimination Against Women, the Convention on the Rights of the Child, International Covenant on Civil and Political Rights, and their recommendations, are due to the maintenance and expansion of the “Parental Child Abduction” industry.

The "Parental child abduction" industry consists of the following realities 1-10.

1, A paid 1-2 hours per a month visitation service to a parent and a child who are separated from each other, with supervision through a magic mirror in a space of about 12 square meters, provided by an organization called FPIC, which is run by court alumni. Similar services are provided by NGOs and NPOs.

2, Actual practice in which lawyers on both sides conspire to isolate the parents of a child, while preventing direct contact with each other on their own, and to make the conflict maintains or happens again and again. (*See 『Courts that do not treat "Parental child abduction" equally and fairly, and cover it up』 below.)

3, A legal system that allows lawyers to earn 10-30% of their fees from child support for up to 18 years (*see 『No governmental free service for Child Support』 below). As an example, if two new-born children are abducted and separated from their one genetic parent, the left behind parent's annual income is 10 million yen/approx. 67,000 USD and the parent who abducted

the children has no income after the abduction; the 18-years child support is approximately 65 million yen/approx. 436,000 USD, and from that child support the lawyer can earn 19 million yen/approx. US\$127,000 from the child support.

4. As described above 2, while lawyers make parents to be separated from each other and to continue to dispute, the lawyers treat children as if they were hostages in the divorce with the very short period of contact described in 1. above (Sometimes just provision of photos without direct contact) in repeated financial negotiations. The financial negotiations are about the child support as described in 3. above, as well as marital expenses, property division, divorce settlement, and so on. For this reason, financially well-off families become targets for lawyers to instruct "Parental child abduction".

5. The actual operation of the courts that justifies "Parental child abduction" by abusing the concepts in the Convention on the Rights of the Child (*see 『Abused "Convention on the Rights of the Child" 』 below).

6. Lack of social functions to deal with families with children living not together with both genetic parents; the preparation and implementation of a child support plan for the proper replacement of custody by the government at the government's expense, including the function to deal with the dispute between the parents about the decisions of child's school and medical policies etc.; the calculation and implementation of child support also.

7. The allocation of approximately 180 billion yen/1.2 billion USD of the national budget, which is for the government, clinical psychologists at several parts, NGOs and NPOs including shelters, etc., related to "sole-custody parent support".

8. The reality of that "Parental child abduction" and "DV including abuse" are not properly dealt with as criminal offenses (*See 『Rampant criminal offenses of "DV Including Abuse" and "Parental child abduction" under the inappropriate custom of "non-intervention against civil matters"』 below).

Even though the victims of abusive deaths under the inappropriate responses of the Child Guidance Center are repeatedly reported in the media and announced as social problems, there is no change in the actual operation. UN recommendation; Paragraph 35 of the Summary of the seventh session of the International Covenant on Civil and Political Rights [The state party should also ensure that all reports of abuse are thoroughly

investigated and that such investigations lead to appropriate sanctions when warranted.], has been ignored.

9. The actual operation of the court personnel system in which many judges retire early and become lawyers who are rewarded by "Parental child abduction".

Judges are seconded as high-ranking bureaucrats, where they exert considerable influence to the Diet to maintain the industry. Many members of the Diet who are licensed as lawyers also continue to block judicial reforms that would eliminate the industry, which is both a source of their own lifetime income and a source of political power.

These deprivations will be exacerbated by the revision of the Family Law, which will come into effect in 2026.

We request that you make the following urgent recommendations below to the Japanese government;

1. Ensure that all "DV including abuse" and "Parental child abduction" informations are promptly and thoroughly investigated as a criminal offense by specially trained police officers.
2. Ensure that the name of the Family Law revision (*see 『Mistranslation of 'shared custody' in Japanese』 below) is changed from "離婚後の共同親権 / RIKONGONO KYOUDOU SHINKEN" (which can exclude the actual life with direct relationship of a child and left behind parent together) to "離婚後の原則交代監護 / RIKONGONO GENSOKU KOUTAIKANNGO" (which means that alternating custody after divorce, no need for divorced parents to work together, and that Judges can't order single custody with their own discretion.).
3. Ensure that both genetic parents, including parents left behind already, have the same custody ratio, which is both a right and an obligation, with three exceptions: abuse or neglect as a result of the measures in 1. above, and when both genetic parents live far away from the child, which cannot be avoided (with the transition of the revised legal system, for a parent who

complaints of difficulties with equal alternating custody, a minimum custody ratio of at least 25% including all life situations shall be ensured within one year of the transition period).

4. Ensure that a childcare plan is prepared by the municipal government in cases where the child's genetic parents are divorced or otherwise living separately. Also, the dispute between parents can be resolved by municipal governments, re-arranging the childcare plan, while mainly respecting the needs of the parent who follows the "friendly parent rule".

5. Ensure that the judicial system is such that lawyers do not receive fees from child support.

6. Ensure that the handling of "child support" is transferred to the government, linked to tax calculations, and handled by the "tax offices" as a matter of course.

7. Ensure followings; dismantling of Child Guidance Centers and FPIC. Establishment of the "Center for Relief from Abduction and Separation" to dispatch staffs to schools and other institutions for the purpose of providing relief to parents and children who have been victims of "Parental child abduction and separation" and the "Center for Restoration of Parent-Child Relationship" to restore parent-child relationships in cases of abuse, neglect, and remoteness. Reallocation of personnel, including court investigators.

8. Reallocation of the current national budget of approximately 180 billion yen/1.2 billion USD for the purpose of supporting sole custody parent, etc., in order to realize the above items 1 through 8.

9. Abolition of the system of secondment of judges to the bureaucracy.

<The followings are notes>

『No governmental free service for Child Support』

Child support in divorce or other cases where both genetic parents are separated, is intended to adjust the disparity in children's lives when both parents switch. However, there is no governmental function in Japan to calculate "child support" for the many children whose parents are divorcing, free of charge, in a fair and equitable manner with the adequate and proper informations of incomes and properties of both parents; such as salary

income, dividends and other income if the assets are stocks, bonds, rent when house owned, the name of properties owned by individual or by an asset management company, etc.. Also no governmental function of the implementation of child support.

『Rampant criminal offenses of “DV including abuse” and “Parental child abduction” under the inappropriate custom of “non-intervention against civil matters”』

Due to the inappropriate police practice of "non-intervention in private matters", the police do not treat "Parental child abduction" and "DV including abuse" properly as criminal offenses. Even if a victim of abduction complains of the damage under Penal Code of Japan: “kidnapping of minor”, the police does not investigate the case as a criminal offense with the official record which says “it is not the criminal case because the parent who committed the abduction is also having custody of the child” (left behind parents would be arrested and convicted if they went to take the child back.). The same problem exists in the matter of "domestic violence including abuse", which is not properly handled by the police, but by child guidance centers and civil divorce courts improper way.

『The relationship between “ non-intervention against civil matter”, “false DV”, "DV including abuse" and "Parental child abduction."』

Lawyers instruct not only "Parental child abduction", but also "false DV" which means DV damage claim that does not exist by the parent who committed “Parental child abduction”. The courts and the government treat it as actual DV damage, even though there is no objective evidence. Under the above-mentioned "non-intervention against civil matter", the government claims that "DV including abuse" may be solved by "Parental child abduction” at the Diet questioning session, and does not express its intention to solve the actual damage caused by "false DV" in various areas.

『Mistranslation of 'shared custody from UN''' in Japanese』

Although many victims of "Parental child abduction and separation" believe that this revision of the Family Law help them, the actual meaning of the words of the revision, which the government annound, do not include

any relief for victims in practice. The term "親権/SHINKEN" in "離婚後の共同親権/RIKONGONO KYOUDOU SHINKEN" has all the legal rights, duties, responsibilities, and all other elements of the parent-child relationship while both genetic parents of the child are married and living together, same as the English word "custody". However, the moment one of those parents commits abduction, all of the parent-child relationships are lost in practice, even though the left behind parent has "親権" of the child legally same as the parent who committed the abduction.

The word "共同/KYOUDOU" in "離婚後の共同親権" also have a problem. It includes the meaning of cooperation by genetic parents who do not live together. It means the relationship between parents matters on the decision of sole custody. See 『The Abused "Convention on the Rights of the Child"』 below.

『The Abused "Convention on the Rights of the Child"』

The courts treat the situation that a child can not express his/her love to left behind parent in the separation, including Parental Alienation Syndrome, as a self-determination by the child to be separated from the left behind parent unlimited, following the "Best interest of the child". Courts also says that it follows the "Best interest of the child" for a child to continue the residence just after the abduction without left behind parent, based on the standard of "継続性の原則"/continuation policy", because it is stable.

Therefore, lawyers instruct the parent who committed abduction to make child to send messages or something that express his/her feelings of "strange", "no need to see", "refusal", "abhorrence" to left behind parent and keep records of them, including fake ones.

Courts also defend the parent who committed "Parental child abduction and separation", even when the court itself admits that the parent who abducted the child had abused the child.

In The Diet, it is confirmed that "Parental child abduction" is subject under the domestic criminal code of "kidnapping of minor". More than that, Judges have the freedom not to deal with records that could affect their judgment based on objective evidence, even if such records are submitted to and accepted by the court.

One more problem, it is obvious that the court will handle cases such as divorces where the previous cooperative relationship cannot be maintained

by parents, but the courts treat the situation, where both genetic parents of the child cannot cooperate or are in conflict, as a reason to separate left behind parent from the child with the policy "両親間の葛藤/conflict of the parents", following the "best interests of the child".

As mentioned above, total abuse of the "Convention on the Rights of the child" is supporting "Parental child abduction" in Japan.

[Courts that do not treat "parental child abduction" equally and fairly and cover it up]

The court will create any official record in favor of the parent who committed "Parental child abduction and separation", even if it is objectively clear from public record filings that this is not the case. The official record used in such cases is called "調査報告書/ investigator's report", which report is the responsibility of the court staff called "investigators" superficially, but in reality, it contains the content which clearly contradicts the findings of the investigators. It remains as an official record without being amended, no matter what objectively clear evidence is submitted to disprove the report. No procedures exist for correction. Also, the investigation process conducted by the investigators is not treated equally and fairly. The entire process remains a private family matter.

The realities in Japanese courts are clear violations against the international treaty; Article 14 of the International Covenant on Civil and Political Rights, ["The right to an equal, fair, and public trial.].

End of the report

6 September 2024

Global Alliance for Anti-Discrimination (GAAD)

Representative Director: Kenjiro

Hara Phone: +819040150884

Mail: haraken2ro@gmail.com