

The Power of No

By Randy Martin (Human Rights Activist)

There are concerns worldwide about Japan's abysmal performance as a signatory of The Hague Convention.

Japan is STILL bursting at the seams with unreturned children.

Consequently, Mr. Kaoru Magosaki, The Director of The Hague Division of Japanese Ministry of Foreign affairs was officially interviewed on Australian Government Radio.

Mr. Kaoru Magosaki, LIVE ON AIR, freely admitted his division CANNOT "enforce" anything, and that estranged parents need to be in agreement.

The division which he is responsible for, is ultimately responsible for "enforcing" Japan's Family Court Rulings, in relation to Hague Cases.

Up until then and tragically to this very day (a full two years later), the Japanese parent and the non-Japanese parent need to be in mutual consensus and in private agreement, for anyone from anywhere, to be able to enforce anything from anywhere.

This renders any court documents, or any written private agreements, no matter what country, individuals or authorities issued them, not worth the paper they are written on.

No, you are not reading a script from the Looney Tunes, or an email from someone trying to scam your fortunes, in the belief that you have shares in a gold mine in a far-away country, or the mad ramblings of a buffoon.

What you are reading, is the raw truth, and it is straight from the horse's mouth.

There is nothing better than when the Head Honcho speaks, despite the trimmings and red herrings, to cut it to the bone.

During a Hague "enforcement" operation in Japan.....despite big white vans, flashing lights on stand-by, countless enforcement officers wearing polished boots and crisp, freshly ironed military style uniforms.....despite the presence of child psychologists.....despite the presence of officials in suits.....despite the presence of police.....and despite the presence of TV cameras to show the world Japan takes Child Abduction seriously.....the tragic, horrible, and heartbreaking truth is that "enforcement" in Japan amounts to nothing more than a polite request to the Japanese Parent, to get permission for the "enforcement" officers to do their jobs.

Sadly, there have been numerous documented failed "enforcement" attempts in the two years following the interview with failed spin doctor Honcho Magosaki.

Why?

Simply because the Japanese parent decided not to hand the children over when requested to do so, by Central Authority “Enforcement” Officers.

The Central Enforcement Officers, like toothless tiger’s, had and still have no option but to retreat empty handed, when the Japanese parent does not want to accept their requests.

The LAW says so. The Head Honcho knows the LAW. And he’s good at evading the question and passing the buck too.

Despite Mr. Magosaki’s effort to explain issues being experienced were because the division he directs had “just one year’s experience”, over two long tearful years have passed since.

It’s now has been over three years since Japan “signed” The Hague Convention, and nothing of significance has changed.

The Japanese parent, despite Japanese court orders existing, despite any orders or agreement made anywhere in fact, even if the entire Japanese army turned up at his or her front door step, can still just say “NO”.

Oh the power of “NO”

I don’t buy Whale Meat Harvested for Scientific Purposes, and don’t buy Japan being a member state of The Hague Treaty either.

Well, maybe they are a Scientific Member.

Who knows?

(Hang on, another letter from the Power Company just hit my in-box, telling them I have to pay by Power Bill. Easy to deal with. I will do a Japanese Honcho Maneuver, and just write them back, and say “NO”. Better still, I will send it to Water Company, and let them decide. Yay, free electricity! Happy! Happy! Happy!)

But one thing is for certain:

Japan has violated what they claim to have signed, over, and over, and over again, for more than three gut wrenching years.

Transcript is on the page below:

Transcript from the
Australian Government Official Radio Station

The Australian Broadcasting Company (ABC)

ABC News Radio Show (Japan in Focus)

Show Host Ms. Eleni Psaltis

Interview with the Japanese
Most senior Hague Convention Official
Mr. Kaoru Magosaki

Director of the Hague Convention bureau
at the Japanese Ministry of Foreign Affairs

Link: <http://www.abc.net.au/newsradio/content/s4215405.htm>

Transcript from link above:

The three speakers are:

1. Ms Eleni Psaltis: Host of ABC News Radio's "Japan in Focus" show
2. Eric Kalmus: American father whose child was and is abducted in Japan
3. Mr. Kaoru Magosaki: Director of The Hague Convention Division, at the Japanese Ministry of Foreign Affairs

Interview Date: 13/04/2015

Eleni Psaltis: As mentioned previously on "Japan in Focus", it's been a year since The Hague Convention on Civil Aspects on International Child Abduction came into effect in Japan.

In the past twelve months there's been 113 requests for either access to or the return of an abducted child and 81 of those applicants are by the foreign parent.

So far, only 4 children abducted to Japan have been returned to the country they were originally living in, and I spoke to one American

Father, who fought for many years to see his daughter again, and this was his message to the Ministry of Foreign Affairs.

Eric Kalmus: "I am sorry, there is a big difference between signing, and actually doing, and the only thing I can say to the Ministry of Foreign Affairs is:

"Hey guys, we're watching you!"

Eleni Psaltis: Well I did speak to the Ministry of Foreign Affairs. Kaoru Magosaki is the Director of The Hague Convention Division, and I asked him about cases where children were abducted before Japan signed The Hague Convention.

Kaoru Magosaki: Prior to March last year, we were not the party to The Convention and there is no chance that a Hague Return Order can be placed for those issues which date back to the relocation of children before March 2014. But we still offer facilities to realize the access.

I mean, we've just starting operating and we've just had one year's experience, and it would be very exceptional if everything from the relocation to the judgement on the custody to be sorted out in one single year. And yet the parents complain that the access is not fully granted.

Eleni Psaltis: So you are saying, before March 2014, those seeking the return of their child, it's unlikely it will happen.....

Kaoru Magosaki: Well unlikely.....I mean I would put it The Convention does not cover these people, so far as returning them.

Eleni Psaltis: What if The Convention covers the other party, let's say the US that has been a signatory 1980, so that's one party out of two that has cover by The Convention, would that then be relevant?

Kaoru Magosaki: No, The Convention applies for the cases where both countries are the parties, but for those cases which didn't make it for The Hague Return Cases in the period up to March 2014, while their not eligible for return applications, they are still eligible for access application.

Eleni Psaltis: So, prior to March 2014, those whose children were allegedly abducted, those case can't be addressed, unless you just grant them access now after signing The Convention, but for new cases since April 1st last year, if a child has been abducted to Japan, that's when you grant return?

Kaoru Magosaki: Yes

- Eleni Psaltis: So, any parent, any parent, who's seeking the return of their child prior, really, there's just no chance.....
- Kaoru Magosaki: That falls outside the scope of assistance provided by The Hague Convention, but I would not use the word "no chance", but provided the case the child's been in Japan for one year, it will make it difficult probably for the parents who live outside of Japan to be able to be designated as the sole custodian at the Japanese Court, which would then imply that the Court would have to order the child to move from the place he or she might have been accustomed for quite some time.....but that's where we stand.
- Eleni Psaltis: And what about visitations? How many of those requests for visits have been realized? How many foreign parents have been able to see their children in the past year?
- Kaoru Magosaki: Right, for visitations, we received 55 incoming requests for the children who are living in Japan, and in terms of visitations, as you may be aware, there are various kinds of access that will be available, for example there may be a possibility where the parents agreed to something?
- Eleni Psaltis: Is that an option though, under Article 21 of The Hague Convention? I though reasonable access is required.
- Kaoru Magosaki: Of course reasonable access is in The Convention, but it is not the minimal level assured to the parents, it will depend on each situation. I mean, for example, travel costs could be a big problem, and in those cases we would very much offer the possibility of using, for example, on-line contact.
- Eleni Psaltis: Certainly there are geographical barriers but what happens if the Japanese parent is unwilling to make that contact or unwilling to allow the foreign parent to have access to that child? When do Japanese Authorities intervene, or get The Hague Mediators involved?
- Kaoru Magosaki: In many cases, especially because we are in the first year, there have been many different and difficult cases, where the parents do not really want to see eye to eye, in which case realizing the access between the access between the children and parents will be significant difficult, and while the Central Authority will very much work towards hoping to realize the access between the children and the parents, it has to be built upon the agreement of both parents.
- We cannot enforce any sort of access.

Eleni Psaltis: Not in the Family Courts? Would they not have to consider The Treaty's requirements, in particular Article 21, and the access to the child?

Kaoru Magosaki: In terms of access, there can be various levels of access, and these are not provided in The Convention, so there is no clear cut answer to any modality of access, if you like, so the position of The Central Authority is basically for the Court to decide.

Eleni Psaltis: Director of The Hague Convention Division at the Japanese Ministry of Foreign Affairs, Kaoru Magosaki, and your listening to "Japan in Focus" on ABC News Radio.