

1. Divorce rates are rising in Japan. There were 2.3 divorces per thousand people in 2002, which is comparable to rates in other developed countries, and about 300,000 Japanese children were involved.

2. In Japan, however, there are no joint custody laws, only sole custody. Also, visitation rights are not stipulated in any laws, so there are many cases in which parents with no custody rights after divorce are kept from seeing their own children. One can appeal for visitation through arbitration, but the considerable time needed and the unreliability of the courts often compels the plaintiff to withdraw the appeal. While parents have difficulties seeing their sons and daughters, it goes without saying that there are no written visitation rights for grandparents either. Out of all the G8 and developed countries of the world, Japan is virtually the only country that does not have joint custody or visitation rights.

3. This injustice has led to one of the biggest tragedies in Japanese family law history; the Osaka abuse case discovered in January. A 15 year old boy, found dying of starvation and continuous abuse from his father and step mother, is still in a coma now. The arrested father, with sole custody over the child, had rejected his ex-wife's pleas to see her own child. This tragedy could have been avoided if she could have seen her son and been involved in his upbringing. Aside from better and quicker actions by child consultation centers and schools, joint custody and visitation rights are the most important issues to establish and maintain in the relationship between divorced parents and their children.

4. Uncontested divorce, an extra-judicial process unique to Japan, is possible with just the signatures of the divorcing parties. 90% of divorces in Japan are uncontested. But because this process does not consider child custody or visitation rights, there are many parents in Japan that are unable to see their own children.

5. Only when both of the parties are unable to reconcile custody and financial conditions do divorcing parents go to arbitration or trial. But with there being no official marriage counseling centers in Japan, many issues go unconsidered as arbitrations and trial proceedings only superficially settle custody and financial issues, and give little regard to child welfare. In about 80% of Japanese divorces, the wife wins the custody battle. And it is said that 60% of the parents with no child custody are kept from seeing their children after divorce. This means that almost half of divorced fathers are cut off from their sons and daughters.

6. Arbitrations and trials are inclined to value the maintenance of the “current status”. This condition then leads to “the person who grabs the kids first wins”. This causes a painful repetition of “child abduction” between Japanese couples. Recently, we at Fathers’ Website have been receiving an increasing number of similar reports saying, “While I was at work, my wife suddenly left me and returned to her parents’ house taking our child. Then she sued me with a cooked up domestic violence scheme and I can’t see my child anymore” (*insert Japanese reference*). There are however few legal recourses to this situation. For example, as a guideline, the Tokyo 1<sup>st</sup> Bar Association created a handbook called, *Scramble for Children and its Solutions*. This guideline seems to totally ignore child welfare, and actually encourages child abduction. We are afraid.

7. In 1994, Japan ratified the United Nations “Convention on the Rights of the Child”. But still, in 2004, there are blatant contradictions between the Convention and Japanese Parental Law. For example, Article 9 Paragraph 3, directs Japan to “respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with **both** parents on a regular basis, except if it is contrary to the child's best interests.” The situations that we have described, demonstrate that this Article is not always applied in Japan. Since the Convention also obliges Japan to enact national laws supporting it, these situations are **illegal** in Japan. Yet they continue because Japan does not change Parental Laws.

8. From April 2004, divorce trials will be transferred from the District Court to the Family Court. But unless the parental and family laws are revised, and the Family Court system is improved, only monetary affairs will be considered and child welfare and the happiness of children will again be ignored.

9. These problems influence not only domestic relationships but also international relationships as well, which CRC Japan will explain.