

TRANSNATIONAL DIVORCE:  
THE VIOLATION OF  
IMMIGRANT JAPANESE MOTHERS' RIGHTS  
AND  
THE HAGUE ABDUCTION CONVENTION

HIROMI NOGUCHI

A THESIS SUBMITTED TO  
THE FACULTY OF GRADUATE STUDIES  
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF  
MASTER OF ARTS

GRADUATE PROGRAM IN  
Communication and Culture, Joint Program with Ryerson University  
YORK UNIVERSITY  
TORONTO, ONTARIO

August 2014

© Hiromi Noguchi, 2014

### **Abstract**

As a counterpoint to existing discussions of how Western fathers' rights can be secured in the context of transnational divorce, this study raises the important question of how immigrant Japanese mothers' fundamental rights can be protected. The voices of Japanese women have long been silenced in the context of the Hague Convention on the Civil Aspects of International Child Abduction. Through in-depth interviews with Japanese mothers who returned to Japan with their children (returned Japanese mothers), and divorced immigrant Japanese mothers who reside in Canada, this study analyzes the stories of the mothers in terms of the impact of immigration and transnational divorce on their social locations. Drawing on critical race scholarship, particularly interlocking theory, it critiques the Western construction of returned Japanese mothers as abductors and reveals the ways that their marginalization as non-English speaking, foreign-born women of colour is further entrenched through transnational divorce.

**Keywords:** Transnational divorce, International Parental Child Abduction, The Hague Convention and Japan, Joint child custody, Japan's sole custody, Domestic Violence, Critical Race Theory, Interlocking Analysis, Intersectionality, Racialization, Institutional discrimination, Institutional Racism, Contemporary Orientalism, Flight Risk, Habitual Residence, Grave Risk, Default Judgment, Undertakings, Hague return order

### **Acknowledgements**

There are many individuals whom I would like to thank. First and foremost, I would like to thank Dr. Mona Oikawa, my supervisor, for her guidance and advice throughout the past year. Her insights and passion have been a priceless resource for me during the completion of my thesis, which involved many demanding tasks. My committee members have provided me with ongoing support as well. Dr. Shelley Kierstead of Osgood Hall Law School assisted me with the legal aspects of my thesis, and Dr. Paul Moore, the program director of Communication and Culture at Ryerson University, supported me during many of the challenges that I encountered over the course of its completion. The Communication and Culture joint graduate program with Ryerson University has maximized my opportunity to access many facilities and resources during the research of a large-scale project. I am thankful to have taken part in such an incredible program. My interview study involved two trips to Japan, which were supported by the Michael Smith Foreign Study Supplement Program, in addition to a Joseph-Armand Bombardier Canada Graduate Scholarship. A Fieldwork Cost Fund awarded by Graduate Studies at York University provided me with the expenses for accommodation and domestic transportations for my visits to the participants in Japan. The Japanese professors whom I consulted in Japan contributed to the completion of my study as well. I was fortunate to have Dr. Itsuko Kamoto of Kyoto Women's University as a host supervisor during my study period in Japan. Furthermore, Dr. Ozawa and Professor Sakuradani of Ritsumeikan University provided me with many opportunities to present my study during my stay in Kyoto, Japan. Finally, I would like to thank my daughters, Momoko, Grace, and Mary for their support and patience; they made my experience of transnational divorce and single motherhood as an immigrant mother much easier than it might have been.

## Table of Contents

Abstract .....	ii
Acknowledgements .....	iii
Table of Content .....	iv
Introduction .....	1
Research Questions and Method .....	1
Immigrant Japanese Mothers and the Hague Convention .....	2
Contribution of Present Study .....	3
Chapter Overview .....	3
Chapter 1: The Hague Convention and Japan .....	6
Transnational Marriage and Immigration .....	6
The Hague Convention and Alleged Parental Child Abduction to Japan .....	6
A Returned Japanese Mother in The Western Media .....	8
Post-divorce Child Custody: Japan vs. North America .....	10
Restrictions on mothers to relocate .....	10
Western pressure on Japan’s ratification of the Hague Convention .....	11
Joint custody vs. sole custody .....	12
Domestic Violence and The Hague Convention .....	13
Definitions of domestic violence .....	14
Domestic violence, transnational divorce, and parental child abduction .....	15
Violence against Japanese women .....	16
Chapter 2: Theoretical Framework, Method, and Demographics .....	18
Theoretical Framework .....	18
Interlocking Analysis .....	18
Method .....	20
Storytelling .....	20
Recruitment of Returned Japanese Mothers .....	21
Participant .....	22
Interview Procedure .....	23
Ethical Issues .....	23

Demographics .....	24
The Mothers .....	24
The Husbands/Fathers .....	25
First Meeting with The Husbands .....	25
Marriage and Divorce .....	27
The Children .....	27
Chapter 3: The Marriages .....	29
Fathers' Negligence of Responsibility and Domination .....	29
Infidelity .....	31
Intimidation and Verbal Abuse .....	34
Financial Abuse .....	39
Chapter 4: Emotional, Social and Economic Challenges of Divorced Japanese Mothers .....	41
The Emotional Effects of Separation .....	41
Social Support .....	44
Separation Agreements .....	46
Shared Custody and Child Support Payment .....	48
Post-divorce Violence .....	50
Chapter 5: Abusive Husbands and Institutional Racism .....	52
The Decision To Leave .....	52
Women's Shelters .....	53
Divorce Proceedings .....	56
Who Decides What is Best for Children? .....	58
Institutional Racism .....	60
Racial discrimination .....	60
Lawyers' underperformance .....	62
Disadvantaged in court .....	63
Chapter 6: Transnational Divorce: Then and Now .....	66
Kazuko's Case of Transnational Divorce in the 1980s .....	66
Transnational Divorce in the 2000s .....	69
Shared Custody and Parental Communication .....	73

Chapter 7: Post-Divorce Challenges of Returned Japanese Mothers .....	76
Parental Responsibilities vs. Parental Rights .....	76
Joint Decision-Making .....	78
Post-Divorce Violence and Returned Japanese Mothers .....	79
The risk of child abuse .....	80
Alleging parental alienation .....	81
Legal abuse .....	83
Returning Home .....	86
Chapter 8: Transnational Divorce and the Hague Convention .....	90
Prejudiced Legal Advice .....	90
Flight Risk .....	91
Habitual Residence and Forum Shopping .....	94
Father's plans .....	94
Habitual residence vs. Children's home .....	95
Deep-seated distrust in Japan's legal system .....	96
The Issue of Maternal Freedom .....	97
Default Judgment .....	99
Domestic Violence and Grave Risk .....	99
The Reality of Undertakings: Another Loophole .....	101
Abusive Left-behind Fathers .....	102
Chapter 9: The Future of Transnational Divorce .....	104
Japanese Women's Rights and Freedoms .....	104
Western Media Representation .....	107
Limitations and Implications .....	108
Directions for Future Studies .....	109
The Future of Transnational Divorce .....	112
References .....	114
Appendix A: Informed Consent Form for Mothers .....	119
Appendix B: Informed Consent Form for Professionals .....	120

Transnational Divorce: The Violation of Immigrant Japanese Mothers' Rights  
and the Hague Abduction Convention

**Introduction**

On the day Kaori left her husband's country, she looked up at the blue sky and thought to herself how much she loved the country; she felt sad because she knew that she would never be able to step on this land again. At the airport, her heart did not stop pounding, and she broke into a cold sweat. "Please, please close the door," she prayed in her seat on board. When the captain finally closed the door, tears filled her eyes. At the arrival gate in Japan, she found her mother's face; the family stopped at a sushi stand on their way home. "I truly enjoyed the sushi that we ate together," said Kaori, "I am so glad that I didn't give up on coming home." A week after they landed in Japan, her father passed away. While she felt blessed that her children saw their grandfather for the last time, she was left trying to cope with an overwhelming sense of injustice: "I had sole custody to make decisions for my children and yet the Court denied my request for the children to be at their grandpa's deathbed."

**Research Questions and Method**

The voices of Japanese women, like Kaori's, have long been silenced in Western discussions of Japanese mothers' cross-border relocations with their children. The purpose of this study is to explore the subjective experiences of immigrant Japanese mothers in their transnational marriages and divorces. The goal is to explore the commonalities and differences among Japanese-born women's experiences in their Western-born husbands' countries. I argue that the question of how immigrant Japanese mothers' fundamental rights can be protected needs to be scrutinized, as a counterpoint to existing discussions of how Western fathers' rights can be secured.

The research questions are: (1) What are the experiences of immigrant Japanese women in their transnational marriages and divorces? and (2) What are the services and supports available for immigrant Japanese women who experience difficulties in their transnational marriages? In order to elicit the voices of immigrant Japanese mothers, I interviewed three immigrant Japanese mothers who returned to Japan with their children (returned Japanese mothers) in Japan, and four divorced immigrant Japanese mothers who reside in Canada. I triangulated my study by interviewing professionals – a counsellor in Toronto and a lawyer in Tokyo – who support Japanese women in their transnational divorces.

### **Immigrant Japanese Mothers and the Hague Convention**

When one parent crosses an international border with his or her child without the other parent's permission, it is called international parental child abduction. The 1980 Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention hereafter) intervenes in such cross-border cases of child abduction. The purpose of the Hague Convention is not to determine whether the return of children is in their best interests, but merely to recover the status quo ante, regardless of the experiences of the children in their habitual residences, where they lived immediately before the alleged abduction occurred (Hague Convention on Private International Law [HCCH], 1980).

According to legal definitions, a mother has "the right to make all decisions concerning the child" when she has sole custody (Thompson, 2013, Sole Legal Custody). However, in Kaori's case, which I will describe and analyze in this thesis, the Australian Court ordered to secure a non-custodial father's right to access/contact his children as scheduled and denied the mother's right to make the decision for her children to visit their grandfather at his deathbed in Japan. Meanwhile, Kaori's children's father took her to court and received sole custody through default judgment because she did not appear before the Court. Furthermore, a warrant was issued for the arrest of Kaori for international child abduction.

On April 1, 2014, Japan implemented the Hague Convention. The controversial phenomenon whereby Japanese-born women, like Kaori, left Western-born men behind and returned to Japan with their children of transnational marriage played a significant role in Japan's ratification. I will call these Japanese women "returned Japanese mothers" and these Western men "left-behind fathers". In the West, the returned Japanese mothers are often called abductors in accordance with the perspectives of the left-behind fathers, with the implication that the mothers have forcibly removed their children from the fathers. The image of the returned Japanese mothers as self-centered has been constructed through the left-behind fathers' interpretations of the events and disseminated by Western media, thereby strengthening Western pressure on Japan to ratify the Hague Convention; however, there is another side of the story that the language of abduction belies.

Edleson et al. (2013) state that qualitative interviews are appropriate methods to study the perspectives of a hidden population and phenomena that are inadequately understood. An interview method enabled me to explore each of the mother participant's social locations as an immigrant woman and mother in her Western husband's country. I searched the meanings that



the participants assign to their experiences of transnational divorces, rather than the existing narratives that were constructed through the left-behind fathers' point of view.

### **Contribution of Study**

North American media have exclusively focused on left-behind fathers' perspectives, and have completely overlooked returned Japanese mothers' point of views (e.g., Cable News Network [CNN], 2009; American Broadcasting Company [ABC], 2011). Likewise, an American research study explored the situational factors that led American mothers to return to the United States with their children, but gave no attention to the situational factors of returned Japanese mothers (Edleson, Lindhorst, Mehrotra, Vesneski, Lopez, & Shetty, 2013). This study explores immigrant Japanese mothers' perspectives in their transnational divorces, as well as their experiences of the accessibility of helpful support in a Western country, including Canada.

There are numerous issues raised by Japan's implementation of the Hague Convention, including prejudiced media representation, unequal international power relations, and biased gendered assumptions in post-divorce custodial arrangements. Current Western discussions surrounding the Hague Convention and the returned Japanese mothers are largely relying on the left-behind fathers' views through interviewing the fathers and the mothers' perspectives have been excluded. Eliciting the voices of returned Japanese mothers will enable us to see the broader picture of transnational divorces involving immigrant Japanese women, as well as to reveal many issues surrounding the Hague Convention. With Japan's recent implementation of the Hague Convention, this study has the potential to receive international attention from Japan and other countries. This study can contribute to a deeper understanding of the issues surrounding transnational divorce and the Hague Convention for both people in the West and people in Japan. When individuals and societies involved in transnational marriage are exposed to the complexity of transnational divorce and the contradictions of the Hague Convention, the broader perspectives will open up effective discussions regarding the future of transnational divorce.

### **Chapter Overview**

In Chapter 1, I conduct the literature review; exploring the relationship between the Hague Convention and mothers' alleged parental child abduction to Japan, as well as examining Western media representation and diplomatic pressure on the Japanese government. I also introduce some key research on parental child abduction and the Hague Convention and explore the association between transnational divorce, parental child abduction, and domestic violence. In Chapter 2, I discuss the theoretical framework and method of my study, as well as introduce

demographic information about the participants' transnational marriages and divorces.

In Chapters 3 through 8, I describe and analyze the stories told by the divorced immigrant Japanese mothers in Canada, and the returned Japanese mothers in Japan. In Chapter 3, I portray the marriages of the six mothers: three divorced immigrant Japanese mothers in Canada and three returned Japanese mothers in Japan. I describe the issues and challenges, including domestic violence, experienced by the mothers in their marriages as they are important to contextualizing their divorces.

In Chapters 4 and 5, I focus on separation and divorce: I depict the stories of the divorced immigrant Japanese mothers in Canada in Chapter 4, and then the stories of the returned Japanese mothers in Chapter 5. I discuss the public support that the immigrant Japanese mothers used or did not use. Whereas only one of four divorced immigrant Japanese mothers residing in Canada received social support, all returned Japanese mothers received or would have liked to receive social support. I describe the stories of post-divorce violence that the mothers experienced during the period of separation and divorce in Chapter 4 and 5. In Chapter 5, I scrutinize the interesting fact that the returned Japanese mothers named the disadvantages and discrimination that they faced in divorce proceedings as racism.

In Chapters 6 and 7, I discuss the post-divorce stories of the mothers. I begin Chapter 6 with Kazuko's story of her experience of transnational divorce during the 1980s, illustrating her exclusive responsibility for the children in her post-divorce motherhood as a sole custodial parent. I then introduce the other divorced immigrant Japanese mothers' stories of joint custody in Canada. I aim to contrast the three recent cases with Kazuko's case. In Chapter 7, I describe the returned Japanese mothers' stories regarding the fathers' post-divorce violence against them. In particular, I scrutinize a relatively new notion of abuse known as legal abuse, where fathers take mothers to court for the purpose of harassment. I end Chapter 7 by illuminating the decision-making processes of returned Japanese mothers and the emotionally charged events of travelling home with their children.

In Chapter 8, I discuss the issues specific to transnational divorces in the context of the Hague Convention. The issues that are covered include: (1) alleged flight risk whereby a father demands that the mother submit her child's passport to a court or a lawyer so that the mother cannot leave the country with the child; (2) the determination of habitual residence and the problematic act of forum shopping whereby a father establishes the child's habitual residence and starts his divorce case in the jurisdiction where he can be at an advantage; (3) default judgment

whereby a father files for, and receives, sole custody because the mother fails to appear before the court; (4) grave risk and the damaging impact of domestic violence on children. Grave risk allows an administrative authority of the requested state not to return the child to the habitual residence when there is a risk that “his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation” (HCCH, 1980, Article 13b).

In my conclusion to the study in Chapter 9, I summarize the key findings and recommend areas for future study. I pursue potential avenues for alleviating the difficulties of Japanese women who face transnational divorces. I am confident that my study will function as a cornerstone in current understandings of the experiences of immigrant Japanese mothers in their transnational marriages and divorces from their own perspectives and stories.

## **Chapter 1: The Hague Convention and Japan**

As of August 2014, I am not aware of any scholarly literature that has analyzed the association between immigrant Japanese mothers' subjective experiences and Hague cases of alleged parental child abduction. In this opening chapter, I aim to examine the existing literature on issues surrounding the Hague Convention, as well as the connection between transnational divorce, parental child abduction, and domestic violence in the context of the Hague Convention.

### **Transnational Marriage and Immigration**

Every year, approximately 40,000 to 45,000 people – consisting of 15% to 19% of all new permanent residents each year – arrive in Canada as spouses or partners of Canadian citizens. Furthermore, roughly two-thirds of foreign spouses/partners (25,000) are women (Citizenship and Immigration Canada, 2012). Although transnational marriages and intimate relationships are common in Canada, post-divorce experiences of immigrant mothers have received little scholarly attention. Exploring the experiences of immigrant Japanese mothers in their transnational marriages and divorces will assist policy makers and social support providers in considering effective approaches to policies and services regarding foreign-born, divorced mothers in Canada.

Kamoto (2014) investigated the prevalence of transnational marriages of Japanese nationals overseas, using the Governmental Population Survey Report, and found that the majority consists of a Japanese woman and a non-Japanese man, rather than a Japanese man and a non-Japanese woman. Nationalities of husbands of Japanese women in their transnational marriages are: the United States (28%), England (6%), and other Western countries (45%), including Canada, New Zealand, Australia, France, and Spain (Kamoto, 2014). This trend can explain why the vast majority of Hague cases involving Japanese nationals consist of a Japanese mother and a Western father. In the following sections, I look into the relationship between the Hague Convention and alleged parental child abduction to Japan.

### **The Hague Convention and Alleged Parental Child Abduction to Japan**

Concluded on October 25, 1980, the Hague Convention was drafted “to protect children internationally from the harmful effects of their wrongful removal,” and “to secure protection for rights of access” (HCCH, 1980, Preamble). The Hague Convention assumes that a parent's removal of children from their habitual residence is wrong when a custodial parent does not consent (HCCH, 1980). When the Hague Convention was drafted, joint custody – where both

parents have rights to make decisions about the children – did not prevail (Boyd, 2003). A stereotypical parental child abduction case in the 1980s was a non-custodial father taking his child from the custodial mother as a means of abuse, desiring to control the custodial mother (Weiner, 2000). Therefore, the Hague Convention was helpful for custodial mothers who were trying to reunite with their children; however, with the increasing popularity of joint custody during the late 1990s, fathers with joint custody started to file Hague applications against custodial mothers who were the primary caregivers of the children (Weiner, 2000).

The Hague Convention does not take background information regarding the parental relocation of a child into consideration because its purpose is to return the child to habitual residences. When the central authority of the requested country (i.e., where a Hague application is filed) issues a return order under the Hague Convention, the child is forced to return to the so-called habitual residence, regardless of the child's level of attachment to the country. The Hague Convention assumes that the children's habitual residence is the most suitable place to live for *all* children. The incidents of returned Japanese mothers were increasingly scrutinized in Western countries in light of Japan's non-member status in the Hague Convention; the left-behind fathers could not file their cases against the returned Japanese mothers under the Hague Convention.

According to the Ministry of Foreign Affairs of Japan, as of 2012, 81 children from the United States and 39 children from Canada have been claimed as alleged parental child abductions to Japan (Torisawa, 2012). In actuality, the number of cases is much fewer since the children accounted for can come from the same family, which means two or more siblings per individual case. In fact, the US State Department confirms the accumulated total number of 58 parental child abduction cases to Japan (*Asahi*, 2014).

While it is not my intention to diminish any of the individual cases, I must refer to the number of alleged cross-border parental child abduction cases in Canada and the United States. Approximately 250 new Canada-US border cases were reported in 2005 (Dalley, National Missing Children Services, National Police Services, & Royal Canadian Mounted Police, 2007). In the United States, approximately 56,000 children *annually* were involved in parental child abduction cases. In Canada, approximately 3,400 missing children were claimed as cases of parental child abduction in 2005. Some of these were cross-border cases; for example, in 2005, the National Missing Children Services assisted Canadian police agencies with 127 outgoing cases in which one parent and her/his children left Canada without permission of the other parent. The National Missing Children Services also handled 256 incoming cases to Canada, consisting

of 174 cases from the United States and 82 cases from other countries in 2005 (Dalley et al., 2007). Considerably higher numbers of cross-border parental child abduction cases are claimed between Canada and the United States compared to the outgoing cases to Japan from Canada and the United States.

None of the Canada-US border cases made headlines like the cases of returned Japanese mothers did, perhaps because both Canada and the United States are members of the Hague Convention. Or perhaps North Americans perceive the Canada-US cases as less harmful to children than the North America-Japan cases. The Hague Convention claims that it is harmful to the child to move to “a culture with which he or she may have no prior ties ... with a different legal system, social structure, culture and, often, language” (HCCH, 2012, Introduction). Western representations of stereotypical Hague cases, which involve a relocation from a Western country to a non-Western country (Weiner, 2000), suggest that the underlying mandate of the Hague Convention is to promote the children’s well-being, which is construed as entailing residence in a Western country.

In May 2013, the Japanese government approved the ratification of the Hague Convention in response to heightened diplomatic pressure from the West. Since 2006, Western countries, including Canada, have repeatedly urged Japan to ratify the Hague Convention. Meanwhile, Western media have constructed and disseminated stories of an innocent and loving Western left-behind father who has lost his contact with his children and is struggling to fight against an irrational and hostile returned Japanese mother (e.g., CNN, 2009; ABC, 2011). As an example of the Western representation of returned Japanese mothers, I briefly describe the case of Noriko that was extensively covered by Western media.

### **A Returned Japanese Mother in The Western media**

An American father was arrested in Japan for the attempted kidnapping of his children. The American press defended this American father and was extremely sympathetic toward his motivation for kidnapping his children because his former Japanese wife, Noriko, returned to Japan with the children without his permission. While the American media extensively reported the American father’s battle against the Japanese mother and the Japanese legal system, it covered little of the background information of what happened to Noriko. The following are the stories of Noriko that I obtained through the court transcript of *Savoie v. Savoie* (2009).

Two children of the transnational marriage were born and raised in Japan. After a 16-year relationship with Noriko, the father had an affair with an American woman and moved back

to the United States. Months later, he convinced his Japanese wife Noriko to move to the United States with their children, aged six and eight at the time, and then filed for divorce the day after they landed. Noriko faced a process of divorce settlement and a custody dispute in an unfamiliar American mediation system. After the negotiation in their mediation process, the parents agreed on joint custody with Noriko as the primary custodial parent responsible for the children's day-to-day lives. The husband used intimidation, including controlling telephone calls and harassing e-mails, in an attempt to control Noriko; he wanted to be in charge of everything, even seemingly insignificant matters such as the children's afterschool activities, and would choose activities for the children that they did not desire. A month after their divorce was finalized, he took Noriko to court, claiming that she was a flight risk and alleging that she was planning to leave the United States with the children; he asked the court to take the children's passports away, but did not succeed (*Savoie v. Savoie*, 2009).

Noriko moved back to Japan with the children approximately one year after her arrival in the United States; however, she did not receive her children's father's approval to move, which is a violation of his parental right to make decisions for the children based on joint custody. Whereas the American media praised the American father's acts – he jumped off the car, snatched the children, pushed them into the car, and drove away from the mother – as justice, and called him a hero, they harshly labeled Noriko an abductor, and deemed her return to Japan with her children criminal behavior (e.g., CNN, 2009).

Noriko's case showcases the issues surrounding the Hague Convention. The parents had lived together in Japan for 16 years prior to moving to the United States; however, under the Hague Convention, the children's habitual residence would have been considered the United States, not Japan. This landmark case characterizes many of the issues related to transnational divorce and Hague cases: (1) forum shopping, whereby the father establishes the child's habitual residence and starts his divorce case in the jurisdiction where he can be at an advantage; (2) post-divorce harassment and violence, whereby a father engages in abusive behavior against the mother; (3) accusations of a mother's flight risk, and (4) default judgment, whereby the father receives a court ordered sole custody after the mother left the country with her child (*Lawhelp Ontario*, 2010). Indeed, the stories of the returned Japanese mothers in this study reveal many commonalities with Noriko's transnational divorce.

### **Post-divorce Child Custody: Japan vs. North America**

As with descriptions of Western left-behind fathers as innocent and returned Japanese mothers as irrational, the Western media repeatedly depict the differences in post-divorce child custody laws between the West and Japan in binary terms. They code Western joint custody as superior and modern and Japanese sole custody as inferior and outdated (e.g., CNN, 2009; ABC, 2011). Commenting on the Western view of Japanese post-divorce custodial arrangement of sole custody, the *Mainichi* (2013), a digital English newspaper posted by one of Japan's major news media outlets, cynically nicknamed the Hague Convention "the international child custody treaty" (*Mainichi*, 2013, p. 1). Indeed, legal scholars (Jones, 2006; Tanase 2010; Costa, 2010) and Japanese government officials (Kaji, 2012; Torisawa, 2012) uniformly note that one of the main reasons for Japan's reluctance to ratify the Hague Convention pertained to differences in child-custody laws between the West and Japan, namely, joint custody and sole custody.

**Restrictions on mothers to relocate.** The term "joint custody" may give the impression that both parents are equally involved in the children's lives and share the responsibilities for their children after their divorce (Boyd, 2003). Nonetheless, joint custody merely means that both parents have decision-making rights regarding their children; a father with joint custody is legally entitled to make decisions for his child (Thompson, 2013). The notion of joint custody can be misleading because divorced parents who have joint custody do not necessarily share responsibilities evenly for their children.

In Canada, 85% of children of divorce primarily live with their mothers who have physical custody of the children (Department of Justice, 2012). These custodial mothers, sometimes called residential mothers, are responsible for the day-to-day care of the children; fathers who have joint custody maintain regular contact with their children. Boyd (2003) argues that joint custody can hinder the custodial mothers' freedom to pursue their own lives, including education and employment, because their relocation is restricted. The seemingly positive notion of joint custody conceals residential mothers' additional responsibilities; residential mothers with joint custody must ensure that the fathers can exercise their parental rights (Boyd, 2003).

Walter (2004) refers to the report of William Duncan, the Deputy Secretary of the Hague Convention, and writes, "excessive restrictions on the ability of a custodial parent to relocate, though designed to protect the right of contact, actually may motivate relocating parents to bypass the court system and abduct the child" (p. 2383). The restrictions on custodial mothers to relocate have not been investigated in relation to the post-divorce experiences of immigrant Japanese



mothers in their transnational divorces. Instead, Western discourse criminalizes returned Japanese mothers and demonizes Japan's post-divorce child-custody law.

**Western pressure on Japan's ratification of the Hague Convention.** I argue that Western discourse uses the figure of the returned Japanese mother to deem Japan's sole custody system inferior and promote its dismantlement; the Western media frequently note that mothers have always been given sole custody in Japan (e.g., CNN, 2009; ABC, 2011). Contrary to the Western representation of maternal sole custody as a Japanese tradition, until 1946, Japanese fathers had exclusive paternal authority over children of divorce under Japan's pre-war civil law (Ministry of Health, Labour and Welfare, 2013). The history of the American/Western occupation of Japan from 1945 to 1952 demonstrates clear Western influence on child custody in Japan following World War II.

From 1945 to 1952, the Supreme Commander for the Allied Powers known as GHQ (General Headquarters) had extensive jurisdiction over the government of Japan; under American GHQ, the British Commonwealth Occupation Force, consisting of the military forces of England with Australia, India, and New Zealand, organized into sub-occupation forces (Dower, 1999). The involvement of GHQ in drafting the Japanese Constitution and revising civil law are historical facts (Dower, 1999); GHQ recommended (read: ordered) the abolishment of pre-war civil law (Wada, n.d.). Only since 1946 have Japanese mothers gradually gained the opportunity to be custodial mothers, and in 1966, mothers became the custodial parents more often than fathers for the first time in Japanese history. Post-war Japanese history reveals that maternal sole custody is not a Japanese tradition, but rather the adoption of a popular North American notion known as the Tender Years Doctrine, the idea that small children need to be nurtured by their mothers; maternal sole custody was, in fact, the North America norm until the beginning of the 1990s (Boyd, 2003).

It seems that international power relations in the context of the historical occupation of Japan is comparable to contemporary diplomatic pressure regarding Japan's ratification of the Hague Convention. Under the strong leadership of the United States, the Western countries of Australia, Canada, England, and New Zealand, as well as European countries, including France, Italy, and Spain, have repeatedly issued joint statements urging Japan to ratify the Hague Convention. The rationale of the West for pressing Japan to ratify the Hague Convention is evident in the statement released in May 2009:

We place the highest priority on the welfare of children who have been the victims of international parental child abduction and believe that our children should grow up with access to both parents. We therefore call upon Japan to accede to the Convention. Meanwhile, we also urge Japan to identify and implement measures to enable parents who are separated from their children to maintain contact with them and to visit them. (Government of Canada, 2009)

In the same way as Western media representations, the statement fails to address any situational factors and aims to apply the Hague Convention's formula to all cases. In addition, it claims that joint custody is the *normal* post-divorce practice and supports the Western media's representation of Japan's sole custody system as regressive, inferior, and outside the realm of Western civilization. The pressure that the West has exerted to press Japan's ratification of the Hague Convention resembles the post-war role of the West in rewriting the Japanese Constitution and its civil law. Despite the widespread notion that Japan is as economically developed as Western countries, unequal power relations between the West and Japan shape historical and contemporary interactions between the two.

The examination of Western discourses surrounding Japan's cultural tradition of maternal sole custody reveals the prevalence of misinformation and misconceptions. Furthermore, the historical review reveals a persistent pattern of Western influence on Japan's post-divorce custody practices. Western discourses of transnational divorce construct images of returned Japanese mothers and Japanese custody practices that conform to a contemporary version of Orientalism. The strong, paternalistic desire to "help" Japan to become civilized – a wish to *rescue* the Other that Said (1978) names as a fundamental characteristic of Orientalism – is apparent in past and present contexts of custodial law.

**Joint custody vs. sole custody.** Contrary to media representations of a significant gap in child-custody arrangements between the West and Japan, there are more similarities than differences in reality. For example, in Canada, more than 90% of divorcing parents mutually decide their post-divorce child custody arrangements (Department of Justice, 2012). Likewise, approximately 90% of divorcing parents amicably agree on who will be a custodial parent in Japan (Tanase, 2010). Similar to Canada, where 85% of divorced mothers look after their children on a daily basis (Department of Justice, 2012), 83% of divorced mothers in Japan are the day-to-day caregivers of their children (Ministry of Health, Labour and Welfare, 2013). The difference is, however, that Japanese mothers who are the primary caregivers of their children are the sole custodial parents of their children. No joint custody is recognized in Japanese law, which may have influenced the Western myth that non-custodial fathers are prohibited from involvement

in their children's lives (e.g., CNN, 2009; ABC, 2011).

In contrast to Western representations of a clear break of non-custodial fathers from their children in Japan, more than 50% of non-custodial fathers stay in the children's lives after their divorce (Ministry of Health, Labour and Welfare, 2013). Joint parental involvement in children's lives following parental divorce is increasingly valued in Japan. Nonetheless, when child custody is contested and the level of conflict between parents is high, a non-custodial parent's involvement in the children's lives can be seen as undesirable (Tanase, 2010). Unless both parents trust each other and cooperate, the children may continue to witness their divorced parents' arguments. Children's observations of parental discord, particularly in a situation involving domestic violence, are considered to have a negative impact on their well-being and development (Tanase, 2010).

### **Domestic Violence and The Hague Convention**

The Japanese government is concerned about Japanese mothers who experience domestic violence in their transnational marriages and divorces (Kaji, 2012; Torisawa, 2012). In 2011, The Japan Federation of Bar Associations (JFBA) conducted a large-scale survey of cross-border cases of child relocations, sending questionnaires to 29,661 JFBA members, including 349 non-Japanese members. The response rate was very low (252 valid returns), perhaps reflecting most Japanese lawyers' unfamiliarity with transnational divorce; however, domestic violence was listed by the majority of respondents as the main reason for a Japanese mother's return from overseas (Japan Federation of Bar Associations, 2011). The Japanese government is aware that Japan's ratification of the Hague Convention can hinder opportunities for abused Japanese mothers to relocate with their children to a place where they feel safe, secure, and happy (Ministry of Foreign Affairs, 2011). The Japanese government's concern over domestic violence in transnational divorce cases involving Japanese mothers is supported by research. Studies have scrutinized the association between domestic violence and the Hague cases.

Weiner (2000) explores cases of custodial and residential mothers who relocated with their children to escape from domestic violence, and points out that the Hague Convention could be an obstacle for abused women and their children seeking safety. The Hague Convention offers "no defense that abduction is justified if it occurred to escape from domestic violence" (Weiner, 2000, p. 599). Weiner (2000) recommends adding a defense to the Hague Convention so that mothers and their children in domestic violence cases can be safe in the country to which they

escaped. Prior to illuminating the relation between domestic violence and the Hague cases, I discuss definitions of domestic violence.

**Definitions of domestic violence.** I refer to domestic violence as any behaviour that scares, intimidates, or humiliates a woman to make her feel powerless so that she can be controllable (McLaughlin, O’Carroll, & O’Connor, 2012; US Preventive Services Task Force 2004; Wathen & MacMillan, 2003). I recognize that definitions of domestic violence can be controversial and debatable; therefore, I offer a definition of the term that fits with the current general consensus. The Ontario Ministry of the Attorney General (2012) asserts that domestic violence is generally committed by a man against a woman in a heterosexual relationship, although it can occur in a same-sex relationship and a woman can be an offender. Women are encouraged to call the police when their partners show “any use of physical or sexual force, actual or threatened” (Ontario Ministry of the Attorney General, 2012, Violence in the Family). Furthermore, threatening to harm a woman’s children, pets, or properties is a criminal offence (Ontario Ministry of the Attorney General, 2012).

The Ontario Ministry of the Attorney General (2012) also recognizes other forms of domestic violence, known as emotional abuse; however, they are not usually considered criminal offences. Whether the forms of domestic violence are considered criminal offences or not, they can achieve the same goals, that is, for a man to maintain control over a woman. It is critical for women to recognize emotional abuse as domestic violence in order to protect themselves from further damage. Forms of emotional abuse include not only isolation and intimidation, but also financial abuse—such as withholding money or not involving one’s partner in decisions about money—and, perhaps most commonly, verbal abuse—which includes constant criticism, mind games, lies or recreated events, and silent treatment (Powell & Smith, 2011; University of Toronto, 2011).

Edleson et al. (2013) termed emotional abuse “emotional terrorizing” as it “induces fear and terror in the women, and [attempts] to make her more controllable, i.e., willing to submit to his demands” (p. 70). By showing power over the woman, a man can control a woman and maintain her position as subordinate. When a man can achieve his goal of overpowering his partner by using emotional abuse, he does not put himself at the risk of arrest that physical abuse entails. These subtle forms of domestic violence often “include a number of acts that could sound minor by themselves, but together make up a pattern of abuse” (Ontario Ministry of the Attorney General, 2012, Violence in the Family). Furthermore, Edleson et al. (2013) suggest that emotional

terrorizing has the potential to escalate into threats and actual bodily harm if a woman resists emotional terrorizing and does not submit to her partner's demands. Interestingly, research has shown an overwhelming overlap between domestic violence, transnational divorce and parental child abduction (Greif & Hegar, 1993; Hegar & Greif, 1994; Weiner, 2000; Edleson et al., 2013).

**Domestic violence, transnational divorce, and parental child abduction.** Hegar and Greif (1994) revealed an over-representation of transnational marriages/relationships in cases of parental child abduction in their survey of 371 left-behind parents (LBPs; the majority is fathers) whose children were taken by the other parent (mothers in the most cases). LBPs were recruited from 14 missing-children organizations in the United States and Canada. Transnational marriages/relationships, involving parents with different birth countries, consisted of 15.9 % of the sample, which was over 2.5 times higher than the percentage of the general foreign-born population in the United States (Hegar & Greif, 1994).

Greif and Hegar (1993) also found a strong association between parental child abduction and domestic violence. In their follow-up telephone interviews of 368 LBPs, 30% of them “did admit that they either had been accused of or had engaged in acts of family violence” (Greif & Hegar, 1993, p. 269). The rate of 30% is overwhelmingly high considering the common denial by a left-behind father of having been abusive to the mother; domestic violence in parental child abduction cases is twice as high as that in the general population (Greif & Hegar, 1993). Although the studies of Greif and Hegar (1993) and Hegar and Greif (1994) had limitations, including their generalizability, they led the United States Congress to recognize that the relocation of children by mothers can constitute escape from domestic violence (Weiner, 2000).

Weiner (2000) refers to the discussion at the third meeting of the Special Commission to Review the Operation of the Hague Convention in 1997. At the 1997 Review, the fact that the majority of children were relocated by their custodial mothers (and primary caregivers) who had been victims of domestic violence was addressed for the first time. Weiner (2000) points out that the vast majority of Hague cases prior to the mid 1990s were cases in which non-custodial fathers disappeared with their children as “a way of abusing the children's mothers” (p. 599). It is interesting to learn that domestic violence appears in the Hague cases regardless of which parent leaves a country of habitual residence.

The overlap between domestic violence and the Hague cases has been further examined in a recent study. The study explored the perspectives of American mothers who crossed

international borders with their children and returned to the United States. Funded by the U. S. National Institute of Justice, Edleson et al. (2013) illustrated the situations in which few other options were available to these mothers to ensure their safety. Almost half of the abused mothers reported that they had been forced to reside in the country in which their husbands/partners wanted to live. Perhaps the intentions of the fathers were to establish their children's habitual residence in order to obtain an advantage in potential Hague cases. At the very least, the father's residency needs were met. Prior to leaving the country, most mothers sought help from the police and/or social service providers multiple times without success (Edleson et al., 2013). The association between domestic violence and the Hague cases is well established. Hegar and Greif (1994) further found an elevated rate of domestic violence within interracial or interethnic marriages/relationships.

Hegar and Greif (1994) revealed that interracial or interethnic marriages/relationships consisted of 12.7% of their sample of 371 cases, which was 1.5 times higher the percentage found in the US general population. The overlap between transnational couples and interracial/interethnic couples was not identified in the study; however, the rate of domestic violence reported by the respondents in interracial/interethnic marriages was 66%, compared to 51% for the rest of respondents. Hegar and Greif (1994) found that non-Western women in heterosexual relationships were at an increased risk of domestic violence. Furthermore, an increased risk of domestic violence among women of Japanese descent has been investigated.

**Violence against Japanese women.** Yoshihama and Horrocks (2002) investigated the vulnerability of women of Japanese descent to domestic violence by interviewing 211 women with Japanese backgrounds in the United States. The participants were either born in the United States or immigrants from Japan, and had been in intimate heterosexual relationships. More than half of the women in the study reported physical domestic violence, compared to the estimated incident rate of 25% among women in the general American population. Furthermore, 94% of the women in this study had also been criminally victimized, often as targets of hate crimes (Yoshihama & Horrocks, 2002). The results provide evidence of the maltreatment of women of Japanese descent in American society.

Yoshihama and Horrocks (2002) also assessed the social support available to women of Japanese descent. The assessment of different generations revealed that Japanese-born women who immigrated to the United States at age 13 or older reported less satisfaction with the social support available to them, as compared to American-born women of Japanese descent, who speak

English as their native language. These immigrant Japanese women also indicated the strongest association of emotional abuse with the persistence of the symptoms of Post-traumatic Stress Disorder (PTSD; Yoshihama & Horrocks, 2002), a common anxiety disorder that one can suffer from after experiencing traumatic events (Yehuda, 2002). The findings suggest that immigrant Japanese women would have difficulty in accessing effective social support when they are abused. In conclusion, Yoshihama and Horrocks (2002) issued a call for the establishment of social support programs to immigrant populations for the prevention of, and provision of support for the victims of domestic violence.

In the opening chapter, I introduced standard Western media representations of returned Japanese mothers, and discussed Western diplomatic pressure on the Japanese government and perceptions of Japanese sole custody in comparison to Western joint custody. I also reviewed key research on parental child abduction and the Hague Convention. The research revealed the strong association between transnational divorce, parental child abduction, and domestic violence. Chapter 2 will establish the theoretical framework and method of my study, as well as introduce demographic information related to the participants' marriages and divorces.

## **Chapter 2: Theoretical Framework, Method, and Demographics**

### **Theoretical Framework**

#### **Interlocking Analysis**

This study draws on critical race scholarship (Delgado & Stefancic 1993; Fellows & Razack 1998; Stasiulis, 2005) to analyze the stories of immigrant Japanese mothers. In exploring immigrant Japanese mothers' stories, I examine the interlocking systems of oppression, that is, the "multiple, simultaneous, and interactive" (Stasiulis, 2005, p. 36) effects of unequal social relations on individuals' social locations (Fellows & Razack 1998). Stasiulis (2005) writes that, "people's status (citizenship, class, etc.) may become transformed when they migrate from one country to another" (p. 39). Japanese women's social locations shift when they migrate from Japan to a Western country. In this thesis, I examine immigrant Japanese mothers' experiences as non-English speaking, foreign-born women of colour in their transnational marriages, as well as the ways that their already marginalized social locations became further marginalized by transnational divorce.

Historical and contemporary Western attitudes toward Japan seem to complicate and obscure the experiences of immigrant Japanese women who undertake transnational marriages and divorces in Western society. Oikawa (2012) employed Razack's (1998) notion of interlocking analysis to examine Japanese-Canadian women's experiences of the Internment and its continuous effects on women of Japanese descent. The multiple forms of oppression that immigrant Japanese women face are inseparable from the continuous effects of the historical event of the Internment, as well as the post-war occupation of Japan by the United States and its allied Western countries. Park (2012) discusses Western ambivalence towards Japan's economic rise, which is seen as both admirable and threatening. Such ambivalence places Japanese women in a unique position in Western society to the extent that they are constructed as simultaneously desirable and dangerous.

When mothers relocate the children, they are perceived as selfish and this perception is fueled by gendered stereotypes that mothers should be selfless (Weiner, 2003; Boyd, 2003). As Boyd (2003) points out, mothers are supposed to protect their children; therefore, mothers who ostensibly *caused* the children harm by relocating them to unfamiliar environments and terminating a relationship with their fathers are viewed as outrageous. These mothers are likely categorized as unfit mothers who placed their own interests before their children's rights and interests (Boyd, 2003). All of these assumptions stem from the initial premise that the relocation



of the children is harmful to them, regardless of the experiences of mothers and children.

Therefore, it would be quite natural for the mother's act of relocating the child to be used against the mother in court proceedings upon her return to the habitual residence (Boyd, 2003).

In addition to the gendered assumption that mothers who relocate with their children put them at a disadvantage, returned Japanese mothers, along with other non-Western mothers who relocated with their children, face other forms of discrimination. They might, and in fact, likely encounter "subtler forms of racism" (Delgado & Stefancic, 2012, p. 4), that is, mistreatment because of their cultural backgrounds and language skills in the dominant language. Delgado and Stefancic (2012) note that "legitimized racism" is when racist behaviours are justified because one's "race" was not explicitly used as the basis of discrimination. Li (1999) points out the tendency among members of the dominant culture to attribute "culture as a cause" of unfamiliar behaviours in order to conceal their racist attitudes. This tendency is what Razack (1998) calls "the culturalization of differences" (p. 17), and it frees the dominant culture from responsibility for racism insofar as it legitimizes and rationalizes racist behaviors through explanations that resort to the language of cultural difference. It is a frustrating phenomenon for people who are targeted by these subtle and hidden forms of racism, namely, discrimination based on cultural differences such as laws, social norms, and languages—judgment on the basis of cultural difference is nearly impossible to prove as racism.

The questions surrounding the Hague Convention and returned Japanese mothers have hidden (or unspoken) overtones of Orientalist ideologies and practices that assume the legal and cultural inadequacy and dysfunction of the non-West (Razack, 1998). It is an interesting phenomenon that more than 100 non-Western countries are Non-Contracting States while all Western countries are members of this international treaty. For example, no Asian countries ratified the Hague Convention prior to 2001; Sri Lanka (2001), Thailand (2002), Singapore (2011), South Korea (2013) and Japan (2014) have since become members. Although Hong Kong and Macao have become Contracting States, China is not a member of the Hague Convention (HCCH, 2014). Further work is required to analyze the background as to why very few non-Western countries have ratified the Hague Convention.

Sexism and racism that can influence court proceedings of Hague cases have not been examined in the literature or the media. The issue of racism in transnational divorces is clarified and condensed in the legal procedures and courtroom proceedings experienced by the returned Japanese mothers in my study. The stories of the returned Japanese mothers epitomize the affect

(e.g., frustration, resentment, and sadness) of immigrant Japanese women that is extremely difficult to articulate or explain in the context of a white dominant society. The voices of Japanese women, whose social locations were altered by transnational marriage and immigration to the country of their Western husbands, are marginalized or erased despite (and perhaps because of) their crucial importance in resisting white privilege and entitlement.

## **Method**

### **Storytelling**

Storytelling is a powerful method of illuminating and exploring experiences of oppression from the perspective of the subordinated or oppressed (Delgado & Stefancic 1993). Delgado and Stefancic (2012) point out that “a unique voice of colo[u]r” can offer its “white counterpart matters that the whites are unlikely to know” because of the “different histories and experiences with oppression,” and that “legal storytelling” can “recount [the] experiences with racism and the legal system” (p. 10). Weiner (2003), who writes extensively in the areas of family law and domestic violence in relation to the Hague Convention, emphasizes the importance of effective storytelling for abused mothers in their defenses in the Hague cases. For victims of domestic violence who crossed the border with their children, effective storytelling is essential to “ensure that they are listened to without bias and revulsion” (Weiner, 2003, p. 784).

This study aims to describe and analyze the stories of transnational marriages, divorces, and post-divorce experiences that are told by the Japanese mothers. During the interview sessions, I encouraged the mothers to tell their stories freely and extensively. Because I aim to maintain the power of storytelling, I attempted to translate not only what the mothers said, but also the tone in which they said it. I engage in content analysis by extensively quoting the stories of the mothers and experts. The powerful method of storytelling allowed me to capture their emotions, which were accompanied by their memories of transnational marriage, divorce, and life beyond.

The organizer of the group for returned Japanese mothers told me that most returned Japanese mothers become fearful that their abusive ex-husbands will find them. Coming back to Japan does not necessarily mean that they have stable lives; they have experienced something so damaging that they do not trust others anymore. No one but other returned Japanese mothers know their sufferings, rage, and grief—and thus I encouraged them to tell their stories.

Despite the fact that the Hague Convention’s purpose is to return relocated children to their habitual residence in order to resolve custodial issues (HCCH, 1980), mothers who relocate

with their children have a very negligible chance of being listened to in the courtroom upon their return to the habitual residence. Effective storytelling needs to refer to the “broader systemic pattern of gender socialization and coercive control” (Schneider, 2000, p. 230). Weiner (2003) continues to describe this systemic gender socialization pattern in detail by citing Schneider (2000):

Just as the question “Why did she leave?” is misguided, so is the question, “Why did she not litigate in a particular forum?” Both questions put the woman’s conduct under scrutiny, rather than placing the responsibility on the battering man. As Professor Schneider states, the question should be, “Why does society tolerate men who batter?” In the context of the Hague Convention, one might also want to ask, “Why does society allow batterers to use the courts to continue controlling their victims?” (p. 787).

Indeed, all the stories of returned Japanese mothers in this study cited the abusive fathers’ continuous use of the courts as a form of control.

### **Recruitment of Returned Japanese Mothers**

The most formidable challenge of this study was to find returned Japanese mothers willing to discuss their experiences given the Western propensity to label them as abductors. I recruited returned Japanese mothers through a support organization of returned Japanese mothers in Japan. The support organization of returned Japanese mothers circulated my contact information and request to conduct an interview by forwarding my e-mail to all members. The organizer advised me that there would be very few responses since most returned Japanese mothers do not want to talk about their experiences because: (1) they feel intimidated by words like the Hague Convention and arrest warrants for abductions; (2) they are reluctant to recall the past; and (3) they are struggling with children and work and have no time to participate in the study. The organizer shared a returned Japanese mother’s e-mail explaining why she could not participate:

I am still trembling with fear of his acts and language; he is incredibly self-centered to claim his rights [to the child] with no shame about what he has done to me. I am so terrified about something that I cannot even name. It is too difficult to even recall what happened and I do not think I can talk about it – not yet, at this point.

自分のした事を棚にあげて権利は主張する夫の 様々な言動がまだ怖くてたまらないです。この恐怖が何なのか自分でもわかりません。まだ現段階では一連のことを思い出すことも辛いですし、とても人にお話しできるとは思えません。

The passage exemplifies returned Japanese mothers' apprehension to talk about events that have been extremely traumatic.

The mother who contacted me, yet decided not to participate in the interview, wrote me to explain her current situation and expressed her wish to share her experience:

I don't think I can manage time to meet with you in person. I am busy every day, and realistically, I don't have time for myself. [...] I would like society to know what we have to say and what really happened to us; I look forward to the day that our voices will change the contradictions of the Hague Convention.

お会いしてお話するまでの余裕はないと思います。毎日忙しくて自分の時間など持てないのが現状です。 [...] こっち側の意見や現状を世間に知ってもらい、ハーグの矛盾点を変えられる日が来ることを心から願っております。

These few lines of e-mail messages indicate the substantial ramifications of returned Japanese mothers' terrifying past experiences and current struggles to bring up their children and put their lives back together. Domestic violence, which refers to behaviours that scare, intimidate or humiliate a woman to make her feel powerless so that she can be controllable (McLaughlin, O'Carroll, & O'Connor, 2012; US Preventive Services Task Force 2004; Wathen & MacMillan, 2003), shapes the experiences of all the returned Japanese mothers whom I have contacted, regardless of their participation in interviews.

### **Participants**

Participants in this study were all Japanese nationals: seven Japanese women and two professionals who have been supporting Japanese mothers through their difficulties in transnational divorces. In Canada, I interviewed a male counsellor (hereafter the Counsellor) at Japanese Social Services (JSS), a Toronto-based not-for-profit organization that provides counselling services for Japanese-speaking individuals and more than 30 immigrant Japanese women who seek support at JSS regarding transnational-divorce matters each year. In Tokyo, Japan, I interviewed a male lawyer (hereafter the Lawyer) who associates himself with a peer-support organization of returned Japanese mothers. The Lawyer is one of only a handful of Japanese barristers who have been representing Japanese women during their international divorces. I do not identify the organization for the safety and privacy protection of the returned Japanese mothers and their children.

Seven mothers were legally married to, had children with, and then separated from or divorced Western-born men. I interviewed four divorced Japanese mothers in Toronto between

October 2013 and January 2014. The divorced Japanese mothers are all acquaintances of mine whom I met through the Japanese community; they immigrated to Canada, had children with, and then separated from/divorced Canadian-born husbands. In November 2013, I traveled to Japan and interviewed three returned Japanese mothers whom I recruited through a support organization of returned Japanese mothers. I chose not to name the specific places where the interviews took place as they may render current residences identifiable. Nearly 30 requests were sent to returned Japanese mothers and I received four e-mails that showed interest in sharing their stories; three mothers participated in interviews. The duration of interview sessions ranged from one hour to four hours. Two mothers continued to contact me through e-mail after the interviews. One mother requested to have a follow-up interview over an Internet telephone (i.e., Skype), and we had an additional interview session for 45 minutes. The total interview transcription in Japanese is 165 pages, and the length of each transcription ranges from 11 to 35 pages.

#### **Interview Procedure**

After the purpose of the study and the issue of confidentiality was explained to the participants and the informed consent forms were signed, the interviews started broadly with the open-ended invitation: “Tell me about your transnational marriage and divorce.” In addition to this opening query, further questions were prepared in the event that participants did not spontaneously provide additional information. The topic areas included: (1) experiences as an immigrant mother, (2) accessibility to support services and their responsiveness to immigrant women, (3) stories of separation agreement and divorce proceedings in the Western legal systems, and (4) effects of the situation on the children. The interviews were conducted in Japanese, the participants’ first language, to elicit their experiences in depth. The interview sessions were digitally recorded with the permission of the participants. I transcribed the interviews and sent the transcribed text to the participants for review. After the participants reviewed the contents, I identified the key themes and topics, along with quotations to be used in the analysis. I then translated the selected quotations into English and analyzed them. I sent the English versions to each participant to achieve greater accuracy as the participants were all competent English readers.

#### **Ethical Issues**

The Human Participants Review Sub-Committee at York University has reviewed and approved my proposed study. Some descriptions are vague in order to maintain confidentiality; some participants told their stories in detail, yet requested that I not make use of some details.

Because I asked the participants to reflect upon their experiences of divorce, I anticipated that some might feel anxiety. Although some of the participants expressed their hurt feelings during the interview sessions, remembering how they felt during that difficult time seemed to deepen the understanding of their experiences as minority immigrant women who have undergone divorce.

Mayumi, a divorced Japanese mother in Canada, sent me the following e-mail:

When I was reading my interview transcript, many things came back to me. I thought that I forgot much of what happened and how I felt, but they were there. It reminded me how far I have come and made me cry. Thank you for letting me participate in your study.

インタビューを読んでもたらいろんな思いがよみがえって来ました。もう忘れてしまったと思っていた気持ちがそこにあって、頑張ってきた自分を思い出して泣いてしまいました。インタビューに参加できてよかったです。ありがとうございました。

Miho and Yuko, returned Japanese mothers, also expressed her gratitude in their e-mails. I am thankful that the participants were satisfied with taking part in my study. The detailed explanation of the purpose of the study and the issue of confidentiality seem to have helped the participants discuss their experiences without becoming defensive or suspicious.

### **Demographics**

During each mother's interview, I obtained basic demographic information about the mother and the father, including ages, education, and occupation. I also encouraged them to tell a brief background history of the marriage, including the years of marriage and divorce, as well as to disclose the ages and genders of the children and their levels of adjustment to the current situation.

#### **The Mothers**

All seven women were married to Western-born men. They became mothers within the first two years of marriage. Six mothers were in their late 30s to mid 40s and one mother was one generation older than the rest. The Japanese mothers' education levels were generally high: all but two had Japanese university degrees, one had a Canadian Master's degree, one had a Canadian college diploma, and one nearly completed an American university degree in addition to her Japanese undergraduate degrees. Four mothers had study experiences abroad in the United States or Canada prior to meeting their husbands. Six women were working full-time in Japan and one was still a student immediately before her arrival in her husband's country. Three

women were working full-time in the country where they lived at the time of separation, which refers to the time that the couple no longer lived together.

The names of the mothers are pseudonyms and no description can identify a particular individual. Because six mothers in this study were born in the 1970s, I referred to each mother using a popular name for baby girls born during the 1970s: Naomi, Mayumi, and Kumiko for divorced Japanese mothers in Canada, and Yuko, Kaori, and Miho for returned Japanese mothers in Japan. For a mother who divorced in the 1980s, I used a pseudonym, Kazuko, which is one of the most popular names for baby girls born during the 1940s and 1950s.

### **The Husbands/Fathers**

All the husbands but Kazuko's were in their mid 30s to late 40s. The age difference between each couple was generally small, between three and seven years, except for one husband who was 12 years older than the wife; three husbands were younger than their wives. Because all of the women were legally married to the men, I refer to each man as the husband regardless of each woman's current marital status (four divorced, two separated, and one remarried). I sometimes refer to the husband as the father when I describe stories related to the child(ren). The nationalities of the husbands of three returned Japanese mothers are Australian, Canadian, and American. The husbands of four divorced Japanese mothers in Canada are all Canadian-born Canadians. Their education levels are generally very high: all but two have university undergraduate or postgraduate degrees. Five are currently employed and three of them, including a lawyer and a university professor, hold high-profile occupations.

### **First Meeting with The Husbands**

Three women met their husbands in Japan and four women were travelling/studying in their husband's countries when they met their husbands. Six women were in their mid to late 20s (25, 26, two 27 and two 29), and one woman was 19 when they met their husbands. Of the three husbands who lived in Japan, two were working as assistant English teachers in Japanese high schools with the Japan Exchange and Teaching (JET) Programme established by the government of Japan in 1987 (JET Programme, 2013). The other husband was stationed in Japan with his military mission.

Of the four women who were staying in the country where they met their husbands, three women obtained Working Holiday visas. A Working Holiday visa is a travel permit for a young individual that is valid for up to one year while he/she undertakes employment to supplement travel expenses (Foreign Affairs, Trade and Development Canada, 2013). Working Holiday visas

have been issued for Japanese citizens between ages 18 and 30 since 1980 in Australia and since 1983 in Canada. The other woman had a student visa. For two women, the main purpose of their extended stay in a country with English as an official language was to study English; the other two women were seeking overseas experiences.

The JET Programme and Working Holiday visa are often thought to be two major contributing factors to the increase in transnational marriages between Japanese women and Western-born Caucasian men. The JET Programme encouraged non-Japanese individuals to work in Japan for up to five years (JET Programme, 2013), and Working Holiday visas enabled young Japanese people, particularly women, to travel or study in a Western country for up to one year (Foreign Affairs, Trade and Development Canada, 2013). In addition, the practice of Japanese women marrying American military men stationed in Japan constitutes what is considered a common pattern of transnational marriage; there is a nickname for the Japanese wives of American military men, known as *ame-zuma* and *mili-zuma*, or military wives (Amezuma, 2014). Therefore, I was not surprised to interview mothers involved in three of the most common settings of transnational marriage.

The Counsellor in Toronto shared his observations about the way that Japanese-born women meet and marry Canadian-born men in Canada. I learned that the term *girioli* refers to the practice of applying for a Working Holiday visa at the age of 28 or 29, which is close to the upper age limit of 30. His story reveals an alarming reality about transnational marriages. According to the Counsellor, a Working Holiday visa lets a Japanese woman stay in Canada only for one year. During this time, a Japanese woman often starts dating a Canadian man, and then at the peak of the honeymoon period, she has to leave for Japan. At that time, the Canadian man simply proposes to her in an attempt to ensure her continued residence. At the beginning of the relationship, the future may look promising, and transnational couples tend to rush into marriage only because the woman's working holiday visa is expiring. This type of marriage has a high likelihood of falling apart, according to the Counsellor, because the two people get married without getting to know each other, especially as some women cannot verbally communicate well with their husbands at the time of marriage. Considerable numbers of transnational marriage cases unfold in this way, with Japanese women soon facing unexpected realities that may include domestic violence. According to the Toronto Consulate-General of Japan (personal communication, February 12, 2014), in 2013, 78 Japanese women reported marriages to Canadian men, and 10 Japanese women reported divorce from Canadian men at the Toronto Consulate-



General of Japan. The numbers of transnational relationships are actually much higher because these numbers do not include common law relationships.

### **Marriage and Divorce**

The duration of marriage, including the period of common law relationships (one case) and reconciliation (two cases), ranges from seven to 11 years (the mode is seven years). One case of reconciliation happened approximately one year after the couple first separated and lasted for three months. In the other case, the couple moved back together for one year after five years of living apart.

The mothers who were born in the 1970s met their husbands between 1995 and 2001 and were married or started co-habitation within a relatively short period of time of one to two years. At the time of the interviews, the time that had elapsed since separation ranged from 11 months to 10 years. In the case of Kazuko, whose divorce took place in the 1980s, it has been over 30 years since her divorce.

### **The Children**

All cases but two involved more than one child and in the cases with multiple children, at least one child was under two years old at the time of separation. The age of the oldest child at the time of separation was seven and the youngest was eight months. Four families had only female children, while three had at least one male child.

All the mothers had custody of the children: two had sole custody and the others were residential parents/primary caregivers, who looked after their children the majority of the time. That is, two mothers had exclusive rights and responsibilities for making decisions for their children, and five mothers had joint custody—the mother and the father had joint decision-making rights to the children, yet the mothers fulfilled most of the child-rearing responsibilities. In three of these joint custody cases, the fathers had the children approximately 40% of the time, which is known as shared custody.

All the children of the three returned Japanese mothers witnessed the father's domestic violence against the mother. The older children in all three cases verbally expressed their fear of, and resentment toward, their fathers and one resisted seeing the father. One returned Japanese mother revealed stories of the father being directly abusive towards the child; his child developed an issue of non-attendance at school.

In this chapter, I discussed the theoretical framework and method of my study. Beginning in Chapter 3, I use interlocking analysis to explore how Japanese women's social locations were

altered by transnational marriage and immigration to the country of their Western-born husbands, and reveal the extent to which multiple vectors of identity—gender, financial situation, and race—interact and overlap in ways that contribute to systematic oppression and discrimination. Throughout Chapters 3 to 8, I include the stories, comments, and information that I obtained by interviewing two professionals, the Counsellor and the Lawyer, who were the key informants on international divorces and cases related to the Hague Convention. In Chapter 3, I portray the marriages of the six mothers: three divorced Japanese mothers in Canada and three returned Japanese mothers in Japan. I describe the challenges and distress, including domestic violence, experienced by the mothers in their marriages. I add an asterisk after the returned Japanese mothers' names to distinguish the stories of the divorced Japanese mothers in Canada from those of the returned Japanese mothers in Japan.

### Chapter 3: The Marriages

In this chapter, I focus on the stories of the six mothers who were divorced during the last decade. Although the mothers' individual experiences are unique and their social locations, including financial situations and occupational backgrounds, are distinct, I found many commonalities in their stories. I begin by describing the experiences that were shared by the mothers during their marriages. An asterisk after a name indicates returned Japanese mothers.

#### **Fathers' Negligence of Responsibility and Domination**

During the marriage, the mothers in my study faced their husbands' negligence of responsibility or domination (or both) regarding child rearing. The mothers were almost fully responsible for childcare and the fathers generally had minimal involvement in parenting during their marriages. In particular, the returned Japanese mothers share similar stories with regard to their husbands' lack of interest in their children. Yuko\* emphasizes her husband's disinterest in the child and Kaori\* highlights her husband's irresponsible attitude towards the children throughout her stories. Miho\* explains that she was basically the only caregiver of the children and that her husband failed to make his children a priority:

I always supported him financially because it took him a long time to support the household. Meanwhile, he never helped me with the children; taking them to and from day care, grocery shopping, and household chores were all my responsibilities – basically I did 90 % of all the household work by myself. When I became exhausted and finally got him to look after the children, he would take them to his mom's, leave them with her, and then go hang out with his friends [...] His friends and family came before the children. Even when I was sick in bed, he didn't look after the children and would go out whenever someone asked him out, so I ended up putting the children to bed. Then he came home after the children finally went to sleep and said, "Oh, the kids were easy, weren't they?"...

常に彼を支えてはいたんです。彼、一本立ちできないんで。その間も育児の協力とかはなく、保育園の送り迎えとか、買い物とか家事とか、基本 90 パーセント私がやってました。で、相当疲れてしかたなく彼にあずけると、彼はそのまま実家に子どもを連れて行って、子どもは親にあずけてそのまま遊びに行ったり [...] 子どもができてもお友達や家族が優先。私が病気になっても、誰かに誘われると子どもの世話もせずどこかに行く。で、私が何とか子どもを寝かしつけたりしていると、子どもが寝た後帰ってきて「ああ、何も無かったんだね」って...

Whereas the husbands of the returned Japanese mothers were not interested in the children, the husbands of the divorced Japanese mothers in Canada showed some interest in how the children were raised. Nonetheless, their interest in the children was expressed through criticism of their Japanese wives' child-rearing practices. The husbands simply imposed their ideas of what a mother should do into the Japanese mothers. Kumiko was a stay-at-home mother, and always alone with the children as her husband came home late every night. Although he never looked after the children, he and his mother often voiced their opinions. In dealing with their criticism, Kumiko stood up for her perspective and defended her decisions:

The first argument raised [by the husband] was the point of whether a mother should share a bed with her child; he told me that it was absolutely out of the question. My mother-in-law told me, "My babies slept in a separate room since they were two weeks old." But I said, "I am different from you. I have my own idea of parenting which research supports as effective, so I will keep my way."

一緒の布団で子供と親が寝ることについての議論から始まりますよね。[...]あり得ないよねって言われちゃうわけですよ。まず姑さんが「生後2週間で、赤ちゃんは別室に寝かせてたわ」なんて言うのと、「私はちがいます。私の考え方はこうで、researchもあるので、私はこういう風にやらさせていただきます」

I find Kumiko's approach extremely courageous as finding supporting documents to defend one's opinion is not something that many Japanese mothers can do. For example, Naomi accepted her husband's opinion and gave up sleeping with her daughter—an act that represents her powerlessness in the face of dominant opinions.

Although co-sleeping – the practice of parents sleeping with their children – is common in Japan, it is considered deviant in mainstream Western society. Therefore, co-sleeping is often explained as a cultural difference; however, I contend that the difference in opinion regarding co-sleeping represents a power imbalance. By blaming Japanese culture, a Western father can dismiss a Japanese mother's values and beliefs. Razack (1998) warns of the dangers of "the culturalization of differences" (p. 17), by which she means the practice of describing something that the dominant group does not understand as cultural difference as a means of concealing power relations. The underlying notion of culture as a cause of difference functions to code the practices of the dominant group as normal and those of subordinate group as abnormal and thus in need of correction; that is to say: *we* will change *your* ways in order for you to become like *us*. I

argue that the co-sleeping issue shares much in common with Japanese sole custody insofar as an Orientalist mentality shapes Western perspectives of the practice.

Kumiko's assertiveness contradicts the image of the immigrant Japanese woman who is docile and needy. There are many other women in this study whose behaviors overturn such stereotypical images of immigrant women. For example, three women in this study financially supported their household entirely for an extended period of time.

Miho\* started to work at a Japanese restaurant immediately after her arrival in Canada and her husband started school the following year. She managed to earn approximately \$4,000 a month as she worked at a high-end Japanese restaurant. Although her husband worked some evenings, it was not nearly enough for the household expenses. As she underscores by saying, "Without my income, he couldn't go to school", she was the breadwinner for at least five years until her husband started to work full time.

Miho\* was not only supporting the household; she went to a French language school for immigrants in the morning and worked in the afternoon and/or evening. Her French language skills soon improved to the point where she was employable and she started to work in French. She was a stay-at-work mom who went back to work soon after childbirth. Although Miho\* may sound like a superwoman, she was not the only mother in this study supporting an entire household. Mayumi found a full-time job upon her graduation with a Master's degree in Canada, and supported the household for over six years while her husband was working on his PhD. The stories of Miho\* and Mayumi involve capable and hard-working immigrant Japanese women who are willing to undertake the substantial responsibility of both supporting the household and engaging in childrearing. Nonetheless, their contributions were neither recognized nor compensated by their husbands.

### **Infidelity**

Although Mayumi was happily supporting her husband who was pursuing his academic career, she noticed the change in her husband's attitudes during the final year of his doctoral program. He seemed depressed, and didn't talk much at home. She wondered if he felt guilty about being a student and not working even though he was a father, so she asked him what was bothering him. He answered that he had met somebody, and she was somewhat relieved. "I know it sounds weird, but I felt better because I found out that he wasn't sick or anything," says Mayumi, "There was a reason for him to be quiet at home." She seems to have been more confused than heartbroken by finding out about her husband's interest in another woman.

Nobody would argue against infidelity's damaging effect on marriage. Mayumi's emotional pain was tremendous, yet she was desperate to keep her family together and begged her husband to stay with her. She recalls her devastation, saying, "It was right out of the blue...we had children together...He was trying hard for us to stay together, but of course, it didn't work." Although Mayumi's story of her husband's affair is heartbreaking, she appears to sympathize with his sense of guilt.

Marital infidelity can happen to any marriages and it is difficult for anybody to cope with it; however, immigrant Japanese women who face their husbands' infidelity have additional difficulties because they unlikely have family and friends for emotional support. Unfortunately, marital infidelity is a common cause for transnational divorces, according to the Japan Federation of Bar Associations (2011) and it also appears in Yuko\*'s story; however, she told it in a way that defied common expectations. Whereas Mayumi's husband was aware that he was hurting his wife and children, Yuko\*'s husband did not feel guilty about his infidelity. Her husband committed infidelity three times during her seven years of marriage. She describes an early episode in Japan:

He cheated on me for the second time when the baby was born. [...] Only about seven days after our son was born, he started to greet me every morning, saying, "Good morning. Have you found an apartment yet?" I ignored him like, "What are you talking about?" Then he said, "Why don't you go back to your mother's for a while?" [...] But I stayed with him after all because I didn't want my newborn child to grow up without the father.

息子が生まれた頃浮気されたんです。それも2回目だったんです。[...]。子どもが生まれて7日目くらいのころ、毎朝、起きたら "Good morning. Have you found an apartment yet?" って、私は「何いってんの」って感じで無視してたら、今度は、「しばらく子どもつれて実家に帰ってくれ」って。[...]でも結局、生まれたばかりの子に父親を知らないで育てほしくないと思って頑張って我慢して、一緒にいることにしました。

Yuko\* forgave her husband in order for her child to grow up in the presence of his father. The two Japanese mothers see the fathers' presence in their children's lives as important and decided to forgive their marital infidelity.

Shortly after Yuko\*'s arrival in the United States, her husband committed infidelity again while she was trying to adopt a new environment. She shares the story of her realization that infidelity is a form of abuse:

Right after we moved to America, he cheated on me again and didn't come home, but I had nowhere to turn for advice. Out of desperation, I went to a consultation office at a local police station. The police told me that what he did to me was emotional abuse. I didn't know cheating is domestic violence. [...] He cheated on me and gave me a sexually transmitted disease...

アメリカに来てすぐまた浮気されました。家に帰ってこなくて相談するところがなくて、しょうがなくて警察の相談所に行ったんです。そうしたらそれはメンタルのエイズだって言われました。浮気もDVだって初めて知った。[...]浮気されて性病も移されて...

Yuko\* had no idea as to where to receive support to manage her emotional pain. Out of desperation, she knocked on the door of a local police station, and the police named Yuko\*'s husband's behaviours as emotional abuse.

Yuko\*'s husband's irresponsible behaviours were also affecting their son's emotional well-being. He started seeing another woman, and didn't come home too often. The rare occasion when he came home, he would stay home briefly and would leave right away. Their son, who was three years old at the time, became confused. Yuko\* recalls a shocking incident that left her son a long-lasting emotional damage:

My son got upset and said, "Why is he going?" so I said, "Let's try to call him." When we called him, we could hear the conversation on the other side of the line. My son said, "Daddy, I wanna talk to you," and he replied: "Do not call me any more." At that point, my son's face dropped. [...] He won't talk to anybody but me since then. He stopped smiling, so I took him to a therapist and was shocked to be told: "I can't do anything without the father." [...] I think that my son has been scared by that incident.

息子があわてて「何でお父さん行っちゃうの」って、「じゃ電話してみようか」って電話したら、むこうの会話が聞こえて「Daddy, I want to talk to you.」って言ったら「Do not call me any more.」って息子に言ったんです。その瞬間から、息子の顔が変わって、[...]だれとも話さなくなっちゃった。笑わなくなっちゃった。それで、therapist のところに連れて行って相談したら、「お父さんが居ないと何もできません」って言われてしまって。[...]そのせいか、今も[...]メンタルの傷になってると思います。

This is a powerful example of how a brief, yet irresponsible comment of a parent can inflict long-term harm on a child. Yuko\*'s husband's child abuse took the form of neglect and verbal abuse.

The husbands of the returned Japanese mothers also used intimidation and verbal abuse as forms of domestic violence against their wives.

### **Intimidation and Verbal Abuse**

I sensed significant emotional pain and substantial distress when I listened to the women's stories of emotional abuse. Their stories are powerful testaments to the devastating effects of emotional abuse. Miho\* describes her husband's brutal emotional abuse:

Day after day, he yelled at me. He flew off the handle and slammed the door. [...] He was totally out of control. He brought up something I did or I said to him long ago and accused me endlessly. Nothing could stop him. [...] His facial expression and voice were so frightening that I had no idea what he was saying. I cried until I collapsed on the floor. His body language was terrifying and I lost words. No way to discuss anything with him.

連日、連日、それは怒鳴られて。癩癩がひどくて、ドアをたたく。[...]手が付けられない。すごいさかのぼって昔のことを「お前は、俺にあんなこともした、こんなことも言った」って、もう止められない。[...]表情や声が怖くてもう何を言ってるか分からない。私はもう床に倒れ込むまで泣く。ジェスチャーとか激しくて。恐怖で言葉が出なくて、話し合いとかできない。

Miho\*'s story embodies Edleson et al.'s (2013) term “emotional terrorizing” and her husband's acts could certainly “induce fear and terror” (p. 70). As I described in Chapter 1, yelling and slamming doors are typical examples of emotional abuse in the form of intimidation. Yuko\* and Kaori\* also faced similar emotional abuse or emotional terrorizing, and the major form of their husbands' emotional abuse was verbal abuse.

Yuko\*'s husband frequently recreated events during the marriage and divorce proceedings to enhance his own image. Yuko\* describes an incident that exemplifies the practice of recreating an event:

I had no choice but bringing my son with me when I went to the emergency ward [for my illness] on one night because my husband wasn't home. He was drinking when I left him a message on his cell. When he finally showed up at the hospital, he was angry and blamed me for taking our young son out in the middle of the night. I was like, “That's not right.” He tried to shift blame away from himself to make himself look better.

夜中に緊急病棟に行った時、息子を一緒に連れてったんです。旦那がいないからしょうがない。携帯に電話入れてメッセージ残しました。その時は飲んでて、やっと病院にやって来たと思ったら、こんな幼い子をこんな遅い時間に連れ出すなんて、って私を怒りだすんです。私「あれっ、違うでしょ」と思って。自分に有利になるように怒りの矛先をすりかえたんですね。



Yuko\*'s husband was trying to control her by making her feel guilty instead of apologizing for his absence. In my study, expressing anger to attain selfish ends seems to be many husbands' preferred way of controlling the situation.

The Counsellor provided an example of verbal abuse based on what his clients frequently tell him: Canadian husbands often use their Japanese wives' limited ability in English to control them. A husband constantly tells his wife that she can't speak English, which lowers her self-esteem. By making her feel inadequate, he can make her feel like she has no choice but to listen to him; his aim of securing his dominant position is achieved. By using the dominant language, a Canadian man can easily silence an immigrant Japanese woman who does not speak his language well. The assumption that a person who lives in an English-speaking country should use English is an example of dominant entitlement. The fact that a husband's language is the powerful language in a relationship contributes to a power imbalance. The theme of power imbalance regarding the language appears in many mothers' stories.

The stories of Naomi and Kaori\* share similar features in their use of the term "control freak." Naomi's stories exemplify the frustration of not being able to address one's point of view in the dominant language of English. She talks about her feelings of vexation in dealing with the dominant language during marital and post-divorce conflicts:

He is a control freak. When I don't say yes, he will get angry. He has always been that way, but I don't remember much of the details – small and large, too many to remember. He is really friendly to others. He is only grumpy with me. [...] It's very frustrating because I can never get him to understand me. When we fight, I can't say anything that I want to say – I end up saying nothing. When I look back, the language barrier was the biggest problem for our marriage. The frustration that I couldn't express myself made our marriage problematic.

Control freak ですね。Yesって言わないと怒りだすみたい。昔からそうです。もう、あんまり覚えてないですけどね。小さいことから大きいことまでいっぱいありすぎて。他人に対しては、ホントに愛想がいいんです。わたしにだけ不機嫌 [...] わかってもらえないもどかしさっていうのが。結局、喧嘩すると言いたいことがもっと出てこないんです。言いたいことがまったく言えなくなっちゃう。言葉の壁が一番大きかったです。表現できないもどかしさ、っていうのがあだになりました。

Naomi confirms a common characteristic of domestic violence: her husband, who is friendly to others, controls his foreign-born ex-wife with his verbal abuse. Although she describes her ex-

husband as a “control freak,” she returns to the theme of her own shortcomings in language skills. She has a tendency to blame her relationship problems on her language skills rather than her husband’s tactic of intimidation (i.e., not allowing her to express her feelings and opinions).

Kaori\* describes the way that she learned to perform a state of learned helplessness (Seligman, 1972); she realized that it was not worth arguing with her husband because their fights would never end unless he perceived that he had won:

He was a control freak. [...] He was always all about himself. He wouldn’t take anything but yes from me. He had a well-oiled tongue and could talk black into white every time we disagreed. He wouldn’t listen and I couldn’t carry a normal conversation with him. [...] When he didn’t get his way, he would stay angry for a long time; he would continue name-calling and repeat the same thing over and over for hours and hours. I remember he complained all night long when I had to go to work the next day. Before long, I concluded that it was better off to let him have his way.

Control freak です。[...]いつも自分のことが最優先。必ず自分の思いどおりにしないと納得しない。口がうまくて言い争いをすると丸め込まれてしまう。人の話を聞かない。普通に会話が成立しない。[...]どんなときでも思いどおりにしなければ、延々と怒られ、ののしられる。何時間でも同じことを言い続ける。翌日仕事があるのに、夜通し文句を言われたこともあった。そのうちに、言いなりになった方が簡単だという結論を出すようになった。

The issue of learned helplessness also appears in Kumiko’s story. Although she did not realize that her husband’s behaviours were verbal abuse, during her discussion of their arguments, she started to remember many occasions when he overpowered her.

Kumiko describes how her social location shifted dramatically after her immigration to Canada. Her story exemplifies the interlocking system of oppression (Razack, 1998). Kumiko vividly illustrated her social location as a minority immigrant woman who lived with a man who belongs to the dominant group:

He was a control freak. I mean, I was always walking on eggshells. Living in a country that is not Japan and speaking in a language that was not mine, I started to feel like I was inferior. Then, because I didn’t grow up in this country, I didn’t know how to use public services; I didn’t know how to pay for gas or hydro. [...] He had control over our marriage. [...] He was psychologically overpowering me. I needed him when something happened. When something happened to me somewhere outside of the home and I didn’t understand it, I would then ask him what it meant when I got home. He would explain

and I would have to accept his explanation. I thought that I would have no choice but to accept his explanation in order to live here. For example, when I complained about some terrible customer service I received, he became upset and told me that the way I felt was wrong. He was controlling everything. He held power. When he lost his temper and dumped it on me, then there was no way for me to fight against him because I would get lost for words. He pushed me around, and jumped down my throat. [...] I couldn't talk back in a fight, so I got stressed out. I couldn't say a word because I couldn't bring it out. It was not worth saying anything, anyway. I was like "Why am I still translating from Japanese to English when I am super upset." It was simply troublesome, so I became silent. I was silenced. [...] After all, he is the center of the world. In order to live with him, I had to adopt his ways. [...] I understand Japanese women who get pushed over the limit and run away... women who face transnational divorces in a foreign country have different experiences from ones in Japan.

Control freak っていうか、ビクビクして生きてた。やっぱり日本じゃない国で、自分の言語じゃない言葉で話すことだけで、まずそれだけで自然に劣等感が生まれる。で、生まれ育った国ではないので、公共の施設の利用の仕方もわかんない。ガス、電気代の仕組み、支払い方もわかんない。[...]旦那が control することが多い[...]精神的にもけっこう押しえられているところは、少なからずあったと思います。何かあったら旦那を頼んなきゃいけない。例えば、何か外でありました。理解できません。そうすると旦那に説明を求める。え？旦那がこういう解釈だとなってしまうと、受け入れなきゃいけない。ここで生活していくためには受け入れなきゃいけないかなって。例えば、こっちのカスタマーサービスのひどさを家で愚痴っては旦那からたしなめられました。[...]旦那が、いろんなこと control している。握っている。カッとなって、ワッと押し付けられると、もうこっちから、たとえば、けんかしようにも、言葉がでてこない。押し付けられる。ワーっと言われる。[...]もう、喧嘩になっても言えないし、stress はたまってくし、言わなかったですね、パッと出てこない、言うのもめんどくさくなっていくんですよ。なんでわたしこんなに怒ってるのに、いちいち、日本語から英語に変換しなきゃなんないんだって、そんな面倒くさいことしたくないから、黙ってた。黙っちゃう。[...]結局彼中心になっちゃうんです。彼と生活していかなきゃなんないから、適合していかなきゃなんないから。[...]逃げるまで追いつめられる人も少なからずいるんじゃないかと思いますよね。…外国で暮らしていて離婚に至る女性というのは、日本での結婚とは、違うと思いますね。

It is remarkable to hear the repetition of the same English expression, "control freak," by three different mothers. According to Longman Dictionary of Contemporary English (2014), a control freak is "someone who always wants to control situations and other people". It seems that this

English concept most effectively describes their ex-husbands and the expression, control freak, is the three immigrant Japanese mothers' common language to depict a controlling person.

Kumiko articulates her oppressive situation as an immigrant woman who had to use her second language in her marriage, and analyzes the ways that her husband overpowered her. Nonetheless, she does not name her situation as domestic violence. Although she explains her husband's controlling behaviors and her feelings of anguish and irritation, she does not recognize his behaviour as abuse, saying, "I look back now and think that it may have been somewhat like emotional abuse." Kumiko is the woman who found supporting documents to defend her opinion, and it is a startling example of the difficulty to name one's husband's behavior as domestic violence.

The problems of domestic violence extend to difficulties in proving oneself, verbalizing, and self-blame. According to the Ontario Ministry of the Attorney General (2012), most men who are abusive at home do not engage in abusive behaviours at work or with friends. Therefore, their violence and abusive behaviours are rarely seen in public and people tend not to believe women when they reveal their sufferings from domestic violence. Furthermore, abused women are often accused of provoking or contributing to abusive behaviours; thus, many women are reluctant to admit or voice their abuse. In addition, abused women tend to normalize their abusive situations and they often blame their abuser's behaviours on themselves. The Counsellor introduces the common attitudes of Japanese mothers who come to talk to him at JSS:

A mother says, "It's me. He hits me because I'm not behaving." [...] I don't hesitate to tell her that the kids do not need a father who only has negative influences on them. Then she would say, "...but the kids need Dad, don't they?"... I hear this all the time. [...] I understand that moving forward can be a scary thing, but I see a kind of brainwashing; these mothers are sucked into their husband's control.

「わたしが悪い」みたいな、「わたしが悪いからなぐられる」みたいな。[...]子どもに悪影響しか与えないようなお父さんだったならいない方が良いですよ。ってはっきりと言います。「でもやっぱり子どもにはお父さんが必要だと思うんです」って言うお母さん大勢いますね。[...]新たな一步を踏み出す恐怖がそうさせているのかもしれないですけど、むしろ、そう洗脳されてるからなのかも。

The Counsellor's portrayal of the self-blame in which abused Japanese mothers are often engaged is alarming as it suggests that it can be a long process for them to even recognize their situation as domestic violence. A manipulative man can control his wife/partner without her realizing that she

is abused. I end this chapter with another form of emotional abuse that women often do not recognize as abuse, and from which Kaori\* and Naomi suffered: namely, financial abuse.

### **Financial Abuse**

Kaori\* faced financial abuse from the very beginning of her marriage. Financial abuse Kaori\* experienced are her husband's withholding money, not involving her in decisions about money, and hiding income sources.

When she first met her husband, he had his own business; however, he seldom brought money home after they got married. Fortunately, she had a full-time job and earned enough for the two of them to survive. For over two years, until a few weeks before she had a baby, she worked full time and solely supported a household. Shortly after the child was born, she went back to work because they had no money at home. At this point, she realized that the husband was not working at all:

By the time the baby was eight months old, we were fighting everyday over financial issues. [...] He disappeared when we had no money whatsoever. We were with no electricity because we couldn't pay the hydro bills. [...] I had to deal with frequent telephone calls and visits from the creditors.

長女が8ヶ月の頃には、連日お金のことで喧嘩になって[...]極限までお金がなくなって家を出て行った。[...]電気代を滞納し電気を止められたほど [...]ひんぱんに催促の電話や訪問を受けた。

Kaori\* was able to survive with her income after he left home because she was the one who supported the household in the first place. Financial abuse is domestic violence and when a wife is not employed it can put her in a life-or-death situation.

Naomi experienced similar financial abuse to Kaori\* and her husband did not have a regular income either. The difference was that Naomi was not working because her language skills were not sufficient, which further placed her in a vulnerable position. She recalls how she handled family finances:

He never gave me money for living expenses from the beginning [of our marriage]. When I said, "We don't have money anymore," he gave me \$500 and then by the time I was about to run out of it, he would give me a little bit more. No regular income whatsoever. It was worrisome because I had no idea when he would bring money home next. [...] He was always irritable, but men tend not to say much about what's going on, don't they? I should have taken a hint. [...] I shouldn't have married him when I didn't

speaking much English.

最初から生活費をちゃんとくれなかった。「お金がないんだけど」って言うと500ドルくれる。次にまたなくなってきた頃にまた少しくれる、みたいな感じで、定収入ってなかったですね。次いつ入ってくるかわかんなくて困りました。[...]彼はいつもイライラしてて、でも男の人って理由を言わないじゃないですか。私をもっと察すればよかったんでしょうけど。[...]私が英語があまりしゃべれない時点で結婚してしまったのが間違いだったのかもしれない。

Naomi's husband never disclosed his financial situation and continued to leave her out of decisions. Rather than hold him responsible for deceiving her, and being unreliable as a husband and father, she expressed regret of her own innocence. Naomi often started a sentence with "I should have," or "I shouldn't have." I wonder if her interpretations of her situation were influenced by her husband's concerted attempts to make her feel as though she were to blame for all of their marital difficulties. Indeed, controlling husbands can use emotional abuse to make wives feel responsible for all the problems in their marriage.

As described in this chapter, all of the mothers in this study were victims of emotional abuse during their marriages regardless of their levels of awareness. The forms of emotional abuse that the Japanese mothers experienced during marriage included verbal abuse, intimidation, and financial abuse—all tactics designed to lower their self-esteem and inculcate a sense of inferiority. The problems surrounding domestic violence include difficulties with proving oneself, verbalizing, and self-blame. In the cases of emotional abuse, in particular, the mother's stories suggested that it was difficult for them to name their situations as abusive or recognize themselves as victims of domestic violence. In the following two chapters, I focus on the mothers' experiences from the time of their discussions of separation to their negotiations toward separation agreements or divorce settlements. I first describe the experiences of the divorced Japanese mothers in Canada in Chapter 4. Their stories illuminate certain characteristics when they are contrasted to the stories of the returned Japanese mothers, which I discuss in Chapter

#### **Chapter 4: Emotional, Social, and Economic Challenges of Divorced Japanese Mothers**

When facing separation, a woman faces many challenges—emotionally, socially, and economically. During the extraordinary time of marriage breakdown, painful emotions and feelings, such as initial shock, sadness, anger, loneliness, and self-blame, are often difficult to manage. An immigrant woman of colour can be further marginalized by her divorce, which complicates her experiences of separation/divorce. In this chapter, I examine the experiences of the divorced Japanese mothers in Canada in three areas: the emotional effects of separation, social support, and legal matters, including custodial/living arrangements and support payments.

##### **The Emotional Effects of Separation**

For the divorced Japanese mothers residing in Canada in my study, coping with the initial shock of finding out their husbands' intentions to divorce was the first challenge that they had to overcome. Three divorced Japanese mothers reacted to the beginning of their separation in similar ways, saying, "I didn't see it coming." They were all busy caring for their young children, and trying hard to be good mothers in their husbands' countries.

Although Kumiko was astonished at her husband's intention to divorce her, she took a matter-of-fact approach to the event. In a somewhat detached tone, she says, "It's better to be apart than unhappy together." Nonetheless, her detached tone disappears when she talks about her children: "I'm gonna get the son," said her husband, "so you can have the daughter." She recalls how upset she was about her husband's insensitivity, saying, "He did not understand our son needed me as much as our daughter."

Naomi was also in shock after learning the reality of the future of her marriage. After seven years of marriage, her husband filed for personal bankruptcy. Naomi was, however, rather sympathetic toward his situation and tried to see the role that she played in the events leading to their separation:

He was on the edge and I don't think I was very helpful. But I didn't know. ... He said "It's not gonna work." It was a total out of the blue to me; I was like, "What? You can't say it just like that." [...] Financial issues were the cause of our divorce. I couldn't support the household. I didn't work, I mean, I wasn't able to work. [...] I had no idea that he had almost no income, until the time we separated.

もういっぱいいっぱいだったんですね、彼も。私も協力的ではなかったと思います。でも私は知らなかった。…で、彼から“*It's not gonna work.*”って言われた。私にとってはいきなりだったですね。「えっ、突然そんなこと言われても」みたいな。[...]私たちの離婚は、経済的なことが原因だと思います。私が家計をサポ

ートできなかつた。私が働かなかつたから、つていうか働けなかつた。[...]彼に収入がほとんどなかつたつてことを私、離婚するまでまったく知らなかつたんですよ。

The husband is the one who should take responsibility for not telling her about his lack of income, yet she feels guilty about her lack of ability to work. The husband's lack of a sense of responsibility also features in Mayumi's stories of reconciliation.

The year that Mayumi's husband finally obtained his PhD, he moved out. He found a place close to where the children lived, and visited them almost everyday. A year later, the husband proposed the reconciliation of their marriage. He found a one-year contract position in another city and told her to start all over again in a place where he could keep a distance from the woman with whom he was having an affair. Mayumi was struggling with child care and work responsibilities after separation; she thought that getting back together would be best for the family, so she quit her job and moved in with him. Although their reconciliation was his idea, he could not forget the woman. Mayumi recalls her painful past:

He cried in bed every night because he missed her. Having seen him crying for another woman, I was like, "why am I here?" [...] I had to look after the children in a new city where I had neither job nor friends. He, who I thought I could rely on, was no help, and I started to lose my mind. I wasn't sure what would happen, but I wanted to go back to Toronto. [...] I wanted to go back to the place where I would have a better chance to find a job, and, at least, I have friends. After all, it lasted for only three months...

その人に会えないつてことで、毎晩泣くんですよ、ベッドに突っ伏して泣いてんですよ。それを見てたら、私何のためにここにいるのかなあつて、[...]、結局。でも、私も、知らないところで、仕事もない、友達もないところで子供抱えて、頼りにしてた彼そんなだし、わたしまでおかしくなつてきちゃつて、精神的に。で、この先どうなるかわかんないけど、とにかくわたしはトロントに帰りたい。[...]仕事もトロントの方がまだ可能性があるから、少なくとも友達がいるから、で、そつちにかえりたいつて。結局3ヶ月で...

Although Mayumi does not blame her husband for either their separation or their short-term reconciliation, she expresses her distress regarding the emotional turmoil. She was frustrated and sad because she was always at the mercy of his personal needs. She was managing a bewildering sense of loss in a tremendously insecure situation—she had no job, no husband, and two small children in a foreign land.



Mayumi recalls that those few months when she moved back to Toronto were the hardest time in her entire life. She talks about the hardship that she faced:

I had nothing at all. I couldn't rent an apartment because I had no job. I had to ask him to co-sign to get one. I was receiving EI (Employment Insurance) after I quit my job, but it was running out. So...it was hectic. I was all alone, had no car, and left my kids with a baby sitter...running around job hunting...

帰ってきたとき何もなかったから、アパート探すにも仕事ないから、彼に co-sign してもらって、で借りて、EI もらってたんで会社やめてから、でもその EI があとちょっとで切れちゃう。だから…大変でしたね。しばらく一人で、車なかったし、子供 baby sitter にあずけて…必死で仕事探して…

Despite having a Canadian Master's degree and being employed full-time for more than six years in Canada, Mayumi still had difficulty finding a job. It had been almost six months since she left her last job, and her Employment Insurance was about to be terminated. She recalls the time when she was thinking about returning to Japan:

Had I not found a job within a month, I would have gone back to Japan for a while. I wouldn't have survived in Canada. I have decided to go back to my mother's. [...] All my friends said, "Why are you still here?" They all told me that I should've gone home because everything was his fault.

1 月の中旬までにもし決まらなかつたら、一回日本に帰ろうかと思ってたんです。生きていけないからね。実家に帰ろうって決めてたんですよ。[...]みんなねえ「なんでいるの?」とかって言うんですよ。 「帰っちゃたらいいじゃない」とかって。あっちが悪いって。

"I wouldn't have survived in Canada" is a statement that captures immigrant Japanese mothers' feelings of isolation. For Mayumi, not finding a job meant no means of survival. Her Japanese friends' observation that she should go back to Japan "because everything was his fault" demonstrates Japanese women's general sense of justice. Nonetheless, Mayumi chose not to leave Canada for the following reason:

But he is a really good father. [...] If I went home, the kids wouldn't be able to see him too often. I somehow thought that I wouldn't have a good answer if my kids would ask, "Why did you come back to Japan?" in the future. [...] I decided that I wouldn't go home until I could say, "I did everything I could possibly do, this is the absolute last resort; I had no choice but coming home."

でも やっぱりすごいいいお父さん[...]帰っちゃったら子供たちにほとんど会えないじゃないですか。なんとなく、子供たちに「なんで日本に帰ってきちゃたの」って将来言われたとき、ちゃんとした理由がなかったんです。[...]で、思いました。「私はここまでやったのよ、もうこれしか、これがもう最終手段って、これしかないんだよ」って自分が納得してからでないといやだなって。

I was amazed that Mayumi did not express her resentment toward him. She expresses her sadness and loneliness; however, she confidently told me that she never had any doubt that the children loved their father and that he would always be there for the children. She says that once she found a job, returning to Japan was no longer an option for her.

Interestingly, the Counsellor raises the same point as Mayumi's story. He encourages a mother who is considering leaving Canada to think about her child's future by asking herself a question: "Would I be able to proudly explain to my child what happened and why it happened when he/she gets older?" Both Mayumi's decision and the Counsellor's suggestion to his clients represent the sacrifice that Japanese mothers are asked to and willing to make when they are certain that living close to the fathers is good for their children. The Counsellor also provides information to his clients on how to continue to live in Canada without their husband's financial support. In the following section, I discuss social support that would have been available to Mayumi and why she did not access it.

### **Social Support**

Although Mayumi would have been eligible for social assistance, she never contacted any Canadian social service agencies. The idea of contacting social support agencies in a foreign land and language can be nerve-racking for foreign-born individuals. Research also suggests that immigrant Japanese women have difficulty in accessing effective social support (Yoshihama & Horrocks, 2002). Fortunately, Japanese people living in Toronto can access social support in Japanese. The Japanese Social Services (JSS) provides support for Japanese individuals by providing various programs, including counselling sessions. Many of the mothers who come to see the Counsellor are distressed about financial difficulties and often believe that they would not survive in Canada after divorce. When his clients say, "What about money? I've lived on his income," he explains that they could apply for social assistance. When he tells his clients that a social assistance program could provide free childcare while they pursue free training to be employed (Ministry of Community and Social Services, 2014), the mothers – who previously thought that they could not survive in Canada – are somewhat relieved.

Naomi, who had no income at the time of separation, was supported by social assistance. At a time of emotional distress in the form of a relationship breakdown and financial crisis, the social assistance was surprising help. She started to receive social assistance as a result of coordination between her family doctor's office and a social service agency:

A receptionist at my family doctor's office phoned an office of a social service agency, which was in the same building as the doctor's office, and she dealt with my situation for me by saying "They [social service administrators] won't take you in when you contact them by yourself." I was extremely thankful for such caring support by a Canadian.

Family doctor のオフィスの方が全面協力してくださいました。同じビルの中にある social service に電話してくれて、なんかわたしが独りでやってもダメだ、とか言ってやってくれました。カナダの人たち、すごい support してくれるんだなって思いました。

Naomi's story indicates that social support is available to divorcing immigrant Japanese women; however, appropriate social assistance is difficult for such women to obtain without the intervention of a third party. The receptionist's comment, "social service agencies won't take you in when you contact them by yourself," suggests the difficulties that non-English speaking, immigrant women experience in accessing social service agencies. I am interested in what motivated the receptionist to make such a comment; perhaps she had personally witnessed the mistreatment that immigrant women encounter at social service administrators, or perhaps she was also judging Naomi based on Naomi's immigrant status. Matsuoka and Sorenson (1991) point out the tendency that Canadian social service practitioners assume "ethnic groups as fixed entities" (p. 255), although the immigration policy encourages them "to provide ethnically sensitive services" (p. 255). The assumption that immigrant women cannot do anything by themselves can be dangerous insofar as it contributes to the image of powerless immigrant women. Whereas Naomi's story supports the finding of Yoshihama and Horrocks (2002) – immigrant Japanese women's difficulty in accessing effective social support, Mayumi's stories illustrate other issues surrounding social assistance.

The mothers' stories reveal that two obstacles limited the access of divorcing Japanese mothers to social assistance: one is lack of information and the other relates to apprehension to reach out to social assistance because of its negative image. In times of financial or emotional distress, people might not think to collect information or gather resources to improve their situations. Mayumi talks about her lack of knowledge about social assistance:

When I look back, I could have received welfare had I applied for it. I don't know why, but it never came to my mind. Welfare had never been an option to me. Find a job or go back to Japan—they were the only alternatives to me. If somebody had told me what's out there to help me out, it may have been different...well, not really, not for me...it's got a negative image, hasn't it?

今考えれば、welfare、apply すればもらえたと思うんです。でも何となくそういうの頭になかったんです。welfare なんて頭の中に浮かんでこなかった。ぜんぜんそういう support 受けようってことが、まるっきりなかった。仕事見つけるか[日本に]帰るかっていう option しか、私の中にはその二つしかなかった。誰かがもし、そういうのあるよって言うてくれてたら違ってたかもしれないけど…それでもやっぱりやだな、わたし。negative な image ありますよね。

The stigma attached to receiving social assistance seems to have prevented her from searching for social support. Not knowing her options and overwhelmed with fear about her future, Mayumi considered returning to Japan.

When parents decide to separate, they must make many decisions and often these decisions involve choices that are not in accordance with their personal wishes. Family law in Canada is different from what immigrant Japanese mothers know based on Japanese civil law regarding divorce. I now turn my focus to legal matters, including custodial/living arrangements of the children, and financial matters.

### **Separation Agreements**

Kumiko's husband, like Mayumi's, found a place to live in her neighbourhood. She was surprised to see the quality of the father-children relationship improve after the separation. With the lawyers' assistance, Kumiko and her husband came to an agreement regarding the living arrangements and support payments. She received a place to live (i.e., a condominium) as part of the divorce settlement, as well as monthly financial support payments, including child support, from the beginning of their separation. Kumiko happily acknowledges that the children love the father.

Kumiko's "The children love the father" and Mayumi's "He is a really good father" both point to a fruitful joint custody. Mayumi and her husband sat down and drew up a draft separation agreement, which he brought to his lawyer, and she brought to her lawyer. The parenting arrangement stipulated that the father would live with the children every second week. According to Mayumi's recollection, the experience of completing the separation agreement was amicable:

It was nice and I felt good. My lawyer checked the agreement to make sure it wouldn't put me at a disadvantage. We discussed it and it was done before we knew it ... He deposits child support payments directly to my bank account. When he gets a raise, he tells me that the support payment goes up from that month on. I don't have to say anything—it comes every month without fail. We had nothing but debt when we drew up the agreement, so it was so easy.

よかったですね。いい感じで。私が雇った弁護士さんは、私が不利にならないように見てくれる。でも話し合いして、あつと言う間に… child support は direct deposit で銀行に、今もずっと続いています。それはもう、言わなくても給料上がったから今度このぐらいになるよって、毎月必ず。うちね、何もなかったんです。あつたのは借金ぐらいで、だから、簡単だった。

Many divorced couples divide the debt incurred during the marriage; however, Mayumi's husband offered to be solely responsible for repaying their debt.

With the help of legal advice, Kumiko and Mayumi participated in the process of negotiating the parenting arrangements. What helped them was that their children were treated with respect during the legal procedures; prompt and ongoing financial support for the children can be one of the most important parental supports for any children. Regardless of the fathers' involvement prior to the separation, their active involvement in post-divorce parenting is evident, as the children are happy to experience the presence of their fathers in their lives.

Whereas it took Mayumi no time to complete her separation agreement because the couple “had nothing but debt,” the division of assets in Kumiko's case prolonged the process for three and a half years. Although the two mothers' financial situations were considerably different at the time of separation, both of their legal rights as divorcing mothers were protected. Naomi, in contrast, did not receive independent legal advice for her separation agreement even though her eligibility for a Legal Aid certificate was approved.

Legal Aid Ontario (2013) provides low-income residents of Ontario with a wide range of legal services. Eligible individuals (e.g., those individuals with an annual family income of less than approximately \$18,000 for a family of two) can receive full legal representation by a lawyer who accepts a client with a legal aid certificate. A certificate covers the cost of the lawyer for a certain number of hours, which Legal Aid Ontario approves for each case. Naomi describes the reason why she did not retain a family lawyer:

The discussion of our separation was chaotic. He loved the child, so shared parenting was a done-deal; he found a house without telling me. We should have mutually agreed

on things like schooling, but he wasn't cooperating at all. I started to worry that he would decide everything without me if we shared child custody; he would be controlling everything. So I thought about fighting for sole custody. So I contacted the Legal Aid ... my social worker did it all for me. I got a referral to hire a lawyer. Then, he apologized and said, "I'm going to cooperate". And then he said something like, "If you're going to fight, I'm going to fight back until I get it." I didn't want to do that. I felt overwhelmed. At that point, I gave it up. I know he wasn't someone who would do anything immoral. So I give it a second thought and decided not to apply for a legal aid certificate.

大変でしたそれは。むこうは子ども大好きで、最初から share ってたちで。でもむこうが勝手に家を決めてしまった。学校とかも一緒に決めるべきなのに、まったく協力的でなかった。それで、親権 share すると何でも勝手に決められて思うようにされちゃうなって思って、親権取ろうと思ったんです。で、Legal Aid に相談して、…social worker が全部助けてくれました。で、referral 貰って弁護士雇えることになった。そしたら、むこうがごめんなさいってあやまってきて、「協力するから」って。で、「もし親権争うなら、何が何でも取り返すまで戦う」とかって言ってきて、私もう、そんなにまでしなくてもいいかなって。もう疲れちゃって、その時点で、私もう、そこまでしなくてもいいかなって。彼、moral 的にもすごく反することをする人ではないってわかってたし。ちょっと考えて Legal Aid、apply しないことに決めました。

Naomi's husband's acts of apology and intimidation functioned to prevent her from accessing independent legal advice. I wonder if Naomi's decision not to receive independent legal advice placed her in the further disadvantaged situation in her post-separation relationship with her ex-husband.

### **Shared Custody and Child Support Payment**

Prior to separation, Naomi's husband filed for personal bankruptcy; however, he did not seem to have difficulty in renting a house. I wonder about his income level at the time that the separation agreement was drafted and signed; no financial disclosure was ever made by the husband. Naomi further explains why there is no child support involved in their separation agreement:

I don't receive any child support because we have shared custody. I was told that when sharing custody, nobody has to pay child support. [...] I hear it doesn't matter how many days the kids are with the father, some percentage of time to stay ... anyway, when the child is with the father almost half of the time, he doesn't have to pay... that's what he

told me. We did our separation agreement with a mediator, and then his lawyer friend made it into legal format, he said...

養育費は親権 share なのでもらってないです。なんか share のときは払わなくていいとかで。[...] 親権 share ってのは何日行くとかってのは関係ないらしいんですけど、stay する率とか...なんかで、ともかく半分近くいれば払う義務はないらしいとあって...彼が言って。separation agreement は、mediator がやってくれたんですけど。それを旦那の弁護士 friend が formal なものにして下さったらしくて...

It was unsettling to hear her accounts of the negotiations leading to the separation agreement because her expressions – such as “I was told,” “I hear,” “that’s what he told me,” and “he said” – indicated a great deal of uncertainty. Much of the information that she shared with me was something that her husband told her. I sense his continued control over the situation.

Shared custody is different from joint custody, which merely refers to decision-making rights with regards to a child. The Child Support Guidelines define shared custody as each parent spending time with the child over 40% of the time; the amount of support payments may be less than the guidelines’ amount (Community Legal Education Ontario, 2012). Nonetheless, “a majority of payor parents are paying child support to a parent who has ‘primary care’” (Thompson, 2013, Shared Custody). “I was told that when sharing custody, nobody has to pay child support” is clearly misinformation.

Naomi maintained a positive attitude regarding her situation by comparing herself to others in similar but worse situations:

There are mothers in a situation a lot worse than me, so mine’s not that bad, after all. [...] Some fathers who are self-employed can hide their income and say they can’t pay child support. My friend’s husband has an income and inheritance, but he colluded with his mom, saying that he borrowed money from her. My friend’s husband has an expensive car and a cruiser, but he came after her CTB [child tax benefit] and took a half of it...She’s in trouble because she has no income.

もっとひどい状態の方もいる。まあ、悪くもないのかなって。[...] 養育費って、払えないことにしている人っていますよね。自由業ってなんとでもなるじゃないですか。友だちの話では、収入もあるし親の遺産もあるのに、お母さんと結託して借金があることにして、いい車乗ってクルーザーも持ってて、なのに、CTB を半分くれて持ってかれたって。...収入ないのに大変って。

The Canada child tax benefit (CCTB) is a government support payment for low-income families designed to help them cover the expenses of children under age 18. In shared custody,

each parent can receive CCTB, according to the Canada Revenue Agency (2012). Each eligible parent is entitled to receive 50% of the full amount that the parent would have received if the child were with him/her on a full-time basis. It is an abuse of the system when a parent with lower income receives the full amount according to her/his income level, and then shares it with the other parent. Although Naomi does not know the entire financial situation of her Japanese friend and her friend's ex-husband, their situation may deserve scrutiny because Naomi's friend's ex-husband could be doubly dishonest—deceiving his ex-partner, and exploiting the government system. This situation exemplifies how a father in a dominant group can manipulate his immigrant mother. Naomi, however, perceives that her situation is not nearly as bad as her friend's.

### **Post-divorce Violence**

Naomi seems to use a common coping technique to feel better—that is, she compares herself with others in a similar but somewhat worse situation than hers. I only hope that I am wrong in thinking that Naomi's husband conceals his current income level in order to avoid paying child support. The following story further disturbed me because I could not help suspecting that she continues to be financially abused by her former husband:

I have no idea how much he makes now...actually, he owes me money. I lent him \$2,000 and was never paid back. He told me that he owes the government tax... that's crazy, isn't it? But I know he's going to pay me back someday. At least, he isn't that kind of jerk. He isn't a bad guy...well... he isn't a good guy either though. He's got a terrible attitude problem.

彼の収入に関してもそれ以降は…こっちが貸してますからね。2000ドル貸してて帰ってこない。なんかTax、国に借りてるって。もう…どこまでバカかなのかって感じですね。泥棒するタイプではないので、いつかは返してくれる。悪い人ではないです。まあ、いい人でも全然ないですけどね。態度悪いし。

Naomi's statements here – “At least, he isn't that kind of jerk,” and “He isn't a bad guy...well... he isn't a good guy either though” – imply that she is experiencing self-doubt. While many people would not agree with her, she desperately wants to believe that he is not *that* bad; however, she seems to know that she is in denial. Denial and minimization are common defense mechanisms used to protect oneself from the damage from a painful reality; because the reality is too difficult to acknowledge, people tend to reject or reduce it to something else that is easier to accept. People in denial have difficulty accepting the reality of a situation despite overwhelming



evidence and this denial of denial is difficult to overcome (Travis, Pawa, LeBlanc, & Rogers, 2011). Naomi always accommodates her ex-husband's behaviour and views it as acceptable. As Travis et al., (2011) note, she may be using a defense mechanism to protect herself by accepting his terrible attitude which is less painful than admitting that she is abused. Naomi's story represents post-divorce violence—a husband's continual control of the wife beyond divorce.

The term "post-divorce violence" is often replaced with post-divorce harassment. I choose to use the word "violence," however, because I am concerned that other word choices may weaken the seriousness of post-divorce abuse. Post-divorce violence has been experienced by all the returned Japanese mothers in my study. The most significant difference between Naomi and the returned Japanese mothers lies in Naomi's short sentence "He loves the child," which represents her fundamental trust in her former husband, that is, her belief that he would not mistreat the child. Nonetheless, the question remains: in making the decision to stay in Canada and secure the relationship between father and child, what did the divorced Japanese mothers give up?

In chapter 4, I focused on experiences of the three divorced Japanese mothers in Canada in three areas: the emotional effects of separation, social support, and legal matters, including custodial/living arrangements and support payments. Although the mothers' emotional pains and economic sufferings were significant, the lack of information and their apprehension to reach out to social assistance due to its negative image limited their access to social support. While two mothers' stories indicated that their joint custody and support payments are in good condition, one mother's story suggested that her separation agreement deserves to be reconsidered. One common thread among the mothers is that they have no doubt about the fathers love for the children. In chapter 5, I scrutinize the separation/divorce of three returned Japanese mothers. Chapter 5 illuminates how their experiences are different from the divorced Japanese mothers in Canada.

## Chapter 5: Abusive Husbands and Institutional Racism

The stories of the returned Japanese mothers are distinctive when they are compared to those of the divorced Japanese mothers in Canada. The expressions that appeared in the stories of the divorced Japanese mothers in Canada, such as “He is a really good father,” “The children love the father,” and “He loved the child,” never appear in the stories of any of the returned Japanese mothers. In the same way that the mothers residing in Canada in this study share many distinct experiences in common, the returned Japanese mothers’ stories are united by many similarities, both in terms of the women’s experiences of domestic abuse as well as their divorce proceedings.

### The Decision To Leave

Miho\* used to work as a law clerk at a law office where her husband was employed; the two worked side-by-side to help his clients in their divorce cases. During the relatively early stage when her husband became particularly abusive, she recognized that he could be dangerous; she describes his behaviours as domestic violence and explains how she realized that he could cause serious damage:

About a month passed since he started yelling at me, I started to realize that this could be dangerous. He turned purple with anger and I trembled in fear. He never hit me, but it was the same thing to me. When I cried, shivering, he’d then hold me. He was the one who taught me that a typical domestic violence case involves a man being violent to a woman and then being nice to her. [...] I mean, he was just like that. Abused women would become numb by ongoing repetitions like that. [...] “It’s dangerous. This is it. I have to run,” I thought...

1ヶ月を過ぎたくらいで私、これは危ないって思ったんです。もう怒るとすごくて、怖くて恐怖でふるえる。手は出されない。でも同じことです。怖くて震えて泣いてると、今度は、抱き寄せてくるんです。私、弁護士事務所で働いてたとき、彼自身から教えられてたんですけど、[...]暴力をふるった後に優しくするっていうのが DV の典型だって。つまり、彼の状態はそれそのものなんです。それを繰り返されて、女性は麻痺して行く。[...]これはヤバいって。これだって。危険だって...

Miho\* also knew that the domestic violence would escalate; as Edleson et al. (2013) state, it often begins with behaviour like name-calling, then spirals into violent behavior directed against objects, like punching a fist through a wall, and eventually becomes physical abuse. Her husband’s domestic violence intensified in a short period of time:

I told him I was going back to [a city where they used to live] for the children, and he started to scream with rage. In the morning, he yelled at me at home, he called me out at lunchtime and yelled at me at a restaurant, and then the same thing was repeated in the evening. That evening, I lost my eyesight due to excessive stress. My eyes were open, but couldn't see his face or anything right in front of me. My world was complete white. From that time on, I was desperate to find an apartment and calling everywhere...

子どものために…に帰るって言ったら、その日はもうそれはそれはものすごい怒鳴られて。朝提案したらその場で怒鳴られ、昼も呼び出されてレストランで怒鳴られ、そして夕方にも。その夕方、過度のストレスから目が見えなくなって、普通に目を開けてても相手の顔も目の前のものも見えない、世界が真っ白になったんです。そこからは、もう必死でした。アパート探すのに、もうあちこちに電話しまくって…

Miho\*'s story exemplifies the ways that non-physical violence can bring bodily harm. She was also in an isolated situation when she was looking for a place to move because she had recently relocated to the area where her husband was transferred. She had neither family nor friends with whom she and the children could stay.

### **Women's Shelters**

Although Miho\* considered going to a women's shelter, she found that the shelter which she contacted was not as helpful as she had hoped:

I told my next-door neighbour what was going on; she was a victim of DV and called a shelter for me. I found out that I could only stay at the shelter for a month. [...] If I had to go back to live with him after a month, I would have to face even more dangerous violence. So I gave up the idea of staying at the shelter and I managed to live with him until my move. [...] I also talked to a lawyer and was told to leave home at once. He said, "Don't look back. Don't listen to him. Get out right away"...

隣の人だけには相談してて。彼女はDV被害の経験者で、shelterに電話してくれました。でもshelterには1ヶ月しかいられないってことで。[...]また1ヶ月後に彼のところに戻んなきゃなんない。そうするともっと怖い目に遭うだろう。だからshelterはあきらめて引っ越しまで彼との生活を我慢したんです。[...]弁護士にも相談したら「とにかく家を出なさい」って言われて。「ふり返るな。何を言われようとも、とにかく出なさい」って…

It is noteworthy that the term DV, which is an acronym for domestic violence, has become a Japanese word and appears in all the returned Japanese mothers' stories. Miho\* found a furnished apartment and moved out of his place; it took two months to leave her husband from the time she

first considered the idea. Although two months may seem like a short period of time, for Miho\*, who faced dreadful violence every single day and night, it felt like a lifetime.

The Counsellor told me that he provides his clients in domestic violence situations with information on women's shelters and explains that they could receive assistance from legal workers and counsellors at the women's shelters. At the women's shelters, victims of domestic violence can receive priority access to subsidized housing where they will likely move into one within three to four months. In Miho\*'s case, however, she needed a place to stay immediately and for an extended period of time. Because of the lack of accommodation, she had to stay with her abusive husband until she found herself a place to move.

Whereas Miho\* found a way to escape, it took Yuko\* some time to find support. Yuko\* describes the ways that reaching out to her family failed:

My mother told me to put up with it because he brought money home. [...] When I asked his mother for advice, she said, "You guys should divorce." She didn't like people of colour from the beginning, anyway. [...] I was like, "Is that it? Racism, isn't it?" [...] My mother-in-law, in the end, said, "Don't call me anymore."

日本の母に話しても、お金入れてもらってるんだからがまんしなさいって[...]旦那のお母さんに相談したら "You guys should divorce."って言われて[...]もともと有色人種は好きじゃない。[...]「結局そこ？人種差別なの」って。[...]お母さんに最後に "Don't call me anymore."って言われました。

After realizing that she had no family support, Yuko\* visited the local police station because she had no idea where to ask for help. The police recommended contacting a women's centre. At the women's centre, she received free counselling services for about a year. Meanwhile, her husband's violent behaviours were getting worse, yet she was still reluctant to leave him because she was not confident in her ability to support herself financially. It is disturbing to notice that his emotional abuse of criticizing Yuko\* endlessly is similar to Miho\*'s husband. Yuko\* describes the women's centre's advice that helped her leave her husband:

Every single night, he went on and on about my attitudes towards him and I got sick. My headache got worse as soon as he came home. The women's centre recognized my situation as domestic violence and provided both my son and myself with free counselling sessions. The most helpful service of the government program for abused women was to provide a subsidized apartment for up to two years. The rent isn't free, but eligible occupants only pay one third of their total income, including alimony. I still couldn't

decide to leave my husband – I didn't have guts to do it yet – but the centre told me to just put an application forward [for the subsidized apartment] as there was a vacancy coming up. [...] At counselling sessions, my counsellor told me to rent a storage unit, saying, "It is ok not to leave him, but why don't you move some important items like passports into the storage, and you should save cash little by little." The women's centre helped me to rent a unit for only \$20 a month and I started to move my stuff and my son's stuff. I also rented a safety box and started keep cash there. The counsellor also taught me how to collect cash. Use a checkbook to pay instead of a credit card, and get cash back little by little: "say if it's \$20, you write a check for \$40 and get \$20 cash back and keep it." [...] What pushed me in the end was his threatening me, saying, "If you don't straighten out, I'm gonna take the son."

毎晩毎晩旦那に責められて、具合も悪くて、旦那が帰って来ると頭がすごい痛くなって。女性センターが、私は abuse を受けてるって認めてくれたんです。無料カウンセリングを受けさせてくれた。お母さんと子どもと。一番大きかったのは、政府のプログラムで公共のアパートに2年間住まわせてくれる。無料じゃないんですけど alimony とかの収入の3分の1で住める。それでとりあえず、旦那のところを去る決心はできてなかったんだけど、勇気はなかった、でも「今このアパート、空きがあるから申込みだけしなさい」って。[...] カウンセリングで、「旦那のところ出なくてもいいから、ストレージを借りてパスポートとか自分の大事なものを少しずつ集めときなさい。お金もすこしずつ貯めときなさいって。」って言われて。センターの助けもあって、月20ドルでストレージ借りて、自分の荷物と息子の必要なものを移動し始めてた。あと、貸金庫も借りて、そこにお金とパスポート。お金のため方も教えてくれた。クレジットカード使わないで、買い物の都度小切手使って、20ドルのところ40ドルだって言って少し残して貯めてくとかって教えてくれた。[...] で、最後にもう出ようって思ったきっかけていうのが、旦那が「私にやり直す気がないんだったら、息子を連れて出る」って脅迫されたことです。

Both Miho\* and Yuko\* were told to leave their husbands and managed to access professional help: Miho\* from a lawyer and Yuko\* from the women's centre. It took Miho\* two months whereas Yuko\* needed more than a year to leave her husband; however, the most significant incident affecting their decision to flee was similar: When the women acknowledged that their husbands were capable of causing serious harm, they became determined to leave. Miho\* recognized that she was caught in a cycle of domestic violence and Yuko\* knew that she needed to stop her husband's threats to take her son away from her. Miho\* and Yuko\* left their husbands, yet it was only the beginning of the hardships that they experienced in their fight for

their rights and freedoms. When a husband is manipulative in marriage, he is also manipulative in the divorce process.

### **Divorce Proceedings**

Kaori\*'s case is extremely complex. Her husband was in serious financial trouble; he never brought any money home, and he disappeared after many arguments about financial issues. After he left home for one full year, she saw him only a few times on the occasions when he came to collect his belongings. Although she was going through a difficult time in dealing with the creditors of her husband's debt, she felt relieved because he was no longer living with her. One day, he called her up and suggested filing the separation agreement. According to the conditions that he offered her, she would gain the house (since her parents paid the down payment and she was the only one who had been contributing to the mortgage payments), and the children live with their mother. She did not even ask him for child support; given that he had been suing his first wife for years regarding the access schedule with his son from his previous marriage, his offer sounded surprisingly reasonable. Kaori\*, without consulting with a lawyer, rushed to the courthouse and signed the separation agreement that he brought her. Her intuition that his offer was too good to be true turned out to be right. She later found out that the reason that he wanted the title change was to protect the house from his creditors. He had a plan all along, thinking that he could always come back to sue her for the house if it was under her name. Years later, he took her to court to fight for the house, as well as custody/access arrangements, which pushed Kaori\* into further trouble.

Yuko\* also experienced her husband's deception during her divorce proceedings. She was surprised that he fought for custody of their son because he was uninvolved in parenting during the marriage. She describes her sense of unfairness and his cunning behaviours that she saw during the legal procedures that dealt with the custody dispute:

Because he was not interested in his son, I thought he would say, "I will pay and you raise our son." ... but what he actually said was, "It's my right as the father to see my son." [...] Although he never came home and didn't see his son at all during the marriage, he acted like a tragic hero when he didn't see his son for about two weeks after I left him. When he saw his son with a court order, he gave him a big hug while in tears – just like the scenes we see on TV. He made up a story that everything was my fault – I was the bad mother who took the child away from him.

息子に興味がなかったから、離婚ってことになったら「お金は払うから息子を立派に育ててくれ」って言われるもんだって思ってた。…でも「父親の権利だからとにかく会わせろ」って。[...]自分は全然家に帰って来なくて子どもにもちっとも会わなかったくせに、私が家を出て、息子に2週間くらい会えなくなるともう、悲劇のヒーロー。涙流して裁判所のオーダーでやっと子供に会えると大げさにハグです。アメリカのテレビでやってるあれです。すべて悪いのは私で、子どもを連れ去った悪い母親。

Yuko\*'s husband's behaviour bears out the finding of Bancroft, Silverman, and Ritchie (2012) that abusive fathers fight for sole child custody more frequently than non-abusive fathers do. Weiner's (2003) earlier study supports this finding, showing that abusive fathers seek sole custody of their children twice as often as other fathers, and are often successful in their custody suits. An abusive father seems to enjoy controlling the mother by using what she is most fearful of: the loss of her child.

In dealing with legal matters, Yuko\* realized that it was not only her husband, but also her lawyer and the judges whom she was fighting against. She continues her story of her divorce proceedings:

There were several occasions when I had to leave him with my child during the marriage. But he twisted the stories around, and testified they were entirely my fault. Regarding the incident when he told me to find an apartment to leave him, he made up his side of the story. He said that I selfishly left home and told the Court, "She had a bad habit of leaving me." I kicked myself for not keeping the records. [...] He made up all sorts of stories, something like "She is very dangerous." After all, anything I said was dismissed. I thought a judge would be fair, but he bought my husband's stories—I was the one who destroyed the family that was happily living together.

私、それまでも何回か子どもを連れて家を出なくてはいけない状況がありました。そのときのこと、話は全部彼 side になってた。子どもが生まれた頃 "Did you find an apartment?" って言われてたことも、私が子どもを連れて勝手に家を出たってことにされてた。「彼女にはそういう癖があるんだ」って。証拠取ったときゃよかったってくやしかった。旦那はいろんなこと言ってましたね。私のことを "She is very dangerous." だとか、結局そんな感じで私が言うことは何でもだめ。裁判って公平だと思ってた。私、「平和に暮らしてた家族をめちゃくちゃにしたひどい女」ってことになってるみたいです。

Yuko\*'s husband's distortion of the facts reminds me of the incident when she went to the emergency ward: he became so angry as to shift the blame from him to her. Her stories also

illustrate that the Court accepted his story; their divorce proceedings concluded in his favour. Although he never participated in parenting, he obtained a shared-custody arrangement. The case demonstrates the ways that the social system supports sexist and racist power structures; in other words, it is a clear example of institutional sexism and racism.

### **Who Decides What is Best for Children?**

Knowing that her husband was abusive, Yuko\* was worried about him being with their son without her. In fact, this fear was one reason as to why she hesitated to leave him for a long time. The following is her story of the court-appointed lawyer, who assessed what parenting arrangement was best for her son. She expresses her doubt about a court-appointed specialist who was involved in the decision regarding child custody for her case:

A court-appointed lawyer with a psychology background, called a special advocate, observed each parent and child's interaction for 90 minutes. The special advocate evaluated our seven years of marriage and how our child interacted with each parent in just 90 minutes. The qualifications to be a special advocate weren't clear. They are lawyers who know a bit about psychology... and aren't even specialists for children's development.

コートから指定された弁護士で心理学を勉強している special advocate って人が、子どもと私たちの様子を1時間半ずつ見るんです。子どもが両親とどういう風に付き合ってるかって、私たちの7年間を1時間半で判断されたんです。その判断する人も資格とかいい加減で、普通の弁護士でちょっと心理学もかじってる...って程度の人で、[子どもについての]専門家でもない。

The fact that someone could evaluate her seven years of marriage based on a 90 minute-observation frustrated Yuko\*; however, it is common practice in many countries to have specialists investigate and determine what living arrangement is best for the children as part of parental divorce proceedings. For example, in Japan, when a parent files a custody case at a family court, court-appointed commissioners known as *chotei-iin*, or family court mediation commissioners, examine each parent's capacity to be a custodial parent by assessing factors such as their caretaking abilities and environment, and then make a recommendation to the divorcing parents (Minamikata, 2005). When the parents do not accept the commissioners' recommendation, the decision becomes the prerogative of a family court judge, who may order a family court investigation officer's report. The investigation may include interviews with the child and parents (Minamikata, 2005).



In Ontario, the investigation and determination services of post-divorce custodial arrangements are provided by the Ontario Ministry of the Attorney General (2014), known as the Office of the Children's Lawyer. Although none of the five mothers who lived in Ontario at the time of separation accessed the Office of the Children's Lawyer, I will briefly describe this public support available to children of divorcing parents in Ontario. The Office of the Children's Lawyer provides the programs to protect the rights of children under the age of 18 and represents children in child custody and access disputes (Ontario Ministry of the Attorney General, 2014). The Office of the Children's Lawyer appoints a clinical investigator, who collects information from family members and other people involved with the family, including a schoolteacher, a daycare provider, and a doctor. The clinical investigator also observes the child with each parent, and may interview the child when it is appropriate, and then prepares a report for the court that recommends the ideal parenting arrangement for the children (Ontario Ministry of the Attorney General, 2014). The court-appointed special advocate in Yuko\*'s case seems to be similar to a clinical investigator in Ontario; however, it sounds unreasonable if the full extent of the special advocate's assessment was the 90-minute observation. Furthermore, the interaction between Yuko\* and her son was in Japanese; I wonder how the special advocate perceived the mother-child interaction in an unfamiliar language.

In addition to her mother-in-law's attitudes, Yuko\* named an incident during her custody dispute as racism. A support worker at the women's centre warned her of the racial discrimination that she would encounter during the divorce proceedings with the following words: "A racial minority has almost no chance of winning. You won't be heard, so be ready." Yuko\* describes her experience with the female special advocate:

A white woman came for our case and said, "I understand you because I'm also divorced with an 11 year-old son." So I thought she understood me and would recommend to the Court that I be the custodial parent, but the result ended up as plain racism. The women's centre was right in saying, "A racial minority has almost no chance of winning. You won't be heard, so be ready."

その人は白人の女性で「私も 11 歳の息子連れて離婚してるからわかるわ」って言うてくれて、私の方が有利かなって思ってたんだけど、ふたを開けてみたら、ただの人種差別「マイノリティには、ほとんど勝ち目はない。意見は通らないからそれば覚悟しといてね」って女性センターから言われてたけど、ほんとそう。

Yuko\*'s experience confirmed the support worker's advice; she was heard neither by the court-appointed special advocate nor by the Court. She believes that the special advocate's prejudice against a non-Western immigrant mother impacted the assessment of the ideal parenting arrangement; her husband, who had neglected his son during the marriage and told him not to call him, received shared custody and started to spend time with him every Wednesday and every weekend except for the second weekend of the month. This shared custody arrangement however, would place Yuko\*'s son in unfortunate situations which I will depict in Chapter 7 when I discuss the returned Japanese mothers' post-divorce experiences.

The comment of the support worker suggests that many women of colour who sought support from the women's centre have been treated unfairly in divorce proceedings. It is interesting that legal workers and counselors at the women's centre did not hesitate to frame non-Western women's disadvantage as racism; they acknowledged that they have witnessed non-Western women's complex marginalization—an interlocking form of oppression fueled by sexist and racist power relations.

### **Institutional Racism**

**Racial discrimination.** Kaori\* talks about a similar experience as that described by Yuko\*—that is, being told to be ready for racism during court proceedings. She confirms that her lawyer's advice was helpful for responding to a clear instance of racism in her legal case:

Racial discrimination is obvious. I was ready to fight the case, thinking, “There is no way I can lose this case.” Then my lawyer told me that I was at a disadvantage, saying, “You’re Japanese, an Asian, and he is white, so the odds are stacked against you. You have to understand that.” At first, I was like, “What’s he taking about?” because I had never felt racism during my ten years of everyday life living in Australia. But I soon realized that my lawyer was right. I was totally mistreated because I was Japanese. [...] It was incredible. [...] “No way,” I thought. White society would never admit to the existence of racism, but in reality, racism is a fact, and I saw it in the courtroom.

人種差別もありますしね。わたし「絶対負けない」と思って裁判に行ったんですけどね。そのとき弁護士から不利だからって「あなたは日本人だから、アジア人だから… He is white。」って言われて、ここから、この時点から、「もう、すごい不利だからわかってね」って言われて。私「なんの話してるのかなあ」って最初思って。住んでる上であんまり人種差別とかって感じたことがなかったから、10年以上向こうで暮らしましたが。実際ふたを開けたらもう全然違うんですよ。完全に。私が日本人だから、[...]もうすごい。[...]「あり得ない」と思っ

てね。白人社会は、人種差別を絶対認めませんが、人種差別は実際事実ですからね、裁判でも。

Jones (2002) defines institutional racism as follows:

[T]he structures, policies, practices, and norms resulting in differential access to the goods, services, and opportunities of society by “race.” Institutionalized racism is normative, sometimes legalized, and often manifests as inherited disadvantage. It is structural, having been codified in our institutions of custom, practice, and law, so there need not be an identifiable perpetrator. Indeed, institutionalized racism is often evident as inaction in the face of need. (p. 10)

Kaori\* experienced institutional racism not only in the courtroom, but also in an immensely frustrating encounter with a police officer. While she was away, her husband illegally occupied her house, although she had the sole title and had been paying for the mortgage by herself for ten years. This is her story of when she called the police:

A female police officer came to my house, but she didn't listen to what I had to say. She interrupted me by shouting, “Shut up! You'll be quiet. I'm not asking you a question.” She had absolutely no doubt that he was telling the truth. I was shocked and speechless. Because I had not been exposed to such racism in the course of day-to-day living, I was simply stunned at what was happening there. [...] Had I been a white woman, the situation would have been so much different.

警察もだれも私の言うことなんか聞かないんです。「うるさい、あんたは黙りなさい。あんたに聞いてんじゃないのよ！」警察は彼の言うことが嘘だとまったく疑わない。もうびっくりするくらい。日常では人種差別が表に出てこないのに、いざそんな風なことがあるとただびっくりして。[...]もし私が、白人だったら扱いはずいぶん違っていただろうと思います。

Kaori\* was furious because racism played a major role in the courtroom, and in her dealing with the police officer. It was particularly upsetting because both situations took place in contexts where she expected fair and neutral judgments; she believed that judges and police officers would help her. She was powerless in the face of these authority figures and disappointed in their explicitly racist attitudes. The racism that had hidden itself very well in her everyday life in a Western country suddenly and openly appeared before her; the encounter was outrageous and damaged her tremendously, particularly because she never thought racism against Japanese women existed in the West.

**Lawyers' underperformance.** Yuko\* was also powerless in dealing with the division of assets through the lawyers. She describes her husband's manipulation of money issues, and expresses the sense of helplessness she felt during the negotiating process, even though she had a lawyer who was supposed to help her:

The furniture and dinnerware I bought with money I earned, he insisted he is entitled to get a half of them. [...] I couldn't take him any more so I gave it all up. Everything was under his thumb, in his own sweet way. Money, money—that's all he was thinking about. His main concern was how he could reduce child support payments by keeping his son at his place as long as possible. Speaking of money, he was supposed to give me a half of the money once our house was sold. One day, the real-estate agent told me that the house was sold, so I said to my husband, "I hear it's sold," but he had the nerve to say, "No, it's not sold yet." [...] My lawyer didn't do anything about it.

私が稼いだお金で買った家具や高価な食器類とかも、半分は自分のものだって主張してくるし。[...]もういやになっちゃって、全部あげちゃいました。何でもかんでも彼の言いなり、思い通り。

何かって言えばお金なんですよ。いかに養育費を払わないですむようにできるかって。いかに自分のところに長くいさせてお金を払わなくてすむようにできるか、って。お金の話といえば、[...]。[家が]売れたら売上げの半分は私に、って約束だったんです。リアルエステートの人が「売れたからね」って教えてくれて「売れたんだってね」っていったら「家はまだ売れてない」って堂々と言ってのけた。[...]弁護士は何もしてくれませんでした。

Yuko\*'s lawyer ignored her request regarding the matrimonial home; she did not even receive an explanation as to why her lawyer "didn't do anything about it." She was exasperated, yet she did not know what else she could do when her own lawyer was not responding to her request. She was further pushed into a disadvantaged situation and financial difficulty because of her husband's lies as well as her lawyer's acceptance of her husband's lies and disregard for her request. Yuko\*'s stories depict the post-divorce violence of a Western man, as well as a Western society prejudiced against immigrant Japanese mothers. I see her frustration in dealing with the sexism and racism of two Western men—her husband, as well as her lawyer, who ignored Yuko\*'s request to peruse the proper division of assets.

Neither Kaori\* nor Yuko\* found their lawyers helpful. I contend that their lawyers underperformed in dealing with their cases: it was important for Kaori\*'s lawyer's to tell her to be ready for racism; however, he did not advocate for his client by openly addressing the fact of racism in the courtroom. Kaori\*'s and Yuko\*'s encounters in the Western legal system

exemplify Razack's (1998) notion of interlocking systems of domination by illustrating the confluence of sexism and racism in the courtroom. It is disturbing to learn that Western lawyers can underperform when they represent their non-Western clients, and this double standard may signify Western lawyers' own racism against non-Western clients.

**Disadvantaged in court.** The stories of Kaori\* and Yuko\* made me feel concerned about immigrant Japanese women who will face domestic violence and divorce proceedings in a Western country in the future. Kaori\* confidently described, based on her personal experience, the injustice that immigrant Japanese women can face in the Western legal system. Kaori\* told me that residing at a women's shelter could result in losing child custody. Her claim is supported by the Counsellor's story of his client losing custody because she was in a shelter. The Counsellor raises his voice when he talks about an instance where an abused mother in the shelter lost her case:

He drinks a lot and smokes pot all the time. He doesn't work and pays no child support, but he has a mother who owns a house, so the Court decided he'd provide a better environment for the child than the Japanese mother who is in a shelter. I couldn't believe that the Court gave him primary custody to live with the children. It doesn't make sense to me. She is a wonderful mom. Because she is in the shelter, because she is socially vulnerable, she got a biased judgment. It was absolutely unjust. [...] It was totally unfair. I don't think it'd be good for the child. [...] Child custody should not go to a father, when the child witnesses the father's abuse against the mothers, in my opinion...

飲んだくれで、マリワナばかり吸って、仕事もせず養育費も払わない。ばあちゃんがいるから、家がない日本人女性、shelter なんかにいる日本人女性よりかは子どもにいい環境を与られるっていうんで、primary caregiver の権利が飲んだくれのマリワナ中毒のお父さんの方に行ってしまった。ありえない。すごいいいお母さんなんです。社会的弱者で、shelter にいるから。私、信じられなかったです、その結果を。公平ではないです。公平ではないと思います。[...] それにしたって、あり得ないだろうって。子どものためにもよくないだろうし[...] ホントにお母さんへの abuse があって、子どもが目撃していたとしたら、ホントだったら、お父さんに親権なんて行かないでほしい、ですよ。私的な価値観だと...

The Court viewed the mother, who was forced to live in a shelter because of the father's abuse, as less suitable than the father, whose mother could provide a house for the child to live in despite the father's alcoholism and substance abuse, which may negatively impact the child.

Weiner (2003) recommends that mothers who face disadvantaged court proceedings retain feminist lawyers who can "describe legal problems for women – in detail and in context"

(p. 783), including “why her efforts failed, the danger of separation assault, [and] the batterer’s dangerousness” (p. 785). For immigrant Japanese mothers, however, there are many obstacles to obtain such an effective legal representation. The Counsellor further describes the challenges that the mothers encounter in fighting their custody battles in Toronto. In most cases, a Japanese mother gives up fighting against her husband—as Yuko\*’s “I couldn’t take him any more so I gave up” indicates. According to the Counsellor, no family lawyer in the city can speak Japanese and no Japanese court interpreter is available either. I was surprised to hear that there is no Japanese court interpreter in Ontario. According to a justice reporter of *the Globe and Mail*, the shortage of qualified court interpreters has been a long-standing concern and there is a serious shortage of court interpreters of major languages, such as Punjabi and Mandarin. For example, only five Punjabi court interpreters exist in Ontario (Makin, 2013). Makin (2013) reports that the consequences of this shortage of court interpreters among immigrant populations are significant.

In addition to the problematic lack of Japanese court interpreters, many of the Counsellor’s clients have financial difficulty obtaining a lawyer. They likely retain lawyers who will accept clients with Legal Aid certificates, and these mothers are further disadvantaged. Legal aid certificates offer limited hours of payment for legal representation, and definitely not enough to fight against the experienced lawyers whom many Western men can afford to hire. Finally, the Court tends to put Japanese mothers at a significant disadvantage in relation to a Canadian father. The Counsellor’s story suggests the returned Japanese mothers’ stories are representative of how immigrant Japanese mothers are disadvantaged in their divorce proceedings due to their gender, financial situation, and foreign-born background. The interlocking layers of domination, which have particular power over immigrant women of colour, are evident in the Counsellor’s narrative and the returned Japanese mothers’ testimonies.

In this chapter, I described the distinctive features of the returned Japanese mothers’ experiences. Unlike the divorced Japanese mothers’ hesitation and apprehension to access to public social support, as described in chapter 4, the returned Japanese mothers sought social support from various sources, including women’s shelters. Unfortunately, the mothers’ stories suggested that women’s shelters are not always able to accommodate the needs of women who are victims of domestic violence. Their stories also revealed the existence of institutional racism in the Western legal system; the lawyers and legal workers of the returned Japanese mothers advised them to be ready for racism in the courtrooms.

Unfortunately, the end of the marriages did not mean the end of the husbands' abuse of the returned Japanese mothers in my study. The abusive fathers' desire to control the mothers continued to affect the well-being of Kaori\*, Yuko\*, and Miho\*. In the following two chapters, I describe the post-divorce experiences of the immigrant Japanese mothers. In chapter 6, I introduce Kazuko's story of sole custody in the 1980s in Canada, and then I compare and contrast her case with the other divorced Japanese mothers' recent divorces. Chapter 7 covers the returned Japanese mothers' post-divorce experiences, focusing on the ways that their freedom was violated. I discuss a form of post-divorce violence known as legal abuse and its role in the returned Japanese mothers' decisions to return to Japan with their children.

## Chapter 6: Transnational Divorce: Then and Now

In this section, I explore the differences and similarities of the stories of divorced Japanese mothers who reside in Canada. Whereas divorced mothers in the 1980s were likely fully responsible to make decisions regarding their children, most divorced mothers in recent years share decision-making rights with their children's fathers under joint custody. Nonetheless, the divorced Japanese mothers in my study share a common thread of day-do-day responsibility for the children. I begin with the story of Kazuko's divorce in the 1980s followed by the stories of the recent divorces.

### Kazuko's Case of Transnational Divorce in the 1980s

Kazuko, who became a single parent in the early 1980s, had sole custody of her children, ages five and seven at the time of divorce. She was stressed at work and not happy in her marriage. Although she managed to keep her divorce conflict-free, overcoming the sense of guilt in initiating divorce was a significant part of the post-divorce challenge for her. She recalls the time when she and her husband drafted their separation agreement together:

It was so easy that our lawyer said, "I've never seen such an easy, non-conflict divorce." [...] I didn't want to get money from him because I worked. [...] I didn't receive any child support whatsoever, but he paid for the babysitter for the first three years. Being fully responsible for finances and the situation where I never had to fight gave me such emotional freedom. You know, sharing kids can only be possible when the other person is reasonable enough to follow the agreement and I hear that's not the case for most divorces, right?

「あんたたちみたいな簡単な一度ももめない離婚は初めてだ」って言われるくらい簡単だった。 [...] 離婚するときにお金をもらうのは嫌だって思った。働いたし。 [...] 最初の3年間だけ、baby sitterのお金だけ払ってもらってた。養育費をもらわなかった、全部自分でやったっていうのは、とにかく相手ともめなかったっていうのは、精神的な負担が少なかった。で、必ずしも折半でどうのこうのっていうのは、相手がちゃんと良心的に agreement 通りにやってくれればいけど、往々にしてそうじゃない場合があるじゃないですか。

In the early 1980s, divorce posed a different challenge for women than divorce in recent years because single motherhood was perceived as a sign of failure in life. Kazuko shares her struggle with the stigma attached to divorce:

Divorce was my first failure in my life. There was still a huge bias towards divorce and I couldn't tell my parents about it for a while. When my parents found it out, they told me



to come home right away. They told me to bring the kids home with me and they'd look after me for the rest of my life. But I didn't take their offer because the strong stigma attached to a single mother in Japan in the 80s. I thought it'd be rough for the kids to be growing up in such discrimination only because it'd be convenient for me to be in Japan. [...] When I thought about their future, they'd be better off being in Canada. Of course, I'd have had much easier life if I had gone back to Japan. [...] Had I gone back to Japan, I would've been in a much better social location, that's for sure.

離婚するまで一度も人生に失敗したことは無かった。まだ離婚に対する偏見もあった頃で、親にもしばらく言わなかったし、でも言ったらすぐ帰ってこいって。子ども二人連れて返ってこい。と、今ならあんたが一生困らないぐらいのことはしてあげられるって言われて、でも帰らなかった。日本はそのころ片親の子どもに対する偏見ってまだ大変だったのよね。だからそういうところで子どもを育てるのは、わたしの都合だけでね。子どもを育てるのは、どうかなと思って[...]子どもの将来のためにもここにいた方が良かった。私自身のためには日本に帰った方がずっと楽だった。[...]ここにいるよりは社会的にもずっと条件が良かった。

When I asked her what was the most difficult post-divorce experience for her, she replied that making choices for business and private matters by herself was the most challenging:

I had to make so many unfamiliar decisions because I didn't grow up in Canada. At that time, I had very few friends. Making up my mind was really tough for me. [...] My husband looked after a large part of the household chores when we were together, but I had to start doing them all. I became solely responsible for taking the kids to afterschool activities, too. That was hectic. [...] I worked full-time and did all of the housework and childcare by myself. When I look back, I have no idea how I did it. [...] I had a reliable babysitter. I never went to any school events; my babysitter looked after them all. I relied on her for 12 years.

私ここで育ったわけじゃないからわかんないし、あの当時あまり友達もいなかったし、だからとにかく、たいへんだった。[...]家事もけっこう彼がやってくれてたんだけど、それもぜんぶ自分でやんなきゃなんなくなつたし、子どもたちのお稽古ごとやなんかも送り迎えも全部ひとりでやんなきゃなんなかった。それはたいへんだった。[...]それをわたしが full-time の仕事をずっとして全部やって、今になってよくやったなって。[...] baby sitter がよく support してくれた。[...]学校の行事も一度も行ったことがない。全部 baby sitter さんがやってくれてた。結局彼女に 12 年間やってもらった。

Although parenting without a partner was hectic and she wished she had someone to consult about important decisions, Kazuko believes that it was a good thing that she was fully responsible for the children's lives. She comments on the current trend of joint custody:

Joint custody is tough on kids, isn't it? [...] It would confuse children. [...] Two people who have different value systems and parenting policies—how do they deal with parenting? I wonder how they manage such differences. It must be emotionally draining, right? A mother has to change her schedule to accommodate the father, doesn't she? You see, I never, ever had that kind of problem. [...] Parents have to argue even after their divorces. The couple was divorced because they didn't get along in the first place, right? Then, they fight over how they raise their kids after divorce. That's so sad, I mean, that doesn't make sense when you think about kids' well-being. [...] So when I think of joint custody, although the idea may be good ...well, can I just say it's like being caught up in the tide of the times? ... I feel really lucky that I didn't have to deal with joint custody, ... personally speaking, you know. We had a choice to deal with our own custody. He never insisted on custody of the kids, I mean, sole custody was the norm at that time. [...] He left all the responsibilities for the kids with me. I feel fortunate because I was in charge of everything and it was very good for the children.

共同親権って、子どもは辛いんじゃない？ [...]すごい confusing だと思う。 [...] 価値観がどうしても違うでしょう。育児の哲学っていうか、しつけの問題がね。だから、わたし、みんなそういうのどうやって解決するのかなあって思ってますごく興味がある。精神的にたいへんでしょ。父親のために自分の *schedule* を調節するとか、いろいろ、ね。私はそういうことが全然なかったの。 [...] 離婚した後までまた揉めなきゃいけないわけでしょ。だいたい揉めたから離婚したわけで、それがさらに子育てのことでまた揉めるっていうのは、とてもつらいっていうか、子どもにも良いことなのかなあって疑問はありますよね。 [...] だから共同親権ってゆうのは、良いことなんだと思うんだけど、時代の流れって言うのかな、私としては、そんなのが無くってよかったなって、個人的には、ね。親権も二人の都合で決められた。向こうも主張しなかったし、そういう時代だったから、 [...] 全部わたしにお任せって感じで、全部自分の好きなようにできたってことはよかった。子どもにもよかった。

Kazuko's comments – exemplified in the phrases “being caught up in the tide of the times” and “sole custody was the norm at that time” – represent the changing social norms around post-divorce child custody from sole custody to joint custody. Indeed, the rapid change in the social norms of post-divorce parenting in Canada during the last few decades is remarkable; whereas sole custody was the norm in the 1980s, joint custody gained popularity during the late 1990s and

has been a mainstream practice since the early 2000s (Boyd, 2003). Kazuko ends her story by emphasizing the importance of economic independence for women and its role in her own success:

Independence is the key word. You need to be independent and it's important regardless of your marital status. Yes, you have to be self-supported, and that's the key to be free from nonsense. [...] It was hard to make ends meet when I was young, but I somehow managed without receiving welfare. Whether you are independent or not would make a big difference in your life.

やっぱり自立しなきゃだめね。自立ってのが、ひとつやっぱり、keyword だと思う。離婚するしないにかかわりなく、ね。うん、自立ってことが keyword。そうすれば我慢しなくてすむ。[...]若い頃はぎりぎりの生活してた。でもぎりぎりでも何でもとにかく welfare とか貰わずになんとか自分で生活してた。だから自立が出来てるか出来てないかですぐいぶん違ってくと思う。

Kazuko's story represents her generation of Japanese people who tend to perceive receiving social assistance as shameful. At the same time, she offers her perspective as a working mother, which breaks free from the traditional image of Japanese women who are willing to fulfill the role of full-time homemaker and stay-at-home mother.

During a few decades, post-divorce parenting in Canada has changed dramatically and the challenges of divorced Japanese mothers have changed. Nonetheless, Kazuko's story and those of the three divorced Japanese mothers share several common threads. I now proceed to describe and analyze the similarities and differences between Kazuko's experience with sole custody during the 1980s and the others' contemporary experiences with joint custody.

### **Transnational Divorce in the 2000s**

As Kazuko suggests, becoming financially self-supporting is key to the survival of all the divorced Japanese mothers in my study. Achieving financial independence in a foreign country requires significant effort. Unlike Kazuko, who had a secure job and stable income at the time of divorce, none of three divorced Japanese mothers had employment income. Even Mayumi, who had a high (Canadian) education level and a solid employment history in Canada, struggled to find a job. The obstacles facing the women who had never worked in Canada were even greater. In the following sections, I illustrate two very different journeys to becoming financially independent as an immigrant woman in Canada.

Although Kumiko was receiving support payments (i.e., alimony and child support), she started to work immediately after her separation. It was a part-time and minimum-wage job; however, she wanted to take a step toward financial independence. Two years later, she landed a full-time job with a Japanese company through a personal connection; her high Japanese academic credentials paved the way to her securing a full-time position. Naomi, in contrast, was a recipient of Ontario's social assistance program, known as Ontario Works (OW), for many years.

OW provides eligible Ontarians with financial assistance to cover basic needs for food and rent, as well as employment assistance, including education. If a woman is trying to leave an abusive relationship, then she is likely eligible for OW. If she lacks language skills in an official language, then she will receive education to improve her language skills (Ministry of Community and Social Service, 2014). Naomi talks about her experience with OW:

It's been only a year or so since I started to manage without OW. It took me a long time. [...] When Japanese mothers faced divorce, many of them would start school. Going back to school is considered the only way to survive in Canada for us [immigrant single mothers who never worked in Canada]. OW told me to go to school, but I'm not the schooling kind because I have LD [learning disability] ... I'd get overwhelmed when I couldn't study at my own pace.

OW なしでやれるようになったのは1年くらい前からですね。時間かかりましたね。[...]離婚ってことになって、学校に行き始める方が多いですね。学校に戻るのが唯一生き残る道、みたいに言われてるじゃないですか。OWでも学校行けって言われました。でも私には向かない。私、LDなんで...自分のペースでできないとしんどい。

Naomi's story about going back to school is interesting. Being a mature student is challenging and she knows her limits and when to say no. "I'm not the schooling kind" is a phrase that reminds one that education or training is not the answer to everyone's situation. She had to find her own way to ending OW. Naomi shares her insights into attaining employment as an immigrant single mother:

I found that developing a network of contacts is a must to survive here. Someone I met through my previous job introduced me to the place I work now. It pays a little more than the one before. Networking is very important and I feel lucky to have helpful friends. But it's not enough at all to really enjoy life here. It'd be great if I could get \$15 per hour. It is really tough to survive in Canada.

コネクションってすごく大事だと思います、ホントに。今の仕事も前の仕事関係の人に紹介してもらった。前よりちょっとだけ時給がいいんです。ネットワークってホントに大事ですね。私、人には恵まれているみたいで助かってます。でもここで満足な生活を送るためには全然足りません。時給 15 ドルくらいは欲しいんですけどね。カナダで暮らして行くのはホントに大変です。

Naomi's job does not offer any benefits; therefore, she continues to receive the medical benefit through OW, which she has not had to use so far. Although her income is inadequate, managing her life without social assistance provides her with a sense of independence. Indeed, the emotional satisfaction that derives from financial independence seems to be very important for the divorced Japanese mothers.

Mayumi, who also works on a full-time basis, also explains that having a job is important for making her feel confident as a member of Canadian society:

My current job is demanding, but it gives me a sense of belonging to this society. I worked many years at Japanese companies, and I felt accepted there because I was a Japanese. [...] In working at the current place, I feel accepted by the broader society. And the sense of being a member of *this* society is important to me. Well, they don't pay much though.

今の職場、たいへんなんだけど、自分がこの社会にビロングしてるっていうのを感じるんですよ。前、日系の会社にいたときは、日本人だから受け入れてもらってるみたいなのがあったんですけど[...]この広い社会で受け入れてもらってるのが、多分大事なんだと思います。給料安いですよお (笑)

All of the returned Japanese mothers worked hard to gain independence in their own ways, regardless of their abilities and social locations. They also shared their experiences in struggling to manage the stresses of working at full-time jobs while raising children as single parents.

All the divorced Japanese mothers, including Kazuko, had hectic lives between full-time jobs and children. Whereas Kazuko had a reliable nanny to look after her children's homework and school events, Mayumi and Naomi had to rely on after-school daycare facilities. These facilities likely operate with strict rules, and are presumably much less personable compared to nannies like the one Kazuko found. It is interesting to hear almost identical stories from the two divorced Japanese mothers; Mayumi talks about her busy routine that used to distress her:

It was hectic, a lot of work, really. [...] I'd finish work, take a train back, pick the kids up, and come home. It'd be six pm at the earliest. Then I'd fix supper, feed them and so on.

We only had two hours together and we'd fight over homework. I hated myself, you know, I didn't want to spend my two hours with my kids in such an unpleasant way.

大変でした。すごい大変でした。[...]仕事終わって電車で帰ってきて、子供たちピックアップし家着くともう6時とかじゃないですか、はやくても。そこらご飯作って食べて、子供との時間、残りの時間、ほんの2時間ぐらい。いつもけんかしてたんですよ、宿題宿題って、なんかすっごいいやで、たった2時間しかないのに、こんな過ぎしかたいけないなあって...

Whereas Mayumi's children are approaching their teenage years, Naomi is currently in the middle of a similarly hectic routine. She talks about how she spends her two hours in the evening with her daughter:

I often find myself in tears. Doing homework is a battle. I pick up my kid at six, and squeeze in dinner, bath, and studying between seven and nine. I look after her homework while she is with me because her father doesn't look after her homework. I often wish my family were here. It'd be so helpful if somebody could watch her just for ten minutes. [...] I have to pick her up by six, right? On a snowy evening, I rushed to get there, running on a slippery path, and managed to arrive at a minute before six. Short of breath and wheezing, I thought, "What am I doing?" It's like a war every day.

自然に涙が出てきて。[...]宿題は、戦争。6時のお迎え、7時から9時の間にご飯、お風呂、勉強、全部詰め込む。[...]彼は宿題もほとんど見てくれないので、ウチにいる時全部やる。[...]家族がいたらなって思うことはありますね。ほんの10分でも見てもらえたら助かるじゃないですか。[...]お迎えも6時までだから、雪の中走るのホントに怖くて、こないだも1分前についてゼーゼーしながら、「何やってるんだろ、私」って 毎日戦争みたい。

### **Shared Custody and Parental Communication**

Whereas joint custody merely means joint decision-making rights for both parents, shared custody arrangements involve different parental responsibilities, including the establishment and maintenance of clear and regular communication with the other parent. The answer to Kazuko's questions as to how two people who have different value systems and parenting policies manage their differences may lie in Mayumi's dialogue:

Shared custody is good for kids, but it can be a pain in the neck for parents. We missed many school announcements because the handouts got lost somewhere in between, or we both assumed the other would take care of it, but neither did. The coordination for the kids' going back and forth between the two parents and avoiding miscommunication was

a lot of work for us. The clear and frequent communication is a must in a shared custody arrangement. We managed it because we got along.

あと半々で見ると、子供に取っていいんだけど、親に取っては結構大変ですよ。学校のレポートが来てるのとかをどっちも知らなかったり、どっちかがやるだろうとか思ったり、でもやってなかったり、そのコーディネーションがものすごく大変でした。密に連絡取り合って、それができたから、私たちは。

Many parents have “different value systems and parenting policies” regardless of their social and cultural backgrounds; however, they manage parenting together as long as they cooperate. Mayumi’s story represents successful communication between parents, for which all parents should strive, even when they live together. Mayumi’s case exemplifies co-parenting, or raising children together through effective interactions with one another after divorce, as opposed to sharing parenting, where each parent tends to persist with his or her individual parenting style, which may be confusing for children of divorce as Kazuko suggests.

Although Mayumi is generally happy with her shared custody arrangement, her story depicts another common trouble experienced by mothers in shared custody arrangements:

The stuff that the kids took to their dad’s place didn’t come home. It drove me crazy...like “Where did it go?” and “Do I have to buy it again?” and then the kids would leave the items I bought for the second time at Dad’s again. I had to scold the kids as well as their dad quite often over missing clothing or something. I know it was no big deal and would happen to anybody, but when I was tired and irritable, I would say a few nasty things to him.

持ってったものが、かえってこなかったり、あれどこに行っちゃったの、とかね。いらいらしたり… また買わなきゃ、そいでまたおいてきたり、とか、みたいなこまかいけんかは、ありました。着るものとか、どこでもあるだろうなみたいな、疲れていらいらしていやみ言うことはけっこうあったかな？

Naomi regularly has the same trouble as Mayumi. Whereas “it was no big deal” for Mayumi, it was a source of Naomi’s husband’s ongoing harassment. He seems to have had no intention of having “clear and frequent communication” with her:

The clothing my kid put on when she left my place wouldn’t come home. Stuff I bought stays there. I used to go inside and pick up those items by myself, but lately, he is getting even grumpier with me. He is awfully unfriendly and hostile these days. He gets mad at me when I try to say something to him... I need to talk to him about the kid, but he won’t talk to me. When I kept telling him something, he blew up and said, “I’m gonna call the

police.” I wouldn’t be able to get inside of his house anymore because he told me that he’d call the police if I tried to come in his house. I said, “What about her clothing? It never comes back to me. What are you going to do about them?” He said, “Who cares?”...

向こうに着ていった洋服とか戻ってこないとか。ウチで買ったものが行きっぱなしで帰ってこない。いままではちょっと中に入れてもらって取ってくる、とかしてたんですけど、最近、彼の態度がどんどん悪くなって、無愛想で、態度がハンパなく悪い。もうすごい不機嫌。で何言っても怒ってきて…子どもを迎えに行った時、子どものことで話したくて、でもむこうは話したくなくて、わたしがそれでも話そうとしたら、めちゃめちゃ怒って「警察呼ぶぞ」って言われて、今後家の中に入って来たら警察呼ぶって言われて、もう入れなくなった。「これから洋服とかどうするの、行ったまま帰ってこない。どうしてくれるのよ」って言ったら「そんなの知らない」って…

In Naomi’s case, the father’s constant control of the situation continues years after the divorce. Nonetheless, she trusts that he would not mistreat his child, and he trusts that she would not take his child away from him. Naomi looks forward to visiting Japan in the summer of 2014:

Last time my daughter and I went to Japan was in 2009. He didn’t have any issue about it. I plan to go to Japan this summer. My sister had a baby and we haven’t met the baby. My father had heart surgery two years ago, so I should go to see him sooner than later. I’m now trying very hard to save money for the trip. We, at least, have basic trust in each other.

2009年に子どもと日本に帰りました。そのときもすんなり返してくれました。この夏また帰ることにしてます。姉に子どもが生まれたので、その子にまだ会ってないので会いたいし、父が一昨年心臓の手術したので、早く帰らないとって、今いっしょうけんめいお金貯めてます。うちの場合、基本的な信頼関係はあります。

Naomi’s transnational divorce may not be devoid of problems, as her story often suggests that she continues to face post-divorce violence. Nonetheless, she has the freedom to visit her family with her child in Japan. She is looking forward to her summer in Japan, the prospect of which motivates her to work and raise children in Canada. Although the social locations and experiences of the divorced Japanese mothers vary, they share one thing in common; none of them have the slightest doubt about their ex-husbands’ love for their children. These divorced parents have fundamental trust in each other and the freedom to travel to Japan with their children is protected.



In this chapter, I scrutinized cases involving single mothers with sole custody during the 1980s and joint custody during the 2000s in Canada. The mothers' stories revealed that their childcare responsibilities stayed the same regardless of custodial arrangements. In fact, their stories indicated that shared custody involved additional responsibility for recent single mothers. In chapter 7, I return to the stories of the returned Japanese mothers and discuss how their experiences are related to their decisions to return to Japan with their children. Unlike the divorced Japanese mothers residing in Canada who, as described in this chapter, trust their children's fathers and whose rights and freedoms are respected by these fathers, the stories of the returned Japanese mothers reveal that their rights and freedoms continue to be violated.

### **Chapter 7: Post-Divorce Challenges of Returned Japanese Mothers**

The post-divorce challenges of the divorced Japanese mothers in Canada generally concern single parenting difficulties and communication issues surrounding shared custody arrangements. In contrast, the returned Japanese mothers' challenges regarding joint custody are distinct as the fathers abused their parental decision-making rights by using the children as a means to control the mothers. The returned Japanese mothers were both surprised by, and resentful of, their husbands' claims to their rights as fathers. Considering their absence from and disinterest in their children's lives, the fathers' claims seemed unreasonable to the returned Japanese mothers. Because of the fathers' decision-making rights, their control over the mothers did not end upon divorce. In this chapter, I discuss the post-divorce violence that the returned Japanese mothers encountered. I begin by describing their tremendous sense of injustice.

#### **Parental Responsibilities vs. Parental Rights**

Miho\* questions her husband's claim to parental rights in the context of his simultaneous failure to fulfill his responsibilities as a parent. She articulates her resentment and irritation, and I sensed the loneliness behind her rage:

He knows nothing about the kids...When did they get immunizations? When did they get their nails clipped? What about hair cuts? "Those things are not important at all", said my husband. Guess what? That's called child-rearing. [...] He takes the kids to his parents, lets them play with Grandma and Grandpa, and he does nothing. But he believes he is a good father. Must be nice! He never has to take the kids to and from school, never has to brush their teeth, never has to look after their homework, never has to do the laundry. He'd come to get the kids on weekends and say, "Let's go skiing", or "We're gonna go bowling today", and then he'd take photos of the kids. [...] He'd take photos of the kids and he'd be content to be a good father. I, on the other hand, brush the kids' teeth everyday, but I wouldn't take a photo of it. I cook and feed them three times a day, but I wouldn't take a photo of it. Something that I work very hard at every day, raising the kids properly, would never be recognized, but what he'd enjoy doing with the kids would be praised. It is unbelievably unfair. On the weekends, all I wanted to do was to sleep in and the best I could do was to take the kids to the playground across the street. But that wasn't good enough to be a good parent and he considered it neglect. Something is really, really wrong with his value judgment. He is a lawyer.

子どものことは何も知らない、いつ予防接種しましたか。いつ最後につめ切りしましたか？ 散髪は？ 彼にはなんにもわからない。で、「そんなことは重要じゃない」って。でもそれが育児でしょ。[...]週末は実家に行って、おじいちゃんやおばあちゃんと子どもを遊ばせて、自分は何もしない。でも自分はなんていい父親なんだって思ってる。楽しいでしょうね。自分は学校の送り迎えをするわけでも、歯を磨いてやるわけでも、宿題をみてやるわけでもない。洗濯もしない。週末だけやって来て。はいスキーです。ボーリングに行きました。って写真を撮る。[...]写真撮って、いい親だって。私は毎日子どもの歯を磨く、でも写真は撮らない。毎日ご飯作って食べさせてる。でもそんな写真は撮らない。私が毎日こんだけ頑張ってるのが評価されることはなく、彼が楽しんでることは評価される。不公平な話です。私、土日なんて疲れきって「寝かせてください」って感じじゃないですか。もう目の前の公園行くのが精一杯。でもそれだと、怠惰なお母さんだって。育児放棄だって。そういう価値観どうなんでしょう。彼、弁護士です。

Her stories exemplify the sense of post-divorce unfairness, which is often expressed by residential mothers concerning the rights and responsibilities of post-divorce parenthood (Boyd, 2003). At the same time, they represent another common feeling with which divorced mothers may have to cope; mothers who always look after their children and stay with them every day and night before divorce might struggle with a sense of exclusion. Miho\*'s children go skiing and bowling with their father and she will not share the same memories with her children. Her children, who used to spend every minute of their lives with her, spend some weekends without her and there will be more and more photographs taken without her. Going through divorce is difficult for anybody; however, mothers attempting to adapt to their post-divorce lives often have to manage particularly complex feelings. When the fathers are abusive, the mothers struggle with additional grief.

Kaori\* questions the abusive father's claim to parental rights when he refuses to fulfill his parental responsibilities. Although the father never paid any child support and had no intention of caring for the children, he requested to see them on the grounds that doing so is his right:

The children don't want to see their father, but as long as he wants to see the children, they must see him. He can cancel the access schedule, but I can't. [...] He hasn't been responsible for the children, but when he claims his right to see the children, his right comes first. I don't get it at all.

子どもがいやがっていても父親が望む限り子供は父親に会わなければならない。父親からの急な面会のキャンセルは認められるが、母親からのキャンセルは認められない。[...]親としての義務を果たさずに、会う権利だけを主張する父親の立場が強いというのはどういうことなんでしょう。

Indeed, abusive fathers seem to be empowered by divorce and the fathers' power can mean the mothers undertake further responsibility to accommodate the fathers' demands.

### **Joint Decision-Making**

None of the returned Japanese mothers' frustrations in dealing with the abusive husbands ended with divorce; abusive husbands simply became abusive ex-husbands. When a father in an abusive relationship has joint custody, it is often used as a means of abuse; the father can harass the mother by rejecting her requests regarding the children. Whereas Kazuko's divorce in the early 1980s allowed her to make all the decisions for her children, Yuko\*'s story reveals her additional responsibility to receive approval from the father for every single decision for their son.

Yuko\* thinks that joint custody was invented by fathers in order to maintain control over mothers, which is in line with Boyd's (2003) view. Indeed, seeking his approval became part of her routine after divorce. Yuko\* recalls many trials that she and her son suffered because of his power to say no:

He told me to find a counselor for our son somewhere else but at the women's center, so I looked everywhere, but he approved none of them, saying, "He is no good, she is not the one." After all, everything I do is dismissed. Our divorce was finalized, yet he kept saying no. [...] Although I finally divorced him, he kept sticking his nose into just about everything. While our son was with him, he didn't allow our son to take a bath at all over the weekend. Our son was born in Japan, so he wasn't circumcised at birth. [...] When our son was back from his dad's, he complained about pain. I took him to a doctor and asked the doctor for the procedure. The doctor told me to get the father's permission, so I asked him to permit the procedure as it was very important, but he ignored my request. Our son couldn't take the pain any longer so I took him back to the doctor. When the doctor asked me if I got the father's permission, I said yes. [...] When our son told his dad about the procedure, his dad made huge noise, saying, "I'm gonna sue you."

旦那から条件として子どものカウンセリングは女性センターではなく、必要なら別の場所でするように。で、いろいろ探したんだけど、私が見つけた人は、「この人ダメ、こっちもダメ」ってみんな文句言って。とにかく私がすることはすべて却下。とにかく離婚が成立した後も私の言うことはすべてノー。[...]でも結局、離婚できてもむこうがなんでもチャチャ入れて来てやっぱりたいへん。息子が向こうに行ってる間お風呂に一切入れてもらえなくて、週末のあいだずっと。息子、日本で生まれたから、circumcise をしてなくて、[...] 旦那のところから帰ってくると、とにかく息子が痛がって。医者に行って「処置してください」って言ったら「じゃ父親の同意を取って来てください」って言われて、で、旦那

に「とっても重要なことだから同意してね」って頼んだけど無視されて、でも子どもは痛がってしょうがないから「もう、やっちゃえ」って医者に頼んだんです。「同意取れましたか」って聞かれたから「はい」って。[...]やっぱり息子は父親に言うわけですよ。それでバレちゃって。「裁判だ」とかって騒いでた。

Due to the fathers' decision-making rights, the returned Japanese mothers continued to deal with their ex-husbands' unreasonable demands and malicious dismissals of their requests. In the end Yuko\* took her son to the doctor for the procedure without the father's consent, that is, she had no choice but to lie. The seemingly positive notion of joint decision-making can result in mothers endlessly pleading for the fathers' consent. Furthermore, abusive fathers can use the legal system to assist them in their search for control. In the following section, I further describe the post-divorce violence described by the returned Japanese mothers.

### **Post-Divorce Violence and Returned Japanese Mothers**

The abusive husbands' continual violence and the elevated risk of child abuse are the two major sources of the returned Japanese mothers' post-divorce distress. Bancroft et al. (2012) point out that violent relationships continue through custody dispute and beyond, with the husband abusing power and gaining control through a pattern of manipulative and coercive behaviours. I start with Miho\*'s story of the escalation of her husband's controlling behaviors after she moved out.

Miho\* was familiar with common post-divorce parenting arrangements as she worked at a law office; however, she did not know that leaving her husband would fail to end his control and intimidation. She describes a disturbing series of intimidating and irresponsible behaviours:

We discussed bare minimum agreements about the children, but all fell through from the beginning of separation. [...] He came to my new apartment and started to yell at the door: "You'll be sorry forever" type of nonsense. [...] He also came into my apartment without my permission. [...] He used the bathroom, went into my bedroom, and sat on the sofa in the living room as if he was living there. Then, he looked at my computer and found a website of a law office that I was looking at. He told me to stay away from such an expensive lawyer. When I told him to respect my privacy, he shouted, "I'm trying to be helpful." He got furious and kept screaming, "You are difficult." [...] After that, I started to wait for him in front of the apartment. Because he said he would come at three o'clock, the kids and I started waiting for him at five minutes to three. He came around

3:45, so I complained because it was so cold. He said, “I said around three and 3:45 is around three”. I figured that it wouldn’t work...

最低限の子どものことは話し合ってたんですけど、別居当初から何一つ守られなかったんですよ。[...]引っ越したばかりの新しいアパートの前で[...]「一生後悔するぞー」みたいにすごい大きな声で怒鳴られて。[...]彼が私の許可なくアパートの中にどんどん入ってきて。[...]トイレ使ったり、勝手にベッドルームに入ってきたりとか。当たり前のようにリビングに座ったりして。それから、わたしが弁護士を捜していると、勝手に私のコンピューターを見て「あそこは高いから」[...]「君のことを思って言ってやってるんだ」とかって怒鳴って、[...]「君は、むずかしい」とかってまた怒って。[...]それで、アクセスの約束の時間の前に私のアパートの前で待つことにしたんです。3時って言ってたから5分ぐらい前から待っていると、3時45分ぐらいにやってきて。すごい寒くて文句言ったら、3時ごろっていったのは、3時45分も同じだって言って。「これはもう、うまくいかないな」って感じました...

In addition to intimidation, he used verbal abuse by shifting the focus from his violation of her privacy to her faults, justifying his irresponsibility with selfish reasoning. His behaviors exemplify abusive husbands’ unique rationality—that is, everything is the wife’s fault because she made him angry (McLaughlin et al., 2012). If an abusive father’s ongoing harassment and intimidation of the abused mother were not problematic enough, another serious issue surrounding joint custody is the elevated risk of child abuse by the abusive father after divorce.

**The risk of child abuse.** Bancroft et al. (2012) argue that parental divorce does not end the traumatic experience whereby the child is exposed to abusive situations; instead, the child faces an increased risk of becoming a victim of violence in addition to continuing to witness the father’s harassment of the mother. Upon their parents’ divorce, children live or spend time alone with their fathers. The target of a father’s controlling behaviours tends to move from the mother to the child, and the abusive father often uses the child as weapon against the mother (Bancroft et al., 2012).

The shared custody arrangement created a problem for Yuko\*’s son. Her story reveals the way that post-divorce child abuse can function as a father’s means of controlling the mother. Yuko\* describes the emotional abuse that her son encountered after divorce:

One Saturday, I asked him to take our son to the soccer game. He said, “This is my day. Don’t tell me what to do.” [...] When I asked him to take our son to his friend’s birthday party, he said, “I don’t have money. You have money.” He must’ve meant the support payments. After all, he never took our son anywhere.

いつだったか、土曜日にサッカーゲームが入って「連れてってやってね」って言ったら “This is my day. Don’t tell me what to do.”って言われた。[...]「誕生会、連れてってやってね」って言ったら “I don’t have money. You have money.” って、チャイルドサポートのこと言ってるんですね。結局息子はどこにも連れて行ってもらえなかった。

Yuko\*’s husband’s abusive behaviours against his son were used to distress her. It demonstrates that a father’s abuse of, or threats to abuse, the children is a most effective way to control the mother (Bancroft et al., 2012). An abusive man seems to use any means to achieve his goal of controlling his ex-wife/partner.

I introduce other ways that the theme of the fathers’ control appeared in the returned Japanese mothers’ stories. The fathers’ control appeared in two major forms of post-divorce violence in my study: alleging parental alienation and legal abuse. Alleging parental alienation is one common form of post-divorce manipulation that abusive fathers use; they accuse the mothers of making their children reject relationships with their fathers (Gardner, 2001). Legal abuse refers to any behavior that uses legal and enforcing systems to minimize and distress a person (Huffer, 2013); a form of legal abuse that I describe in this chapter is a father suing, or threatening to sue, a mother for the sole purpose of controlling her.

**Alleging parental alienation.** The phenomenon of parental alienation, whereby children reject a relationship with the other parent, is often discussed in the context of custodial disputes and post-divorce parenting (Gardner, 2001). Mothers’ attempts to protect their children from fathers’ abusive behaviours are often interpreted as manipulative behaviours, and they are often accused of coaching their children to avoid their fathers. The concept of parental alienation syndrome seems to shift the blame for children’s developmental difficulties from abusive fathers to abused mothers (Bancroft, et al., 2012). Miho\* discusses recurring incidents whereby her separated husband contacted her to see the children and then accused her of parental alienation:

He was supposed to come to see the children every other weekend, but he often texted me, saying, “I happen to be in town, so I want to see the kids”. [...] But I can’t always accommodate his sudden requests. If I said the children couldn’t see him, he’d give me a tough time by saying, “You are trying to cut me off from the children’s lives. I see your ill intention to alienate the father from the children.” But he hardly showed up for the scheduled access to see the children.

隔週で来ることになってたんだけど、しょっちゅうメールやテキストで「たまたまオタワに居るからこどもに会わせて欲しい」みたいな。[...]彼が突然会いたい

って言ってきたって予定があるんですよね。そうすると「君は俺から無理矢理子どもを切り離してる」とか「意図的なことを感じる」と。それに、決められたアクセスも守らない。

Accusations of parental alienation functioned as another form of control for Miho\*'s separated husband. His verbal abuse in the form of recreating events repeatedly features in Miho's stories. Likewise, Yuko\*'s story offers another example of alleged parental alienation:

When my son was with me, the father made him make a phone call at seven o'clock every evening. It was my responsibility to make sure my son picked up the phone every day. When my son refused to call his dad, and I didn't push him too hard, the father got furious and told me that he was going to sue me by saying, "She is making him not call me." I guess he couldn't build a case; I don't think the court listened to his irrational request.

息子が旦那のどこにいない日は、毎晩7時には電話を入れさせる。毎晩子どもに電話しなさいって言ってやるのも母親の責任。子供が電話をしたくないというので、無理に電話はさせないと、“She is making him not to call me”って言われて、それでまた裁判起こされそうになったんだけど、裁判所はあまりにもばからしくて立件もしなかったみたいです。

Yuko\*'s story reveals her additional responsibility for meeting the father's unreasonable request that she facilitate contact between him and his son. He made her responsible for his daily communication with his son, instead of initiating contact himself. This is the father who had hardly ever been home and never participated in any parenting prior to divorce. When she did not fulfill his request, then it was another opportunity for him to abuse her. The accusations of parental alienation accompanied another form of abuse that the returned Japanese mothers in my study frequently faced: that is, the fathers took, or threatened to take, the mothers to court. I argue that the (real or threatened) use of legal action demonstrates the Western-born fathers' strong sense of entitlement. Kaori\* discusses the father's unreasonable power over his children:

If I said no to any of his demands—anything about school, afterschool activities, or any matters of everyday life—he'd sue me. [...] Let's say, my daughter got her haircut and he didn't like it, then he'd have a legal right to complain about it.

学校、習い事、日々の暮らし方、[...] どんな些細なことでもノーと言ったら、裁判にされる。[...] 娘が髪を切り、父親が気に入らない場合には文句を言う正当な権利が父親にはあるということなんです。



Whereas Yuko\*'s husband used verbal abuse in threatening to take her to court, Kaori\*'s husband did not hesitate to file many legal cases against her. In fact, an Australian court once ruled that his use of legal motions was legal abuse as he randomly used (abused) trials to harass her and control her in an attempt to get what he wanted.

**Legal abuse.** Although legal abuse may not sound as familiar as other forms of emotional abuse, the stories of the returned Japanese mothers uncover the potential severity of legal abuse. Several different forms of legal abuse have been identified in my study. For example, Yuko\*'s lawyer ignored her request to receive the division of assets from her matrimonial home and simply believed her husband's account that the house was not sold; her lawyer could have argued for her to receive the matrimonial home as a part of the divorce settlement. Likewise, Kaori\*'s lawyer did not advocate for his client by raising the issue of racism in the courtroom; he merely advised her to be ready for the judge's discrimination against a woman of colour by saying, "You are Japanese, he is white." Kaori\*'s lawyer knew that women of colour face a great deal of disadvantage in the courtroom and he did not hesitate to share this information with his female client of colour. Furthermore, the prejudiced police officer's harassment of Kaori\* is legal abuse, often known as police misconduct, that is, inappropriate action taken by police officers on duty which often involves discrimination (Prenzler, 2004). The female white police officer who came to Kaori\*'s house when she called the police simply believed what Kaori's husband (a white male) was telling her and yelled at her (a woman of colour) to be quiet.

The ex-husbands of the returned Japanese mothers committed the forms of legal abuse that I describe in this section. They filed, or threatened to file, petitions in order to harass their ex-wives. Their main purpose was not to win their cases, but to intimidate the mothers and burden them with legal costs as a means of coercing them into abandoning the cases (Colombo, 2010); the abusive husbands continued their legacy of abuse—they did not have to win a court case to win control over their ex-wives. The purpose of legal abuse is precisely the same as other forms of emotional abuse—to control the other person to get what one wants. Legal abuse, like other forms of abuse, can harm the victim's physical and emotional health (Huffer, 2013).

Miho\*'s husband even found a way of harassing her after she returned to Japan with her children. He received interim sole custody with a temporary court order through default judgment in Canada, the system that dictates that an applicant automatically wins a case when a defendant

fails to appear before a court. Not despite but because of her absence, he can harass her by using the court system to make her feel powerless. The outcome had detrimental effects on her emotional and physical health, which in turn impacted her children's well being. She describes her husband's legal abuse:

He sent a letter to the Canadian embassy in Japan. [...] "My wife is suffering some psychological problems and doing crazy things, so I will assume the responsibility of bringing my wife and children back to Canada. I will make sure that she receives counselling." [...] My lawyer started to believe what my husband said and told me to get help, so I told my lawyer that I had no psychological issues and I was simply scared to death of his violence. Whenever he sends me legal documents, I start shaking and it lasts for a couple of days—my legs tremble with fear. I feel like he's coming to get me.

彼が文書を出したんです、カナダ大使館に。[...]「妻は精神異常者で、頭がおかしいから、ぼくが責任もって妻と子をカナダに連れて帰ります。彼女にはカウンセリングを受けさせます」って。[...]私の弁護士が彼の言うことを鵜呑みにして私を精神異常者と思いはじめて、私に「カウンセリングを受けたらどうか」って言ってきたから「私はべつにおかしくない。彼が怖くて怯えているだけなんだ」と反論。彼から、裁判書類などの送達が来るだけで、怯えてしまって。で、2、3日は生理的に怖くてからだが震えるんです。足が、がくがく怖くて震えて。相手が書類なのに「彼が来た」と思うんですよ。

Miho\* tells me that she could still hear his angry shouts; her condition resembles the symptoms of Post-traumatic Stress Disorder (PTSD). Her experience reminds me of Edleson et al.'s (2013) findings: the US Court issued a return order for most Hague cases in their study of abused mothers whose children witnessed the father's violence against the mother. The Court failed to acknowledge the children's exposure to the mothers' sufferings as grave risk with the exception of the children who were diagnosed with PTSD (Edleson et al., 2013).

Miho\*'s story also suggests that a Western lawyer can be readily swayed by a Western man's lies or recreation of events. The stories of the returned Japanese mothers indicate that Western police officers, lawyers, and judges trust Western men while they are suspicious of immigrant Japanese mothers' stories. Miho\* further talks about her husband's obsession with trials:

Another court paper came. [...] He was further requesting the penalty of \$5,000 a week unless I replied with a positive answer by accepting all his requests within two days. [...] He plans to get sole custody and all of our joint properties.

また裁判書類が来たんです。[...] 私が2日以内に「彼の希望通りに応答する」という yes のみの対応をしないなら親権を取り、さらに1週間に5000ドルずつ罰金を取るっていうんです。[...]で、財産も親権も自分は全部貰える。

Abusive men's sense of entitlement—their refusal to accept anything but compliance from women—repeatedly appears in the returned Japanese mother's stories. What is further disturbing is that the legal system can assist abusive men's controlling behaviours, as Kaori\*'s incredible stories of legal abuse reveal.

Kaori\* faced legal abuse on multiple occasions; she dealt with countless court cases over child custody (and other issues) that the father initiated. Using his fundamental right to launch a lawsuit, he asked to file over 100 cases against her and 14 of them were actually filed. Furthermore, after he lost a case, he would immediately appeal it. He was representing himself before the court; therefore, he had no legal costs, and could prolong his cases endlessly. In the end, the court ruled that Kaori\* was the sole custodial parent of the children, which is extremely unusual when custody is disputed before a court in a Western country (Department of Justice, 2012). Although she received sole custody, she could neither live in nor sell her house because the father was illegally living in it. Her legal costs became excessive, and eventually she had to sell her home in order to make the payments. Kaori\* calmly analyzes what was happening to her back then:

What he did was nothing but domestic violence. By using trials, he harassed me. Courts in Japan wouldn't accept those unreasonable petitions, but courts in Australia and America easily let people start lawsuits. Harassment by lawsuits are everywhere over there. Once he'd file a complaint against me, I'd have to go to court no matter how busy I might be, because if I didn't, I'd lose the case. He had nothing to be afraid of because he had nothing to lose.

これって、DV以外の何ものでもないのかなって思いますね。裁判使ったの嫌がらせ。日本の裁判所はそうでもないけど、オーストラリアやアメリカは何でもかんでも受理しちゃう。どんどん出されただけ受理しちゃう。日本はそんなに簡単には受理しない。あちらでは、裁判を使った嫌がらせがまかり通る。いったん提訴されちゃうと、こっちにどんな予定があっても引きずり出される。行かないと負けるんですから。むこうは失くすものがないんですから、怖いものないですよ。

The father's obsession with trials is perpetual. After she returned to Japan, he came to Japan and continued to file cases against her; she is currently dealing with another court case over child custody in Japan.

## Returning Home

Yuko\* feels that the legal abuse that she experienced during her divorce proceedings was the reason for her post-divorce financial difficulties; she never received a fair division of property. This abuse eventually made her feel that she needed to escape from the place where she lacked control of her own life. In the following passage, Yuko\* expresses her sense of disappointment regarding her lawyer's failure to advocate on her behalf:

My lawyer didn't do anything. [...] I didn't get any money that I was supposed to get. The lawyer didn't take any action; he was not helpful at all. So I decided to come back to Japan as my son and I could do nothing but wander around the street. I thought that if I lived in Japan, where I could speak my language, I'd manage to find a job. Even with an American university degree, I'd be lucky to make ends meet. I felt as if I was in a jail called America. Jail... it was indeed. It was jail and I got stuck in it.

弁護士も何もしてくれなかった。[...]決められていたお金何ももらわずに帰ってきました。弁護士がなかなか動いてくれなくて。弁護士は全然役に立たなかった。で、このまま二人で路頭に迷うより日本に帰って、まだ言葉の通じるところでなら仕事もなんとかなるし。むこうで大学出たってやっと食べて行けるくらいで、結局 America って名の jail から出られない。Jail ですね。私ホントに jail だと思ってた。

The statement "It was jail and I got stuck in it" signifies her loss of freedom. Living under her ex-husband's control made her feel powerless. Worse yet, she realized that lawyers and judges were on his side. When people lack a sense of control in their lives, they can easily feel deprived of agency as the notion of learned helplessness assumes priority (Seligman, 1972). Yuko\* wanted her independence, which is a fundamental human right (United Nations Human Rights: Office of the High Commissioner for Human Rights, 1965) that no one should be denied.

Yuko\* felt stuck and was longing for her freedom, yet it was another two years until she started seriously thinking about returning to Japan. Her story of not being able to attend her father's funeral with her son is heartbreaking. In fact, this incident marked the beginning of a decision-making process that would result in her leaving the United States:

I, at first, thought I was going to make it in America and was going to university. When my father passed away, and I wanted to attend his funeral. [...] I asked my ex-husband for his permission and he told me to leave his son with him. He went to his lawyer and said, "She'd take my son to Japan and not come back." When that happened, the idea of

going back to Japan came to my mind for the first time. I was like, “I’ve never thought about it” [...] “Well, I guess I could do that, too”...

私、はじめはアメリカでやっ行って行こうと思って大学も行ってたんです。離婚が成立したあと父が亡くなって、子ども連れてお葬式に行きたいって言ったんです。[...] で、旦那に言ったら「息子は置いて行け」って。自分の弁護士の所に行つて「息子を連れて帰つて日本から帰つてこないつもりだ」って言ったんです。で、その時はじめて「あつ、そんなことも出来るんだ」って。[...] 「ああ、帰つてもいいんだ」って…

Ironically, his paranoia was a wake-up call for Yuko\*. She started to plan to return to Japan; she refused to let herself be manipulated by her ex-husband any longer. The escape was, however, another traumatic experience for her. She vividly recalls the day that she travelled back to Japan:

We drove down to an airport that was far away from the place where we lived and took stopover flights to Japan. I got someone to drive us to the airport, and it took us over 20 hours to get there. [...] I sent boxes to Japan, as many as I could. [...] At the airport, my heart was beating as if it was jumping out of my mouth and that lasted until the plane finally departed. The security people were everywhere at the airport. [...] I thought I was going to die when I walked in front of them to get into the security check for the carry-ons. I was somewhat relieved after I got on the plane, but I was still in America. I thought I was going to die until the plane took off. Then, I happened to remember the story about a mother who went back to somewhere in Europe with her child. She got caught as soon as she arrived, and was sent to jail for years until the child turned 18. I was almost in tears. My heart was pounding like crazy. That was the worst, heart-pounding incident in my entire life. You see, just like a movie scene, come on, come on! ... something like that, you know...

車で…まで行つて、…から…経由で帰つたんです。空港まで送ってくれる人頼んで、20 何時間かかりました。[...] 荷物は、送れる限り段ボールで送りました。[...] 心臓が口から出ちゃうんじゃないかと思うくらい、ドキドキでした。死ぬかと思いました、飛行機が離陸するまで。[...] security が、あちらこちらに立ってるじゃないですか、飛行機乗る前。[...] カウンターから荷物チェック入る前に立ってる security の前通る時とか、飛行機に乗つて一安心したけど、まだ America だって思つて。もう飛行機に乗るまで、離陸するまで生きた心地しませんでした。子どもを連れてヨーロッパに連れ帰つた人の話を聞いたことがあつて、飛行機降りた途端逮捕されちゃつたって、もう何年も子どもが 18 になるまで jail に入れられたって聞いたから。涙が出そうになって。心臓が口から出そうなほどバクバクして、あれが人生最大の心臓バクバク事件でしたね。映画の scene みたいに come on, come on って、そんなシーンあるじゃないですか…

Miho\* had no plans to return to Japan either, until her family insisted that it was in her best interests to come back so that she could be close to them. Unlike Yuko\*, Miho\* had no time to send anything to Japan. The following is her going-home story:

I had no intention to go back [to Japan]. [...] I didn't plan or anything, it was more like I followed my gut feeling and escaped. [...] I didn't feel like I was alive until I cleared customs in Japan. I was so relieved when I found my sister's face at the other side of customs. I left everything; I only brought back a suitcase and three boxes. I did it only within a day and half. It was like life-or-death situation... "now or never," I thought...

帰る気はまったくなかったです。[...] 計画とか考えるとかってよりも、本能のまま逃げたってのが本当の所です。[...] 日本の税関に入るまでもう生きた心地しなかったです。向こう側に姉が迎えに来ててくれて...何もかも置いて、スーツケースと箱3つだったかな、持ち帰ったのは。たった1日半で。必死...「今出なければ、次はない」って...

A phone call from her family in Japan opened up the possibility of escape from violence and the freedom to live her life. As Edleson et al. (2013) state, leaving an abusive husband is often viewed as an abused woman's courageous act; however, as soon as an abused woman crosses an international border, the same act of escaping from violence is called abduction and she is called an abductor. In fact, Kaori\* knows that the father has charged her with child abduction.

The incident that led to Kaori\*'s decision to return to Japan is also heartbreaking. She asked her ex-husband if she could take the children to visit their grandfather, who was in critical condition as a result of illness. "Your father can die anytime. I'm gonna spend time with my children over the holiday," said her ex-husband, "If you're gonna say no, I'm gonna sue you again." Kaori\* decided to fight back, which ended up costing her another \$10,000 in lawyer's fees, only to wait for two days in front of the courtroom with her lawyer. When she finally appeared before the court, the case was adjourned in 10 minutes; the Court ruled that Kaori\* was not allowed to take the children to another city (i.e., Japan). The event represented a breaking point for Kaori\*, and she made the decision to return to Japan. On the day of her flight departure, she looked up at the blue sky and thought to herself how she loved the country. She felt sad because she knew that she would never be able to step on the land again.

Kaori\*'s request to bring her children to see their grandfather on his deathbed was denied by the Court. She was the sole custodial parent and was supposed to have the full decision-making right for her children; nevertheless, the Court acknowledged the parental right of her ex-husband who never undertook any parental responsibility including financial support. Her ex-

husband's abuse of the legal system to control her was again successful; the Court believed that his claim for his parental right to stop the sole-custodial mother traveling with the children was more reasonable than Kaori's request for the permission to bring her children to see their grandfather on his deathbed. It is noteworthy that the dismissal of their rights and freedoms resulted in Kaori\*'s and Yuko\*'s decisions to return to Japan, even though they knew that their act of doing so would be considered international parental child abduction. The fathers' act of restricting the mothers' traveling with children is not only the violation of the mothers' rights and freedoms, but also the violation of the children's rights to know their families in Japan. One of the important facts often overlooked in the context of transnational divorce involving Japanese mothers is that the children are Japanese citizens and they have fundamental rights to know their country of citizenship and to carry on their Japanese heritage. I must wonder if fathers' rights are protected at the cost of violating rights of the mothers and the children?

In this chapter, I described the returned Japanese mothers' stories of the fathers' post-divorce violence and discussed many forms of legal abuse, including the use of lawsuits as a means of harassment. The Japanese mothers' stories indicate that Western police officers, lawyers, and judges trust Western-born men while they are suspicious of immigrant Japanese women. The stories recounted in this chapter suggest that returned Japanese mothers' decisions to return to Japan are largely related to their lack of freedom. In chapter 8, I discuss the issues specific to transnational divorces in the context of the Hague Convention—alleged flight risk, habitual residence and forum shopping, default judgment, grave risk, and the damaging impact of domestic violence on children.

## Chapter 8: Transnational Divorce and the Hague Convention

In this chapter, I discuss the problematic issues that are specific to international divorces. By analyzing the stories of the mothers, in particular, the returned Japanese mothers, as well as the Counsellor and the Lawyer, I identify some common, yet relatively unknown issues surrounding the Hague Convention. Many of them are particularly important to address because Japan recently implemented the Hague Convention on April 1, 2014. The information and concerns that I raise in this chapter are critical for both immigrant Japanese women who are facing their transnational divorces, and those who are considering transnational marriages. I begin with the story of Kumiko, one of the divorced Japanese mothers residing in Canada.

### Prejudiced Legal Advice

Kumiko planned to go back to Japan at the time when her husband first started talking about the separation; her husband also agreed with her idea. The two discussed the detailed parenting arrangement that would commence following her return to Japan; for example, the children would enroll in an International School to continue their English education and they would stay with the father during their summer vacations, Christmas holidays, and any other possible occasions. The father had the financial resources to make such an arrangement possible. Nonetheless, the situation changed when each of them retained a family lawyer. Kumiko explains what happened and expresses her feelings about this change in the direction of their mutually agreed-upon plans:

I was going to go back, but my lawyer said, “That’s not going to happen.” ...It wasn’t my idea to divorce. I didn’t want to divorce. [...] And I couldn’t even go home. That’s just so ridiculous. [...] The father who once agreed that I take the children to Japan changed his mind and said that there was no way the kids would live in Japan. My lawyer also said, “The children were born and raised in Canada, so you can’t take them to Japan only because you want to be in Japan. You would lose the battle if you fought, so give it up and plan to live in Canada.” It was the hardest thing to accept.

帰るつもりでいたんですけど、弁護士から “That’s not going to happen.” って言われて、...向こうから離婚を言われて、わたしはいやだっていたけど、[...]その上、帰れない。こんな馬鹿な話あるか、と [...]父親は、日本に行くなんてあり得ない、と。弁護士も「カナダ生まれカナダ育ちの子供たちを母親の都合で、持っていくってことは、多分争ったら負けるだろうから、そこはあきらめて、カナダで生活することを考えなさい」と、そこが一番辛かったです。



Yuko\* also consulted with her lawyer to file a motion to move to the different state where she used to live as a young student and would likely find a job; however, her lawyer told her that it would be a complete waste of time because she would never win. The desires of Kumiko and Yuko\* were both dismissed by the lawyers whom they retained. No wonder Yuko\* felt that she was, figuratively speaking, in jail; she was immobilized by the legally bound determination; that is, she must live within the city whereby the father can readily exercise his parental rights. In fact, when drafting a separation agreement, it is common practice to include a provision such as “Neither parent may change the place of residence of the children from the City of X, without ... obtaining the written consent of the other parent or a court order to allow the move (Department of Justice, 2013, Relocation). Yuko\*’s wish to obtain “a court order to allow the move” was rejected by her lawyer, as it is rare to obtain such court orders to allow mothers to relocate with their children (Boyd, 2003). When their own lawyers belittled their ideas with dismissive statements such as “That’s not going to happen” or “That’s a complete waste of time,” they must have had no choice but following the experts’ advice.

Kumiko’s story also demonstrates the extent to which legal advice can alter one’s plans. Kumiko and her husband had negotiated their own post-divorce parenting plans; however, they fell through as a result of the lawyers’ influences—perhaps because her husband was informed of the widespread rumor that Japanese mothers do not let their children see their fathers after divorce. Both lawyers may have been familiar with troubled transnational divorce cases, and thus they may have advised their clients to avoid the potential situation where the Canadian father would have to fight for his parental rights in Japan, which would place the Canadian man at a disadvantage. This scenario, in turn, denotes Kumiko’s disadvantaged position in Canada. Her own lawyer advised her to follow the Canadian system that accommodates her Canadian husband.

Fortunately, Kumiko’s divorce turned out to be amicable and she visits her family in Japan with her children every summer. Nonetheless, many immigrant Japanese mothers are restricted in traveling overseas with their children. Naomi talks about her Japanese friend who also experienced transnational divorce and cannot travel because her husband had his lawyer hold her children’s passports. According to this lawyer, the Japanese mother was a flight risk—a term used to justify the imposition of restrictions on the mother’s mobility.

### **Flight Risk**

A Western man can stop his Japanese wife/ex-wife from flying to Japan (or anywhere else) with the children by claiming that she is a flight risk. When one parent travels with her/his

child, it is recommended that he/she carries a written note of permission from the other parent expressing consent to travel with the child (Government of Canada, 2014); however, this recommendation is not what I am discussing here. The mothers' stories suggest that Western fathers in transnational marriages and divorces can seize the children's passports through legal action. Whereas Western fathers easily receive support from the authorities, and the system seems to work in their favour, immigrant Japanese mothers are readily labeled as dangerous and the system seems to work against them.

Miho\* expresses her opinion about the travelling restriction that is imposed on divorced (or divorcing) immigrant Japanese mothers:

He has his parents, siblings, and all his relatives here, and could visit them with the kids for occasions like Easter and Christmas without my permission. But I'd need his permission to see my parents with the kids. Something is very wrong with this picture. [...] Taking the kid's passports away from the mothers is just so ridiculous. We should be able to take the kids to our family any time we want. [...] It's not fair that an abused mother needs to get permission from an abusive father whose violence caused the divorce. It's absolutely unfair from top to bottom. A Canadian father should sign a paper not to see his parents with the kids without his Japanese ex-wife's permission.

彼には近くにお父さんもお母さんも兄弟も親戚もみんな居る。Easter だ Christmas だって私の許可なく行ける。でも私は、自分の親に会うのに彼の承諾がなければ会えないんですよ。おかしいです。[...] Passport 取り上げたりしないで自由に会えるようにして欲しい。[...] 相手の暴力が原因で別れたのにそんな人の承諾を貰わなきゃならないなんて不公平。とにかく何から何まで不公平です。契約してカナダ人も自分の親に会いませんかってすればいい。

Miho\* articulates her sense of injustice; her point is that a Canadian husband should be aware of the hypocrisy that an immigrant Japanese mother faces in a case of transnational divorce. If he were restricted from seeing his parents with his children, would he understand her frustration? I recognize, however, how Western fathers have reached the somewhat shortsighted conclusion that it is not a good idea to allow immigrant Japanese mothers to visit Japan with their children.

Western-born fathers likely believe that they would not see their children once Japanese mothers bring the children to Japan. The Lawyer raised a question about this assumption by saying:

There have been very few cases in which a Western-born father filed a motion in Japan to exercise his access right to have regular contact with his child. It is strange to be able to state that Western-born fathers' claims would be denied when essentially nobody tried it.

そもそも、外国人男性が、特に欧米系の男性が、日本の裁判所に子の引き渡しの申し立てをしたという事例は、ほとんどないと思います。だからやってもいないのに「認められない」ということ自体そもそもおかしい。

The widespread rumor that fathers would never see their children when Japanese mothers return to Japan with their children has not been proven. Instead, Western-born fathers use the rumor to rationalize their actions of seizing the children's passports on the grounds of preventative action against the potentiality that the mother will keep the children in Japan and never let the father see them. Furthermore, abusive fathers could use this rumor, which was fueled by Japan's non-member status of the Hague Convention, to strengthen their custody cases by claiming Japanese mothers are selfish and unreasonable. The Western legal systems readily support Western fathers' decisions to use legal determinations to control mothers' travels and relocations with their children, which restrict the mothers' potentials to obtain education and/or employment as well as their freedoms to choose their own lifestyles.

According to the Counsellor, alleged flight risk stems from Japan's non-member status of the Hague Convention. Prior to Japan's implementation on April 1, 2014, the prospect of flight risk may have been persuasive because Western fathers could not file a Hague petition against the mother in Japan. He talks about a frustrating situation in which fathers use flight risk as an excuse to harass the mother:

The most disturbing cases are ones where fathers use the Hague Convention to intimidate and control Japanese wives in order to strengthen their custody cases. That's a power game; they are not doing it out of love for their kids. [...] The fact that they are the biological fathers can be a tool for harassment against their wives. I've seen several cases in which the fathers used Japan's non-member status of the Hague Convention where they would be helpless over the situation if the mothers ever decided to keep their children in Japan. The fathers were simply harassing the mother by alleging the mothers' flight risk. These fathers don't look after the children and don't even ask for access to the children. They simply stop the mothers taking their children to Japan not because they love the children, but because they want to show their power over the situation.

離婚の条件を有利にするために脅しや嫌がらせの材料として、ハーグ条約を使うってのが一番困るんです。嫌がらせです。子どもに愛情なんかありません。[...]父親であるっている事実だけを利用して嫌がらせをするんです。ハーグ条約に入っていないことを、日本に帰ると帰ってこない可能性があるってことを利用して、嫌がらせしている人たちを何人か見てますね。だからその人たちが子どもに愛情があって日本に帰したくないっていうのじゃなくて、子どもの世話はしない、アクセスもほとんど求めていない。でもいやがらせはしてくる。

At least four clients of the Counsellor had to submit their children's passports. He hopes that those fathers who use flight risk as an excuse to harass the mother will lose a justifiable reason to stop her from visiting Japan with the children upon Japan's implementation of the Hague Convention.

### **Habitual Residence and Forum Shopping**

**Father's plans.** Other issues that need to be scrutinized in relation to the Hague Convention are those of habitual residence and forum shopping. In a transnational marriage, a manipulative father can use forum shopping to simultaneously achieve the establishment of the child's habitual residence and the legally advantageous position. Edleson et al. (2013) reveal that many mothers who returned to the United States with their children in order to escape from domestic violence originally went to their husbands' countries because the fathers did not allow the mothers to participate in decision-making regarding where they would live. As a result of the current definition of habitual residence as the country where the child was located *immediately* before the relocation, some controlling fathers relocate the entire family to the country (the establishment of the child's habitual residence) where he wants his custody case to preside (forum shopping). Miho\*'s story exemplifies the problematic issues of habitual residence and forum shopping.

Although Miho\* left her abusive husband in the end, it was him who initially wanted to separate. He started talking about separation, but she didn't take him seriously as she was pregnant with her third child. Less than a month after the baby was born, he told her to go back to Japan. Although she was apprehensive about travelling with her newborn baby, she had no choice but to go back to Japan and take her three children with her. After four months, Miho\*'s husband came to Japan to take them back to Canada. Miho\* talks about what happened to her immediately after their arrival in Canada:

He knew it because he was a lawyer; he wanted to ensure the children being in Canada first, and then talking about separation. [...] The day after we arrived in Canada, he

started it. He also hid all of our passports somewhere right after our arrival. [...] The Japanese consulate happened to have a day service in the area, so I begged him to bring the passports back so I could renew them.

彼は弁護士だから知ってるんですよ。とにかく子どもたちをカナダ国内に確保してから別れ話をしようって [...] カナダに着いた翌日に別れようって言われたんです。カナダについてすぐ、私たち全員の passport を隠されちゃって。[...] 領事館が [出張サービスに] 来る予定があって [...] 「どうしても更新したいから」って言って無理やり passport を持って帰らせたんです。

Miho\*'s story reminds me of Noriko's case, in which her husband moved her and the children to the United States and then filed for a divorce on the day after their arrival. Miho\* further questions the notion of habitual residence.

**Habitual residence vs. Children's home.** The notion of habitual residence should be reviewed and applied according to the considerations of each individual case. Miho\*'s children spent many months in Japan every year and speak Japanese fluently. For Kaori\*'s children, home meant Japan where they spent almost four years prior to moving back to Australia; they also speak Japanese better than English. Miho\* expresses her opinion regarding habitual residence:

At home, my children only spoke Japanese and they only ate Japanese meals. Most of their friends were Japanese; the group of Japanese mothers and their children got together all the time and they all spoke Japanese to each other. Our Japanese playgroup organized events based on Japanese seasonal traditions, so my children were much more familiar with Japanese traditions than Canadian ones. In particular, my second child could not speak French. [...] My children were largely affected by their mother's culture. I don't think it is right to discuss their habitual residence without considering the backgrounds of each child's home environment and the ways that they were raised.

うちでは、子どもは家では完全日本語で話していたし、食事は日本食、年1度は日本に数ヶ月帰省、playdate は、地元の playgroup 以外には主に日本人ママとその子どもとのデートが多く、子供間でも日本語での会話で、季節の event も日本のものも取り入れていたのでカナダにいながら、カナダ文化より日本色が濃かった。特に2番目は French が苦手、[...] 母親からの影響を大きく受けているので、母親の生育背景と育児の影響を無視して子どもの住む国について話を進める基盤こそがおかしいのかもしれないね。

It would be rather difficult to argue about the harmful effects of moving (HCCH, 2012) to Japan in this case—as it would be in Noriko's case where the children were born and raised in Japan and lived in the United States for only one year immediately before their returns to Japan. In addition,

the children's rights to receive ongoing support – physical, emotional, and financial – from both parents (HCCH, 2012) have not been fulfilled in their so-called habitual residence because the mothers have been victims of the father's post-divorce violence.

Winter (2010) proposes flexible approaches to determine “habitual residence in light of the child's perspective and circumstances” (p. 383). Such approaches would take into account the individual situation of each case rather than adopt a formulaic approach. Definitions of habitual residence as the country where the child was located immediately before the relocation cannot be effectively applied across the various situations under the jurisdiction of the Hague Convention (Winter, 2010). By adapting flexible approaches, the Hague Convention can minimize the common and problematic occurrence of forum shopping.

**Deep-seated distrust in Japan's legal system.** The returned Japanese mothers told me how difficult it was for them to find a lawyer for their transnational divorces. When her husband filed a motion against her after she returned to Japan, Miho\* contacted at least six Canadian lawyers prior to retaining her current lawyer. One of the Canadian lawyers to whom she talked on a phone did not hide his judgment of her situation, calling her an abductor in a voice shaking with anger. In Japan, she could not find any lawyers who were knowledgeable regarding transnational divorce cases. Kaori\* told me that there are only a handful of lawyers in Japan who are capable of handling transnational divorce cases. I was fortunate to connect with one of the very few Japanese lawyers who has experience with, and is knowledgeable about, transnational divorce and the Hague Convention. In the following section, I discuss information that I obtained through interviewing the Lawyer about the returned Japanese mothers' stories and opinions.

The Lawyer discusses Westerners' distrust in Japan's legal system, which can be identified as one of the factors contributing to the practice of forum shopping by Western fathers:

The worst issue may be that Western people, Americans in particular, have a deep-seated distrust in Japan's legal system. Let me be clear: they have a strong desire not to obey court orders from a country that is not as civilized as theirs, which they would never admit. [...] With the Hague Convention, what they want to do is fight on their home ground, because it is so much more advantageous for them to go through a legal system on their home ground.

最大の問題は、欧米人、特にアメリカの人たちは、日本の法制度に対する抜きがない不審がある、と思います。もうちょっとはっきり言うと、彼らは、自分たちより遅れた国の裁判に従いたくない、という気持ちを強く持っていると思います。

それははっきり認めない。[...] 彼らがハーグ条約で何をしたいか、って言うと、home ground でやりたいんですね。home ground でやったほうが有利だから。

It is remarkable that the experienced transnational-divorce lawyer explicitly comments on the power imbalance between the West and Japan, which is an underlying problem of the Hague Convention. The Lawyer recognizes Japanese women's disadvantage in Western courts through his years of experience helping many Japanese women in their transnational divorces. Indeed, the returned Japanese mothers' stories of court proceedings that I discussed in previous chapters accurately depict their disadvantages in the courtrooms of a Western country.

### **The Issue of Maternal Freedom**

Custodial mothers who provide day-to-day care to children lack the freedom to visit their families in Japan, let alone relocate with their children. The Hague Convention states that the relocation of a child by a parent is wrong when the other parent has custody of the child "either jointly or alone" (HCCH, 1980, Article 3), or when a non-custodial parent has "rights to access" (HCCH, 1980, Article 5). This means that when a mother has sole custody, as in Kaori\*'s case, she still would not be able to relocate her children without the permission of the father, who was not even awarded joint custody by a court because of his unfitness as a custodial parent. As long as a father has his access right, which virtually all fathers are given in Western countries, then an immigrant Japanese mother needs his permission to visit her family with her child. Lacking the freedom to travel with one's own child is a significant oppression and it burdens immigrant Japanese mothers with an additional sense of powerlessness.

The Lawyer questions the limitations of the Hague Convention—a parent relocating a child is considered a criminal, regardless of the situation. He raises his points with compassion: "The Hague Convention started with the proposition that relocating the child is illegal. I argue that this proposition itself needs to be questioned. [...] I have seen cases where the mother had no other choice other than running away." He has witnessed countless cases of domestic violence, where the mothers escaped from the fathers in order to ensure their children's safety. "Who could blame these mothers?" asks the Lawyer, "I don't think anybody could."

"Who could blame these mothers?" is also the question that Kaori\* poses when she talks about returned Japanese mothers. Having gone through the abuse that she endured during her legal battles, she now sees the issue as not only one of gender inequality, but also institutional racism and international power relations. She points out the need for awareness of the discrimination against immigrant Japanese mothers in the court systems of Western countries.

She is also aware of the unequal international power relations surrounding Japan's implementation of the Hague Convention. Kaori\* passionately shares her observations:

Who can blame them? And who do you think should be blamed? Japanese women can't win in a white dominant society. [...] After all, [protecting] Japanese women in transnational marriages would never be an important issue compared to accommodating the Western pressure to ratify the Hague [Convention] in order to protect white men's rights. Rights, rights! Rights are white people's favourite word! [...] Western fathers just want to keep harassing the mothers; it's not the children they are interested in, but the mothers who they want to control. They are using the children in their fights for their own rights, and guess who really suffer? Children, don't they?

無理もないですよ。悪いのは誰ですか。白人社会じゃ勝ち目はない。[...] 国際結婚した日本人女性[を守る]なんて所詮、白人男の権利を守るためハーグ入れ入れっていう外圧をなんとかすることにくらべたら大したことない。権利、権利、白人、権利大好きですよ。[...] 子供に興味なんてないんです。母親をコントロールしたいんです。子供をダシにして自分の権利を勝ち取りたい。結局誰がそのツケを払うと思います？子供ですよ。

Kaori\* articulates the following problematic issues surrounding Japan's ratification of the Hague Convention: (1) institutional racism against Japanese women in a Western society; (2) the Japanese government's inability to address the needs of Japanese women who live in the West and its powerlessness in combatting Western pressure on the international stage; (3) Western people's sense of entitlement vis-à-vis non-Western people; (4) abusive fathers' self-interest in controlling the situation by claiming their rights; and most importantly, (5) the child's suffering as a result of witnessing the father's continual violence against the mother.

Both the Lawyer and Kaori\* are deeply concerned about the future of returned Japanese mothers in light of the newly implemented Hague Convention. Although a left-behind parent (LBP) can only make a Hague application within one year of the relocation date to receive a return order as stated in Article 12, another part of the goal of Hague Convention, namely "securing rights of access" (HCCH, 1980, Article 21) is in effect, and an abusive LBP can apply for an access request. Abused returned Japanese mothers might face extremely complex difficulties as a result of the implementation of the Hague Convention. The Lawyer is concerned that an abusive father can further control the Japanese mother by filing the Hague applications. His concerns are based on former Hague cases in Europe.



### **Default Judgment**

The Lawyer points out the issue of default proceedings. As mentioned, a return order is not a custody determination, but a mandate to return a child to an appropriate jurisdiction for the child (i.e., habitual residence) in order to determine custody (HCCH, 1980). The fair determination of custody stated in Article 19 would not be achieved because a left-behind father can file a petition for sole custody as soon as he finds out the child is gone, and can obtain a default judgment to be a sole custodial parent because the mother does not appear before the court. Thus, the father would have sole custody by the time he filed a Hague application. Therefore, once a return order is placed and the mother and the child return to the habitual residence “the game is over,” says the Lawyer, “It’d be next to impossible for the mother to receive custody or even a decent access schedule.” Indeed, the question of default proceedings needs to be scrutinized as it would place abused returned Japanese mothers at a further disadvantage with a return order. In fact, the husbands of Miho\* and Kaori\* filed for default proceedings precisely in order to receive sole custody of the children. As described in previous chapters, Miho\* and Kaori\* faced domestic violence and their children were exposed to the fathers’ abuse of the mothers. A return order for the cases like theirs will put both the mother and the children of a Hague case in an even more dangerous situation. The children might have to live with an abusive father, and the mother would meet more of the fathers’ violence, with the children being traumatized by ongoing post-divorce violence. This issue of grave risk due to a return order has been studied in the past.

### **Domestic Violence and Grave Risk**

Research has shown that children exposed to their mothers’ suffering experience serious developmental difficulties such as emotional and behavioural problems and/or academic difficulties (i.e., Weiner, 2008; Edleson, et al., 2013). Furthermore, observing their fathers’ abusive behaviours can contribute to an elevated likelihood of children becoming abusive adults themselves (Bancroft et al., 2012). The damaging impact of domestic violence on children appears in many of the mothers’ stories in my study. Before I discuss the mothers’ stories, I first introduce the powerful story of the Counsellor, who witnessed domestic violence as a child.

The Counsellor shares his own experience with his abusive father, whom he witnessed hitting his mother:

Children who grow up watching violence are very traumatized. I was one of them and it hurt me more than when I’d get hit. “Hit me, instead,” I thought when my father was

hitting my mom, even though I was little—it was so painful. Witnessing domestic violence affects children even later in their lives. Research shows that exposure to a father’s abuse of the mother significantly traumatizes the children, and I can say that’s true from my own first-hand experience.

暴力を見て育ってる子どもは、やっぱりかなりの trauma を受けてますよ。私自身もそうだけど、自分が殴られるよりいたい、子どもにとって大好きなお母さんが殴られるのは。私もちっちゃいながらに「どうせ殴るんなら俺を殴れ」みたいに思ってた。それぐらいキツイことだと思います。それがいろんなところから出てくるんだと思いますね。ものすごい trauma だっていうのは、リサーチでも出てきてるし、それは自分の実体験を通して事実です。

His comment is extremely valuable as it serves as a practical reference point for the futures of children who witness domestic violence. Miho\*’s story also illustrates the harmful impact of domestic violence on children. Miho\* vividly describes her husband’s domestic violence and how it affected her child:

To me, it was deadly, his use of violent language ... outrageous, all of a sudden [...] like a kettle boiling over. My son, to this day, says, “I thought dad was going to kill you with his words”. My older kids were six and four, so they understood what was going on.

ものすごい、言葉の暴力だったんです。…それはもう、突然…すごい。[...]沸騰したやかんに水かけたら、ジュみないな。今も息子が言いますが、「言葉でお母さん殺されると思った」っていうくらい。そのとき、こどもは、6歳と4歳でした。上の子は、ですから分かるんですよ。

It is striking to hear the six-year-old’s perception of his father’s behaviours, as expressed in the comment, “Dad was going to kill you with his words”; her son still talks about his father’s verbal abuse a year after the violent incidents. His comments offer clear evidence that witnessing a father’s violence can leave a child with traumatic memories.

Children who are exposed to intolerable situations known as “grave risks” can receive court-mandated protection. In other words, a court can refuse to return the children to such intolerable situations (HCCH, 1980) when abused mothers establish grave risk. Weiner (2008) states that in the Hague cases, abused mothers commonly use a defense based on grave risk. Four exceptions for return orders are stated in the Hague Convention (HCCH, 1980): The requested country can refuse to return the child when (1) the child is in a new country for more than one year and settled in the new environment (Article 12); (2) an applicant’s custody right was not exercised at the time of the relocation of the child (Article 13a); (3) a return order will expose the

child to an intolerable situation (Article 13b); and (4) the child who is older and emotionally mature objects to being returned (grave risk; Article 13). The mothers of small children who were victims of domestic violence in a Hague case would have to defend a return order by establishing grave risk. The use of grave risk as a defense necessitates convincing the judge in the requested country of a Hague application that returning children to the habitual residence will expose them to physical or psychological harm (HCCH, 1980).

As both literature (i.e., Weiner, 2008; Edleson, et al., 2013) and the stories of the returned Japanese mothers indicate, when domestic violence exists, the children's return to their habitual residence can expose them to their fathers' violence against their mothers. However, a Hague court is less likely to consider the child's exposure to violence against a mother as grave risk because it is often considered trivial and non-life-threatening (Weiner, 2008; Edleson, et al., 2013). The grave risk exception was narrowly interpreted in the past and it has only been successfully accepted in rare cases, such as when a child receives a diagnosis of PTSD (Edleson et al., 2013). Nonetheless, both a legal scholar (Weiner, 2008) and social work researchers (Edleson et al., 2013) strongly recommend reviewing the interpretation of grave risk in Article 13b of the Hague Convention.

### **The Reality of Undertakings: Another Loophole**

The Lawyer further explains the disturbing realities surrounding Hague cases. Even if mothers are successful in establishing grave risk, there is another loophole that abusive fathers can use against the abused mothers in order to receive a return order known as an undertaking. Undertakings offer protection for children who might be exposed to domestic violence when they return to their habitual residence. The Lawyer clarifies the unsettling reality of undertakings: an abusive father can promise to redress any possibility of grave risk by, for example, declaring that he will not engage in abusive behaviour, or offering to provide financial resources to the mother upon the return of the child and the mother. "What Article 13 (b) tells us is unless it is life-threatening to the child, a return order must be placed," says the Lawyer, "Violence, even direct abuse of the child in the past, was not enough to prove that it was a grave risk as long as there would be a way to protect the child from the abuse." An even more shocking past Hague court decision was that placing the child in a childcare institution was a way to protect the child from the father's abuse (Weiner, 2008). The Lawyer explains this hard-to-comprehend-truth by referring to an example based on an actual case:

The child was put in foster care, as if saying, “Yeah, the Dad’s dangerous, but the kid is okay because he is not living with him. It’s not life-threatening, is it?” [...] Another way of protecting a child is known as an undertaking, that is, to make a LBP [left-behind parent] promise not to be violent, or provide the mother a residence, and so on, then say it’ll be ok; there’ll be no grave risk any more. Domestic violence in the past can’t be a reason not to return the child. [...] There is a precedent in England where the court issued a return order for a 10 year-old girl, who was known to have been sexually abused by her father, [on the basis of his undertaking not to reside with her].

「児童養護施設に入れたから大丈夫だ」って言ったんです。お父さんに渡すと危険だから、養護施設に入れます。生命身体に危険はありません」と言うんです。[...] これ undertaking って言ってますが、LBP 側に誓約をさせるんです。いろいろとね。暴力をしないだとか、住居を提供するだとか、いろいろ諸条件を約束させます。で、大丈夫ってことにするんです。DV があったことは、返還を拒否する理由にはならない。[...] イギリスの判例で父が性的に虐待していた 10 歳の女の子を返還してますよ。

Undertakings are voluntary promises, limited in duration, and not enforceable (Britton, 2003). Edleson et al. (2013) state that undertakings, while intended to protect mothers and their children, were not effective for the participants in their study, who returned to the United States to escape from domestic violence. None of the undertakings that were promised by the abusive fathers were ever implemented after a return to habitual residence, and the mothers and their children who were issued return orders met renewed violence by the abusive fathers. Furthermore, they faced additional discrimination due to an American court decision that issued return orders; the fathers used the return orders as proof that they were not abusive (Edleson, et al., 2013).

### **Abusive Left-behind Fathers**

The Lawyer’s stories about past Hague cases and undertakings are dreadful. The returned Japanese mothers who suffered from the fathers’ violence throughout their marriage, divorce proceedings and beyond, could face further violence because of Japan’s implementation of the Hague Convention. Abusive husbands became abusive ex-husbands, and now they can be abusive left-behind fathers who continue their quests to be in charge, to overpower, and to win. They can be in charge of the transnational divorce with the rationalization of securing their children’s rights and serving their best interests. They can win custody of the child at the cost of the abused mothers and their children. It is startling that the abusive fathers may indeed achieve their goals with the support of the Hague Convention.

The returned Japanese mothers' stories suggest that the racism that they encountered in the legal system in a Western country is directly and significantly related to their decisions to return to Japan. These mothers' right to feel free and in control of their lives has been violated by the intersection of many problematic social phenomena: gender inequality (domestic violence), immigrant women's lack of access to public financial support (monetary resources), and institutional racism/legal abuse (exploitation by police officers, lawyers, and judges). These forces of oppression have all played a role in the decision-making of the returned Japanese mothers who decided to leave countries where they have experienced an overwhelming sense of powerlessness. I argue that it is time to start the discussion of how Japanese mothers' fundamental right to freedom can be protected, as a counterpoint to existing discussions of how Western father's rights can be secured. When people start seeing the whole picture of transnational divorce involving Japanese mothers, then the discussion of children's best interests can truly begin.

In summary, this chapter built on Chapter 7 to discuss how returned Japanese mothers' rights and freedoms were violated in order to privilege Western fathers. The areas covered in this chapter included alleged flight risk, habitual residence and forum shopping, default judgment, and grave risk. In my final chapter, I summarize the key findings and recommend areas for future study. I pursue potential avenues of action for alleviating the difficulties of Japanese women who face transnational divorces.

## Chapter 9: The Future of Transnational Divorce

This study of transnational divorce involving immigrant Japanese women illuminated the unequal power relations at work in the context of transnational marriage and divorce. It revealed the interlocking systems of oppression that immigrant Japanese women face in Western society and attended to the complexity of the women's positions, which are shaped by varying levels of privilege and marginalization. The narratives of the women that were discussed in this study revealed the extent to which multiple vectors of identity—gender, financial situation, and race—interact and overlap in ways that contribute to systematic oppression and discrimination. The stories demonstrated the prevalence of Orientalist ideologies and practices that assume the legal and cultural inadequacy of Japan, and contribute to the institutional racism of Western society.

### Japanese Women's Rights and Freedoms

The immigrant Japanese women's rights and freedoms were violated through many forms of domestic and post-divorce violence. As a result of their abuse, the women experienced an overwhelming sense of lack of control and powerlessness. The notion of legal abuse, in particular, is critical to note in the context of transnational divorce and Hague cases. Because a pattern of manipulative and coercive behaviour on the part of an abusive father continues beyond divorce, the father's persistent violence against the mother is frequently observed in prolonged and/or repeated court proceedings (Bancroft et al., 2012). The husbands of all the returned Japanese mothers in my study used legal abuse to harass the mothers, and ultimately to control them. Yuko\*'s right to attend her father's funeral with her son was violated by her ex-husband, who took the matter to his lawyer, claiming that she was a flight risk. Kaori\*'s request that her children see their grandfather on his deathbed was denied by her ex-husband and the Court. It is noteworthy that the dismissal of the women's rights and freedoms resulted in their eventual decision to return to Japan, even though they knew that their return would be construed as child abduction.

According to the Counsellor, it is not uncommon for an immigrant Japanese mother to be prevented from traveling with her children to Japan because her husband seized the children's passports through legal action. Men who reject their ex-partners' wishes to travel with the children often comment that the mother is free to go anywhere she wants, but not with the children. This argument is missing the point of the mothers' requests: the children's rights to be involved with their families in Japan are violated by the self-centered rationalization of protecting fathers' rights. Seizing the children's passports through legal action seems to have become

another form of abuse of immigrant Japanese mothers, in addition to other forms of emotional abuse.

The returned Japanese mothers' testimonies epitomize the dangers of emotional abuse and its damaging effects. Kaori\*, who experienced years of emotional abuse, shares her insight regarding domestic violence:

A husband may not hit a wife, but he can control her in a way that has the same psychological impact as hitting her. Emotional abuse can be an even more effective way to control her; it makes a woman feel powerless more than getting a punch or two. Emotional abuse gets her on the edge psychologically. When two people in a relationship are not equal, domestic violence is taking place. When a woman cannot openly voice her opinions like her husband does, it means she is unequal in a power relationship.

手を出されなくても、精神的にまったく同じ効果のある方法を使ってコントロールするっていうのはありますよね。へたしたらそっちのほうが効きますよね。一発二発、手を上げられるより、よっぽどこたえますよ。精神的にギリギリになります。二人が平等でなくなっている以上、それはDVだと思います。夫婦が同じ立場で発言が出来ない、ってことは偏っているってことです。

In discussions of domestic violence, forms of abuse are often placed in hierarchical order; however, the notion that emotional abuse is not as serious as physical abuse is based on a false assumption. Domestic violence in the form of emotional abuse is devastating and can cause not only psychological but also bodily harm (Edleson et al., 2013). Miho\*'s temporary loss of eyesight due to her husband's endless intimidation and verbal abuse verifies the acuteness of emotional abuse. Needless to say, ongoing exposure to abusive fathers negatively impacts children's emotional development (e.g., Edleson et al., 2013).

Miho\*'s story reveals the damaging effects of emotional abuse on the child who witnesses the father's abuse of the mother. Her story of her six-year-old son, who expressed his concern that his father's words would kill his mother, demonstrates that exposure to the abuse of their mothers is a traumatic experience for children. This reality of childhood trauma is important to consider when evaluating the Hague Convention. Weiner (2008) states that abused mothers commonly use the grave risk defense in Hague cases; this defense is predicated on the argument that a return order "would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation" (HCCH, 1980, Article 13b). Unfortunately, the child's exposure to abusive situations is not likely considered a grave risk, contrary to what many studies have indicated (e.g., Edleson et al.,

2013).

In the same way that it is wrong to assume that emotional abuse is not as serious as physical abuse, it is a dangerous mistake not to view a child's exposure to an abusive situation as a grave risk. Nevertheless, it is a mistake that the Court can make when issuing a return order under the Hague Convention. The existence of undertakings is further worrisome; it has been shown that an abusive father's promise to no longer engage in abusive behaviour is unlikely to be fulfilled, and no enforcement system is available (Edleson et al., 2013). Japanese mothers residing in a Western country, or those who may be re-entering the country with a return order, would not likely receive effective social and legal support; as foreign-born women of colour, they may face institutional racism.

The returned Japanese mothers' stories of legal abuse and institutional racism reveal that Western men can seek to control their Japanese ex-wives via the legal system. The mothers' testimonies suggest that the Western legal system, in the form of police enforcement and court proceedings, can systematically discriminate against immigrant women of colour in the context of divorce and other legal matters.

In addition, the barristers who represented the immigrant Japanese women in my study arguably underperformed their advocate roles, perhaps because of their knowledge that a court would not listen to foreign-born women of colour. It is simply startling that Yuko\*'s and Kaori\*'s lawyers, as well as Yuko\*'s legal worker at the women's centre, readily acknowledged the existence of racism in the courtroom. Their testimonies attest to the reality of racism in the courtroom by revealing that the people who work closely with the legal system have witnessed racism at work. Based on her personal experience of legal abuse, Kaori\* shares her insights into the operation of racism in Western legal and enforcement systems:

A white society would never admit to the existence of racism, but I saw it everywhere. [...] Nobody, including the police, ever listened to me. [...] If I was a white woman, my situation might have been different. [...] I was naive to believe that a trial means the determination of justice. The reality was far from the justice-will-prevail. It's like spinning a roulette wheel; you never know which way it will go depending on your lawyer and judge. What really happened is less important than what the judge thinks happened; the party who can make the judge believe will win.

白人社会は、人種差別を絶対認めませんが、人種差別は実際事実ですからね。 [...] 警察もだれも私の言うことなんか聞かないんです。 [...] 私が白人だったら扱いはずいぶん違っていただろうと思いますね。私「裁判 equal 正義が勝つ」み



たいに思ってた。でも実際は正義じゃない。roulette みたいです。どこをどう転ぶかわからない。弁護士や判事にもよる。人が人を裁くわけですから、何が真実かってことよりも、どうその場を作ろうか、それが出来た方が勝つ。

Yuko\* and Kaori\* were brutally discriminated against in the courtroom. The institutional racism that they encountered left them with a bitter sense of betrayal; it reminds me of the words of a non-participant returned Japanese mother: “I am having difficulty trusting others.” Many returned Japanese mothers are trying to cope with the injustice – in the form of sexism and racism – committed by both their ex-partners in particular and Western society in general.

Many of the issues discussed in this study fundamentally involve the existence of a double standard that perpetuates and reinforces Western men’s entitlement. The claims of immigrant Japanese women are frequently dismissed while the allegations of Western men are readily accepted by police officers, judges, and the broader society. Leaving an abusive husband – particularly when one has children to support – is considered a courageous act of escape until a woman crosses an international border; then it is perceived as a criminal act of child abduction. The pervasive double standard is also evident in the common assumption that a man’s career is more important than that of a woman’s. While Yuko\*’s husband refused to comply with her wish to move to another state to pursue a job opportunity, he did not hesitate to accept a job offer that required his relocation to another city. Yuko\* is puzzled and says, “He did not allow me to move, saying, ‘It’s my right to be with my son,’ but he was free to move, even though it was a violation of his child’s right to be with his father.” Yuko\*’s insightful comment points out the contradictions inherent in the father’s sense of entitlement, which assumes that his right takes precedence over that of his son’s and hers. The Western media frequently perpetuates this notion of the Western father’s entitlement.

### **Western Media Representation**

In 2011, *ABC World News* ran a story titled “A Father’s Plea: Desperate Effort to Return American Children Abducted to Japan.” The story is a prime example of the Western media’s problematic representation of returned Japanese mothers. The story, covered by American journalists Netter and Boudreau (2011), relates the perspective of a young Marine who was stationed in Okinawa, Japan. He brought his pregnant Japanese girlfriend home and married her. A year after her arrival in America, he went on his mission; while he was overseas, the second baby was born. Although the Japanese mother had recently arrived in a foreign land and was left alone with two babies, the coverage provided by *ABC World News* leaves her voiceless and

exclusively depicts the American left-behind father's grief: "When he returned home, he said that things had changed... She disappeared with the children, taking them to Japan... He has since been cut off from all contact with his children" (Netter & Boudreau, 2011).

Netter and Boudreau (2011) accuse the Japanese mother of criminal behaviour in order to secure the American man's blameless position; they also depict Japan's sole custody system as the main reason for the mother's return to Japan. This American man does not understand why things changed and why his wife returned to Japan; he does not understand her at all, by implication, because she is the Other, that is, she is mysterious and immoral, which in turn positions him as transparent and moral.

The concept of the Other has been discussed by many critical race scholars. When people in the dominant group perceive the Other's values and behaviours as unfavourable or dangerous, they attribute "culture as a cause" (Li, 1999, p. 4). Park (2011) examines Orientalist fears of the Asian "Other" and discusses "contemporary forms of racism" (p. 647) that are hidden by targeting Asian cultural difference. The Western representation of returned Japanese mothers exhibits contemporary forms of racism; the dominant people attribute the (perceived) immoral behaviours of the Other to cultural deficiency, which is connected with presumed racial inferiority (Li, 1999). Western representations of returned Japanese mothers can reinforce discrimination against Japanese women in Western society. It seems that the criminalization of Japanese women and the demonization of Japanese law are part of the pre-packaged deal of Western representation regarding returned Japanese mothers.

### **Limitations and Implications**

In ending my thesis, I must briefly explain how I was led to this particular study of transnational divorce; that is, my personal experience as an immigrant Japanese woman who had children with and divorced a Canadian-born man. I should also note that I was able to bring my professional experience as a translator to my study; I attest that the translation in my study achieved a high quality of accuracy without the loss of important details and nuances. The translation of this study was not only linguistically accurate but also emotionally precise; my own social location enhanced my ability to translate the participants' narratives. My personal experience as an immigrant single mother of colour coping with feelings of isolation, insecurity, sadness, and frustration allowed me to "inscribe [myself] visibly into the text" (Bassnett, 1998, p. 25).

I aimed to elicit the immigrant Japanese mothers' stories according to the way the

participants remember them. The exploration of the mothers' memories of their experiences revealed the issue of interlocking forces of oppression and marginalization. My study disclosed the multiple layers of Japanese women's social locations in relation to language and occupational capabilities, academic and economic backgrounds, accessibility to helpful public services and support, and encounters with sexism and racism.

I am fully aware that obtaining information from this hard-to-reach population has limitations. The recruitment of the participants relied on the Japanese community network in Toronto and a peer-support group in Japan. Women who have not accessed this network and support group are not likely to be found through this sampling strategy. Furthermore, there are many mothers who could not participate in my study because of the emotional effects of remembering their traumatic experiences. In other words, the mothers who participated in my interviews may have been in more stable situations than others. I do not, therefore, intend to present these stories as representative of all immigrant Japanese mothers who experience transnational divorce. In fact, I am aware that each of their experiences is unique; thus, the commonalities among their experiences, which I discussed in this study, are significant.

Throughout the study, I aimed to contrast the returned Japanese mothers to the divorced Japanese mothers residing in Canada, not for the sake of creating categories, but in order to explore commonalities and differences in the participants' environments. I must emphasize that no mother should feel responsible for the outcome of divorce. By examining the situations in which their divorce took place, I found that the common denominator in each group of mothers related to the husbands' characteristics. All the husbands of the returned Japanese mothers lacked interest in their children during marriage, yet insisted in having power over the children and used post-divorce legal abuse to control their ex-wives. In contrast, all the husbands of the divorced Japanese mothers in Canada earned their ex-wives' trust—the fathers' love for the children is unquestionable; likewise, the husbands have absolute trust in their ex-wives—the mothers will definitely come back from Japan with their children. Although the divorced Japanese mothers in Canada face many challenges as single mothers with joint custody, they possess a sense of control over their lives.

### **Directions for Future Studies**

I propose various directions for future studies of transnational divorce and the Hague Convention. The power relation of a transnational marriage, as observed in my study, consists of a Western man who exerts control vis-à-vis a non-Western woman in accordance with Orientalist

ideology and practice. Said (1978) describes how non-Western women are constructed within Orientalism and writes about the Orientalist notion of non-Western women:

[S]he never spoke of herself, she never represented her emotions, presence, or history. *He* spoke for and represented her. He was a foreign, comparatively wealthy male, and these were historical facts of domination that allowed him not only to possess [her] ... , but to speak for her... (Said, 1978, p. 6; the emphasis is original)

Western men's sense of entitlement and immigrant Japanese women's complicity with Western power and entitlement are part and parcel of Orientalist ideology. The ideological role of Orientalism in the practice of transnational marriage deserves scrutiny in future studies.

Another area that warrants further study is the experiences of returned Japanese mothers in Japanese society. Such women struggle with the stigma attached to divorce; transnational divorce, in particular, often carries negative connotations for Japanese women, for whom status as a single mother with a child who looks different from other Japanese children can operate as a source of discrimination. Kaori\* mentions that when a returned Japanese mother is from a small and conservative rural community, her own family members may not accept her if she decides to return. Yuko\* spent many years in a shelter and shared housing accommodations in Japan, and currently lives in a different city than her mother. When her mother commented on Yuko\*'s reliance on social assistance, telling her, "You shouldn't have come back," Yuko\* became enraged by her insensitive comment and replied, "Don't you ever say it again. You have no idea how much happier I am now than I was in America." Yuko\* encountered challenging circumstances in terms of her living accommodation and job situation upon her return to Japan; however, she is content with her life in the country because she is in control of her life. It is important to reclaim the voices of returned Japanese mothers by drawing attention to their ongoing challenges.

A third area for future study involves the challenging task of investigating strategies for empowering immigrant Japanese women who are facing abusive relationships, transnational divorce, and potential Hague cases. Clearly, this study would need support from both Japanese and non-Japanese communities. During my research for this study, I renewed my awareness of the strong need to establish a support organization for Japanese women experiencing transnational divorce. The organizer of the peer-support group is concerned about the future of Japanese women in their transnational divorce, particularly those women who reside overseas, and criticizes the outlook of the Japanese government:

I think the Japanese government basically abandoned Japanese women residing overseas. [...] Other than mothers who are facing potential Hague cases, no one I met, including reporters in the Japanese news media and government officials, is interested in the true issues and challenges of Japanese mothers in need. [The news media and government officials] don't really care, and so don't understand what's going on. They simply assume that we took our children home out of selfishness.

向こうに居る日本女性は、日本政府からは見捨てられたれられた状態だと思えますね。[...]当事者の苦勞に周りがまったく無関心っていうのはありますよ。例えば報道関係の方には、ずいぶん時間が許す限りお会いしましたが、みなさんわかっていない。法務省も外務省もそうでしたけど。みんな「勝手に連れ帰った」って思ってる。

The lack of interest and understanding among the general population and the absence of social support for divorcing/divorced Japanese mothers overseas are indeed problematic.

Although a small group of returned Japanese mothers once organized an advocate group to voice their opinions against the ratification of the Hague Convention, they seem to have lost their direction since the Japanese government's decision of May 2013. They also lack resources, including time and money, to voice their opinions; in much the same way as the divorced Japanese mothers residing in Canada, returned Japanese mothers are generally busy with work and children. A daily routine of a single mother is: get ready the children, take them to daycare or school, go to work, rush to pick up the children after work, provide care and assist with homework and/or afterschool activities, prepare supper, and put the children to bed; there is simply no time or energy left to do anything else. The returned Japanese mothers' attempts to voice their opinions do not seem sustainable; no concrete lobbying activities were organized or accomplished, except for the organizer's meetings with a few government officials. Nonetheless, the mothers' stories prompt me to recognize the need for social support for divorcing/divorced Japanese mothers residing overseas.

Future studies should conduct community-based research, known as Participatory Action Research (PAR), with the aim of establishing a non-governmental organization for immigrant Japanese mothers experiencing transnational divorce. Reason and Bradbury (2008) state that PAR assumes that research should be conducted *with* participants as opposed to *on* them and its strategies can facilitate knowledge production for the participants based on community need by seeking to understand a phenomenon and attempting to change it. This project would aim to empower immigrant Japanese mothers by helping them gain increased control over their lives.

Kaori\* advises a Japanese woman who is considering transnational marriage to become familiar with the law and legal system of her future husband's country prior to marriage, as many mothers in transnational divorces face particular challenges in the Western legal system. The proposed project could support immigrant Japanese mothers in need of legal assistance in their court proceedings by collaborating with family lawyers. Meanwhile, Miho\* shares her experience with a Japanese administrator at a Japanese consulate in Canada, with whom she consulted regarding her husband's violence. The administrator listened to her in a kind manner; however, no concrete measures were offered for improving Miho\*'s situation. Support for immigrant Japanese mothers who encounter abuse and discrimination is limited in Canada. Therefore the research project, with the establishment of a support organization for divorcing and divorced Japanese mothers, could offer practical support.

### **The Future of Transnational Divorce**

To conclude my paper, I introduce the interesting notion of transnational co-parenting. Kaori\* discusses transnational divorce cases in the late 1990s:

I know many mothers who experienced transnational divorces in late 90s and came back to Japan with their children. Many of them maintain the father-child relationship; for example, the child visits the father during the summer vacation. Such post-divorce arrangements have become rare these days because of the big fuss over Hague cases. I don't get why people started to think that transnational divorce means parental child abduction.

90年代に国際離婚した人たちで、お子さんと日本に帰って来て、そのあともお子さんがお父さんを夏休みに訪ねたりとか、行ったり来たりしてる方多いですよ。自然な形で親子の関係を保ってる人多いです。Hagueが騒がれ始めたおかげで、そんな形での行ったり来たりが出来なくなってしまった感がありますね。なんでもかんでも誘拐だって騒いでどうなんでしょうね。

Kaori\*'s story suggests that there have been many transnational divorce cases that were amicably resolved; that is, Western fathers agreed to the return of Japanese mothers to Japan with their children, and the parents engaged in transnational co-parenting whereby divorced transnational parents raise their children together. This was precisely the post-divorce parenting arrangement that Kumiko and her husband were planning prior to their lawyers' advising them otherwise. The notion of transnational co-parenting may add an option for divorcing transnational couples. I end my study by registering hope for the future of transnational divorce.

Miho\*, who is currently negotiating legal issues with her husband (through a Canadian lawyer via e-mail) is trying to settle custody and access arrangements. The children are talking to their father on the Internet Telephone (i.e., Skype); Miho\* encourages her daughter, who does not speak her father's language, to sing him a Japanese song. Her husband recently started to study Japanese so that he could exchange a few words with his daughter. It is ironic that he was never interested in learning Japanese during the 12 years of his relationship with Miho\*. Miho\* is hoping that her children eventually visit their father during the summer and the father will visit his children in Japan. Miho\*'s updated story indicates that she may negotiate a win-win situation with a flexible approach towards transnational post-divorce co-parenting; the outcome of transnational divorce does not have to be negative.

Given that Japan implemented the Hague Convention on April 1, 2014, my study has the potential to receive international attention from Japan and other countries. The powerful testimonies of Japanese women have the capacity to lead to recognition and acknowledgement of the problematic issues that immigrant Japanese mothers encounter in Western societies. I am hopeful that my study will complicate the discussion of transnational divorce and Hague cases in both the West and Japan. It is also my hope that my study will be of assistance to policy makers in considering effective approaches to policies and services aimed at alleviating immigrant mothers' struggles in broad areas, including: (1) the prevention of, and interventions in, domestic violence; (2) the support of single motherhood; (3) effective legal assistance and representation in transnational divorce; (4) protection from post-divorce violence, including legal abuse; and (5) the transformation of transnational co-parenting. When immigrant Japanese mothers' rights and freedoms are respected, the treatment of transnational divorce in relation to the Hague Convention will change. Nobody's rights should be secured at the expense of another person's lack of freedom. When mothers in transnational divorces feel in control of their own lives as much as fathers do, the equal relationship of co-parenting will be achieved, and the best interests of the children will finally be served.

## References

- American Broadcasting Company [ABC]. (February 5, 2011). *A father's plea: Desperate effort return American children abducted to Japan*. Retrieved from <http://abcnews.go.com/International/american-children-abducted-japan-desperate-fathers-contact-children/story?id=12919762>
- Amezuma. (2014). アメ妻って何のサイト? [What is Ame-zuma?]. Retrieved from <http://amezuma.com>
- Asahi. (2014, April 3). 国境越え 子を返して [Cross the border: Please return the child]. Copy in possession of author.
- Bancroft, L., Silverman, J. G., & Ritchie, D. (2012). *The batterer as parent: addressing the impact of domestic violence in family dynamics* (2nd. ed.). Los Angeles, CA: SAGE Publications, Inc.
- Bassnett, S. (1998). When is a translation is not translation. In S. Bassnett & A. Lefevere (Eds.), *Constructing Cultures: Essays on Literary Translation* (pp. 25-40). Multilingual Matters Ltd.
- Boyd, S. B. (2003). *Child custody, law, and women's work*. Toronto, ON: Oxford University Press.
- Britton, M. (2003). Undertakings: A satisfactory safeguard to grave risk? *Cork Online Law Review*, 2. Retrieved from <http://corkonlinelawreview.com/editions/2003/2003xi.pdf>
- Cable News Network [CNN]. (2009, September 29). *American jailed in Japan for trying to reclaim his children*. Retrieved from <http://www.cnn.com/2009/WORLD/asiapcf/09/29/japan.father.abduction/index.html?iref=allsearch>
- Canada Revenue Agency (2012). Canada child tax benefit/related provincial and territorial benefits calculator. Retrieved from <http://www.cra-arc.gc.ca/ebsi/icbc/simnet/cctbe?taxYear=2012>
- Citizenship and Immigration Canada. (2013). Facts and figures 2012 – Immigration overview: permanent and temporary residents. *The Minister of Public Works and Government Services Canada*. Retrieved from [http://www.cic.gc.ca/english/resources/statistics/facts\\_2012/index.asp](http://www.cic.gc.ca/english/resources/statistics/facts_2012/index.asp)
- Colombo, R. (2010). *Fight back legal abuse: How to protect yourself from your own attorney*. New York, NY: Morgan James Publishing.
- Community Legal Education Ontario. (2012). *When will the child support payments be different from the Table amount?* Retrieved from <http://www.cleo.on.ca/en/publications/childsupport/when-will-child-support-payments-be-different-table-amount>
- Costa, J. (2010). If Japan signs the Hague Convention on the Civil Aspects of International Child Abduction: Real change or political maneuvering? *Oregon Review of International Law*, 12. 369-388. Retrieved from <http://law.uoregon.edu.ezproxy.library.yorku.ca/org/oril/docs/12-2/Costa.pdf>
- Dalley, National Missing Children Services, National Police Services, & Royal Canadian Mounted Police (2007). *The left-behind parents' view of the parental abduction experience: Its characteristics and effect on the Canadian victims*. Retrieved from <http://www.rcmp-grc.gc.ca/pubs/omc-ned/leftbe-laisderr-fra.htm>
- Delgado, R. & Stefancic, J. (1993). Critical Race Theory: An annotated bibliography *Virginia Law Review* 79 (2): 461–516. doi:10.2307/1073418
- Delgado, R. & Stefancic, J. (2012). An introduction. In *Critical Race Theory* (pp. 1-7). New York, NY: New York University Press.



- Department of Justice (2012). *Child custody arrangements: Their characteristics and outcomes*. Retrieved from [http://www.justice.gc.ca/eng/fl-df/parent/ppt-ecppp/Parenting\\_Plan\\_Tool.pdf](http://www.justice.gc.ca/eng/fl-df/parent/ppt-ecppp/Parenting_Plan_Tool.pdf)
- Department of Justice (2013). *Parenting plan tool: A companion to "making plans"*. Retrieved from [http://www.justice.gc.ca/eng/fl-df/parent/ppt-ecppp/Parenting\\_Plan\\_Tool.pdf](http://www.justice.gc.ca/eng/fl-df/parent/ppt-ecppp/Parenting_Plan_Tool.pdf)
- Dower, J. W. (1999). *Embracing Defeat: Japan in the Wake of World War II*. New York, NY: W. W. Norton & Company
- Edleson, J. L., Lindhorst, T., Mehrotra, G., Vesneski, W., Lopez, L., & Shetty, S. (2013). Multiple perspectives on battered mothers and their children fleeing to the United States for safety: A study of Hague Convention cases. *Charleston, CA: BiblioBazaar*.
- Fellows, M. L. & Razack, S. (1998). The race to innocence: Confronting hierarchical relations. *The Journal of Gender, Race and Justice*, 1(2). 335-352. Retrieved from [http://heinonline.org.ezproxy.library.yorku.ca/HOL/Page?handle=hein.journals/jgrj1&div=20&g\\_sent=1&collection=journals#367](http://heinonline.org.ezproxy.library.yorku.ca/HOL/Page?handle=hein.journals/jgrj1&div=20&g_sent=1&collection=journals#367)
- Foreign Affairs, Trade and Development Canada. (2013). International experience Canada: Travel and work abroad for up to six months. Retrieved from [http://www.international.gc.ca/experience/working\\_holiday-travail\\_vacance.aspx?lang=eng](http://www.international.gc.ca/experience/working_holiday-travail_vacance.aspx?lang=eng)
- Gardner, R. A. (2001). Parental alienation syndrome (PAS): Sixteen years later. *Academy Forum*, 45(1), 10-12. Retrieved from <http://www.rhfinc.org.au/docs/latr.pdf>
- Government of Canada (2009, May 21). Joint Press Statement Following the Symposium on International Parental Child Abduction Canada, France, UK, United States. Retrieved from <http://www.canadainternational.gc.ca/japan-japon/highlights-faits/media-20090521.aspx?lang=eng>
- Government of Canada. (2014). *Recommended consent letter for children travelling abroad*. Retrieved from <http://travel.gc.ca/travelling/children/consent-letter>
- Greif, G. & Hegar, R. (1993). *When parents kidnap: the families behind the headlines*. New York, NY: Free Press.
- Hague Convention on Private International Law [HCCH]. (2012). *Outline Hague abduction convention*. Retrieved from <http://www.hcch.net/upload/outline28e.pdf>
- Hague Convention on Private International Law [HCCH]. (1980). *Convention on the civil aspects of international child abduction*. Retrieved from <http://www.hcch.net/upload/conventions/txt28en.pdf>
- Hague Convention on Private International Law [HCCH]. (2014). *Status table*. Retrieved From [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=24](http://www.hcch.net/index_en.php?act=conventions.status&cid=24)
- Hegar, R. & Greif, G. (1994). Parental abduction of children from interracial and cross-cultural marriages. *Journal of Comparative Family Studies*, 25(1). 135-142. Retrieved from <http://www.jstor.org/stable/41602313>
- Huffer, K. P. (2013). *Legal abuse syndrome: 8 steps for avoiding the traumatic stress caused by the justice system*. Bloomington, IN: AuthorHouse
- Netter, S. & Boudreau, A. (2011, February, 15, 2011). A father's plea: Desperate effort return American children abducted to Japan. *ABC World News*. Retrieved from <http://abcnews.go.com/International/american-children-abducted-japan-desperate-fathers-contact-children/story?id=12919762>
- Japan Federation of Bar Associations. (2011). *国際的な子の連れ去りに関するアンケート結果報告 [The survey on cross-border cases of child relocations]*. Retrieved from [http://www.nichibenren.or.jp/library/ja/jfba\\_info/publication/data/2011child\\_abduction-enquete.pdf](http://www.nichibenren.or.jp/library/ja/jfba_info/publication/data/2011child_abduction-enquete.pdf)

- JET Programme. (2013). *Japan exchange and teaching programme*. Retrieved from <http://www.jetprogramme.ca>
- Jones, C. P. A. (2006). In the best interests of the court: What American lawyers need to know about child custody and visitation in Japan. *Asian Pacific Law and Policy Journal*, 8, 166-269. Retrieved from [http://blog.hawaii.edu/aplpj/files/2011/11/APLPJ\\_08.2\\_jones.pdf](http://blog.hawaii.edu/aplpj/files/2011/11/APLPJ_08.2_jones.pdf)
- Jones, C. P. (2002). Confronting Institutionalized Racism. *Phylon* 50(1), 7-22. doi:10.2307/4149999
- Kaji, R. (2012). 深刻化する国際的な子の連れ去り問題とハーグ条約 [Growing concerns over the issues of international child abduction and the Hague Convention]. *立法と調査* 326. 51-63. Retrieved from [http://www.sangiin.go.jp/japanese/annai/chousa/rippou\\_chousa/backnumber/2012pdf/20120308051.pdf](http://www.sangiin.go.jp/japanese/annai/chousa/rippou_chousa/backnumber/2012pdf/20120308051.pdf)
- Kamoto, I. (2014). Marriage migrants and “multicultural coexistence” from the perspectives of extraordinary events: Great earthquakes and Divorces. *Kyoto Women’s University. The Department for the Study of Contemporary Sociology*. 8. Copy in possession of author.
- Lawhelp Ontario. (2010). *Default proceedings*. Retrieved from [www.lawhelpontario.org/library/attachment.214906](http://www.lawhelpontario.org/library/attachment.214906)
- Legal Aid Ontario. (2013). *Certificate services*. Retrieved from <http://www.legalaid.on.ca/en/getting/certificateservices.asp>
- Li, P. (1999). Race and ethnicity. In *Race and Ethnic Relations in Canada* (2<sup>nd</sup> ed., pp.3-17). Don Mills:ON, Oxford University Press.
- Longman Dictionary of Contemporary English. (2014). *Control freak*. Retrieved from [http://www.ldoceonline.com/dictionary/freak\\_1](http://www.ldoceonline.com/dictionary/freak_1)
- Mainichi. (2013, June 13). *Top court to release guidelines after Japan paves way to join int'l child custody treaty*. Retrieved from <http://mainichi.jp/english/english/newsselect/news/20130613p2a00m0na004000c.html>
- Makin, K. (2013, May, 21). Lack of interpreters in Ontario courts becoming intolerable, judge says. *The Globe and Mail*. Retrieved from <http://www.theglobeandmail.com/report-on-business/industry-news/the-law-page/lack-of-interpreters-in-ontario-courts-becoming-intolerable-judge-says/article12051673/>
- Matsuoka, A. & Sorenson, J. (1991). Ethnic identity and social service delivery: Some models examined in relation to immigrants and refugees from Ethiopia. *Canadian Social Work Review/Revue canadienne de service social*, 8(2), 255-268. Retrieved from <http://www.jstor.org/stable/41669449>
- McLaughlin, J., O’Carroll, R. E., & O’Connor, R. C. (2012). Intimate partner abuse and suicidality: A systematic review. *Clinical Psychology Review*, 32(8), 677-689. doi: 10.1016/j.cpr.2012.08.002
- Minamikata, S. (2005). Resolution of disputes over parental rights and duties in a marital dissolution case in Japan: A nonlitigious approach in “Chotei” (Family Court Mediation). *Family law quarterly*, 489-506. Retrieved from <http://www.jstor.org/stable/25740502>
- Ministry of Community and Social Service. (2014). *Ontario works*. Retrieved from <http://www.mcscs.gov.on.ca/en/mcscs/programs/social/ow/index.aspx>
- Ministry of Foreign Affairs. (2011). *Result of the questionnaire survey on the Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention on Child Abduction)*. Retrieved from [http://www.mofa.go.jp/announce/announce/2011/2/0202\\_01.html](http://www.mofa.go.jp/announce/announce/2011/2/0202_01.html)

- Ministry of Health, Labour and Welfare. (2013). *Official statistics in Japan*. Retrieved from [http://www1.mhlw.go.jp/toukei/riikon\\_8/repo5.html](http://www1.mhlw.go.jp/toukei/riikon_8/repo5.html)
- Oikawa, M. (2012). *Cartographies of violence: Japanese Canadian women, memory, and the subjects of the Internment*. Toronto, ON: University of Toronto Press.
- Ontario Ministry of the Attorney General (2014). *The office of the children's lawyer*. Retrieved from <http://www.attorneygeneral.jus.gov.on.ca/english/family/ocl>
- Ontario Ministry of the Attorney General (2012). *Violence in the family*. Retrieved from <http://www.attorneygeneral.jus.gov.on.ca/english/family/violence.asp>
- Park, H. (2012). Interracial violence, Western racialized masculinities, and the geopolitics of violence against women. *Social and Legal Studies*, 21(4), 491-509. doi:10.1177/0964663912443919
- Powell, P. & Smith, M (2011). Domestic violence: An overview. *University of Nevada Cooperative Extension*. Fact Sheet-11-76 Retrieved from <http://www.unce.unr.edu/publications/files/cy/2011/fs1176.pdf>
- Prenzler, T. (2004). Stakeholder perspectives on police complaints and discipline: Towards a civilian control model. *Australian and New Zealand Journal of Criminology*, 37(1), 85-113. doi:10.1375/acri.37.1.85.
- Razack, S. (1998). *Looking white people in the eye: Gender, race and culture in courtrooms and classrooms*. Toronto, ON: University of Toronto Press.
- Reason, P. & Bradbury, H. (2008). Introduction. In P. Reason and H. Bradbury (eds.), *The Sage Handbook of Action Research: Participative Inquiry and Practice* (pp. 5-10). Thousand Oaks, CA: Sage.
- Said, E. W. (1978). *Orientalism*. New York & Toronto: Random House.
- Savoie v. Savoie (2009). The court transcription. Retrieved from <http://wtvf.images.worldnow.com/images/incoming/Investigates/savoie1.pdf>
- Schneider, E. M. (2000). *Battered women and feminist lawmaking*. New Haven, CT: Yale University Press.
- Seligman, M. E. P. (1972). Learned helplessness. *Annual Review of Medicine*, 23(1), 407-412. doi:10.1146/annurev.me.23.020172.002203
- Stasiulis, D. K. (2005). Feminist intersectional theorizing. In Valerie Z. & Cynthia L-R. (Eds.), *Inequality in Canada: A Reader on the Intersections of Gender, Race, and Class* (pp.36-62). Don Mills: Oxford University Press.
- Tanase, T. (2010). Post-divorce laws governing parent and child in Japan. *US Department of State Articles*. Retrieved from [http://www.law-t.jp/pdf/post-divorce-laws\\_USDeptOfState\\_20100914.pdf](http://www.law-t.jp/pdf/post-divorce-laws_USDeptOfState_20100914.pdf)
- Thompson, R. (2013). The TLC of shared parenting: Time, language and cash. In Law Society of Upper Canada, *7<sup>th</sup> Annual Family Law Summit*. Copy in possession of author.
- Torisawa, T. (2012). 国際的な子どもの連れ去り: 「ハーグ条約」の批准をめぐって [International child abduction: Ratifying the Hague Convention]. *レファレンス*, 62(4), 55-83. Retrieved from [http://dl.ndl.go.jp/view/download/digidepo\\_3488877\\_po\\_073504.pdf?contentNo=1](http://dl.ndl.go.jp/view/download/digidepo_3488877_po_073504.pdf?contentNo=1)
- Travis, A.C., Pawa, S., LeBlanc, J.K., & Rogers, A.I. (2011). Denial: What is it, how do we recognize it, and what should we do about it? *The American Journal of Gastroenterology*, 106 (6). 1028-30. doi:10.1038/ajg.2010.
- United Nations Human Rights: Office of the High Commissioner for Human Rights (1965). *International Convention on Elimination of All Forms of Racial Discrimination (ICERD)*. Retrieved from <http://web.archive.org/web/20100805034009/http://www2.ohchr.org/english/law/cerd.htm>

- University of Toronto (2011). *Counselling and psychological services: Forms of abuse*. Retrieved from [http://www.caps.utoronto.ca/Services-Offered/Assault-Counselling/Forms-of-Abuse.htm#financial\\_abuse](http://www.caps.utoronto.ca/Services-Offered/Assault-Counselling/Forms-of-Abuse.htm#financial_abuse)
- US Preventive Services Task Force. (2004). Screening for family and intimate partner violence: recommendation statement. *The Annals of Family Medicine*, 2(2), 156-160. doi: 10.1370/afm.128
- Wada, M. (n.d.). 戦後占領期の民法・戸籍法改正過程（五） [The revision of civil law and family registration law under post-war American occupation in Japan 5]. *Hosei University Repository*. Retrieved from [http://repo.lib.hosei.ac.jp/bitstream/10114/5632/1/law101-4\\_wada.pdf#search='民法とGHQ'](http://repo.lib.hosei.ac.jp/bitstream/10114/5632/1/law101-4_wada.pdf#search='民法とGHQ')
- Walter, M. C. (2004). Toward the recognition and enforcement of decisions concerning transnational parent-child contact. *New York University Law Review*, 79, 2381-2416. Retrieved from [http://heinonline.org.ezproxy.library.yorku.ca/HOL/Page?handle=hein.journals/nylr79&div=56&g\\_sent=1&collection=journals#2395](http://heinonline.org.ezproxy.library.yorku.ca/HOL/Page?handle=hein.journals/nylr79&div=56&g_sent=1&collection=journals#2395)
- Wathen, C. N. & MacMillan, H. L. (2003). Interventions for violence against women: scientific review. *The Journal of the American Medical Association*, 289(5), 589-600. doi: 10.1001/jama.289.5.589.
- Weiner, M. H. (2000). International child abduction and the escape from domestic violence. *Fordham Law Review*, 69(2), 593-706. Retrieved from <http://ir.lawnet.fordham.edu.ezproxy.library.yorku.ca/flr/vol69/iss2/6>
- Weiner, M. H. (2003). Potential and challenges of transnational litigation for feminists concerned about domestic violence here and abroad. *American University Journal of Gender Social Policy and the Law*, 11(2), 749-1215. Retrieved from <http://www.wcl.american.edu/journal/genderlaw/11/weiner.pdf>
- Weiner, M. H. (2008). Intolerable situations and counsel for children: Following Switzerland's example in Hague abduction cases. *American University Law Review*, 58(2), 335-403. Retrieved from <http://aulawreview.com/pdfs/58/58-2/weiner.pdf>
- Winter, S. I. (2010). Home is where the heart is: Determining "habitual residence" under the Hague Convention on the Civil Aspects of International Child Abduction. *Washington University Journal of Law and Policy*, 33(1), 351-386. Retrieved from [http://heinonline.org.ezproxy.library.yorku.ca/HOL/Page?handle=hein.journals/wajlp33&div=15&g\\_sent=1&collection=journals#355](http://heinonline.org.ezproxy.library.yorku.ca/HOL/Page?handle=hein.journals/wajlp33&div=15&g_sent=1&collection=journals#355)
- Yehuda, R. (2002). Post-traumatic stress disorder. *New England Journal of Medicine*, 346(2), 108-114. doi:10.1056/NEJMra012941
- Yoshihama, M. & Horrocks, J. (2002). Posttraumatic stress symptoms and victimization among Japanese American women. *Journal of Consulting and Clinical Psychology*, 70(1), 205-215. doi: 10.1037/0022-006X.70.1.205

## Appendix A: Informed Consent Form

**Study Name:** Transnational Divorce: Immigrant Japanese Mothers and the Hague Abduction Convention

**Researcher:** Hiromi Noguchi, a second year MA student in Graduate Program, Communication and Culture at York University (野口洋美、カナダ、ヨーク大学修士課程、連絡先: [hiromin@yorku.ca](mailto:hiromin@yorku.ca) /1-705-791-6556)

**Purpose of the Research:** Explore post-divorce experiences of Japanese-born women (日本人女性の国際離婚経験の調査)

**What You Will Be Asked to Do in the Research:** In this interview, we would like to listen to stories of your life, such as the background to your relationship with a Canadian-born husband/partner, your experience as a minority immigrant woman and a mother of child(ren) with dual nationality, and your experiences during separation/divorce. The estimated time commitment is one hour; however, this does not limit your time to explore what has been going on in your life. The interview will be digitally recorded for the purpose to complete an accurate transcription. (国際結婚に至る経緯、少数派の女性移民として、あるいは二重国籍を有する子どもの母としての経験、また離婚に至る経緯等についてお聞かせ下さい。インタビューは、約1時間を予定していますが、お時間が許せばお話を続けていただいてもかまいません。またインタビュー内容を正確に記録するためデジタル録音機を使用させていただきます)

**Risks and Discomforts:** We do not foresee specific risks from your participation in the study; however, some participants may experience uneasiness when remembering their past experiences. Should you desire support, we will provide contact information for a public counselling service provider. (過去の経験を思い起こすことでカウンセリング等のサポートが必要となった場合は、公的機関をご紹介します)

**Benefits of the Research and Benefits to You:** Your participation will contribute to address an understudied immigrant Japanese mothers' standpoints surrounding transnational divorce. You will likely revisit your experience and may deepen your understanding about your experiences as a minority immigrant and as a mother of child(ren) with dual nationality.

Participation in this study may provide you with empowerment that comes through articulating of your experiences. (国際離婚を日本女性の視点でとらえた研究が国際離婚に直面する日本人女性と子どもたちの支援につながることを期待します。ご自身の体験を言葉にすることで過去の経験への理解が深まればよいと願います)

**Voluntary Participation and withdrawal from the Study:** Your participation in the study is completely voluntary and you have the right to withdraw at any time. In the event you withdraw from the study, all associated data collected will be immediately destroyed. (参加は自由意志です。途中で不参加を希望された場合、個人情報はずちに消去します)

**Confidentiality and Accuracy of Information:** All information you supply during the research will be held in confidence and your name will not appear in any report or publication of the research. Your interview is recorded by a digital device, then transcribed and translated into English by the researcher. You will have an opportunity to read both transcribed (Japanese) and translated (English) texts of your interview to review the accuracy of your information before it will be reported in any forms. Both transcribed and translated texts will be stored securely in the researcher's personal computer with a password to access and no one else will have access to this information. The texts will be stored for three years and will be destroyed by deleting digital files from the researchers personal computer at the end of the second year. Confidentiality will be provided to the fullest extent possible by law. (個人情報はすべて守秘し論文や他の文献に氏名が記されることはありません。インタビュー内容は文章化の後、正確を期するため内容のご確認をお願いします。論文に使用する英文もご確認いただけます。インタビュー内容はパスワードで管理した研究者の個人コンピューターに保存され、研究終了後3年後に消去させていただきます。守秘義務はカナダの法律によって完全に保証されております)

**Questions About the Research?** If you have questions about the research in general or about your role in the study, please feel free to contact Dr. Mona Oikawa at (416) 736-2100, extension 44014 or by e-mail ([oikawa@yorku.ca](mailto:oikawa@yorku.ca)). This research has been reviewed and approved by the Human Participants Review Sub-Committee, York University's Ethics Review Board and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines. If you have any questions about this process, or about your rights as a participant in the study, please contact the Sr. Manager & Policy Advisor for the Office of Research Ethics, 5<sup>th</sup> Floor, York Research Tower, York University (telephone 416-736-5914 or e-mail [ore@yorku.ca](mailto:ore@yorku.ca)). (当調査、インタビューに関するご質問は、英語にて上記連絡先へお願いします)

**Legal Rights and Signatures:** I ( \_\_\_\_\_ ), consent to participate in Transnational Divorce: Immigrant Japanese Mothers and the Hague Abduction Convention by Hiromi Noguchi. I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent. (当研究の主旨を理解し参加を希望します。この署名はインタビュー参加への同意を示すものであり、私の法的権利を放棄するものではありません)

**Signature** \_\_\_\_\_

Participant (参加者)

**Date** \_\_\_\_\_

**Signature** \_\_\_\_\_

Investigator (研究者)

**Date** \_\_\_\_\_

## Appendix B: Informed Consent Form for Professionals

**Study Name:** Transnational Divorce: Immigrant Japanese Mothers and the Hague Convention

**Researcher:** Hiromi Noguchi, a second year MA student in Graduate Program, Communication and Culture

(野口洋美、カナダ、ヨーク大学修士課程、連絡先: [hiromin@yorku.ca](mailto:hiromin@yorku.ca) /1-705-791-6556)

**Purpose of the Research:** Explore post-divorce experiences of Japanese-born women (日本人女性の国際離婚経験の調査)

**What You Will Be Asked to Do in the Research:** In this interview, we would like to listen to your experiences in supporting divorcing/divorced Japanese-born mothers during and after their transnational divorce. It may include major issues the Japanese mothers face as minority immigrant women and mothers of children with dual nationality. The estimated time commitment is one hour. The interview will be digitally recorded for the purpose to complete an accurate transcription. (国際離婚関連で日本女性を支援された経験をお聞かせ下さい。インタビューは、約1時間を予定しています。またインタビュー内容を正確に記録するためデジタル録音機を使用させていただきます)

**Risks and Discomforts:** We do not foresee any risks and discomforts from your participation in the research.

(当インタビューが参加者に与える弊害はありません)

**Benefits of the Research and Benefits to You:** Your participation will contribute to address understudied standpoints of immigrant Japanese mothers in the context of transnational divorce. Your participation may influence policy makers to consider the situational factors behind the issue and assist to establish a policy to provide support for immigrant mothers and their children. (国際離婚を日本女性の視点で捉えた研究が、国際離婚に直面する日本人女性とその子どもたちの支援につながることを期待します)

**Voluntary Participation and withdrawal from the Study:** Your participation in the study is completely voluntary and you have the right to withdraw at any time. In the event you withdraw from the study, all associated data collected will be immediately destroyed. (参加は自由意志によるものです。途中で不参加を希望された場合、個人情報はいちに消去します)

**Confidentiality and Accuracy of Information:** All information you supply during the research will be held in confidence and your name will not appear in any report or publication of the research. Your interview is recorded by a digital device, then transcribed and translated into English by the researcher. You will have an opportunity to read both transcribed (Japanese) and translated (English) texts of your interview to review the accuracy of your information before it will be reported in any forms. Both transcribed and translated texts will be stored securely in the researcher's personal computer with a password to access and no one else will have access to this information. The texts will be stored for two years and will be destroyed by deleting digital files from the researchers personal computer at the end of the second year. Confidentiality will be provided to the fullest extent possible by law.

(個人情報はすべて守秘し、論文や他の文献に氏名が記されることはありません。お話しいただいた内容は文章化した後、正確を期するため内容のご確認をお願いします。また英文に訳された内容もご確認いただけます。内容はパスワードで管理された研究者の個人コンピューターのみに保存され、研究終了後2年後に消去させていただきます。守秘義務はカナダの法律によって完全に保証されております)

**Questions About the Research?** If you have questions about the research in general or about your role in the study, please feel free to contact Dr. Mona Oikawa at (416) 736-2100, extension 44014 or by e-mail ([oikawa@yorku.ca](mailto:oikawa@yorku.ca)). This research has been reviewed and approved by the Human Participants Review Sub-Committee, York University's Ethics Review Board and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines. If you have any questions about this process, or about your rights as a participant in the study, please contact the Sr. Manager & Policy Advisor for the Office of Research Ethics, 5<sup>th</sup> Floor, York Research Tower, York University (telephone 416-736-5914 or e-mail [ore@yorku.ca](mailto:ore@yorku.ca)). (当調査に関するご質問は、英語にて上記連絡先へお願いします)

### Legal Rights and Signatures:

I ( \_\_\_\_\_ ), consent to participate in Experience of International Divorce conducted by Hiromi Noguchi. I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent. (当調査の主旨を理解しお話しします。この署名はインタビュー参加への同意を示すものであり、私の法的権利を放棄するものではありません)

**Signature** \_\_\_\_\_

Participant (参加者)

**Date** \_\_\_\_\_

**Signature** \_\_\_\_\_

Investigator (研究者)

**Date** \_\_\_\_\_