

DATE : 1<sup>st</sup> September 2011

**Submissions to Senate Inquiry into**  
**The incidence of international child abduction**  
**To and From Australia.**

My Name is Phil McIntyre,

and

unfortunately I have experienced each step in the Chain of Events that follow an International Child Abduction, including Commencing and Maintaining the associated Legal Proceedings in a Non-Hague Foreign Jurisdiction and Related Matters.

I am extremely Disappointed and rather Suspicious that given all that The Australian Government knows about my Children's Case and My Personal Experiences in these matters, I was not informed of this Inquiry, nor invited to Give Evidence or any Submissions to this Inquiry

I only recently heard of this Inquiry late September 2011 through media reports at the time the Senate was taking Public Evidence and I then learned that Submissions were closed and therefore too late for me to Give Evidence or Submissions, but after contacting the Committee's Senior Research Officer for Senate Legal & Constitutional Affairs, I was invited to give My Submissions in Writing, which I very much appreciate but I also believe that all Persons and Parties directly affected by these matters, need to be on a Government Register and kept updated and informed of any Developments in these matters that concern them, such as the announcement of This Senate Inquiry.

I welcome this opportunity to Share My Knowledge and Experiences and to give My Submissions to this Inquiry into International Child Abduction as unfortunately, I have quite a bit of personal experience in these matters as

I have experienced first hand, The Trials and Tribulations of attempting to Get Some Action and/or Funding from the various Federal Government Departments that assume responsibility for the events that follow an International Child Abduction and I Can and I Will, certainly identify many of the areas of Serious policy and procedural Failure that exists within The Australian Government Departments and Australian Federal Police Border Security Service, in Regard to their handling of These Matters.

I consider that My Experiences and My Submissions will be a Valuable Contribution to this Senate inquiry into International Child Abduction if they are heeded and I have quite a few submissions to give to this Inquiry and some may seem somewhat Controversial, but they are the Honest and Open Opinions of an extremely qualified Witness and a Reluctant Participant in these Matters.

Through my Personal, Political, and Legal experiences, I am perhaps most qualified to give the kind of evidence and submissions that would genuinely assist and enlighten this Senate Inquiry, if indeed this Inquiry genuinely seeks assistance and enlightenment on how the Australian Government can better Deal with these Extremely Concerning Issues in the Future.

**In regard to these matters:**

My Submissions are intended to address the most common perpetrators of International Child Abductions from Australia and the One Country that for Too Long has been causing most concern for Australia and The Rest of The World in Regard to International Child Abduction, that is of Course: JAPAN.

**My Submissions are:**

- (A) **of the costs, terms and conditions of legal and departmental assistance for parents whose child has been abducted overseas;**

### **Regarding The Costs**

In the case where Australian Born Children have been Abducted and taken to a Foreign Country, the Costs immediately facing the “Left behind Parent” are huge and ongoing when all relevant matters are considered.

For a start, there is the immediate international Travel & Living Costs involved in an initial Search for the Children, when the “Left behind Parent” goes in Hot Pursuit of the Children.

Then there are the ongoing costs involved in the continued legal pursuit of the return of The Abducted Children as well as the costs of living in or visiting regularly to a foreign country for extended periods in order to attend legal conferences, court hearings, child visitation schedules if any, etc

There are also the ongoing associated legal costs of Legal Opinions, interpreter fees, Document Translation fees, Secretarial fees, etc

There are then the Costs of maintaining a homeland base/family-home for the children to hopefully eventually come home to, as well as the ongoing Costs of Maintaining a home base in the host/captor country, or at least Renting regular suitable accommodation to accommodate the Abducted Children during any applications for interim visitation, whilst the Children remain and the Court hearings proceed in the Country where the Children were abducted to.

Other ongoing Costs to the “Left behind Parent” can be such costs including an inability to actively work during this period and therefore the need to Dip into Life Savings, Superannuation, and/or actively Employ Staff to assist the Search & Recovery efforts and/or take over Business Duties etc if applicable.

### **Regarding the Terms and Conditions of Legal and Departmental assistance:**

In the case where Australian Born Children have been Abducted and taken to a Foreign Country, there is a constant effort and attention required to be contributed to a Full Scale Search & Rescue effort to find and attempt to return the Children, so there

needs to be a degree of immediate Financial Funding made available to assist the Left behind Parent in these regards.

Firstly, the Australian Government needs to establish whether the Children are Australian Born and have been Abducted from Australia, or whether the Children are Foreign Born and have been returned to their place of birth & Origin.

Secondly, and in Joint consideration with the aforementioned, the Australian Government needs to establish whether the Children have been Abducted from Australia by a “Civil act” or by a “Criminal act” and then regulate the Degree of Funding, Legal & Political action etc, as warranted and/or available based on the varying aspects of the Individual Case.

By “Civil act” and “Criminal act” it is accepted that there are generally Two Kinds of Parental Child Abductions that occur, as explained in the following paragraphs:

The First Kind, the “Civil act” of Parental Child Abduction being carried out under common or “**Usual Circumstances**” where one Parent (usually the Mother) has simply taken the Children to a Foreign Country under the guise of taking a “Short Holiday” to visit Family, but then suddenly being refused their Return to Australia.

The Second Kind, the “Criminal act” of Parental Child Abduction being carried out under the more “**Un-usual Circumstances**” where one Parent (usually the Mother) has Abducted the Children in Contempt of Family Court Orders and where the Seriousness of this Illegal act committed by the Parent, is reflected in The Family Court of Australia issuing “Recovery Orders” for the Children to be Returned and/or an “Arrest Warrant” for the Abducting Parent to be returned to Australia to face Court Action/Criminal Charges.

Under clear circumstances such as those in the Second Kind of Parental Child Abduction, or more commonly known as “Criminal Child Abduction” the Attorney General’s Department

needs to make immediate Legal and Political representations on behalf of “The left behind Parent” and on behalf of The Family Court of Australia in regard to making “Official Inquiries” to ascertain the Current Location of The Children, then make an “Official Request” for Recognition of the Australian Family Court Orders as well as an “Official Request” for the Return of The Abducted Australian Born Children from the Foreign Country involved.

These issues should not be left up to of “The left behind Parent” who is a “Victim of The Crime” and who usually has No Legal Experience and due to the circumstances, is Not in a Correct Frame of Mind to try to Deal with such matters at that Time.

Also, the Attorney General’s Department needs to make urgent financial assistance available and immediately accessible to “The left behind Parent” at the time of their reporting the International Child Abduction, so they can personally undertake immediate “Pursuit Action” to Locate the Abducted Children.

In this regard, it would not be unreasonable for an immediate initial grant of \$10,000 to be made available to cover such expenses as: Airfares, Accommodation, Food, Travel etc, and a further immediate \$10,000 grant for legal fees, interpreter fees, Document Translation fees, etc would considerably ease the Burdon on “The left behind Parent” once the Abducted Children were Located and Legal Recovery Action needed to be initiated.

This kind of immediate funding could and would enable “The left behind Parent” to go in immediate “Hot Pursuit” of the Abducted Children and have the funds to mount and maintain the initial Search & Location effort where necessary, as often the first hurdle one faces, is Guessing and Inquiring where the Abducted children may have been taken to and that exercise can incur a lot of initial Travel Fees/living costs, interpreter fees etc.

In any case in Regard to Funding, firstly and fore-mostly it must be recognised that any Policy regarding Funding must include that funding be made immediately available and not after 3 months following an application for funding being lodged.

A timeframe of 7–14 Days would be more appropriate, because over a 3 month period the Abducted Children can already begin to be “Brainwashed” and “Already Entrenched” in their New Life, New School, New Name, etc and the “Process of Erosion” and “Corruption” has not only begun, but it is well and truly underway.

**(b) the effectiveness of the Hague Convention in returning children who were wrongly removed or retained, to their country of habitual**

residence;

**Regarding the effectiveness of the Hague Convention**

In brief, I think that the effectiveness of the Hague Convention is perhaps effective enough when it comes to dealing with a Hague signature country however, when dealing with a Non-Hague signature country like Japan, the Hague Convention has no effect at all and there are effectively no consequences for Child Abductors.

In any case, the question of whether or not Japan is a Hague Convention signatory country or not, should really be seen as irrelevant, as the fact is that the Australian Government needs to put such increasing pressure on Japan, that they are forced to comply with any Requests for the Return of Australian born Children to their Homeland.

**(c) the roles of various Commonwealth departments involved in returning children who were wrongly removed or retained, to their country of habitual residence;**

**Regarding the roles of various Commonwealth Departments involved in returning children:**

The role of various and in fact almost every Government Department that could reasonably be charged with or asked to deal with the duty to deal with, or has a duty to deal with the problem of abducted children, needs to be seriously reassessed.

The Foreign Affairs Department, the Immigration Department, The Australian Federal Police and the Justice Department, need to have some kind of Preset role or forward role in these matters and have a “Standard Contingency Plan” in place ready to go, but instead they do nothing, they sit on their hands, they refuse

to act on even Court Orders, they largely do not want to take any kind of responsibility to act and in particular, do not want to act against Japan or make any request to Japan to return abducted children and this Needs to Change in Future.

Even the Attorney General's Department, who are seen to take a "Sole Responsibility" position for dealing with these issues, prefer to give No legal assistance, No financial assistance, and No other assistance of any kind, even though my particular case is one where My Children's abduction had only occurred as a Direct result and as a Direct consequence of the Negligence of The Australian Federal Police Border Protection security service.

It is as simple as writing and requesting and I could perhaps understand if a Government Department wrote to Japan and requested my children back and were told "Japan doesn't recognise or acknowledge the Hague Convention", but the fact is the Australian Government has not even asked Japan to recognise Australia's sovereign right of Jurisdiction over matters involving Australian born children and/or Requested Return of them to their place of Birth & Origin.

This is the kind of issue that this Senate Enquiry needs to look into and advise the Australian Government to act on.

If anything should come out of this inquiry it is that the Australian Family Court must be recognised as having the Sole Right of jurisdiction over the welfare of all Australian born Children and this Claim must be asserted to all Foreign Countries.



Similarly, if children abducted from Australia were born in Japan, it should be of the same consequence that the Japanese born children should be dealt with by the Japanese Family Court.

**(d) Policies, practices and strategies that could be introduced to streamline the return of abducted children; and**

**Regarding the policies, practices and strategies that could be introduced to streamline the return of abducted children**

The Australian Government needs to “Stand Up” for Australians and for Australian born Children and have the Guts & Balls to put “Direct Pressure” on Japan to return our Australian born children back to their Homeland/Country of Origin.

Direct pressure must be made in “Real Terms” that would be a “Real Threat” to Japan/World relations.

The Japanese Government and the Japanese people must be made to feel the “Real Risk” of their “World Status” being pushed right back to a similar position that they so deservedly Held in the “Post War Era” that of “Our Former Enemy” and of “The Scourge of the Earth” for all of the Pain and Suffering they inflicted on The Rest of the World.

Australia should Never Forget and the Rest of the World should Never Forget that The Japanese Government and the Japanese people whilst previously exercising their “Past lack of Respect” for the “Human Rights” and “Human Freedoms” of other Countries, were Guilty of Robbing Australians of the “Return of their Children and Grandchildren” at that time.

So, in view of Japan’s “Present lack of Respect” for the “Human Rights” and “Human Freedoms” of other Countries, it must now be Clearly Recognised that nothing about the Japanese Government or the Japanese people’s attitude toward the Rest of The World has changed at all since The Second World War.

The Japanese Government and the Japanese people have Clearly learned nothing from all of the “Past Atrocities” that they

inflicted on Australians and The people of The Rest of The World, particularly the “Atrocity” of Robbing us of our Greatest asset, “Our Children” and our “Grandchildren” this is an Atrocity that the Japanese Government continues to inflict on us Today by their Acceptance and Encouragement of Japanese Citizens, “Abducting” Australian Born Children.

The Australian Government needs to Decisively now Stand Up against ”Our Former Enemy” in support of the Human Rights of our Australian Born Children and Send a “Strong Message” to Japan that we Require the immediate Return of our “Abducted Australian Born Children” and the only way to do this now, is to do some Seriously Effective things, such as:

- “Impose Trade Sanctions” on Japan.
- “Withdraw Disaster Aid” to Japan.
- “Suspend all Joint Military Operations”
- “Withdraw Australian Troops currently protecting Japanese Soldiers abroad.
- “Move to gather support to have Japan suspended from The United Nations”
- Any other such Action that would have a Great Effect.

The Australian Government and The Australian People needs to now stop thinking about the Money they get from the Japanese and Start thinking about the suffering we get and have gotten from the Japanese in the past and present and now “Seriously Rethink” any Future Terms of Association with Japan.

Abducted Australian Born Children and their Australian Parents who are suffering and will continue to suffer, must be supported in every way possible by The Australian Government in the Quest to have these Children returned to their Country of Origin Australia.

The Australian Government must immediately act to do “All and Anything Necessary” to show Japan, that Australia seriously Demands and Requires the immediate Return of Australian born Children to Their Homeland and that should also include considering the withdrawal of “Disaster Aid” recently pledged to Japan.

The fact is, by Giving Disaster Aid to Japan, we are largely aiding the Real Japanese Disaster that is the Japanese Government’s policy in regard to Harboursing Child Abductors who are committing these Horrendous Crimes against our country and against our people.

The Practises and Strategies that I have noted in my submissions are all in regard to the Australian Government putting “Direct Pressure” on Japan to return our Australian born children back to their Homeland/Country of Origin and such pressure must include economic sanctions on Japan, as well as other actions such as withdrawing/Suspending any implied Disaster Aid.

In my view, under these circumstances, Australia should never have offered Japan any kind of Disaster Aid until Japan Recognises and Accepts our Right to our Laws, our Culture, and our Sovereign Rights to deal exclusively with our Australian born children through the Australian Family Court System.

The people of Australia question how much Disaster Aid if any, has Japan given to Australia in the past, during the bushfires, during the floods, during all of the other Natural Disasters that Australia has faced over the Recent Years.

Australian Born Children are being abducted and held captive against their will, against the will of the Australian people, and against the will of The Australian Family Court, who must unconditionally be recognised by Japan as having Sole Jurisdiction & Sole Legal Authority over cases involving Australian born children.

**(e) Any other related matters**

**My Submission on the other related matters is:**

There are several other related matters that I wish to make submissions on and will List them as follows:

**The First related matter:**

There seems to be a Great lack of Policy and Procedure in regard to the Cross-Checking, Sharing of Information and General co-operation between the Australian Federal Police and the Family Court.

When a Family Court Order has been made and has directed the Australian Federal Police to protect children from being abducted by having their names put on the Federal Police Airport Watch List, it is a Protection Order and if that Order is broken and the children have been abducted in such a case where there is a current, valid Protection Order, then the Policy and Procedure needs to be that the Australian Federal Police should immediately contact the International-Police and make all inquiries to try to ascertain where the Children have been taken to.

If there is any question regarding the duty to act or jurisdiction to act in these circumstances, then the Australian Government must deal with that by making it a recognised Law that it is a Criminal Act or Criminal Offence to abduct a child from Australia.

The AFP clearly does not want to accept the responsibility of acting in accordance with Orders of the Family Court that direct them to restrain Children from effectively being abducted and I

hereby submit that the AFP in future be clearly directed to take that responsibility and to act unquestionably in accordance with every word of a Court Order until a further Court Order directly retracts that responsibility, or if in doubt a final check with the Family Court Registry would clarify the Validity and Intention of an Order of The Court.

This is a truly pathetic stance that the Australian Government has taken, particularly given the Circumstances of the Federal Police Border Security Service's role and involvement in My Children's Abduction.

I can only say that in comparison, The Australian Government needs to pay less Financial Assistance to the Foreign Asylum seekers wanting to make Australia their home, and pay less

Financial Assistance to The Bali Drug Traffickers and other Criminal Australians seeking Legal Aid Abroad, and Give Full Financial Assistance to Australian Born Children who have been illegally Abducted from their Home and need to be immediately returned to their Homeland/Country of Origin, Australia.

**The Second related matter:**

These Related Matters must Now be Seriously Addressed.

As anyone can see, the ongoing Ramifications of International Child Abduction and these other closely Related matters that can stem from there, are Quite Devastating for all involved in these matters and The Australian Government must Now just “Stop Burying their Head in The Sand” and start making some “Serious Effort” towards:

- Changing the Laws regarding these matters;
- Changing the Amount of Financial, Legal, and Political Support, available to assisting the plight of Australian Born Children who have been “Abducted” from Australia.
- Changing the Terms of any Future Relations with any Countries that are Opposed to the immediate return of Abducted Australian Born Children to Australia.
- Changing The Loopholes that Still Exist and Still Allow Australian Born Children to be Illegally “Adopted Out” under the Laws of Foreign Countries.

Because these Children are all the “Innocent Victims of Crime” in these Matters and The Australian Government has a Duty to Act in the Best Interests of These Children and Assist these Children in Every Possible Way in these Matters that are of Extremely Serious, National and International Importance to Australia and All Australians.

Please Consider implementing these Submissions.

**Thank You**

**Sincerely Phil McIntyre.**