Japanese Supreme Court Renders Decision on Hague Abduction Convention

On December 21, 2017, the Japanese Supreme Court rendered a decision on the Hague Abduction Convention. The Court upheld a lower court decision in favor of the Japanese mother, even though she had turned back on her promise to return the kids from a visit to Japan, and even though that same court had earlier issued a return order in favor of the American father. The matter had received international press attention, and even a Congressional subcommittee hearing.

Japan had long refused to join the Hague Convention, and when it did, in 2014, critical observers already expected that courts would find ways to undermine it. Those observers see themselves vindicated.

Colin Jones reports critically on the decision; he has previously written on Japan's joining the Convention and on reluctance to enforce it. Useful background from the Law Library of Congress is here.

Japanese accession to the Convention has been a frequent scholarly topic, both in Japan and elsewhere. Yuko Nishitani, who had already written about "International Child Abduction in Japan" in (2006) 8 Yearbook of Private International Law 125-143, and who wrote a long report (in Japanese) for the Japanese Ministry in 2010, provided a brief analysis in 2011. Dai Yokomizo discussed the accession in (2012) Revue critique 799; Jun Yokohama did so in the Mélanges van Loon (2013, pp 661-72). Vol. 57 (2014) of the Japanese Yearbook of International Law contains articles by Tatsuki Nishioka and Takako Tsujisaka, Masayuki Tanamura, Masako Murakami, Martina Erb-Klünemann, and Nigel Vaughan Lowe. Takeshi Hamano helpfully explains the Japanese reluctance with regard to the Japanese ideology of the family. Outside of Japanese authors, Barbara Stark and Paul Hanley wrote most recently in the United States; the topic is also addressed in several student notes. The accession was also discussed by Bengt Schwemann (in German) and Francisco Barberán Pelegrín (in Spanish).