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# THE ROLE OF SOCIAL WORK IN INTERNATIONAL CHILD PROTECTION: BEST PRACTICES IN STAKEHOLDER COOPERATION

## *EL ROL DEL TRABAJO SOCIAL EN LA PROTECCIÓN INTERNACIONAL DE LA NIÑEZ: MEJORES PRÁCTICAS EN COOPERACIÓN DE LAS PARTES INTERESADAS*

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### **Abstract**

The focus of this paper will be the intersection of law, policy implementation, and social work in child protection, specifically child protection involving children who are separated by an international border from their families. We will pay particular attention to international treaties, compacts, and conventions on the one hand, and the need to increase the capacity of social workers in the Americas to manage complex international child welfare cases in accordance with these laws and policies, on the other. The growing number of children migrants travelling between countries unaccompanied are of special concern to social work agencies operating within the Northern Triangle and the United States.

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The first section of this paper will provide an overview of the role of social work in child protection, specifically focusing on how the practice of social work centers on protecting the best interests of the child and how social work intersects with legal and judicial partners in protecting children on the move. Next, the role of social workers when implementing relevant domestic and international conventions, laws, and treaties will be examined. The third section of this paper will explore the crucial importance of building the capacity of social workers to protect children on the move on both sides of the border. We will promote several key strategies for building cooperation and collaboration between social workers and legal and judicial partners in the fourth section. The final section of this paper will detail specific recommendations for mutually supportive and sustainable international social work and legal cooperation.

**Key words:** Child protection, cross border, children on the move, unaccompanied minors, intersection of social work, law and migration, international child protection treaties, conventions, best interest of the child, rights of the child, child welfare, northern triangle, U.S., Mexico, Guatemala, Honduras, El Salvador, social work capacity, strategies for cooperation, collaboration, social workers, judicial, legal, international social work.

## Resumen

*El presente artículo se centrará en la intersección entre la ley, la implementación de políticas y el trabajo social para la protección infantil, específicamente la protección infantil que involucre a niños que han sido separados de sus familias por fronteras internacionales. Por un lado, se prestará particular atención a los tratados, convenios, y convenciones internacionales, y, por otro lado, a la necesidad de fortalecer las capacidades de los trabajadores sociales en las Américas para gestionar los casos complejos de bienestar infantil internacional de conformidad con estas normas y políticas. El creciente número de menores migrantes que viajan sin compañía de un país a otro es de considerable preocupación para las agencias de trabajo social que operan dentro del Triángulo del Norte y Estados Unidos.*

*La primera sección de este artículo proporcionará un panorama sobre el rol del trabajo social en la protección infantil, enfocándose especialmente en cómo la práctica del trabajo social se centra en la protección de los intereses superiores del niño y cómo el trabajo social interactúa con los poderes legislativo y judicial para proteger a los niños migrantes. Seguidamente, se analizará el rol de los trabajadores sociales al implementar convenciones, leyes y tratados nacionales e internacionales. En la tercera sección, se examinará la importancia de desarrollar la capacidad de los trabajadores sociales para proteger a los niños durante la migración en ambos lados*

*de la frontera. En la cuarta sección, se promoverán varias estrategias esenciales para fomentar la cooperación y colaboración entre los trabajadores sociales y los poderes del Estado. En la última sección de este artículo se detallarán las recomendaciones específicas para el trabajo social y la cooperación judicial internacional mutua y sostenible.*

**Palabras Clave:** *Protección Infantil, Cruce de Fronteras, Movimiento Migratorio Infantil, Menores No Acompañados, Interacción del Trabajo Social, Derecho y Migración, Tratados Internacionales de Protección Infantil, Convenciones, Interés Superior del Niño, Derechos del Niño, Bienestar Infantil, Triángulo del Norte, Estados Unidos, México, Guatemala, Honduras, El Salvador, Capacidad de Trabajo Social, Estrategias de Cooperación, Colaboración, Trabajadores Sociales, Judicial, Legal, Trabajo Social Internacional.*

## SECTION ONE: Overview of the Role of Social Work in Child Protection

The lack of explicit reference to the need for, or role of, social workers in domestic and international laws, conventions, or policies on child protection is notable in that the effective implementation of international treaties and, domestic public policies on children on the move will best be met by utilizing the expertise of social workers. We assert that strong social work practices and the use of social workers is paramount to ensuring that children are safe and protected as they leave or return to their country of origin.

It is important to note that the notion of “best interest” of the child is viewed quite differently by legal professionals than by social work professionals. This does not mean that with transparent communication and cooperation decisions about the proper and best final outcome for each child cannot be reached. It is vital that each stakeholder in the process understand fully the implications of their work and how best to retain a child-centered focus in each individual case. The concept of the ‘best interest of the child’ is covered explicitly in Article 3 of the Convention on the Rights of the Child, and is also mentioned in articles 9, 18, 20, 21 and 40. Its philosophical and practical dimensions underpin most of the 42 articles that constitute the first part of this important treaty.

From Article 3:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform to the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.<sup>3</sup>

In addition, the work of the International Social Service (ISS), an international social work network that works in the best interest of children and family separated across international borders, is based on the Convention on the Rights of the Child as well as on the principles articulated in the following treaties:

- Universal Declaration of Human Rights, 1948.
- European Convention on Human Rights, 1950
- European Convention on the Exercise of Children's Rights, 1996.
- Hague Convention on the Civil Aspects of International Child Abduction, 1980.
- Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993.
- Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, 1996.

Using best interests of the child, to guide the social work profession, social workers aim to protect children's interests in three specific ways. They are, as articulated by the International Federation of Social Workers, "**Social analysts**- helping people understand, **social catalysts** - helping people achieve change for themselves, and **social activists** - working through social relationships to sustain change. This work can be achieved on the individual, family, local, community, national and/or global levels."<sup>4</sup> Each of these roles played by social workers is described in more detail below.

<sup>3</sup> United Nations Office of the High Commissioners for Human Rights. "Convention on the Right of Child." *Office of the High Commissioner for Human Rights*. n.d. Web. 3 Oct. 2011. <<http://www2.ohchr.org/english/law/crc.htm>>

<sup>4</sup> International Federation of Social Workers. "The Best Interest of the Child: Making the Principle a Reality; Social Work Perspectives on Implementing the 'Best Interest' Principle." Jan. 2009: 6. Microsoft Word file

- **Social analyst:** Social workers assess the situation and help people understand their options. For example, in the case of a child who has been detained by Immigration Enforcement in the United States and a decision must be made about whether to return the child to her home country, International Social Service-USA can obtain a home study on family members in the home country, obtain criminal records, birth certificates, community surveys or other documents and information that the child's lawyer and the judge will need to make a best interest determination for that child.
  
- **Social catalyst:** Social workers are responsible for the provision of services that will bring about change for the individual, family, community, or system. On an individual level, social workers will: use information gained from an initial assessment to link children and families with needed services (e.g., counseling, medical, educational, legal, mediation); facilitate intra- and inter-system coordination by coordinating services in one domain (e.g., health) with services in another (e.g., employment).<sup>5</sup>; and/or provide services directly (transportation, counseling, preparation for court, advocacy, high quality assessments for both children and families, child welfare check, search for relatives, background check). On a broader level, social workers also advocate for systemic change. For instance, in the case of immigration detention in the U.S., social workers raise awareness of how our immigration system, and in particular parental detainment, has an impact on the well-being of children.
  
- **Social activist:** Social workers work to sustain change at all levels. In the case of unaccompanied children who are repatriated social workers can provide reintegration services to ensure that the placement is sustainable for the child. This could include counselling, providing linkages and oversight for educational, vocational, or employment resources or develop an anti-gang programs. In the case of immigration detention, social workers in the country where the child is detained are changing their practices to better identify and serve families that could be affected by immigration detention and actively lobby for changes to immigration practices that harshly affect children.

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<sup>5</sup> "Professional Social Workers in Child Welfare Work: Research Addressing the Recruitment and Retention Dilemma" *Child Welfare*. Social Work Policy Institute. 4 Jan. 2010. Web. 3 Oct. 2011. <http://www.socialworkpolicy.org/research/child-welfare-2.html>

## **SECTION TWO: Implementing Policy, Laws, and Treaties: The Role of Social Workers**

As noted in the previous section, social workers have three important roles: analyst, catalyst, and activist. These roles enable them to provide and/or coordinate services, advocate, and educate. This positions them to being at the forefront in protecting and promoting the best interest of children. Social workers have, in some regions, become a critical component in ensuring the effective implementation of treaties on child welfare issues. In other regions, lack of social work professionals has precluded the effective implementation of, and fidelity to, international child protection accords. In this section, we will examine how social workers' actions ensure the proper enforcement of current domestic and international laws and conventions.

### **Multilateral Conventions and Treaties**

There are several multilateral treaties and international conventions that have established international standards of behavior and rule of law on matters between countries related to child protection.

#### **1. International Adoption Convention (Hague 1993)**

More and more countries are acceding to the Hague Adoption Convention and the implications for the work of social workers is being realized on multiple levels. On a practical level, social workers help enforce the treaty by carrying out some of the essential services that the treaty specifies, such as conducting home studies of prospective parents in accordance to treaty and state regulations.<sup>6</sup>

The U.S. Department of State has created a resource specifically for social workers detailing their roles in assisting with international adoptions under the Hague Convention. The resource cites six specific services that a social workers should be involved in the process: "1) Identifying a child for adoption and arranging an adoption; 2) Securing the necessary consent to termination of parental rights and to adoption; 3) Performing a background study on a child or a home study on prospective adoptive parent(s), and reporting on such a study; 4) Making non-judicial determinations of the best interests of a child and of the appropriateness of an adoptive placement for the child; 5) Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; or 6) When necessary because of a

<sup>6</sup> United States Department of State. Bureau of Consular Affairs, Intercountry Adoption. "Social Workers." *Intercountry Adoption*. n.d. Web. 3 Oct. 2011. <[http://adoption.state.gov/adoption\\_community/social.php](http://adoption.state.gov/adoption_community/social.php)>

disruption before final adoption, assuming custody of a child and providing (including facilitating the provision of) child care or any other social service pending an alternative placement.”<sup>7</sup>

In addition to carrying out some of the Convention’s core services, social workers are also educating and advocating for the correct applications of the treaty in less typical situations. Here are two examples:

When a U.S. family wants to adopt an undocumented child involved in the U.S. child welfare system who is from a country that is a signatory to the Convention, the social worker working with the child and family must ensure that all parties, including the lawyer and Judge, understand that the case needs to be handled under Hague guidelines, not state or local guidelines.

When sending a child from a Hague country to live in a kinship placement in another Hague country and the receiving family is considering adopting the child eventually, the social worker needs to advocate strongly for a Hague Adoption rather than kinship placement. The social worker can educate all involved on the importance of not trying to, or appearing to, circumvent the safeguards established through the Hague Convention on International Adoption.

Social workers also advocate for the key principles within the treaty. In particular, social workers are strong proponents of the appropriate use of intercountry adoption in relation to other permanency options. Social workers are advocating for systems of care that enable families, especially extended families, to remain together. The Hague adoption convention clearly states in the Preamble that these permanency decisions must ideally aim to enable the child to remain in the care of his or her family of origin.

Social workers have been instrumental in advocating for the principle of subsidiarity, in particular in countries that have long relied almost exclusively on the use of institutional care for orphans. The research on institutional care is conclusive, “families, not orphanages” are in the best interest of children<sup>8</sup>. However, the lack of resources to fund a social work infrastructure to support families prevents some countries from implementing a well-regulated and appropriate child welfare system.<sup>9</sup>

<sup>7</sup> United States Central Authority, Office of Children’s Issues, Intercountry Adoption: “FAQs for Social Workers” n.d. PDF file. <[http://adoption.state.gov/content/pdf/FAQs\\_Guide\\_for\\_SOCIAL\\_WORKERS.pdf](http://adoption.state.gov/content/pdf/FAQs_Guide_for_SOCIAL_WORKERS.pdf)>

<sup>8</sup> Williamson, John and Aaron Greenberg, Better Care Network Working Paper. “Families, Not Orphanages.” Sept. 2010. PDF file. <<http://www.crin.org/docs/Families%20Not%20Orphanages.pdf>>

<sup>9</sup> Davis, Rebecca. The Global Health Technical Assistance Project. “Human Capacity within Child Welfare Systems: The Social Work Workforce in Africa.” Dec. 2009. PDF File.

## 2. U.N. Guidelines for Alternative Care of Children, Implementing Guidelines, Training Tool and Conference

The Guidelines for the Alternative Care of Children (the Guidelines) are intended to enhance and strengthen the implementation of the U.N. Convention of the Rights of the Child 1989, and other relevant provisions of international and regional human rights law. The Guidelines focus on matters of protection and child well-being. In other words, children who are at risk of needing alternative care, or care outside of the family of origin because to remain in their home could be considered NOT in their best interest, unless appropriate interventions are undertaken. As stated in the U.N. Guidelines:

Each child in need of alternative care has specific requirements with respect to, for example, short or long-term care or keeping siblings together. The care option chosen has to be tailored to individual needs. The suitability of the placement should be regularly reviewed to assess the continued necessity of providing alternative care, and the viability of potential reunification with the family.<sup>10</sup>

The Guidelines establish specific actions for the state to follow if a child is potentially in need of alternative care: *“44. When a public or private agency or facility or a lawyer or other professional is approached by a parent or legal guardian wishing to relinquish a child permanently, the State should be notified and in turn ensure that the family receives counseling and social support to encourage and enable them to continue to care for the child. If this fails, a social worker or other appropriate professional assessment should be completed to determine whether there are other family members who wish to take care of the child. If other parties are identified, a procedure needs to be undertaken to ensure that such arrangements would be in the best interests of the child. Where such arrangements are not possible or are not in the best interests of the child, efforts should be made to find a permanent family placement within a reasonable period”*.

Some countries in the Americas and in other regions of the world continue to struggle with a large number of children in institutional care, rather than family based care.<sup>11</sup> In order to fully achieve the true intent of the Hague Adoption Convention, and more particularly, the Guidelines on Alternative Care, social workers are instrumental in:

<sup>10</sup> United Nations. General Assembly. “Resolution adopted by the General Assembly; 64/142 Guidelines for the Alternative Care of Children.” 24 Feb. 2010. PDF file. < <http://www.iss-ssi.org/2009/assets/files/guidelines/Guidelines-English.pdf>>

<sup>11</sup> The Relaf Project, the Latin American Foster Care Network, and SOS Children’s Villages International. “Children and adolescents without parental care in Latin America: Contexts, causes and consequences of being deprived of the right to family and community life.” June 2010. PDF file.



- Identifying children at risk and help to prevent family separation.
- When separated, searching for families or family members to care for the child;
- Providing reintegration services if children are placed with family.
- Finding and evaluating possible adoptive families if there are no foster or kin families available to care for the child.
- Providing post adoptive services to help prevent the dissolution of an adoption.
- Providing a host of case management, counseling or other needed services to support children and families in the various stages of separation and reintegration.
- Advocating for a children's right to family, and promoting policies and laws and best practices that support the care of children with their families or in family based care whenever possible.
- Educating professionals and the state about the special needs of specific populations, such as children with disabilities. Children with disabilities tend to be overrepresented in institutional care due to lack of training, the availability of specialized services and social stigma.

Social workers play a critical role in the Hague adoption convention and in following UN Guidelines by providing necessary services and advocating for family-based care, first with their own families, and if not their own, then with 1) kin, 2) domestic, non-kin, families and 3) finally with families (non-kin) outside their country of origin, as a last resort.

However, being equipped with guidelines alone is not enough to transform practice. Key actors need to know how. Therefore, the same group that developed and advocated for the Guidelines created a tool to help implement the guidelines called, **Moving Forward Handbook (2011-2013)**. **Moving Forward (MF)**<sup>12</sup> provides:

- Promising practices using examples of implementation from different countries and regions of the world.
- Implications for policies and practices.
- Critical guidance to civil society monitor and measure the effectiveness of program implementation so that outcomes can be provided to monitoring bodies.
- A practical list of who does what, including the roles of the state, judiciary, social work and professional organizations, academia, the business community, licensing and inspection bodies to name a few.

<sup>12</sup> Available in: <http://www.alternativecareguidelines.org/Home/tabid/2372/language/en-GB/Default.aspx>

In order to track implementation of the Guidelines, the steering committee next developed The “Tracking Progress” Initiative (TPI) and is in process of developing an International Training Tool, using a Massive Open Online Course (MOOC) “to help governments and NGOs determine the extent to which a state or region has effectively implemented the Guidelines, and the priorities for change still ahead. By identifying gaps, this in turn can inform improvements in services and support evidence-based advocacy and strategic planning. Promising practices identified in monitoring can then be shared for replication. In these ways systematic monitoring will help ensure full implementation of the Guidelines, improving the quality of care for children and above all creating positive change for children and their families. 3. International training tool: Building on the Guidelines, MF and TPI, an International Training Tool is a logical follow up initiative: • Stage 1: Handbook provides direction on the conditions at practice and policy levels needed to implement the Guidelines • Stage 2: TPI measures the progress of the Guidelines’ implementation, identifying achievements and areas for progress • Stage 3: International training tool provides teaching, supporting policy and practical implementation between the Guidelines and priority areas for change revealed in the TPI.”<sup>13</sup>

Finally, in order to promote broad level and global usage of the Guidelines and their associated implementation and outcome measurement tools, the committee has organized a three day “International Alternative Care Conference” October 3-5.

*“The conference provides a bridge between research, policy and practice in the overall sphere of alternative care, and a much-needed space for discussion and exchange among experts, practitioners, academics, researchers, government representatives and young people with experience of alternative care. The conference will enable those involved with alternative care issues to participate in an exceptional exercise in mutual learning and networking – helping us to move forward with necessary reforms in line with the Guidelines for the Alternative Care of Children. Participants will review the current status and thinking on alternative care and will examine promising practices for the prevention of family breakdown, family strengthening, and the provision of quality forms of alternative care, as well as pinpointing remaining challenges and obstacles for putting the Guidelines into practice.”<sup>14</sup>*

### 3. Abduction Convention (Hague 1980)

Unlike the Hague adoption convention which is aimed finding families for children, that are in their best interest,, the Hague abduction convention

<sup>13</sup> Available in: <http://www.bettercarenetwork.org/sites/default/files/TOR-%20MOOC%20Online%20Training%20Tool.pdf>

<sup>14</sup> Available in: <http://www.alternativecaregeneva2016.com/index.php/en/>

focuses on determining which country meets the jurisdiction criteria to oversee and determine the outcome of the case. Social workers, though they do not have influence over the jurisdiction decisions, play a critical role by providing services to prevent a parental abduction, to intervene during abductions, and to advocate for additional protocols to the current convention to better protect the best interests of children. Each of these roles is described below.

**a) Prevention—Awareness and early intervention:**

Ideally, parental conflict is mitigated so that parental child abduction is prevented. Social workers work with conflictual families by educating them about options to deal with their conflict, developing awareness about putting the concerns of their children first, and referring families to other services as needed. Most parents under good circumstances do not consider the possibility of a child abduction. However there are certain factors that predispose some families more than others. For instance, a foreign born parent with strong ties to his or her homeland or family that still live there can be more at risk to become an abductor as compared to a parent without such ties. Parents who may be more at risk for abducting their child also tend to be those who idealize their own family, country, and culture while devaluing or being unable to fully adapt to the culture they are currently living in. A potential abducting parent also generally has emotional and financial support available to him/her in their country of origin in the event that the relationship with the other parent ends or is in crisis.<sup>15</sup>

Couples with significant and persistent family conflict are often more at risk of child abduction, especially when one partner does not see any way out of the conflict and has strong ties to another country as described above.<sup>16</sup> Therefore, social workers can help families in the following ways:

- Understand the risks of prolonged conflict, impact on children.
- Understand the impact of abduction on children.
- Consider their options to resolve conflict such as mediation and counseling.
- Refer families to mediation and counseling.
- Support the families during mediation and counseling by checking on progress.

<sup>15</sup> Hoff, Patricia M. Obstacles to the Recovery and Return of Parentally Abducted Children Project, American Bar Association. "The Hague Convention on the Civil Aspects of International Child Abduction: A Curriculum for American Judges and Lawyers." Oct. \1997: 86. PDF file. <[http://207.58.181.246/pdf\\_files/library/Hoff\\_97.pdf](http://207.58.181.246/pdf_files/library/Hoff_97.pdf)>

<sup>16</sup> Foreign Affairs and International Trade Canada, Consular Services. "International Child Abductions: A Manual for Parents." Sept. 2009. PDF file. <[http://www.voyage.gc.ca/publications/child-abductions\\_enlevements-enfants-eng.asp#intro](http://www.voyage.gc.ca/publications/child-abductions_enlevements-enfants-eng.asp#intro)>

## **b) Intervention- services available to the child and parents during an abduction**

Once a child has been abducted, social workers play a critical role in educating the left behind parent what procedures they may file, and what expertise they might seek. For example, a social worker could ensure that the family files a missing person report, assist with the abduction petition, and connect the parent to the variety of resources available through government and non-governmental organizations.<sup>17</sup>

At any point before, during, or after an abduction social workers can assist families in learning about the benefits of using mediation. Mediation is an effective tool to resolve cross border family conflicts. Since the use of mediation is fairly new in some regions, and recently becoming more mainstream in others, it is critical that the practice of mediation is appropriately explained and that parties fully understand the process before deciding whether to participate. International Social Work and mediation experts, led by International Social Service has developed a handbook to help families understand what the mediation process is.<sup>18</sup>

Similarly, International Social Service is leading in the development of an international charter for mediation and an online tool to find a mediator<sup>19</sup>.

Social workers will actively educate the abductor and the left behind parent, and help them to determine if mediation is the appropriate course to resolve their conflict. Mediation can also be used to develop a parenting and access plan, and establish some form of communication if there is none. Ideally through mediation or legal means the parents will reach some form of an agreement. Social workers play a critical role in ensuring that both parties understand the agreements reached and most importantly how to follow what is in the agreement, including the return of the abducted child.<sup>20</sup>

In addition to mediation, social workers either or both parents to other types of needed services. In the case of the left behind parent, social workers might recommend legal action, individual or group support services, and mental health services. The social worker in contact with the abducting

<sup>17</sup> National Center for Missing & Exploited Children and Office of Juvenile Justice and Delinquency Prevention. "Family Abduction: Prevention and Response." 6th ed. 2009. PDF file. [http://www.missingkids.com/en\\_US/publications/NC75.pdf](http://www.missingkids.com/en_US/publications/NC75.pdf)

<sup>18</sup> Available in: <http://www.iss-usa.org/uploads/File/Guide%20to%20IFM.pdf>

<sup>19</sup> Available: <http://www.iss-ssi.org/index.php/en/what-we-do-en/mediation-en>.

<sup>20</sup> "International Family Mediation: A global project for ISS." *International Social Service*. International Social Service, n.d. Web. 3 Oct. 2011. <<http://www.iss-ssi.org/2009/index.php?id=57>>

parent (assuming the abducting parent is cooperating) might refer or link the child to mental health, educational or reunification services in the country to which s/he has been abducted. Assuming appropriate permissions are granted by parties, services can be coordinated by a social worker, whose role includes advocating to both parents and the appropriate legal representatives that the child's best interests be kept front and center throughout the entire process.<sup>21</sup>

In the event when a child will be returned to his/her country of habitual residence, social workers may be called upon to meet the child and accompany the child either with or without parents present., After a child is returned, social workers are called to conduct a child welfare check to ensure the child's safety post return and that well-being is being maintained. Social workers might also provide assistance to the child and family who are suffering from parental alienation syndrome or for other emotional and behavioral challenges that may occur during post-return and reintegration.

### *c) Advocate for Additional Protocols*

As mentioned earlier, many social workers and lawyers alike are unhappy with the shortcomings of the Abduction Convention. Progress is underway in The Hague to develop additional protocols in order to enhance the Convention and promote better outcomes for children. A delegation of expert social workers from ISS around the world have been actively engaged in providing feedback to The Hague based on their expertise and experience in providing social work assistance in abduction cases. Similarly, ISS and the Hague Permanent Bureau are working on filling in the needed gaps in the Abduction Convention, in the applicable places in the Hague Convention on Parental Responsibility and Protection of Children (Child Protection Convention, 1996).

## **4. Child Protection Convention (Hague 1996)**

Like the Abduction Convention, The Child Protection Convention determines which country's authorities have jurisdiction to take measures to protect children across international borders. It also clarifies which are the applicable laws and enables recognition and enforcement of protection measures in all Contracting States. While the focus of this Convention is on jurisdiction and other legal aspects of children moving across international

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<sup>21</sup> United States Department of State. Bureau of Consular Affairs, Child Abduction. "Compliance Reports." *Child Abduction*. n.d. Web. 3 Oct. 2011. <[http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html)>

borders, the involvement of social workers is needed to implement many of the regulations set out in the articles of Chapter V of this Convention.<sup>22</sup>

For example, Article 31(b) of Chapter V states that the Central Authorities of each participating country are required to take all appropriate steps to facilitate, by mediation or similar means, agreed solutions for the protection under the Convention of the child's person or property. Social workers, as described above, are instrumental in explaining how the mediation process, referring parties to mediation, and providing follow up in how to enforce mediation agreements if obtained. Article 32(a) states that upon request by the authority of a Contracting State where a child has substantial connection, the Central Authority of the State where the child is habitually resident and present may provide a report on the situation of the child. Likewise, Article 33 states that if an authority of a Contracting State contemplates placement of a child in foster or institutional care or the provision of care by Kafala<sup>23</sup> for a child in another Contracting State, it shall first transmit a report to the Central Authority of the latter State, and can only authorize the placement with the latter State's consent.

In implementing the requirements of both articles, it may be necessary for a social work assessment to determine the child's situation (and whether a subsequent placement elsewhere might be in the best interest of that child) or the situation of a potential placement prior to relocating a child. Both of these activities need to be carried out by a qualified social worker in order for it to be recognized by the court. There must be coordinated system of social services, wherein social workers can work collaboratively between countries in order to facilitate timely and professional services, placements were appropriate, and follow-up in the best interest of the child.

Like the UN Guidelines, one of the biggest challenges with the Child Protection convention, besides the fact that less than 50 countries have acceded to it, is that it is not always obvious how to implement the principles set forth. In other words, saying "one must provide a report of the child" and

<sup>22</sup> International Social Service, Australian Branch. "1996 Hague Convention on Parental Responsibility and Child Protection: Applications in the inter-country casework of International Social Service." 30 Sept. 2008. PDF file. <<http://www.iss.org.au/wp-content/uploads/2011/05/1996conventionreport.pdf>>

<sup>23</sup> Use for Adoption - analogous Islamic concept; Islamic law - concept analogous to Adoption; Kafalah (alternate spelling) Scope Arabic legal term for a formal pledge to support and care for a specific orphaned or abandoned child until the child reaches majority. Kafala is considered a form of unilateral contract, and is used in various Islamic nations to assure protection for such minors, as these nations generally do not legally recognize the concept of adoption. But unlike adoption, kafala neither conveys inheritance rights nor any right to use the grantor's family name. Although kafala is not identical with adoption, because of its close functional similarity, the term ADOPTION should also be entered as a finding aid in any record to which KAFALA is entered as a Subject Heading. [http://www.glin.gov/subjectTermIndex.action?search=&searchDetails.queryType=BOOLEAN&searchDetails.queryString=mt%3Aequals\(%22Kafala%22\)](http://www.glin.gov/subjectTermIndex.action?search=&searchDetails.queryType=BOOLEAN&searchDetails.queryString=mt%3Aequals(%22Kafala%22))

knowing exactly who and how one would engage the appropriate competent authority to secure such a report are very different. Unlike the Guidelines, there is significant work still ahead for the Child Protection Convention to help operationalize the principles it sets forth.

As a first attempt to do this, the Hague Conference on International Law and International Social Service organized “Cross Border Child Protection - International Conference” in Geneva, Switzerland, October 2015.

Over 280 experts from 66 countries attended, including child protection authorities, judges, social workers, mediators, lawyers, psychologists, and international organizations from around the globe. This conference promoted and strengthened the effective implementation of the Hague Child Protection Convention of 1996 and facilitated dialogue on the socio-legal dimensions of international child-protection. In particular, the speakers were able to drill down to a very practical level how certain aspects of the convention could be applied. For example, in the case of securing a home assessment before the placement of a child, ISS described its network’s ability to coordinate the completion of a home study in more than 120 countries and provided specific case examples of how this is done.

Another outcome of this conference was to bring expert mediators together to develop a charter on mediation, and begin to develop a global database to list mediation experts, Ideally, ISS aims to be able to refer all interested parties to expert mediation in all countries.

Finally, Hague 1996 also provides provisions for all children separated from their families due to abuse or neglect, migration and other reasons, beyond family conflict. The conference created an opportunity to examine how the convention and social work activities could support decisions in the best interest of children on the move in Europe due to the crisis in Syria, children on the move in the Northern Triangle and Mexico, and in other countries in Latin America and Africa. For more information about key findings from the conference, please see [http://www.iss-ssi.org/images/CLH-96/CR\\_final\\_ENG.pdf](http://www.iss-ssi.org/images/CLH-96/CR_final_ENG.pdf)

### **SECTION THREE: Building Capacity of Social Workers to Protect Children in International Contexts**

In order for social workers to be able to effectively engage in the direct service, educational, and advocacy activities as described in a previous sections, they need access to the appropriate training and resources. Unfortunately, social

workers typically work in environments with limited financial, staff, and other resources. Exacerbating this is that there is often not political will to invest in or strengthen this sector, thus leaving countries around the globe with a myriad of challenges as to how to develop a professionally trained, valued and stable workforce. (The review of five years of workforce strengthening...<http://www.socialserviceworkforce.org/resources/state-social-service-workforce-2016-report-review-five-years-workforce-strengthening>). Therefore, we assert that building the capacity and funding for social workers both in the U.S. and other countries needs to become a priority for governments. Strategically, social workers are best positioned to carry out some of the ideals set forth in our international laws, treaties, guidelines and goals.

*"In 2015, world leaders gathered at the UN to adopt 17 Sustainable Development Goals to achieve several extraordinary things by 2030: end poverty, promote prosperity and well-being for all, and protect the planet. The Sustainable Development Goals set a course to achieve these objectives – for people everywhere."*<sup>24</sup>

Within the goals, Sustainable Development Goal 16 is "dedicated to the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and building effective, accountable institutions at all levels" (UN 2015). Target 16.2 aims to end abuse, exploitation, trafficking and all forms of violence against and torture of children. This goal and target, as well as others such as SDG targets 5.2, 8.7 and 16.1 related to violence against women and girls, trafficking and child labor are aligned with the role of social service workers.

*According to the Global Social Work Alliance, "The attainment of these targets will depend on workers' trained ability to create protective environments for healthy development and well-being by tackling poverty; reducing discrimination; promoting social justice; ensuring protection from violence, abuse, exploitation, neglect and family separation; and providing needed services. The SDGs can act as a mobilizing factor to generate political will and financial resources and provide a real opportunity for increased collaboration to strengthen the workforce to affect positive change in the lives of children and families."*<sup>25</sup>

In order to achieve the sustainable development goals, one must have a social work workforce prepared to take on the challenges of a global world. To that end, specialized training is essential.

<sup>24</sup> Available in: [http://www.unfoundation.org/features/globalgoals/the-global-goals.html?gclid=Cj0KEQjwouW9BRCN0ozIifTI6\\_cBEiQAD9gNsZiHDAriivE-Kd9XVoaSn1Foww9GbqsAZtNxlsxWcaAmbb8P8HAQ?referrer=https://www.google.com/](http://www.unfoundation.org/features/globalgoals/the-global-goals.html?gclid=Cj0KEQjwouW9BRCN0ozIifTI6_cBEiQAD9gNsZiHDAriivE-Kd9XVoaSn1Foww9GbqsAZtNxlsxWcaAmbb8P8HAQ?referrer=https://www.google.com/)

<sup>25</sup> Available in: <http://www.socialserviceworkforce.org/system/files/resource/files/The%20State%20of%20the%20Social%20Service%20Workforce%202016%20Report%20-%20A%20Review%20of%20Five%20Years%20of%20Workforce%20Strengthening.pdf> (p 47)



While there are a growing number of reputable social work programs in some parts of the world, there is still a shortage of quality social work education in many countries and regions of the world. In addition, too often there is also a disparity between the number of trained social workers and the needs of the community. Even in countries that have sufficient educational opportunities, there is still a serious need to revise social work curricula to integrate the notion of transnational families, and how to best support them, into basic child protection training. Finally in some countries, there are trained social workers, prepared to work, but no employment for them because either the government has severely cut or reduced funding on social protection, and/or the government relies heavily on para professionals and volunteers to do the work of professionals.

One in five U.S. children has at least one foreign-born parent today; many more have family living outside the U.S. due to military deployment, jobs overseas, and adults retiring in a foreign country. *“More than 1.2 million people have now reached Europe through irregular means since 2015 in what constitutes the continent’s biggest wave of mass migration since the aftermath of the Second World War.”*<sup>26</sup>

*“In 2013, approximately 3.2 million Central American immigrants resided in the United States—the majority from the so-called Northern Triangle formed by El Salvador, Guatemala, and Honduras—representing 7 percent of the country’s 41.3 million immigrants.”*<sup>27</sup>

In fiscal years 2014 and 2015, and additional 373,801 people from the northern triangle were apprehended in the US, and 268,569 in Mexico.<sup>28</sup>

Therefore, it is necessary to rethink how we prepare social workers to work with children and families. Rather than including “international social work or international child protection” as a specialty, social work programs need to find ways to incorporate the notion of a global family in its routine curricula. In addition to globalizing curricula and expanding social work education programs, attention needs to be paid to the recruitment and retention of professional social workers. In many countries there are shortages of social workers, not only because there are not schools of advanced social work training, but because of poor salaries, high stress, and low prestige associated with the field of social work. The professionalization and globalization of

<sup>26</sup> Available in: <https://savethechildreninternational.exposure.co/children-on-the-move-in-europe>

<sup>27</sup> Available in: [www.migrationpolicy.org/article/central-american-immigrants-united-states](http://www.migrationpolicy.org/article/central-american-immigrants-united-states)

<sup>28</sup> Available in: <http://www.migrationpolicy.org/article/increased-central-american-migration-united-states-may-prove-enduring-phenomenon>

the discipline of social work including fair wages, better working conditions, and opportunities for advancement will help to attract and retain more social workers. This in turn will improve outcomes for children and families.

## **SECTION FOUR: Social Work and Legal Cooperation**

If we truly want to achieve “prosperity and well-being for all” we need to ensure that we as regions, countries, and local actors work cooperatively with the single aim of ensuring the best interest of the child. This collaboration and cooperation must occur between the fields of social work and law; with the many levels of government and nongovernmental organizations involved in a child protection and it must occur across borders. Therefore, in this discussion about the social work profession across national borders, it is imperative to examine how legal and social work actors should work together towards a regional approach to child protection issues.

### ***a) Social Workers, Lawyers, and Judges***

Social workers, lawyers and judges have a much better chance of achieving outcomes in the best interest of the child when working together. In some instances, social workers can step in where the law ends in order to best meet the needs of the child. For example, in abduction cases, once it is decided that a child is going to be returned, the social worker can begin to prepare the child and secure services to help the child adjust. In immigration cases, if change of status is not granted, social workers can begin to prepare and coordinate for a child’s return to his/her home country. In cases where a lawyer must represent the child’s wishes, which are clearly NOT in the best interest of the child, social workers can be called in to advocate for what’s best for the child, and present the social evidence to support what’s best. Lawyers might hear and represent the facts of the case, but the social worker can connect the person to services while awaiting a judicial outcome. Both professions need to work together with the judiciary, governmental and non-governmental organizations at every level to ensure that a child’s best interest is served. Judges can also be instrumental in facilitating the cooperation between social workers and lawyers, and ensuring that best practice in both professions is followed and that where one’s obligation ends, the other can pick up..

### ***b) Government***

The issue of child protection involves all levels of government; multinational, federal, state, local. Similarly, it also involves many departments within each level of government (e.g., Justice, Labor, Social Welfare, etc). .

When working within the parameters of an international convention or treaty, often there is an appointed or designated Central Authority, which could be one or more departments within the government. In order to ensure the best interest of the child while also abiding by the regulations of the convention and/or law, lawyers, social workers, and government workers must work cooperatively and proactively across departments.

### *c) Non-Governmental Organizations*

Many non-government organizations have been founded with the purpose to address specific issues within the field of child protection. Lawyers and social workers rely on the expertise of these organizations to provide services and promote awareness of best interests and international child protection. One reality in the U.S. is that there is an organization for every issue. While this is great that organizations specialize in a particular issue, it is challenging because it creates silos amongst complementary organizations that should be knowledgeable of one another and working together. In other countries, one organization can be a one size fits all, and handle a myriad of issues. While there can be a great deal of collaboration, there can also be a great deal of fragmentation in the knowledge base and service delivery. In particular, we have found especially in developing parts of the world, that there are so many humanitarian organizations doing different things, that often one organization has no idea who they can call to address a complimentary issue. Therefore, it is incumbent on social workers and lawyers to familiarize themselves with who is doing what, map the availability of services and create opportunities to bring various groups together across related issues or themes, and refer to one another when appropriate.

If social workers and lawyers worked together with all levels of government and nongovernmental actors around issues of international child protection many things could be accomplished on behalf of children. Often this collaboration happens on a per-child basis or on a national basis, but it's not built in to overall systems. It is critical to consider how this type of collaboration might be facilitated across borders on a regional level. Specifically we need appropriate mechanisms, in addition to central authorities, to link social workers, lawyers and judges in one country to their counterparts in others. By adding this layer of a regional collaboration in child protection, outcomes for children can improve on a much larger scale.

## **SECTION FIVE: Recommendations**

While there is much to be done to a) create best practices for effective collaboration of law, policy, and social work professionals in child protection

and to b) improve the capacity of social workers so they can provide the best support to children and their families when they are involved in international child protection, there are some concrete steps that can be taken now to help work towards these long-term goals.

Below we provide some specific recommendations for creating mutually supportive, sustainable international social work and legal cooperation with the aim to continue and further this dialogue and protect the best interests of children separated across borders. We promote:

- 1. The child as the focus.** Regardless of discipline or role, when working on international child protection issues the best interest of the child must be the focal point. In order to do this, we need to be realistic about the relative strengths and weaknesses of the legal and social work remedies available to us in any given situation. If the legal remedy does not take into account the best interests of the child then we need to ask ourselves, “who else can we involve that can address what this specific child needs, so her best interests are served?” Similarly, if the social remedy does not take into account the best interest of child, we must search for legal or other remedies to address this. Regardless of the strengths and shortcomings of the tools we have available, we all aim to treat all people, especially children, with the respect and dignity they deserve.
- 2. All of us are social analysts, social catalyts, and social activists.** Regardless of our role or job title, as someone who works in the child protection field, part of our responsibilities is to improve the lives of children in some way. This includes helping children and families to assess the situation and understand their options, achieve change for themselves, and advocate and work to sustain change at all levels. If in the course of going about our business to provide social or legal assistance to a child or family, we identify a place where we cannot bring about the change we know the child deserves, then we must enlist others to help us, especially if it is not our role to provide this service ourselves. Sometimes it’s just a matter of engaging someone else’s opinion or assistance. Sometimes it’s a matter of changing a policy or practice and sometimes laws need to change, and other times laws have yet to be written.
- 3. Joint consideration of policy and practice.** While domestic laws and international conventions and treaties are very important to establish policy and laws related to child protection, they often focus on the

big picture and do not consider the logistics of who will ultimately be carrying out the work. Similarly, in order to create services that will be consistent to applicable law, it is necessary to have lawyers informing the implementation strategies to ensure practice aligns and is consistent with policy. Either way, legal and social practitioners alike should seek out guidance from one another when creating policy and practice. If we aspire to achieve X, we always need to ask the question, then who will do Y to make X possible?

4. **Appropriate training and resources.** Programs at the undergraduate and graduate levels need to include course work on working on transnational families as part of their core curriculum because in today's world, more and more children are involved in cross border issues. Just as important, resources need to be provided to child welfare agencies and other related organizations who handle cases with international dimensions. We must recognize that while knowing about applicable laws and services is helpful, understanding what laws and services are available and how to apply them is critical. Most people want to do the right thing, but many are not sure what the right thing is, and how to go about it.
5. **Dialogue and knowledge-sharing between social workers, lawyers, and judges.** Opportunities and forums need to be created so that social workers, lawyers, and judges can exchange ideas, share expertise, and explore best practices and potential remedies. When conducting a social worker training, representatives from the legal profession should be included and vice-versa. When developing a new legal protection, social workers should be included to discuss the feasibility of carrying out the ideals. When resources are being created on a child protection topic, all groups should receive the same information even if the delivery or particulars are adapted for each stakeholder's specific role and responsibilities. Be sure that child welfare agency workers know and understand the relevant domestic laws and international conventions and treaties, and the legal implications if the guidelines are not followed, that are applicable to their work.
6. **Collaboration among stakeholders.** Find ways to collaborate across government and nongovernment organizations as well as across regions. Get to know as many people as possible within your Central Authority. Get to know other organizations doing similar types of work to yours. Create a multidisciplinary and multi-topic panel of

experts in your region. If you are a social worker, invite more legal and judiciary professionals, if you are a legal professional, invite more social workers and child advocates.

7. **Collaboration across borders.** While it's hard enough to collaborate with all the relevant actors within and across your expertise, you may not have any idea how to access expertise and resources in other countries. Best practice will have us first assume that we should NOT assume that things work the same way in other countries. Therefore, as a first step, join and get involved with the international expert groups in your profession- the International Federation of Social Workers, or the International Matrimonial Lawyers association as a first step to finding expertise in other places. In addition become familiar with the global work of organizations such as International Social Service and the Hague Conference on Private International Law, and others to become familiar with the issues and what initiatives you might be become involved with.
8. **Understanding the big picture.** Remember that the field of international child protection is expansive and there is much to be learned from other facets of this field. Joining email lists that cover other topics within international child protection can be a good first step. Learning about and networking with other organizations or agencies, whether similar to or different from your own. For example, if your area is adoption, spend some time getting to know people working on child trafficking or child labor. If your area is trafficking, make an effort to reach out to organizations working on immigration and abduction issues. Remember that policies can be changed, but before change can occur, we need to have a thorough understanding, from all angles, as to why we are advocating for change and what we hope that change will accomplish.
9. **Understanding root causes:** When we think about migration, especially mass migration, we often think about dealing with the immediate needs and challenges of the people right in front of us, and we either are not afforded the luxury or we fail to think about root causes. But when we drill down to what's causing families to separate, to flee, for families to send their children away, it usually comes down to something very basic: a family's inability for a variety of different reasons to protect and keep its children safe. When we think of child protection in this most basic way, "what will it take to help this family keep its children safe?"

## CONCLUSION

In this paper we provided a brief description of the role of social workers in child protection. Next, we offered some examples of how social workers intervene on issues that affect the international protection of children, including their role in implementing multilateral treaties and conventions as well as domestic family law. Then we described the need for additional training and building capacity within the field of social work. Next, we provided some brief examples of how the field of social work could effectively collaborate with other key stakeholder groups. Finally, we provided concrete recommendations centered on keeping the child as the focus of all of our works and finding the appropriate mechanisms to collaborate on training, policy, and practice across disciplines, organizations and regions. While these recommendations are straightforward and may sound easy to do; time, resources, and a familiar way of thinking can easily prevent us from implementing them effectively. If, however, we continue to challenge ourselves by asking the question, "What will it take to help this family keep its children safe? *Who else can I involve that can help make this situation better for this child, or children in general?*" we will, in time, be able to ensure the safety of and improve the outcomes for all our children.

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