

## ***Hague Children's Conventions: the Need for an Advocacy Response to Protect Children in the Context of International Parental Child Abduction***

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### **Abstract:**

This paper will focus on the practice of social work within the context of two international Hague Conventions concerning children: the 1980 Hague Convention on Civil Aspects of International Parental Child Abduction and the 1996 Hague Convention on Parental Responsibility and Child Protection. After briefly describing the programs of International Social Service (ISS) Australia, this organization's existing approaches to working with families affected by international parental child abduction will be specifically discussed as an example of practice within the context of the 1980 Hague Convention mentioned above. Based on a research report prepared by ISS Australia, arguments will be proposed for the viability of social work practice within the context of the 1996 Convention on Parental Responsibility and Child Protection. The writer will highlight benefits of casework practice and mediation-based services for families which can be offered by social work. Dilemmas of practice within a legal framework will then be considered, with particular reference to the trap of uncritical implementation of social work practice as a social control agent of the judicial system. Potential social work contributions in the area of analysis and critique through the perspectives offered by gendered analysis, human rights and children's rights, and the tradition of advocacy as an integral sphere of practice will be discussed, with the paper arguing that for social work to best meet the needs of children affected by this legislation, it must perform its vital functions of social and political critique, and individual and systemic advocacy.

### **Introduction:**

It is inevitable that social workers and other human service professionals will find themselves working within a legal context. Practice within human services involves working within a country-specific legislative framework, and may involve statutory authority to implement certain legislation, or in the provision of service to support individuals' or groups' access or adherence to a State's legal code. The reflection behind this paper arose from such an example of service delivery in social work-namely, support for families utilising a specific piece of international legislation-the 1980 Hague Convention on the Civil Aspects of International Child Abduction (the 1980 Hague Convention). However, an argument is presented that, in order to faithfully honour social work's mission to uphold human, and specifically children's rights, practitioners need to view themselves as not only providers of services to individuals and States, but as advocates of the rights and needs of children, informing and challenging legislative systems to ensure these rights are upheld.

This paper takes the form of a reflection triggered by the experiences of working within International Social Service Australian Branch's (ISS) International Parental Child Abduction (IPCA) service. As such, the service context, the 1980 Hague Convention will be explored, as well as the 1996 Hague Convention on Parental Responsibility and Child Protection, as the latter offers opportunities to extend both the protection of children across national borders and the work of ISS with children and families affected by this Convention. The IPCA service will then be described, together with ISS Australia's proposed service model to deliver services under the 1996 Hague Convention. Further illustration of the IPCA service will be given using a case scenario, followed by reflections on the use of a gendered and child rights analysis of the scenario, aided by a selection of critical literature.

An argument for advocacy within service provision under the 1980 Hague Convention will further be developed by means of exploration of the Statement of Principles of the International Federation of Social Workers (IFSW). The discussion takes the standpoint that the development of the 1980 Hague Convention has been a valuable undertaking, and its mission has been a worthwhile remedy in dealing with the dilemma of international parental child abduction, as experienced by a small proportion of children within the context of family breakdown. It provides uniformity and certainty in a situation which would otherwise be chaotic for parents and legal systems.

In this discussion, the author seeks to contribute to ongoing debate regarding the role which social workers can play in this field, and the need to safeguard children's rights in dealing with the complex issue of international child abduction.

### **Legislative Context:**

#### **- The 1980 Hague Convention**

The 1980 Hague Convention on the Civil Aspects of International Child Abduction was developed by The Hague conference on Private International Law to combat the growing phenomenon of the abduction of children across borders within the context of post-separation disputes between parents. (Hague Convention 1980: preamble) As explicitly stated in the 1980 Hague Convention,

"...Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access..." (1980 Hague Convention: preamble), the Convention seeks to provide a uniform mechanism for the prompt return of children to the country where they are deemed to habitually reside. (Hague Convention 1980: article 1) In most cases, clear instructions exist for the arrangement of the prompt return of a child to their habitual residence (Hague Convention 1980: article 12) unless the judicial authority processing the application for the child's return is convinced that the return application has been made by someone who was not exercising parental rights at

the time of the application, or that the child's return would place them in grave danger of severe physical or psychological harm or an "intolerable situation". (Hague Convention 1980: article 13)

A child's return can also be opposed by a judicial authority if the return is in direct opposition to fundamental principles of human rights in the requesting State. (Hague Convention 1980: article 20)

The legislation provides that a "Central Authority" be nominated in each signatory country to administer the Convention (Hague Convention 1980: article 6), and that Central Authorities in signatory countries work cooperatively to administer the Convention (Hague Convention 1980: article 7). Importantly, a decision for return under the 1980 Hague Convention does not constitute a decision regarding parenting arrangements for a child (Hague Convention 1980: article 19). Rather, the legislation's purpose is to facilitate the child's return to the jurisdiction deemed to be the one most appropriate to determine parenting arrangements. Important to note also is that the 1980 Hague Convention can only be applied in relation to children aged 16 or below, or who are abducted from countries who are signatories to the Convention (Hague Convention 1980: article 4). To date, there are 81 signatories to the 1980 Hague Convention.

### **The 1996 Child Protection Convention:**

In 1996, the Hague Conference on Private International Law developed the Convention On Jurisdiction, Applicable Law, Recognition, Enforcement And Co-operation In Respect of Parental Responsibility and Measures for the Protection of Children. This Convention is much broader in scope than the 1980 Hague Convention, covering as it does both private disputes between parents regarding custody, parental responsibility and child abduction, and more public arrangements or disputes between

States regarding children's displacement due to political and natural disaster or family disintegration (1996 Hague Convention: preamble). This Convention seeks to make arrangements for children caught up in transnational disputes related to custody or parental responsibility, children involved in foster- or institutional care arrangements internationally, or other legally recognized forms of care such as Kafala, (a form of adoption practiced in Muslim countries) and unaccompanied children crossing borders as a result of trafficking, seeking of asylum or natural disaster. (1996 Hague Convention: article 3). Broadly, the 1996 Convention provides for determinations regarding the appropriate jurisdiction for children finding themselves in a country other than their own. In most cases, jurisdiction is deemed to be the responsibility of the State in which the child habitually resides, although emergency jurisdiction can be exercised by the State to which the child has entered or been taken. (1996 Hague Convention: articles 5-6) The primary aim of the 1996 Convention is to foster co-operation among signatory States in determining applicable law in order to protect children experiencing transnational parental conflict, displacement or abduction. (1996 Hague Convention: article 1) To date, 16 countries are signatories to this Convention.

**The International Parental Child Abduction (IPCA) Program of International Social Service (Australian Branch):**

International Social Service (Australian Branch) (ISS) is a national non-government organisation delivering social work programs to children and families requiring interventions across national borders. It is part of an international network of ISS branches, units and correspondents spanning over 140 countries, with overall administration in Geneva, Switzerland. ISS units across the network work collaboratively, with case work staff liaising with colleagues within the network in order to meet client needs which may span two or more countries.

In response to a research project conducted by the Australian Branch of ISS in 2005, (Tuohey 2005) ISS was awarded funding by the Australian Commonwealth Attorney-General's Department to offer services to parents and families affected by IPCA. Since its inception, the IPCA service continues to work with parents in all phases of the abduction process, with different services being offered to parents impacted upon by the abduction of their child or those at risk of abducting a child across national borders. Although the IPCA service supports parents whose child abduction matters involve all countries, irrespective of their signatory status to the 1980 Hague Convention, for the sake of simplicity, this paper will only focus on work with the context of the 1980 Hague Convention and its signatory countries.

Interventions with parents vary according to where they find themselves within the child abduction process and whether they are impacted upon by child abduction or considering perpetrating such an action themselves. Service provision within each phase is outlined below.

**Pre-Abduction:**

Case workers discuss the impact of the international abduction on children and parents and describe the purpose and operation of the 1980 Hague Convention when they are approached by parents who fear the abduction of their child, or misguidedly believe that abducting their child will resolve conflict with their former partner. If a parent is fearful that their child is likely to be abducted by the other parent, prevention strategies, including emergency court orders placing children's names on the Australian Airports Watch-List are discussed. If a parent is thinking of abducting their child, they are invited to explore with case workers their motivations for doing so. Case work staff are especially mindful of research which links a higher rate of child abduction amongst mothers with their experiences of domestic violence within the relationship and their wish to protect their children and themselves from further violence. (Shetty and Edleson 2005) If such a history of violence is disclosed, case workers

work with the parents (usually mothers) to access resources for their safety and support within Australia in order that the abduction of a child can be avoided. Parents are offered information and referral to a range of community, dispute resolution or legal services to enhance their safety or to assist in making arrangements for their children if the parents are separated.

### **Abduction:**

Parents who contact ISS Australia after their child has been abducted are usually seeking support to manage the complex legal and emotional impact of this event. If ISS is contacted by an Australian parent whose child has been abducted, they are offered information about the workings of the 1980 Hague Convention and referred to the appropriate Central Authority in their state of residence to begin the application for the child's return, if they haven't already done so. As well as crisis counseling and emotional support, parents are offered the opportunity to engage in contact with their child and/or the other parent via the co-operation and assistance of ISS colleagues in the relevant country. Sometimes, the informal mediation of temporary contact arrangements between the child and parent is possible, until a return order is made or parenting arrangements can be determined. Working with ISS colleagues internationally, any welfare concerns an Australian parent may have regarding their child in the care of the other parent can be investigated. Conversely, through the ISS overseas network, ISS Australia receives referrals on behalf of parents in other countries, requesting that ISS Australia attempts to engage a parent suspected of abducting a child to Australia. In these instances, informally mediated contact arrangements or welfare checks are also offered, depending on the engagement of the parent in Australia with ISS. If a parent is ordered to return a child abducted to Australia, ISS Australia case workers can assist the parent to plan the return process, including sourcing options for accommodation and financial support. Again, overseas network colleagues are a great source of support, with their knowledge of appropriate referrals to accommodation and other material aid and domestic violence support services as required by the returning parent. The services of ISS Australia during this phase do not seek to replace or undermine the role of the Central Authority, but rather seek to offer a complementary service to parents and families, in parallel with the legal support they are receiving from the state and Australian Commonwealth Central Authorities.

### **Post-Return:**

This phase involves working with parents and families whose children have been returned after an abduction. The process of return after an abduction can be difficult for both the child and their parents, and the aim of the IPCA service is to assist both parents to plan for the child's return and its impact upon them and the child, and to work with the parents to integrate

the child back into their pre-abduction routine. Case workers at ISS Australia may assist parents to work through the initial hand-over period of the child from one parent to the other, and support is offered to parents to imagine the child's perspective and to plan a smooth transition from one parent to the other. This can be especially helpful as there are no specific provisions under the 1980 Hague Convention for staging hand-over's and transitions between parents. At other times, a parent whose child is being returned into their care may value assistance and support to reintegrate the child into routines of family life, school and extracurricular activities. Children and parents are offered support in planning for this reintegration, identifying and recognising any impacts of the abduction and accessing longer-term professional assistance for the child and/or the parent. ISS Australia case workers can assist parents practically by informing such services as the child's school or medical practitioner of the recent upheavals in the child's life and advocating for support for the family at this time. Throughout all phases of service delivery, IPCA case workers focus on the holistic needs of the child and family, and are guided by the parents as much as possible in determining the types of interventions offered.

### **The 1996 Hague Convention:**

In 2008, ISS Australia conducted research into the possibilities of service provision within the framework of the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children. (Brett 2008) In this research, Brett analysed the 1996 Convention and formulated a proposal suggesting that ISS Australia had the capacity to extend its service model to cover the wider scope of the 1996 Convention. In order to support children whose parents were involved in cross-border disputes regarding parenting arrangements, Brett suggested that the IPCA model (described above) could easily extend so that counseling, information and referral and mediation-based support could be offered to affected families. ISS's research proposed that a parallel and complementary service could be offered for international child protection matters, in adherence to articles 31-35 of the 1996 Hague Convention. (Brett, 2008: 18) For example, on a case by case basis, Brett proposes that a role exists for a service of ISS Australia to:

- a Facilitate communication and offer assistance (article 31 a);
- b Mediate situations (article 31b) using a range of ISS mediation-based approaches;
- c Locate a child (article 31c);
- d Report on the situation of a child (article 32a);
- e Request consideration of need to take measures of protection (article 32b);
- f Facilitate cross-border care placements (article 33) including assessments/reports before placement, preparing for a child's move overseas and post-placement support;
- g Request information relevant to measures of protection (article 34);
- h Help implement measures of protection or the exercise of access rights (article 35(1), including practical assistance, counselling and supervision of contact if required;

- i Request evidence and findings on suitability to exercise access rights (article 35(2)); and
- j Inform another State of a child in serious danger (article 36). (Brett 2008: 19)

In essence, Brett proposes the utilisation of a range of social work interventions in meeting children's needs within the context of a subsequent piece of private international law.

### **Case Study:**

As illustrated above, ISS provides social work services to families affected by transnational movement of children as governed by the 1980 and 1996

Children's Conventions of the Hague Conference on Private International Law. All these interventions are an essential and valid part of the framework of practice of any social worker, offering as they do, a response to an individual's/family's immediate need. It is traditional social case work, an important part of social work intervention. However, alongside case work exists another aspect of social work practice, that of social activism and advocacy. The next part of this paper will argue that the provision of social work services within the context of the Hague legislation is incomplete without a commitment to advocacy and activism, especially regarding the rights and needs of children. Due to its greater ratification and acceptance, discussion will centre on aspects of service delivery under the 1980 Hague Convention, beginning with the case example below which will be used to illustrate my arguments relating to the need for advocacy.

Consider the following scenario. Gina and Frank are separated and have one child, Louise. Gina has an older child, Paul, whose father is deceased. Gina and Frank formed a relationship and lived together in a signatory country to the 1980 Hague Convention but their relationship was short-lived, with Gina reporting significant physical violence and alcohol misuse perpetrated by Frank. In 2004, a few months prior to Louise's birth, Gina separated from Frank and announced her intention to return to Australia. In 2005, when Louise was aged about six months, Frank contacted Gina in Australia and asked her to return to his country of residence, explaining that he needed someone to take care of his home while he served a prison sentence. Gina agreed to return with Louise and Paul, believing that she and Frank would reconcile after his release from prison. The parents attempted to reconcile in early 2007 after Frank's release but this attempted reconciliation was unsuccessful. In mid 2007, Gina again left the relationship, again taking Louise and Paul with her to Australia, stating that Frank's violent behavior and alcohol misuse still prevailed. Late in 2007 Frank applied under the 1980 Hague Convention for Louise's return to the country where Gina and Frank had lived as a family. Gina appealed the return on the basis of fear for her safety and that of Louise due to Frank's use of violence in their relationship. Legal processes associated with this appeal continued until early in 2009 when a Court Order was made that Gina return to Frank's country in order that family law proceedings could be initiated to determine parenting arrangements for Louise. Gina is an Australian citizen, but Frank's country of residence has strict rules about residency and citizenship. Gina was a permanent resident when she resided with Frank but did not apply for citizenship. By the time of her return order, her permanent

residency had lapsed, thus barring her from accessing any financial or social benefits on her return to that country.

Despite these difficulties, through Gina's resourcefulness, and with the assistance of ISS, Gina managed to return with Louise (and Paul) to the country concerned in compliance with the return order made under the 1980 Hague Convention. Family law proceedings took place, awarding custody of Louise to Gina and ordering Frank to pay child support to Gina for Louise's maintenance in Australia.

This case example can be viewed through a number of lenses, each leading to a different social work intervention. During her contact with ISS, Gina received useful assistance from a worker guided by crisis intervention (O'Hagan 1994) and task-centered approaches (Doel, 1994). Gina was offered crisis counselling and emotional support to assist her to process the Hague return order and its implications. In the initial stages, this involved assessing Gina's risk of suicide and assisting and supporting her to plan and contract for her safety during periods of acute distress and fear. Gina was supported through counselling to validate and normalise her distress regarding her return order, and to view it as an unwanted but necessary requirement to abide by the law. Gina and a worker then began collaborative problem-solving to assist Gina to devise the practical resources needed to comply with the court order. She and the worker explored possible sources of practical support from friends she had made while living with Frank. The requirements for obtaining a visa to Frank's country were researched and Gina received assistance in liaising with the relevant Consulate. A referral to the ISS unit of the country to which Gina was to return was made by ISS, with a request that sources of accommodation and financial support be investigated, or that Gina be given emotional support during her stay in that country. Overall, a satisfactory outcome was achieved for Gina in compliance with the 1980 Hague Convention. However, further reflection reveals that an even better outcome might have been possible for Louise and Gina and other children and parents in their situation if an additional framework—that of advocacy was employed, on the basis of an analysis of Gina's situation based on gender, human rights and, most importantly, the rights and needs of the child, Louise. (Witkin 1998)

### **Gendered Perspectives and Article 13B:**

In our earlier review of the 1980 Hague Convention, we noted that exceptions exist for the return of children to their country of habitual residence if it can be determined that a return would result in a high risk of a child's exposure to a severe level of physical or psychological harm. (Hague Convention 1980: article 13B) In reflecting on this article of the Convention, it is useful to utilise a gendered analysis informed by feminist theory. (Hudson, Ayensu, Oadley and Patocchi 1994) As these authors, among others, describe, feminist approaches are a central element of social work practice and allow for the analysis of the impacts and outcomes of policy decisions, legal systems and ideologies on different classes of women and men. (Hudson et al 1994: 95-96)



In exploring the 1980 Hague Convention then, we find that its text makes no specific reference to the gender of parents or children and is assumed to be gender-neutral in its application. (Freeman 2002: 83) In their critiques of the implementation of the 1980 Hague Convention, Kaye (1999) and Shetty and Edleson (2005) argue that its impacts differ depending on a parent's gender, a fact which, according to these authors, receives little recognition in Hague Convention determinations. These authors highlight the etiology of child abduction as a means for mothers to remove themselves and their children from the experience or impact of a partner's physical and/or psychological violence. (Kaye 1999; Shetty and Edleson 2005) This lack of acknowledgement of the impact of violence on women and children is compounded by judicial attitudes and decision-making which privilege concerns regarding a country's reputation in upholding the precepts of the Hague Convention, and a desire not to imply another country's inability to protect returning women and children from violence by refusing a return order under article 13B. (Kaye 1999: 99) Concerns raised by women under article 13B have rarely resulted in the appeal of a return, for fear that this would be viewed as a weakening of the Convention itself, and its purpose of discouraging the abduction of children across national borders. (Kaye 1999: 206) More positively, Nicholes (2009) reminds us that such judicial attitudes and decisions need not be rigid, as she describes a recent international abduction case involving a mother who was able to gather evidence to demonstrate the inadequacy of police and child welfare services to protect her children and herself from domestic violence if she was ordered to return her children to the country of their habitual residence. If we re-examine our earlier case study, the analyses of Kaye (1999) and Shetty and Edleson (2005) of decision-making under the 1980 Hague Convention would suggest that in a case such as that of Gina, her fears regarding the impact of Frank's violence during their relationship and her fear of the continuation of this abuse on her return would receive relatively little consideration when placed alongside a judiciary's desire to uphold the concept of "comity" or mutual uniformity in Hague determinations and a single-minded anti-abduction stance. The gendered analyses of the 1980 Hague Convention conducted by Kaye (1999) and Shetty and Edleson (2005) offer recommendations for further research with a view to change in the way domestic violence is addressed in 1980 Hague Convention decisions. They also reflect the argument presented in this paper that such activities are necessary in order to avoid gender discrimination in the administration of the 1980 Hague Convention.

### **The 1980 Hague Convention and the Rights of Children:**

As the 1980 Hague Convention specifically deals with safeguarding children from the harm of abduction, it might be expected that it is closely aligned with the goals of other children's rights instruments, most notably the United Nations Convention on the Rights of the Child (UNCRC) 1989. Preceding the UNCRC by nine years, the 1980 Hague Convention contains clear parallels with some articles of the UNCRC. (Freeman 2002: 78) According to the Hague Conference on Private International Law's (undated) outline of the 1980 Hague Convention, the following articles of the UNCRC are upheld and supported by the 1980 Hague Convention:

UNCRC article 35: "States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction, the sale of or traffic in children for any purpose or in any form."

CRC article 9.3: "States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests."

CRC article 11: "1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad. 2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements."

CRC article 10.2: "'A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents."

CRC article 8 1. "States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity." (UNCRC 1989)

If we further examine the 1980 Hague Convention from the perspective of child rights as found in the UNCRC 1989, we begin to find limitations. There are two main arguments given. Firstly, Freeman (2002) and Wiener (2000) argue that much determination under the 1980 Hague Convention rests with individual members of the judiciary, particularly on decisions relating to children's post-return welfare or the merits of their objections to return as allowed by article 13B. According to Wiener (2000: p23) judges have been inclined to interpret this article narrowly, placing, for example, a very high threshold on the maturity level of a child before their objections for return are heard, or discounting this provision altogether, fearing that the child's objections will be tainted by the influence of the abducting parent, or that by listening to the child, the integrity of the Convention's purpose to return abducted children is eroded. As these authors point out, the 1980 Hague Convention, being an instrument designed to meet the needs and best interest of abducted children as a whole, can sometimes fail to provide for the needs of individual children without a wider interpretation and use of the exceptions found in article 13B. (Freeman 2002)

The second problem with the 1980 Hague Convention relates to its limited jurisdiction in areas apart from that of the return of children to their habitual residence. We saw earlier, in the case of Louise that she and her mother were ordered to return to her country of habitual residence, despite the minimal availability of resources for her physical and emotional well-being and safety, except those which Gina could source. This situation is not unusual in Hague return determinations, when the only provision able to be made to secure any welfare

arrangements for children and the returning parent are in the form of voluntary undertakings, agreed to by the applying parent and not legally enforceable. (Kaye 1999; Strom 2002; Reddaway and Keating 1997) These statements present a critique of the lack of provision for the necessities for the care of a child within the 1980 Hague process and as such, can be seen as a mandate for advocacy alongside children and their parents by social workers delivering service within this legislative context. However, the writer believes that another strong argument towards advocacy-based interventions in this context exists within the UNCRC 1989 itself. In article 3.1 of this Convention, signatory States have agreed that their public and private social welfare institutions, courts, legislative bodies or other administrative authorities will make the best interests of the child their primary consideration. (UNCRC 1989) The term "best interests" is familiar to us from our earlier examination of the 1980 Hague Convention and can be open to interpretation and cultural relativism (Alston and Gilmour-Walsh 1996: 6; 12). Yet it can be argued that the UNCRC contains clear guidance regarding the essential requirements for the well-being of all children which can be defined as their best interests:

Provisions for survival and development (article 6.2)

Protection from all forms of abuse (article 19.1)

Access to health care and medical treatment (article 24.1)

Access to an appropriate standard of living to ensure physical, social, mental, spiritual and moral development (article 27.1)

Provision of state assistance to ensure support with material needs, physical care and nutrition. (Article 27.3 UNCRC 1989).

If we return to the situation of Louise, it would appear, through analysis of her situation through the framework of the articles cited above, that the Hague process currently makes no provisions for the fulfillment of the obligations in these articles and, more importantly, for Louise's needs for physical care and safety after a return. Freeman (2002) and Wiener (2000) already caution around the reliance on undertakings between parents to ensure, among other things, provisions for the physical needs of a child ordered to return under the 1980 Hague Convention. As these authors point out, such undertakings are rarely if ever enforceable and rely on co-operation between already-conflicting parents. For children in Louise's situation, it would appear that, to ensure provisions for their physical, social, mental, spiritual and moral needs on returning to their habitual residence, a strong requirement for advocacy exists to ensure State or legislative assistance in such provision, notwithstanding the possibly brief duration of their return if subsequent family law proceedings order their relocation away from their habitual residence.

### **Social Work Codes of Ethics:**

So far, we have focused on the limitations of the 1980 Hague Convention as documented by various commentators, and explored a case study leading us to consider using an advocacy approach to fully meet the needs of a child and her family. Such interventions are open to

professionals of any discipline, working collaboratively with parents in this specific field. Now will follow particular obligations required of social workers as stated in the various codes of ethics of national professional associations and accrediting bodies and the International Federation of Social Workers (IFSW). The theoretical literature promoting a range of macro-level practice interventions is broad, and it is not the intention of this paper to survey it here. Suffice to say that various theories of social work practice exist promoting critical reflection on socio-economic, political and cultural conditions, and an equally wide array of interventions are available to practitioners aiming for political and social action, legislative reform, advocacy and community development. (Abramovitz 1998) Cemlyn and Briskman (2003) specifically address advocacy for children's rights from the perspective of their work with children seeking asylum in Australia and the United Kingdom. They warn against the common tendency of some social workers and managers to view human rights obligations as principles in organisational mission statements, with little relevance to the day-to-day activities of practice. The promotion of children's rights, they argue, is a political practice, challenging policies which undermine or ignore the rights and capacities of children. (Cemlyn and Briskman 2003: 164) They further caution against delivering services which seek to "manage" social problems, or to act as agents of legislative or social control on behalf of the State or judiciary. (Cemlyn and Briskman 2003: 164) These authors locate their stance within the respective codes of ethics of their national social work associations: those of Australia and Britain. Each national regulating body or national association of social workers has its own code of ethics to which social workers must adhere. These are too numerous to explore individually. However, as there is broad acceptance by the profession of the IFSW Code of Ethics, its provisions regarding human rights frameworks and advocacy will now be examined.

The IFSW is an international organisation whose membership comprises the national associations of social work in over 90 countries, as well as a membership category for interested individual social workers. In 2004 the IFSW collaborated with the International Association of Schools of Social Work to produce an overarching code entitled "Ethics in Social Work: Statement of Principles".

This document is characterised by a strong commitment to social work's ethical duty to advance causes of human rights, social justice and political action within national and international contexts. (IFSW Statement of principles: 2004) In this consideration of the IFSW Statement of Principles, relevant principles will be indicated, followed by a brief analysis of their relationship to the case study used above.

**Definition:**

“The social work profession promotes social change, problem solving in human relationships and the empowerment and liberation of people to enhance well-being. Utilizing theories of human behaviour and social systems, social work intervenes at the points where people interact with their environments. Principles of human rights and social justice are fundamental to social work.” (IFSW 2004) Although social work intervenes at the level of the individual

as well as the broader community, this definition requires that, in working with Gina, Frank and Louise, human rights and justice principles are kept in focus and integrated within social work interventions.

### **Adherence to International Conventions:**

Section 3 of the Statement of Principles lists the Declarations and Conventions to which IFSW members are subject. The UNCRC is listed, along with several other Conventions and Declarations on human rights, civil and political rights, economic, social and cultural rights, racial discrimination, discrimination against women, indigenous and tribal peoples. (IFSW 2004) These Conventions seek to ensure that, in social work practice, individuals and communities are viewed as possessing inherent rights to such essentials as safety, survival and freedom from gender-based discrimination, to name a few with particular relevance to the case study.

- Human Rights and Human Dignity (IFSW 2004: Principle 4.1)

As well as respecting, promoting and upholding the rights of individuals, social workers are charged with particular responsibility to promote the participation of individuals and communities in all decisions affecting their lives (4.1.2), treating each person as a whole (4.1.3) and identifying and developing strengths (4.1.4).

- Social Justice (IFSW 2004: Principle 4.2)

Social workers have a responsibility to challenge all forms of discrimination (4.2.1). In reference to our case study, this could well mean finding ways to challenge legislative contexts, however well-meaning which fail to recognise the particular needs of women and children and/or privilege male violence or control.

Further support for this stance can be found in principle 4.2.4, relating to a worker's duty to challenge unjust policies to raise the awareness of policy-makers and governments to injustices.

It is from these principles then, that the reflection on the above case study came about, and from which certain injustices towards children have been highlighted and analysed.

### **Application to the Case Study:**

In reflecting on the arguments made above, some ideas for incorporating an advocacy approach to working with Louise, Gina and Frank might involve, for example, negotiations with the relevant Central Authorities to ensure that some form of financial assistance was available to Gina, either in the form of child support payments or social security.

Negotiations could also be conducted to ensure that Gina's and Frank's return order contained temporary provisions for the safety of Louise and Gina, perhaps in the form of interim intervention and/or supervised contact orders, until the creation of permanent domestic family court orders. With co-operation among social work practitioners and Central Authorities, further possibilities exist for participation in activities to bring relevant concerns to the attention of the Hague Conference on Private International Law are also feasible.

**Conclusion:**

In this review of the 1980 and 1996 Children's Hague Conventions, we have seen that the provision of specific social work services to affected children and families is a viable and worthwhile endeavour. However, in exploring a case study, it is clear that work in solidarity with these children and families cannot be fully accomplished through short-term welfare provision, as valuable as such services are. Mindful of social work literature and the IFSW Statement of Principles, an analysis of certain situations befalling children within the context of the 1980 Hague Convention has been offered using gendered and child rights frameworks. A strong argument has been made for the extension of social work interventions to include an advocacy response, both within the context of specific cases and through longer-term contributions to policy, debate and research within this very specific field of practice.

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