

IFSW Guiding Principles for

Social Workers concerning their role in the assessment of children's cases that cross nation state borders.

General Meeting Motion passed Melbourne July 2014

This General Meeting acknowledges that:

- all actions concerning a child shall take full account of the UN Convention on the Rights of the Child and the concept of the best interest of the child enshrined therein,
- in different States there are differences in laws and regulations that affect how the development of children into adults is perceived, culturally and legally,
- regarding assessments social workers should be concerned with the whole person, within the family, community, societal and natural environments, and should seek to recognise all aspects of a child's life,
- cultural factors that include language and customs are very important in children's lives since they stem from ancestral knowledge and traditions in numerous domains
- working with local social services is crucial regarding international assessments

and calls upon IFSW Secretariat as a matter of urgency to publish a set of Guiding Principles for Social Workers concerning their role in the assessment of children's cases that cross nation state borders.

For the elaboration of these guiding principles cooperation is to be sought with International Social Service (ISS) and IASSW, with UN Agencies such as UNICEF and UNHCR, and with NGOs working in this field.

INTRODUCTION AND RATIONALE

In an increasingly globalised world, where increasing numbers of children and their families are mobile and end up separated by international borders, there has been a rise in the need for inter-country social work, including international kinship assessments in which relatives in other countries are assessed as potential carers for a child in need of care. This policy statement has been developed by IFSW, with assistance from International Social Service to assist social workers and their agencies in deciding how best to undertake assessments across borders.

ISS and IFSW both support the vision in the Convention on the Rights of the Child of a world in which children's best interests and rights are defended and families are connected. IFSW encourages national member organisations and practicing social workers to respect the Convention and to follow high standards of ethical practice. International Social Services (ISS) delivers inter-country casework services that are ethical, legal and safe whilst always upholding the best interests of the child.

The practice involved in undertaking kinship assessments overseas is multifaceted and each case requires careful consideration.

These guiding principles outline the ethical, legal and safety considerations associated with social workers practicing overseas and applies these considerations to international family assessments, whilst outlining several collaborative approaches. IFSW and ISS agree that, to align with best practice, and to ensure the safety of everyone involved and the best interests of the child are upheld, social workers within their own country are best placed to complete assessments requested from overseas and social workers should not normally be travelling overseas to conduct assessments.

This policy does not address the situation of children caught up in large population migrations as refugees or asylum seekers. There are specific UN Conventions and agreements relating to those circumstances and many similar principles apply. This policy concerns the assessments required when individual cases are being considered, especially in legal settings. It is an aide to social workers and agencies deciding who is in the best place to provide that assessment and to comment on the availability and quality of social work services.

CONTEXT

International assessments have become an increasing part of the work undertaken by social workers all over the world. It is a result of the increased movement of people for many reasons, such as seeking work, education and self-improvement or escaping war or conflicts as refugees or asylum seekers. Families divided by distance and borders are less able easily to provide mutual support when needed, due to age and vulnerability or when people become physically or mentally ill and require care services. In such circumstances, it is frequently advisable to assess whether the most effective support can be provided by a distant family member or close friend in another country. In some cases, especially relating to the care of children following death, divorce, separation or incapacity, a court assessment is required before a decision is made. There are complex ethical and practice considerations involved in such assessments.

A framework of international conventions and agreements are designed to protect children in these circumstances:

- UN Declaration on Human Rights
- UNHCR
- UN Convention on Refugees
- Beijing Rules
- Hague Conventions 1980, 1993 and 1996
- Brussels IIa Regulations
- UN Guidelines for the Alternative Care of Children

Signatories to the Hague Conventions and Brussels (IIa) Regulation are required to have a Central Authority which acts as a contact point and clearing house for individual cases. These operate very differently, have widely differing resources and do not necessarily have qualified social workers on their staff.

The same principles apply to a cross-border assessment as to any other in-country assessment. Any social work assessment requires an in depth knowledge, not only of the individual or group needs of the people subject to the assessment, but also an in-depth knowledge of the environment and cultural context in which they currently live or could potentially be moved to, or are in the process of moving to. Assessors therefore need to consider the legal, child protection, immigration, social care provision and social support infrastructure, including the local social protection systems.

A social work assessment is worked out with the person or people, analysing with them how they work through change and what supports they will need in that process. It starts with acknowledging the person as the centre of expertise by experience of their unique situation.

Journeying with people through this change requires skills, knowledge and expertise in ethical and multi-cultural practice and in the process of transition.

ISSUES

There is growing concern that assessments are being compromised by assumptions that training, qualifications and experience in one country and jurisdiction equips professionals to cross borders and practice with competence in another country. This is putting children and their families at risk. Lack of local knowledge, or inappropriate assumptions and competence in any of these areas, may cause damage to the person or people concerned.

Legal considerations

Ensuring all social work practice is legal and legitimate is paramount when conducting assessments overseas. A social worker may be working illegally and illegitimately if they do not have work rights in the respective overseas country. This could effectively invalidate any assessments they conduct abroad and could expose the social worker to possible criminal prosecution or a ban from the country concerned, depending on that country's immigration and visa laws. There is already at least one example of a social worker being refused entry to a country because they were travelling on a tourist visa to undertake work on an assessment.

Moreover, if a social worker practices social work in a country where social work is a registered profession, then because that social worker is not registered in that country, they would effectively be practicing illegally and this would also have implications for the organisation that arranged the assessment. These possible legal repercussions for the social worker and the sending organisation indicate that international assessments should always be referred to local social work organisations and professionals and not be conducted by potentially illegal social workers practicing abroad.

Ethical considerations

Practicing in line with established ethical principles underpins social work values, therefore in order to ensure ethical international assessments occur we need to ensure the social worker completing the assessment is best placed to do so, with the necessary legal, cultural and practice competencies relevant to the other country. This means the social worker needs to have the necessary understanding of the local child protection and legal systems. Without the local knowledge, crucial information might not be collected on the background of the family who is being assessed (including potential criminal backgrounds, but also child protection issues that might be recorded in local child protection agencies that an overseas social worker is unable to access. The visiting social worker is unlikely to have information

about supports available to the prospective kinship carers in that country and risks which they will have to manage. A local social worker will have the additional benefits of knowledge about the culture, customs, language and services within their own country and may then also be able to assist in the child's transition overseas, as well as be in a position to provide post placement reports if required.

By not properly considering the ethical perspectives of an international assessment, this could leave the potential carer in a vulnerable position as the overseas social worker would be unable to provide potential carers with the essential support and information necessary to establish a successful placement. Thus, it is highly unethical for a social worker to complete an international assessment without the local knowledge necessary to support carers beyond the assessment phase.

Safety considerations

The safety of both the social worker and the prospective carers and the child must be central to any assessment. An overseas social worker without local knowledge regarding such things as child protection details, emergency numbers and support services could mean their actions have implications to the family post placement. Furthermore conducting an international assessment could place both the overseas social worker and the prospective carers in an unnecessary unsafe situation, which may not be covered by insurance should something go wrong while conducting an assessment. Such situations could involve violence against the visiting social worker and/or social consequences including risk of violence for the family being assessed. For example, the presence of a foreign social worker could draw attention from the community and potentially place a stigma on the family, particularly in communities where external involvement in a family's affairs can be seen as an embarrassment.

Collaborative approach

Given the legal, ethical and safety issues outlined in this policy, international assessments should always be completed by, or at least actively involve a local social worker within the country. This approach means that the social workers from each country will need to work together.

While this collaborative approach may seem time consuming, complex or even overwhelming if the social worker has never facilitated a cross-border placement,, this approach mitigates many of the legal, ethical and safety issues associated with international assessments and ensures the best interests of the child is paramount.

ISS is well placed to facilitate this collaborative approach to international assessments with over 90 years extensive experience in inter-country casework and with an international ISS network operating in over 120 countries. In order to conduct an international assessment overseas, a Child Protection or Government Authority can access ISS who will organise for an assessment to occur overseas either through the overseas ISS network member or if ISS cannot provide the direct service then a referral would be made to the appropriate service provider (either the Government or a non-government organisation) who will conduct the international assessment.

If the international assessment is required in a country in which ISS does not have a network member, then another collaborative approach to consider is one that allows the social worker where the child is currently placed to take the lead and undertake the international assessment while using a local social worker to supply detailed local knowledge and context

for the assessment, including assessing their physical home environment and conducting the necessary checks (if available).

Social work is practiced in many different ways around the world. It focuses on helping people through a process of change to a better outcome for them that enhances their well-being. This may be through individual work, in groups or through community development. It takes place in many different cultures and political environments. This can result in misunderstandings between social workers operating in different political and cultural environment and in different languages. Nevertheless, some shared understanding is essential to deliver assessments which meet the needs of both countries, often within a legal framework with very specific requirements and expectations.

There is growing awareness of specific issues which can arise in cross-border cases, including the possibilities of trafficking of persons (including sale of children), modern forms of slavery or domestic servitude, involvement in terrorism or smuggling and risks of discrimination due to ethnic origin, sexual orientation or disability. These issues need to be considered when assessing risk and best options.

A number of approaches can be considered for undertaking assessments across borders:

- 1 Separate assessments prepared in each of the countries and then woven together. Making a comparison of two quite different styles of assessment, that rely heavily on the cultural and practice orientations of the individual social workers – this has risks. This model also implies that neither of the social workers will see the parties together, which often limits the validity of the assessment. Such an approach must avoid two or more assessments of a prospective carer – once by a local and a second time by a visiting social worker – because this can result in an onerous, frustrating, and unnecessary assessment process.
- 2 One social worker (usually from the ‘home’ country) takes the lead and undertakes the full assessment but involving a local social worker to supply local knowledge and context for the assessment. For example, the social worker in the country where the prospective carer resides would receive information about the child from the child’s social worker. This information is then used to inform the assessment of the prospective carer and match the carer to the child and their specific needs.
- 3 Social workers are employed in the home country from the country of origin of significant communities in a locality who have relevant cultural and local knowledge as well as relevant competence in the ‘home’ country. This can facilitate cultural understanding but may still require a joint assessment in both countries.
- 4 Specially trained social workers working for an NGO like International Social Service (ISS) undertake the assessment. ISS can secure the cooperation of professionals overseas via its ISS network partners in 120 countries.

These different models are not mutually exclusive.

Experience has shown that local professionals are usually best placed to conduct assessments or undertake an intervention as they understand the local resources and best practice within their locality.

People with whom we work should do the travelling and not the social workers.

POLICY

The policy for overseas assessments follows from the context set out above:

- 1 The Convention on the Rights of the Child makes clear that any child whose future care is being considered by a court and who is living in a different country from their extended family has a right to an assessment of the potential for providing care in that country.
- 2 That assessment should take account of the benefits of a kinship or family friend placement in the other country, in terms of development of identity and cultural ties, as well as the benefits of alternative care in the country of residence. It should not be assumed that a more well-resourced environment in the country of residence is necessarily better for a child than a family placement in a country with less developed economic resources. In making an assessment, the social worker needs to take into account the development and degree of disability of the child and the strength of family ties alongside other factors such as the availability of any health treatments and other services which the child's condition may require.
- 3 An assessment in a different country is best undertaken by a local social worker. This may be facilitated by the Central Authority (in countries which are signatories to The Hague Conventions, especially the Hague Convention on Child Protection 1996). International Social Service has a network of assessment services in 120 countries and can also arrange overseas assessments.
- 4 It is likely to be illegal, unethical and unsafe for a social worker to undertake an assessment outside their own country on their own. This could lead to criminal charges being laid against the social worker and their employer. Travelling overseas to undertake an assessment also carries risks of misunderstanding local circumstances and misleading assessments. In certain circumstances it might be acceptable for a visiting social worker to work alongside a local social worker. Employers have a responsibility to ensure the safe working practices of their social workers and must not require them to practice abroad illegally or unsafely.
- 5 Local social workers in the country being visited have a duty to inform themselves about the nature of the assessment required by courts or agencies in the other country and to do their best to meet the expectations of the requesting courts or agencies. The 'home' social worker has a responsibility to provide clear briefing to the local social worker and, where possible, to support them to deliver the assessment required.
- 6 Courts must take account of the legal frameworks in other countries and this guidance and not put social workers at risk by requiring inappropriate assessments or interventions across borders.

CONCLUSION

The purpose of this policy is to ensure better decision making by third parties and securing human rights and social justice.

People are the experts in their own experience, however they may have been transported into a culture and an environment that they do not know or understand and which is distressing. Similarly, a return to a former or ancestral culture and environment which has changed through time may be equally distressing. Encompassing this complex matrix in all its different dimensions, from the individual to the community to the environment to which it

is suggested the person moves, requires not only 'traditional' local knowledge, but now a more global dimension: the international is local.

The increase in knowledge of the impact of the misuse of power and control in countries where indigenous peoples have been discriminated in the name of social work interventions reminds us of the need to make sure we each take personal professional responsibility that any social work intervention is in accord with our ethical standards. This is particularly significant in promoting the second theme of the Global Agenda - that all people are recognized with dignity and respect.

APPENDIX – CASE EXAMPLES

The following are case examples of different types of social work intervention illustrating what works and some ill-conceived methods of engagement:

USA & Mexico

Jose was deported from the USA to his homeland in Mexico after Jose's workplace was raided by US immigration enforcement police. Jose's wife, Mariel, was home with their infant son at the time of the raid and within five weeks Jose had been deported and Mariel found herself alone, unemployed and responsible for a 4 month old child. Over the next four years Mariel did her best to care for her son, Javier.

Mariel and Jose did their best to keep in touch by phone and mail, but as hope faded that Jose would ever be able to re-enter the US Mariel began using alcohol and methamphetamines to dull some of her heartache. By the time Javier was 5 he had been removed from the care of his mother 3 times. Following the process of terminating Mariel's rights to her son, the social service agency begun looking for family with whom to place Javier.

Although Javier had not seen his father in many years he had kept his letters and pictures. The social service agency referred the case to ISS USA, who in turn referred to their ISS partner in Mexico. They were able to locate the father in two weeks and inform him that Javier was in foster care.

The social service agency requested a home study, community survey and a background check on the father to determine if he would be able to take custody of Javier. ISS USA worked with the ISS partner in Mexico to provide all three services to assist the Judge in making a permanency determination in Javier's best interest. In the meantime, ISS USA worked with Javier's social worker in the US to obtain a visa for Javier and worked with the Mexican consulate to ensure that Javier would be able to permanently reside in Mexico and have full access to all resources and services including school and healthcare.

The ISS partner in Mexico spent a great deal of time talking with Jose and his family about some of the emotional challenges Javier had faced and working with them to find special programs to support Javier and incorporate the entire family in his care and treatment. The home study, background check and community survey were completed in about four weeks and sent to ISS USA.

Following Jose connecting with the US social service agency via Skype and participating in the custody determination hearing in the US Court via video conferencing equipment in his local Mexican Court, the Judge ordered that Javier be returned to his father in Mexico. ISS USA coordinated with their partner in Mexico to have a social worker meet the Javier and his social worker at the airport in Mexico.

Jose and his family were also there and they were happy to have someone help walk them through the first awkward moments of Javier's arrival. Javier's social worker remained in Mexico for four days and worked alongside the ISS partner social worker with Javier and his family.

When the US social worker returned, the ISS partner in Mexico continued to make daily visits for two weeks. For the following year the ISS partner in Mexico visited the home of Jose and Javier once a month and reported to ISS USA on the outcomes. ISS USA forwarded these reports to the social worker in the US and then the US social service

agency closed the case and ISS USA informed the ISS partner in Mexico that no additional oversight was needed.

Australia and France

Charmaine is a 10 year girl living in Sydney with dual citizenship of Australia and France. Charmaine was placed in the sole care of her father Don under Family Court arrangements and her mother, Sally had contact with Charmaine twice weekly for several hours.

Don was then found deceased in his residence and while the matter was being investigated by the Police, Charmaine was placed with her half sibling's mother under informal arrangements.

The Child Protection Authority assessed Charmaine's mother Sally as an unsuitable carer for her and Court proceedings began. Annie, Charmaine's paternal aunt in France, also became a party to the Court proceedings and stated she would like to have Charmaine placed in her long term care. The Court made orders permitting Charmaine to travel to France for a month's holiday with Annie as Charmaine has had an ongoing relationship with her paternal family who reside in France. The Child Protection Authority Social Worker met with Annie while she was in Sydney and completed a preliminary placement assessment, which was positive, however still required a more in depth assessment of Anne and her home environment in France.

The Child Protection Authority approached ISS Australia seeking assistance to obtain a comprehensive kinship placement assessment of Annie in France. The Child Protection Authority was advised the ISS Branch in France had closed, however the neighbouring Branch, ISS Switzerland, would be pleased to assist. A formal referral was sent to ISS Switzerland requesting that a comprehensive assessment of Annie be conducted, including information about her home, family and environmental factors and Child Protection and Police checks.

ISS Switzerland was able to liaise with the French Central Authority to arrange an assessment of Annie, which was conducted by a French Child Protection Authority where Annie resided. The report was used as evidence in the Court proceedings in Australia to make decisions about Charmaine's long term care, and the outcome was that Charmaine was to be placed permanently with her paternal aunt Annie in France, and she would have full parental responsibility for Charmaine.

ISS Australia with the assistance of ISS Switzerland organized some post placement support to occur in the form of visits from the French Child Protection Authority. ISS handled all the international elements of this case, allowing the Australian Child Protection Authority to avoid using its valuable resources (time and staff) to navigate through a foreign system in which it has little or no experience. ISS Switzerland liaised with the French Central Authority and Child Protection Authority to arrange the assessment; this involved a series of phone calls and letters in French. If the Australian Child Protection Authority had been forced to arrange this without the assistance of ISS Switzerland's native French speakers, significant translation costs may have been incurred which in turn would have resulted in delays in facilitating the assessment - clearly not in the best interests of the child.

Switzerland and Guinea

A disabled adult living in Switzerland, wishes to re-migrate and join again his wife and children in Guinea (Bissau). As he has no longer Guinean nationality (he naturalized as Portuguese), currently contact is being made through our ISS correspondent in Guinea (an

NGO partner of the ISS-West-Africa-Network) to make administrative investigations and also assess the family situation there. The mandate comes from the local adult protection service in Switzerland.

UK and Romania

Following the revelations of the Ceausescu orphanages there was an increase in international adoptions and new social work services were developed copying many of the ideas and practice from Western Europe. Many children had their rights ignored by sometimes well-meaning but culturally ignorant people. The international adoptions were stopped and the orphanages became full again through lack of sustainable social development.

Austria and Romania

Investing in the training of social workers from Romania and in the growth of community initiatives has built up the resources within Romania. This has grown the local economy and services have moved from the 'rescue' notions of the 1990s to sustainable development today.

Refugees and Aid agencies

Some Aid agencies working around the Mediterranean have started to employ social workers from the refugee population. This has had a profound effect on their ability to meet need by understanding the needs of the people in transition, it has given employment to people who wanted to be engaged in work and building the future. It has added people into the wage earning structure contributing to the tax system and public income. It has recognized the dignity and respect of people encompassing the reality that refugees provide more income to the communities they are welcomed into rather than adding to the public cost.

Aid Agencies and the Philippines

Two fishing villages on neighboring islands affected by a typhoon. Both needed to be rebuilt; the same aid agencies on hand to help. One community used the skills and the resources of social work knowledge about empowerment of people, their need to be involved and consulted about their lives that were undergoing massive change in the wake of much grief and loss. The other adopted the 'need to be rescued' approach. Within 6 months in the first village houses were rebuilt in a safer location, fishing was restored, people were getting wages and the local economy was in recovery. The second village had not significantly changed.