



Strategies For Resolving Cases Straddling International Borders





CREATING CHILD CENTERED BEST PRACTICES IN CROSS BORDER CHILD PROTECTION AND WELFARE

THE WHO, WHAT, WHEN, WHY, AND WHERE



INTRODUCTIONS

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ISS-USA'S PREMISE IN ALL CROSS BORDER CHILD PROTECTION CASES

ISS-USA holds the belief that states and the federal government must follow the same principles and guidelines set forth in the ICPC and other domestic child protection laws when the potential kinship connection is in a foreign country.



ISS-USA: WHO WE ARE AND WHAT WE DO

Mission

ISS-USA's mission is to mobilize a domestic and international network of legal and social work professionals to efficiently connect vulnerable children, adults and families separated by international borders to the services and support they need.



ISS-USA: WHAT WE DO

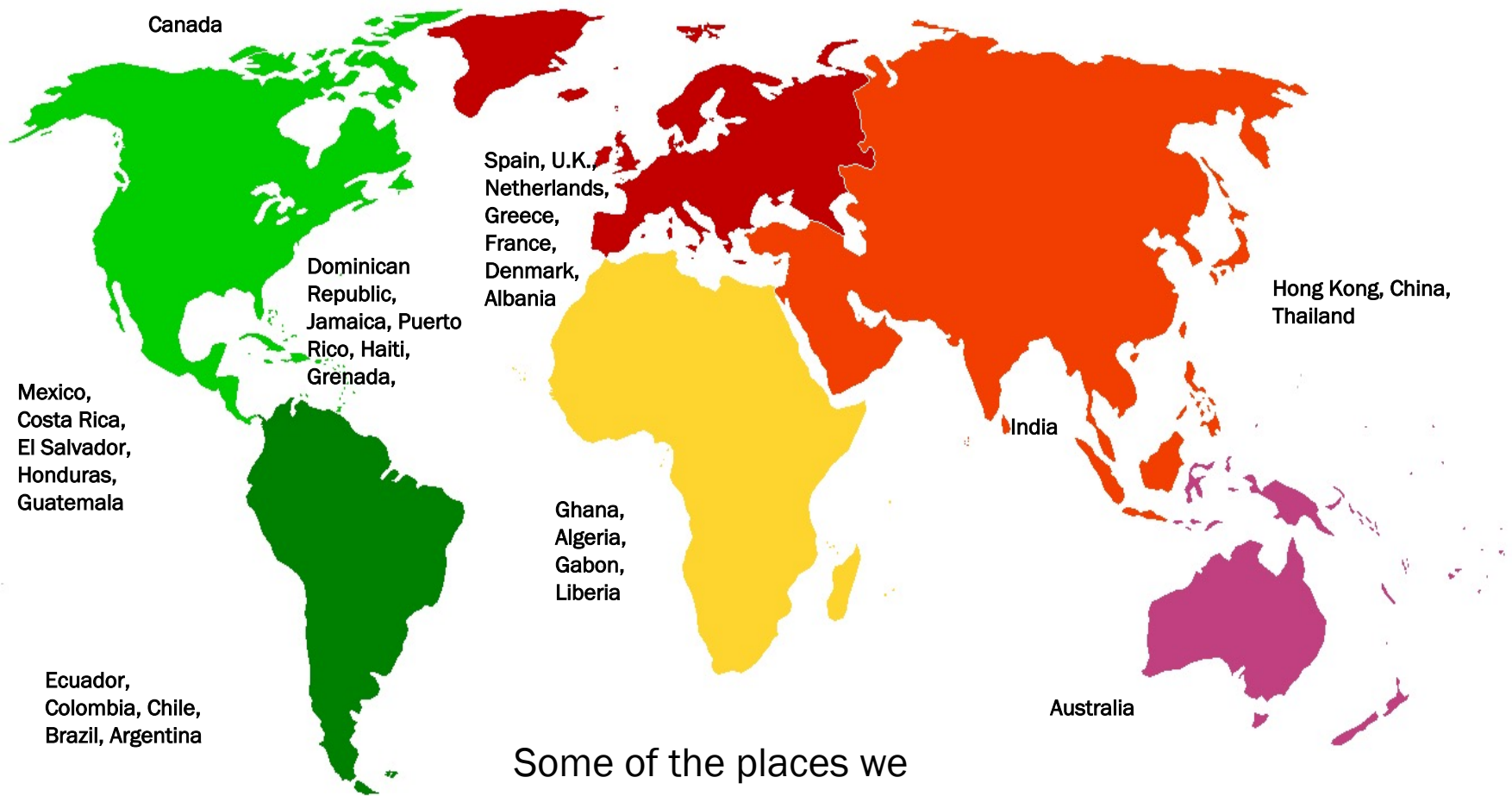
The ISS Network provides case management, technical assistance, and serves as a **key resource** for obtaining and understanding necessary information to support the **family plan, child placement and permanency options**

HOW TO
SAY WHAT YOU DO
in one compelling sentence



ISS GLOBAL NETWORK





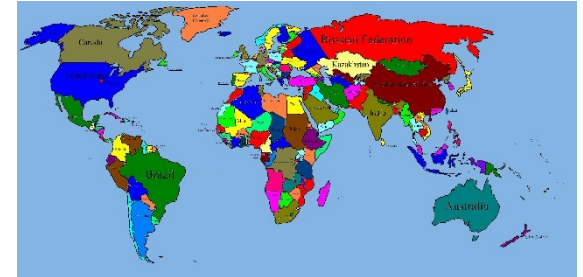
Some of the places we provided services in 2015



HOW WE WORK



Only in VERY rare circumstances is there direct communication between the foreign country and the domestic child welfare agency.



ISS-USA sends cases to, and accepts cases from, all states.



ISS-USA sends cases to, and accepts cases from, all Federation partners.





CHILD WELFARE CROSSING BORDERS

THE WHO, WHAT, WHEN AND WHY



THE “WHAT”: FAMILIES SEPARATED ACROSS BORDERS

Family Permanency Planning

- Family Notification
- Family Reunification
- Family Finding and Engagement
- Permanency Determinations
- International Adoption

Family Migration

- Repatriation and Reintegration
- Family Relocation
- Immigration Enforcement

Family Conflict

- International Abduction
- Cross-border Custody and Visitation
- International Child Support Enforcement
- Traveling Abroad with your Child



THE “WHEN”: CHILDREN SEPARATED FROM THEIR FAMILIES

- Parent(s) are incarcerated;
- Parent(s) are deceased;
- Parent(s)' rights are terminated ;
due to abuse and/or neglect;
- Parent(s) abandon the child;
- Family Relocation

DOMESTIC & INTERNATIONAL
SITUATIONS

- Parent abducts the child and
moves her to another country;
- Child is trafficked;
- Parent(s) are sent to their home country through immigration enforcement-the
child is a U.S. citizen and is taken in to social service custody.
- Child migrates as an unaccompanied minor

INTERNATIONAL SITUATIONS



THE “WHO”: WHICH KIDS ARE WE TALKING ABOUT

1. U.S. citizen children whose extended family (U.S. citizen) live overseas because they are in the military, employed by a foreign corporation, in the diplomatic corps, retired, studying or teaching abroad or working for a U.S. company overseas.
2. Children who have immigrated from a foreign country.
3. U.S. citizen children whose parents immigrated from a foreign country and are LPR or naturalized citizens.
4. U.S. citizen children whose parents are here without documentation.



UNITED STATES CITIZENS LIVING ABROAD

How many United States citizens live abroad for work, education, retirement or other reasons?:

600,000 Federal employees and dependents*

5.5 million Other U.S. citizens live abroad

300,000 U.S. students study abroad annually

6,400,000 total

*This includes military personnel and their families stationed overseas



LEGAL PERMANENT RESIDENTS, NATURALIZED CITIZENS AND UNDOCUMENTED ALIENS

How many people born outside of the United States are living here permanently?

16 million Legal Permanent Residents (estimated)

16 million Naturalized Citizens (estimated)

11+ million Undocumented Individuals (estimated)

43+ million



THE “WHO”: LET’S DO THE MATH...

Total number of U.S . citizens living overseas

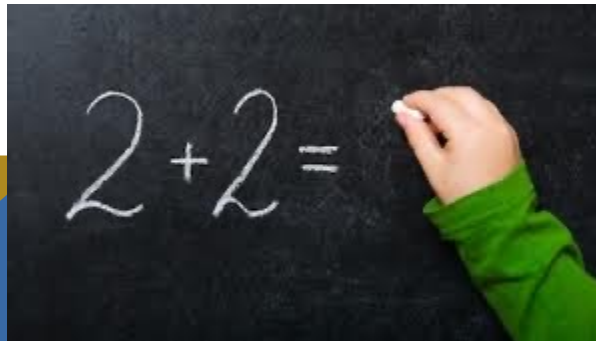
6,400,000

Total number of LPR , Naturalized Citizens and Undocumented Aliens:

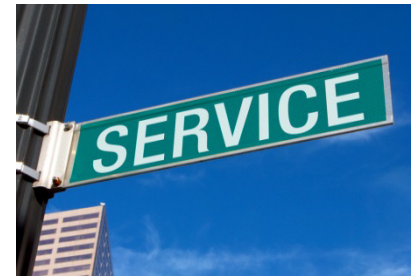
43,000,000

Total number of individuals who may have connections to family overseas
OR who are living overseas and have family connections in the United
States:

49,400,000



ISS-USA SERVICES



- **Tracing** for family members
- Tracing needed **documents** including birth, death and marriage certificates
- International **home studies**
- International **mediation** for custody and visitation
- **Facilitation of family team meetings, court proceedings**, etc. when a family member is participating from another country
- **Community Surveys** for context in cross border cases



ISS-USA Services, continued

- Post-placement follow-up/Child Welfare Checks
- Criminal and Child Abuse Registry Checks
- Child Protection Alerts
- Repatriation of U.S. citizens from abroad, including unaccompanied minors
- Technical Assistance** on a wide variety of international child welfare issues
- Training** for legal and social service personnel working with children with international dimension to their case
- Travel Assistance** for social service workers accompanying a child for placement or visitation
- Translations** of documents from Spanish to English



WHICH PERMANENCY OPTION IS BEST....

When we talk about permanency options across international borders we mean:

- ❖ Placing a children in a kinship placement arrangement
- ❖ Reunifying with a parent living in another country
- ❖ Terminating parental rights in order to free a child for adoption within the U.S.
- ❖ Making family connections that may be a long-term resource regardless of the child's placement
- ❖ Facilitating an adoption by family member or non-relative



NOW THAT WE KNOW THE SITUATION, WHAT DO WE NEED TO KNOW?

- ❖ What are the legal frameworks and laws that govern cross-border cases?
- ❖ What is my role in these cases?
- ❖ What do I need to do to ensure due diligence?
- ❖ What should I be thinking about when I handle a cross-border case?
- ❖ What are best practices for handling complex situations?
- ❖ Where can I turn for assistance on cross-border cases?





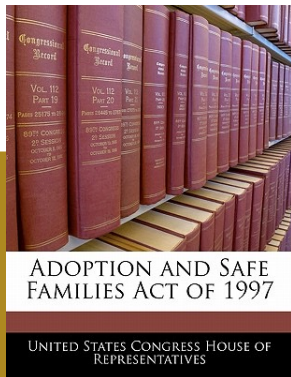
DOMESTIC LAWS AND COMPACTS

ENACTED AND PROPOSED



THE ADOPTION AND SAFE FAMILIES ACT OF 1997

- ❖ Enacted November 19, 1997
- ❖ Purpose: To promote the adoption of children in foster care
- ❖ This act amended title IV-E of the Social Security Act.



THE UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT

- ❖ Determines jurisdiction “to make and modify child-custody determinations”
- ❖ Conforms jurisdictional standards to those of the Federal Parental Kidnapping Prevention Act (PKPA):
- ❖ Requires State courts to enforce valid child-custody and visitation determinations made by sister courts

It does **NOT**:

- ❖ Dictate standards for making or modifying child-custody or visitation decisions



FOSTERING CONNECTIONS 2008

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351)

“...provides that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence...”



THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

Interstate Compact on the Placement of Children (ICPC)...

- ensures that children placed across state lines for foster care or adoption are placed with persons who are safe, suitable, and able to provide proper care;
- assigns legal and financial responsibility, and responsibility for supervision and the provision of services for the child;
- is a binding contract among the States intended to ensure that children who are placed across State lines receive adequate protection and services.
- provides clear guidelines on what steps must be taken to make certain that the child is placed in a safe home and provided with consistent monitoring and follow-up.



THE UNIVERSAL ACCREDITATION ACT OF 2012

Under the UAA, adoption service providers working with prospective adoptive parents in non-Convention adoption cases need to comply with the same accreditation requirement and standards that apply in Convention adoption cases.





**REMEMBER
YOUR
RESPONSIBILITIES**

WHAT IS YOUR ROLE????
SHARED RESPONSIBILITY, SEPARATE ACTIVITY



THE ROLE OF THE PARENT'S ATTORNEY

- ❖ Explain how locating the absent parent or relatives will benefit your client and the Child
- ❖ Ask your client to identify family support people
- ❖ Encourage parent to share information with the social worker
- ❖ Check to see what social worker has completed
- ❖ Ask for court review, if needed
- ❖ Talk to social worker's supervisor, if needed
- ❖ Conduct your own search

(Courtesy of Rose Wentz)



THE ROLE OF THE AGENCY ATTORNEY

- ❖ Know the agency's policy and procedures, and resources to locate relatives
- ❖ Help to educate social workers about all pertinent policy and law
- ❖ Request details of family finding efforts to ensure all efforts have been made
- ❖ Track problem cases
- ❖ Talk to social worker and supervisor when there are problems
- ❖ Request court action, if needed

(Courtesy of Rose Wentz)



THE ROLE OF THE JUDGE/JUDICIAL OFFICER

- ❖ Ensure all the activities occur in a timely manner
- ❖ Facilitate cooperation and communication among all the stakeholders
- ❖ Do not let biases interfere –home studies or background checks may look different in other countries
- ❖ Inform the social worker of **everything** you want included in a home study, background check or post-placement report
- ❖ Always ask if family finding has taken place and explore interjurisdictional family engagement with the social service agency
- ❖ Hold the agency accountable for timely completion of all tasks related to family finding and engagement.



THE ROLE OF THE CHILD'S ATTORNEY, CASA, GAL

- ❖ Talk to the child to identify all the people with whom s/he has a connection or emotional Relationship*
- ❖ Give social worker information so these people can be located and visits occur*
- ❖ Document all the information you obtain*
- ❖ Be sure child is given copies of paperwork, legal documents and personal history
- ❖ Insist that a complete home study and background check be completed for ANY individual being considered as a placement for the child
- ❖ Advocate for the child's emotional, behavioral or medical needs
- ❖ Insist on post-placement follow up to ensure the child's safety

(*Courtesy of Rose Wentz)



THE ROLE OF THE US DEPARTMENT OF STATE

- ❖ DOS can conduct a Welfare and Whereabouts check on American citizens living overseas.
- ❖ DOS can assist you in planning for a child travelling overseas with a family member or to meet a family member.
- ❖ DOS can answer all questions you may have about Hague treaties involving adoption or abduction.
- ❖ The United States Department of State Office of Children's Issues can be a key resource in answering questions or providing contact information for other agencies that deal with U.S. children in cross-border situations..

To contact the Department of State regarding emergencies involving U.S. citizens abroad, please contact the Office of Overseas Citizens Services, in the U.S. call 1 888 407-4747 during business hours, and (202) 647-5225 to reach a Duty Officer after hours; from outside the U.S. call 1 202 501-4444.





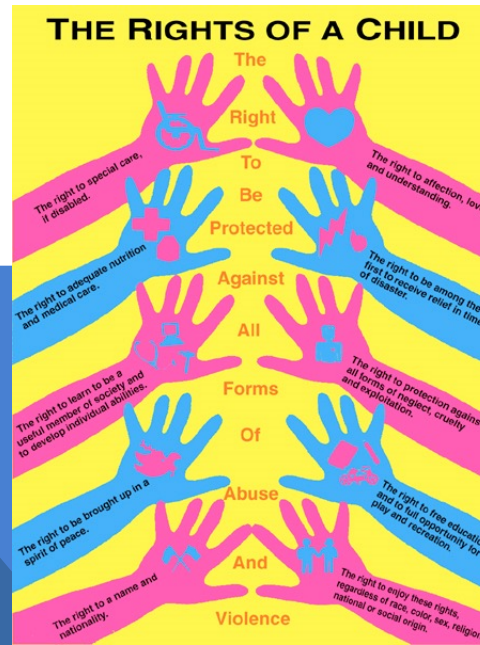
INTERNATIONAL LAWS AND TREATIES: A BRIEF OVERVIEW



THE CONVENTION ON THE RIGHTS OF THE CHILD (THE CRC)

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.**



THE CRC CONTINUED

Article 9:

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, **that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child.** States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.



CONVENTION OF 25 OCTOBER 1980 ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION: HAGUE ABDUCTION

The *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* seeks to combat parental child abduction by providing a system of co-operation between Central Authorities and a rapid procedure for the return of the child to the country of the child's habitual residence.



ICARA: ESTABLISHING CONCURRENT JURISDICTION

The International Child Abduction Remedies Act (ICARA) implements the Convention in the United States, granting federal and state courts concurrent jurisdiction over Convention actions and directing those courts to decide cases in accordance with the Convention.



THE HAGUE CONVENTION OF 29 MAY 1993 ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION (HAGUE ADOPTION)

The *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Adoption Convention) protects children and their families against the risks of illegal, irregular, premature or ill-prepared adoptions abroad. This Convention, which operates through a system of national Central Authorities, reinforces the UN Convention on the Rights of the Child (Art. 21) and seeks to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights. It also seeks to prevent the abduction, the sale of, or traffic in children.



CONVENTION OF 19 OCTOBER 1996 ON JURISDICTION, APPLICABLE LAW, RECOGNITION, ENFORCEMENT AND CO-OPERATION IN RESPECT OF PARENTAL RESPONSIBILITY AND MEASURES FOR THE PROTECTION OF CHILDREN (HAGUE 1996)

The third of the modern Hague Conventions, the *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children*, is much broader in scope than the first two, covering as it does a very wide range of civil measures of protection concerning children, from orders concerning parental responsibility and contact to public measures of protection or care, and from matters of representation to the protection of children's property.



QUESTIONS

**I'm confused.
No wait...
Maybe I'm not.**

