

# Human Trafficking and the Haitian Child Abduction Attempt: Policy Analysis and Implications for Social Workers and NASW

Nicole Footen Bromfield, Ph.D., MSW  
United Arab Emirates University, Department of Social Work  
n.bromfield@hotmail.com

Karen Smith Rotabi, Ph.D., MSW, MPH  
Virginia Commonwealth University, School of Social Work  
ksrotabi@vcu.edu

Journal of Social Work Values and Ethics, Volume 9, Number 1 (2012)  
Copyright 2012, White Hat Communications

This text may be freely shared among individuals, but it may not be republished in any medium without express written consent from the authors and advance notification of White Hat Communications

## Abstract

Child trafficking, under the guise of intercountry adoption, is a form of human trafficking that is often misunderstood by policy makers, governments, the media, and nongovernmental organizations. The aim of this analysis is to bring awareness and attention to child trafficking disguised as intercountry adoption, to provide an analysis of current policies that address human trafficking and intercountry adoption, and to suggest that in order to support more ethical child welfare practices, social workers and NASW, in particular, should take a more aggressive role in the development of sound approaches to international child welfare and the protection of children, especially during humanitarian emergencies.

We use the 2010 abduction attempt of Haitian children by American missionaries as a case to demonstrate how existing policies are insufficient to provide protection to victims and to prosecute perpetrators of this form of child trafficking. We conduct an analysis of the Trafficking Victims Protection Act of 2000 and provide an application of the Intercountry Adoption Act of 2000.

**Key words:** Haiti, child trafficking, intercountry adoption, disaster, policy, human rights.

## 1. Introduction

The International Labor Organization (ILO, 2010) estimates that at any given time approximately 12.3 million people worldwide are victims of human trafficking. Forms of trafficking can include forced prostitution, forced labor, involuntary domestic servitude, organ trafficking, conscription of child soldiers, and in some cases, intercountry adoption (ICA). Intercountry adoption is much less known and understood, although it has been discussed in detail by a number of scholars, mainly from the disciplines of social work, law, and social policy (Bergquist, 2009; Hollingsworth, 2003; Rotabi, 2008; Rotabi & Bergquist, 2010, Selman, 2009, Smolin, 2004, 2006; Triseliotis, 2000). Despite efforts to bring attention to ICA as a form of human trafficking, current U.S. and United Nations (UN) policies related to trafficking and child human rights abuses, as well as advocacy efforts by nongovernmental organizations (NGOs) such as the National Association of Social Workers (NASW), have not been adequate in addressing or preventing this form of trafficking. Using the 2010 attempted abduction of Haitian children by Americans in the aftermath of Haiti's devastating earthquake as an example, we analyze human trafficking policies as they apply to the Haiti case

and recommend that NASW take a leadership role in developing a firm policy position related to child trafficking that occurs under the guise of ICA.

## **2. Defining Child Trafficking Disguised as Adoption**

While there have been thousands of legitimate ICAs since its inception in the mid-1950s as a global child welfare intervention, the practice has a clouded history. For example, Roby and Ife (2009) focus on adoption fraud in the Marshall Islands and Romania. In their analysis they include a discussion of human rights and adoption reform efforts with a rights-based approach, such as including those affected (i.e., birth families) in the development of social planning for child welfare and adoption. Dickens (2009) further analyzes Romania's history of ICA and its ultimate moratorium, and his abolitionist conclusions demand a cessation of ICA.

Mónico, Rotabi and Alverenga (in press) present child abduction and adoption during El Salvador's war years, underscoring the complex nature of child rescue during civil war. That nation's sad history of adoption fraud is now being addressed more than a decade since the Peace Accords were signed with biological families desperately searching for their children lost to adoption.

In neighboring Guatemala, adoption problems and fraud have been analyzed by Bunkers, Groza, and Lauer (2009) and they include a discussion of payments for infants and young children in exchange for birth mother relinquishment signatures, an illegal practice in that nation. Greshman, Nackerud and Risler (2004) also discuss problems in Guatemala, analyzing the pre-reform system, which allowed unscrupulous entrepreneurs to engage in ICA. Rotabi, Morris, and Weil's (2008) ecological analysis questions the role of ethical social work practice related to the post conflict and human rights context of Guatemala, including violence against women. Rotabi and Bunkers (2008) further explore adoption fraud in Guatemala, in which they include a discussion of birth mother recruiters who secured

healthy infants for adoption by orchestrating paid and/or coerced child relinquishments.

Selman (2009), in his analysis of ICA trends and the radical decline of ICA in recent years, includes a discussion of child trafficking concerns as it relates to ICA while cautioning against over-generalizations. The relationship between ICA and child trafficking is bolstered by Smolin (2004;2006) who analyzes the ways in which child trafficking is carried out in ICA schemes, including what he identifies as "child laundering." Smolin's pragmatic voice is known for his aggressive call for reform based on case studies from nations such as Cambodia.

Hollingsworth (2003) provides important discourse about the social structures that lead to social injustice in ICA. Her argument focuses on exploitation, fraud and abuse in unjust environments with consideration for vulnerable women and children. She also points out a contrasting view of ICA, in which adoption intervention is viewed as an act of social justice given that children are being saved from homelessness or life in institutions.

While concerns about wide spread exploitation and fraud date back to at least the early 1990s (Herrman & Kasper, 1992; Ngabonziza, 1991) with documented evidence (Altstein & Simon, 1991), ICA as a human right is promoted by Bartholet (2007), who views ICA fraud as 'isolated events' and the practice as ethically necessary in a just approach to global child welfare. Roby (2007) pragmatically explores the human rights of orphaned and vulnerable children across a continuum of care before, during, and after adoption with a recognition of ICA as a human right when planned and executed appropriately. Roby sets forth this discourse after researching adoption fraud and human rights abuses in a number of nations, including Cambodia and Ethiopia (see Roby & Ife, 2009; Roby & Matsumura, 2002; Personal communication, J. Roby, March, 2012).

### **3. Child Trafficking and ICA During Humanitarian Emergencies**

An early and infamous case of ICA that received considerable public attention, including serious social critique in the media, was the Vietnam Babylift. “Although reports vary, 2500–3000 children were evacuated, with the majority flown to the USA and the remaining to Canada, Australia and Europe” (Bergquist, 2009, p. 2). Hasty removal resulted in limited documentation or inconsistent or incorrect paperwork regarding the children’s orphan status (Joe, 1978). Bergquist (2009), in her analysis of the Babylift, underscores the issues and problems of child rescue in the context of war and examines the more recent Zoe’s Ark attempt to traffic children from the Sudan region of Africa in 2007, by presenting the incident in this war zone within a foster care and adoption scheme anchored in France (Bergquist, 2009). She observes that there was lack of political will in Chad and France to hold the group legally accountable for their actions. Rotabi and Bergquist (2010) again review the Zoe’s Ark scenario when discussing Haiti and recent attempts to illegally remove and traffic children into adoption from that nation in the weeks following the earthquake disaster in January 2010. This particular analysis was presented with recommendations to prevent child trafficking for ICA in the context of disaster.

More broadly, governments and international NGOs have responded to human trafficking concerns by recognizing that people, particularly women and children, are more vulnerable to becoming trafficking victims during humanitarian emergencies. The 2004 Asian tsunami disaster brought attention to this issue as the media, multiple NGOs, and government organizations voiced concern regarding the potential for human trafficking abuses during this emergency, including concerns about ICA abuses. As the world responded with disaster assistance and goodwill gestures, many NGOs took an aggressive stance that ICA was an inappropriate intervention during this crisis (Bergquist, 2009).

### **4. Guidelines for Child Removal During Humanitarian Emergencies**

Disasters such as the 2004 tsunami led to the development of international child protection guidelines, including the “Inter-Agency Guiding Principles on Unaccompanied and Separated Children” distributed by the International Committee of the Red Cross (2004). This report was developed with input from multiple international humanitarian organizations and is based on refugee law and international human rights, in that it emphasizes the importance of family unity. One of its primary recommendations is that during emergencies, all efforts must be made to avoid child-family separation. The principle of family unity, that “all children have a right to a family, and families have a right to care for their children” (International Committee of the Red Cross, 2004) is a theme throughout. The guidelines also outline that

evacuating children without family members should be a last resort, carried out only after it has been carefully determined that protection and assistance cannot be provided in place and that evacuation of the entire family is not feasible. Separation of these children from their families is meant to be temporary. (p. 24)

In 2006, in response to the 2004 tsunami and the U.S. Hurricane Katrina disaster in 2005, the United Nations Inter-Agency Standing Committee (IASC) published “Protecting Persons Affected by Natural Disasters,” which provides guidelines based in a human rights context, and also emphasizes that early action should be taken to protect children against trafficking. The United Nations Human Rights Council (UNHRC) (2009) developed alternative childcare guidelines which is explicit in its assertion that children are not to be removed from their countries during disasters, except under very specific circumstances like medical evacuation, in which case a relative should accompany the child.

## **5. Ethical Relinquishment for Child Adoption versus Child Rescue**

Legal child relinquishment made with the best interests of the child in mind cannot be made under extreme duress (i.e., fear of loss of life due to conditions of war or disaster). The absence of duress is consistent with legal codes in industrialized nations that have well-developed systems of child welfare and ethical standards for child adoption (American Academy of Adoption Attorneys, n. d.). Such a relinquishment could be considered as coercive or made without full disclosure and capacity (Wiley & Baden, 2005) as the parent or guardian is not capable of making a balanced and long-term legal decision and ultimately due diligence for parental rights is lacking. In other words, because of ethical standards of care, it is impossible for biological parents or relatives in guardianship of children to make a permanent relinquishment decision in the chaos of war or disaster. However, whether the Vietnam Babylift, the Zoe's Ark incident, or the most recent "rescue" attempt in Haiti, this conception has been challenged as humanitarian interventions are organized in an ad hoc manner during crises. Child and parental rights can become blurred when privileged outsiders, who may not understand the cultural and historical context in which they are operating, are making the humanitarian decisions. As a result, International Social Services (ISS) stated the following on Haiti:

International adoption should not take place in a situation of war or natural disaster, given that these events make it impossible to verify the personal and family situation of children. Any operation to adopt or to evacuate children that are victims of the earthquake to another country must be absolutely avoided. (ISS, 2010, p.1)

From a United Nations perspective, rights of children to remain with their families and in their birth nations, even in the most difficult crisis, is identified specifically in the 1948 Genocide Convention (Article 2) in which the forcible

removal of children from one group to another was recognized as a violation (Horvitz & Catherwood, 2006). Just after World War II, which was the catalyst for this international convention, this abuse was particularly obvious as Jewish families were torn apart by the Holocaust, including the forcible removal of children from their parents for re-socialization with other families. Further delineation of the rights of children are found in the U.N. Convention on the Rights of the Child (CRC), which has multiple articles in reference to the state's responsibility to prevent illegal adoptions and to support birth families (Roby, 2007; Rotabi et al., 2008).

In the U.S. history of genocide, the forcible removal of Native American children from their families resulted in the Indian Child Welfare Act (1978) which explicitly protects children and families from unethical practices and promotes their rights. This code requires tribal involvement in child welfare decisions, especially child relinquishments and alternative care planning, to protect cultural identity (Basic, 2007; Rotabi et al., 2008).

Also in the United States, the orphan trains that operated from 1854 to 1929 in which orphaned or homeless children from Northeast were transported by train to the Midwest for adoption resulted in the relocation of well over 200,000 children. In review, these relocations of children were unethical by today's standards, ranging from forcible removal of children to child placements with families who, in some cases, used the children for work such as farm labor (O'Connor, 2004). Many of the "orphan train" children were essentially trafficked internally for servitude (Warren, 2006).

## **6. The Haitian Child Abduction-for-Adoption Attempt**

On January 12, 2010, Haiti was devastated by a 7.0-magnitude earthquake that resulted in the deaths of more than 200,000 people with at least another 300,000 injured (Telegraph, 2010). As in previous disasters, international NGO's and the media regarding the potential trafficking of human

beings, especially children, raised immediate concern. International child welfare experts, including International Social Service (2010) and other organizations in both the United States and Europe (i.e., see Better Care Network, 2010, and the International Committee of the Red Cross, 2010), called for ICA to cease in the context of this disaster. Many of the children already in the queue for adoption were expedited to families in the United States and European nations (Bergquist, in press). However, starting new adoptions was not considered appropriate and this assertion was made clear in the popular press and other communications outlets (Rotabi & Bergquist, 2010).

On January 29, 2010, members of a recently created American mission group, the New Life Children's Refuge (NLCR) (BBC News, 2010), attempted to illegally remove 33 Haitian children ranging in age from 2 months to 12 years from Haiti into the Dominican Republic. The missionaries were stopped at the Dominican Republic border because of inadequate paperwork and later were arrested in Haiti for attempting to illegally remove children from the country (Thompson, 2010). The NLCR's plan was that the children would be kept in a former hotel converted into an orphanage and then later placed with adoptive families (Thompson, 2010). According to an NLCR (2010) document "The New Life Children's Refuge: Haitian Orphan Rescue Mission," the group would provide "opportunities for adoption into a loving Christian family" (2010, p. 3) and "opportunities for adoption through partnership with New Life Adoption Foundation" (2010, p. 3).

Members of NLCR claimed that they were trying to rescue orphans but it was later found that 20 of the 33 children had at least one parent living and that some of the parents understood that they could visit their children at any time (CNN.com, 2010). The international press reported that the group had talked with many of the parents personally and knew that the children were not orphans (MSNBC.com News Services, 2010). This further underscores the complicated nature

of the conception of "orphan," which implies that children do not have parents to care for them (Abebe, 2009), and in the case of these particular children, the evidence is that many of them did have at least one parent if not a fully intact family (MSNBC.com News Services, 2010). NLCR's leader, Laura Silsby, reportedly negotiated with some parents, promising that they could visit their children in the Dominican Republic—ultimately a false promise given her goal of eventually sending the children to the United States as adoptees, as implied in the NLCR's Haiti orphan rescue planning document (2010).

As media outlets carried details of the case, Haiti's Prime Minister Bellerive called the missionaries "kidnappers." However, 9 out of the 10 Americans were released quickly and press reports indicated that Haiti was depending on the United States to carry out justice (CNN.com, 2010), especially given Haiti's limited capacity during this time of devastation and rebuilding. By May, 2010 Silsby was released without further penalty (Rotabi & Bergquist, 2010).

A critical and particularly incriminating piece of historical information about this case is that Silsby had visited an orphanage in Haiti in December 2009, well before the earthquake, and had already signed a lease to rent the former hotel space in the Dominican Republic (CNN.com, 2010). Silsby had been aware of the country's adoption procedures before the earthquake and knew that she did not have the proper paperwork to remove the children from Haiti. Officials of the Haitian government have stated on record that they warned Silsby not to carry out her plan and she ignored their warnings (CNN.com, 2010).

Even with clear evidence of wrongdoing, as the faith group returned to the United States they were greeted with religious hymns and cheers (CNN.com, 2010). As Rotabi and Bergquist (2010) point out, there ultimately was no legal or political will in Haiti to follow through with punishment of these individuals for child abduction or attempted trafficking. The United States government has failed to prosecute their citizens for attempted child kidnapping or human trafficking, including

conspiracy to do so on U.S. soil. The capacity to prosecute, under current human trafficking definitions and laws, is questionable, as will be discussed below.

## **7. Human Trafficking Legislation: U.S. and International Definitions**

In considering the Haitian scenario, it is important to examine some legal definitions. In 2000 the United States passed the Trafficking Victims Protection Act (TVPA) in order to combat human trafficking, both domestically and internationally. The TVPA, which was the first piece of legislation worldwide to comprehensively address human trafficking, is focused on three areas: worldwide prevention of human trafficking, protection of trafficking victims, and the prosecution of traffickers.

About the time that the TVPA passed, the U.N. adopted the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, which came into effect at the end of 2003. The U.N. Trafficking Protocol, also known as the Palermo Protocol, is a comprehensive treaty with international obligations for the prevention of trafficking, the protection of trafficking victims, and the prosecution of traffickers. To date the U.N. Trafficking Protocol has 117 signatories, including the United States, and widespread support. The definition of human trafficking outlined in the Trafficking Protocol (UN, 2000) is as follows:

- (a) Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the

prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

This definition is particularly important because it is the first legally binding instrument with an agreed-upon definition of human trafficking and is meant to facilitate a convergence of national approaches in establishing criminal punishments for trafficking that would support international cooperation in prosecuting trafficking offenses (UN Office on Drugs and Crime, 2000). Just as with the U.S. TVPA, this particular international agreement failed to specifically or explicitly recognize cases of human trafficking being carried out under the guise of ICA; however, it does leave room for interpretation, especially when one considers fraud and coercion related to false promises.

Concurrent with the development of U.S. and international definitions of human trafficking, the U.S. Intercountry Adoption Act (IAA) was passed in 2000. This legislation was developed to implement the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. This particular international agreement, referred to henceforth as “the Convention,” was developed to “take measures to ensure that ICAs are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children” (Hague Conference on Private Law, n.d., p. 1). Each Convention signatory nation, numbering over 80 nations, develops its own internal adoption laws to regulate adoption processes to promote the best interests of the child and prevent child trafficking.

For the United States, the IAA was developed and passed in the year 2000 and as per the Convention, the law identifies the U.S. Department of State as the nation’s “Central Authority” and the Secretary of State as the head of the organization. Other Convention-consistent

provisions are the definition of agency accrediting or approval requirements in addition to definition of the adoption services that require such accreditation to prevent child sales and trafficking (Rotabi, 2008; Rotabi & Gibbons, in press). Further, an adoption agency accrediting body is defined as well as the general obligations of the accredited agencies in carrying out adoptions between two Convention nations (e.g., the United States and China). This particular criterion is particularly relevant to this discussion because Haiti has not ratified the Convention and, as a result, the Convention and the IAA do not apply to adoption-related activities or adoptions between the United States and Haiti. Unfortunately, this makes the IAA impotent in prosecuting the American citizens involved in child abduction for adoption from Haiti. However, it should be noted that international child welfare experts responding to the emergency have called for the spirit of the Convention to prevent child trafficking in the midst of this humanitarian crisis (Balsari, Lemery, Williams, & Nelson, 2010).

### **8. Applying These Statutes to the Haiti Case**

None of the aforementioned legal guidance provides a satisfactory definition or structure to prosecute child trafficking activities that occur under the guise of ICA. According to the TVPA, the Haiti abduction case does not constitute human trafficking because the United States, (2000) defines human trafficking as,

All acts involved in the recruitment, abduction, transport, harboring, transfer, sale or receipt of persons within national or across international borders; through force, coercion, fraud or deception; to place persons in situations of slavery or slavery-like conditions, forced labor or services, such as forced prostitution or sexual services, domestic servitude, bonded sweatshop labor or other debt bondage.

In the Haiti case, a transfer of persons through fraud and deception was attempted but there is no evidence that the Americans were going

to attempt to place these Haitian children into debt bondage, forced labor, or another situation that is included in the trafficking definition of the TVPA.

In the case of the majority of adoption fraud for trafficking of children, individual children have been sold into “adoption” schemes, and they join families who believe that they are paying for legitimate adoptions (Smolin, 2004). This fraud is a blatant form of exploitation for all involved except the traffickers. What confuses the exploitation issue is that the children typically become middle- to upper-class citizens of industrialized nations, with far greater opportunities and markedly improved health and well-being outcomes than they may have had otherwise; as a result, the idea of exploitation gets lost.

On an international level, the Haiti child abduction case does fall into the U.N. definition of human trafficking. The missionary group attempting to illegally remove children from Haiti used fraud and deception to exploit their families’ vulnerability (Thompson, 2010) and specifically compromised the children’s dignity, equality, autonomy, and physical and emotional well-being. Further, the missionaries engaged in fraud and deception during conversations with the children’s parents when making false and unrealistic promises (CNN.com, 2010), as previously discussed.

The United States does not use the U.N. definition of human trafficking in order to prosecute human trafficking occurrences in the United States but uses the definition in the TVPA. In 2008, the Trafficking Victims Protection Reauthorization Act of 2008, authorized the TVPA for four additional years and expanded the reach of U.S. criminal anti-trafficking statutes by allowing the U.S. government to prosecute American citizens who are engaged in human trafficking outside of the United States. The criminal statutes that pertain to trafficking and sex tourism prohibit Americans from crossing international borders to engage in sex trafficking with a child or adult; American perpetrators who commit these offenses outside of the United States now face prosecution

by the U.S. government. Unfortunately, these statutes would not pertain to removing children from a country illegally for ICA. International kidnapping laws would also not apply in the Haiti case because the children never actually crossed an international border (Bajak, 2010).

Although the U.S. government claims to be committed to eradicating human trafficking, the definition used in its legislation is insufficient to prosecute perpetrators of some types of trafficking, such as the attempt by Americans to traffic children out of Haiti. Interestingly, the U.S. State Department has noted in the latest Trafficking in Persons Report (2009) that “A more lasting and effective way to secure a victim’s freedom is through the application of law: holding traffickers and those who exploit trafficking victims accountable under criminal justice systems” (p. 24).

### **9. Implications for Social Work as a Profession: The National Association of Social Work’s Failure to Take a Position on Child Trafficking for Adoption**

In the United States, the legal capacity to prosecute individuals implicated in illegal adoption activities. Rotabi and Bergquist (2010) discuss these concerns as they relate to the Haiti case. Among their observations is that social work is well positioned to take an active role in defining the terms and practices of international child and family intervention in times of disaster. However, they also point out a limited and even nonexistent policy or practice stance that various social work organizations, including the NASW, have taken on the Haiti disaster.

While NASW is a membership body that does not specifically carry out direct social work practice, Rotabi and Bergquist (2010) hold the organization accountable for taking a policy stance and providing leadership in the problems of child trafficking for adoption. These authors state that NASW could, at the very least, remind their members to take caution when working in adoption-related activities related to Haitian children, but the organization has failed to take a

position. This is particularly troubling when one considers that NASW’s ethical code states,

Social workers should promote the general welfare of society, from local to global levels, and the development of people, their communities, and their environments. Social workers should advocate for living conditions conducive to the fulfillment of basic human needs and should promote social, economic, political, and cultural values and institutions that are compatible with the realization of social justice. (1999, rev. 2008, Section VI)

The child abduction attempt in Haiti reminds us that others who are not experts in child welfare or social work often dictate “solutions” during crisis. However, social work practitioners—including members of NASW—often inherit the consequences of poorly planned interventions or a lack of legal attention to obvious infractions of human rights. In the future, other vulnerable and impoverished families may again suffer poorly planned and illegal “orphan rescues” motivated by adoption orchestrated during crisis, since there has been a failure to punish trafficking perpetrators in the Haiti case. The social work profession has an obligation to understand the social justice implications and exploitive nature of irregular and illegal ICAs. The profession must also recognize the primary right of children to be raised in their own communities and cultures of origin and by their own biological families (Hollingsworth, 2003). As a profession, it is important for social workers to recognize and support the ideas found in the Hague Convention, including the internationally agreed-upon conception that ICA should be the last resort for a child when all other options have been exhausted in their nation of origin, including family support and kinship care, to ensure the best interests of the child (Rotabi, 2008).

Hodge (2008) notes the social work profession’s lack of attention to human trafficking issues. NASW enumerates its commitment to



social justice on the behalf of vulnerable and oppressed persons in its ethical code and its educational standards; given social work's commitment to the most vulnerable, especially those living in extreme poverty; it is time for our profession to call for the changes necessary to hold child traffickers in all forms accountable for their actions. Changes must include an improvement of the definition found in the TVPA, as well as a demand for changes in Hague Convention implementation and IAA legislation to apply to all ICA cases, promoting worldwide ethical practice standards.

### **10. Conclusion: Child Relinquishment and a Prevention Role for NASW**

In the best of environments, birth parent counseling and child relinquishment is a challenging aspect of ethical child welfare practice (Wiley & Baden, 2005; Joe, 1978). In times of disaster, the practice requires aggressive safeguards recognizing the nature of chaos and coercion of vulnerable people while supporting self-determination, a core ethical principle. Further *competence* (NASW,1999) in social work practice requires informed practitioners to be held accountable for their involvement in fraudulent adoptions.

While the international humanitarian sector has taken a position against removal of children for adoption during disasters, unfortunately, NASW has failed to take such a stand—not even making public statements to help prevent child trafficking under the guise of ICA schemes. This was clear during the Haitian earthquake. Holding NASW accountable for a more aggressive role in the development of sound approaches to international child welfare and protection of vulnerable peoples, especially in times of disaster, may seem like a tall order and even beyond organizational boundaries. However, part of NASW's mission is to “seek to enhance the effective functioning and well-being of individuals, families, and communities through its work and through its advocacy” (NASW, 1999, p. 1). Furthermore, NASW's involvement as a powerful membership organization with 147,000

individual members (NASW, 2009a) in policy processes is well known and the organization has taken aggressive stances on other social issues, including health care and political actions related to race and gender. In December 2009, NASW provided a statement of testimony on the U.S. implementation of human rights treaties for the Senate Judiciary Subcommittee on Human Rights. In this statement NASW (2009b) suggested to the U.S. government that it needs to do more to address children's human rights violations when it asserted,

More must be done to ensure the protection and care of child victims as well as to address the root causes of trafficking. Systems in place to protect children should be adequately staffed and funded, and they should provide services that reflect evidence-based practice and comply with general child welfare practices . . . NASW strongly supports the U.S. ratification of the Convention on the Rights of the Child (CRC). (p. 4)

As stated in the introduction, the CRC contains multiple articles that relate to the child's right to be reared in his or her state of origin and the state's obligations to protect against illegal adoptions, such as Article 21 (Roby, 2007; Roby & Ife, 2009; Rotabi & Bergquist, 2010). Also, adoptions being carried out in the best interests of the child are a paramount principle of child welfare—a value system which social workers have historically played a key role in defining. As such, NASW should heed its own advice and take on a greater responsibility to promote ethical adoptions by protecting child trafficking victims and advocating to influence policy. NASW's ethical code requires a response. It is time for NASW to step up its efforts to bring awareness to and prevent human rights abuses and all forms of human trafficking, including ICA abuses. Specifically, the organization should provide greater leadership in improving human trafficking legislation so that prosecution of individuals

involved in child trafficking for ICA is possible in any U.S. jurisdiction regardless of the foreign nation's compliance with international standards such as the Hague Convention. For to advocate for such changes is to be true to principles of social justice and human rights, core concerns of social workers since the inception of the profession (Healy, 2008).

## References

- American Academy of Adoption Attorneys. (n. d.). *Code of Ethics*. Retrieved from [http://www.adoptionattorneys.org/information/ethics\\_code.htm](http://www.adoptionattorneys.org/information/ethics_code.htm)
- Abebe, T. (2009). Orphanhood, poverty and the care dilemma: Review of global policy trends. *Social Work and Society*. Available from <http://www.socwork.net/2009/1>
- Altstein, H. & Simon, R. J. (Eds.) (1991). *Intercountry adoption: A multinational perspective* New York, NY: Praeger.
- Bajak, F. (2010, February 4). U.S. Baptists in Haiti charged with child kidnapping, attorney says. *The Huffington Post*. Retrieved from [http://www.huffingtonpost.com/2010/02/04/us-baptists-charged-with-\\_n\\_449750.html](http://www.huffingtonpost.com/2010/02/04/us-baptists-charged-with-_n_449750.html)
- Balsari, S., Lemery, J., Williams, T. P., & Nelson, B. D. (2010). Protecting the children of Haiti. *New England Journal of Medicine*, 25 (1).
- Basic, C. (2007). An Overview of the Indian Child Welfare Act of 1978. *Journal of Contemporary Legal Issues*, 16(1), 345–349.
- Bartholet, E. (2007). International adoption: Thoughts on the human rights issues. *Buffalo Human Rights Law Review*, 13, 151–207.
- BBC News. (2010, February 5). *Profile: New Life Children's Refuge*. Retrieved from <http://news.bbc.co.uk/2/hi/americans/8490843.stm>
- Bergquist, K. J. S. (in press). Implications of the Hague Convention on the humanitarian evacuation and 'rescue' of children. In J. L. Gibbons & K. S. Rotabi (Eds.). *Intercountry Adoption: Policies, Practices, and Outcomes*. Ashgate Press: London.
- Bergquist, K. J. S. (2009). Operation Babylift or baby abduction?: Implications of the Hague Convention on the humanitarian evacuation and "rescue" of children. *International Social Work*, 52(5), 621–633.
- Better Care Network. (2010). *Child protection working group guiding principles: Unaccompanied and separated children following the Haiti Earthquake January 2010*. Retrieved February 25, 2010, from <http://bettercarenetwork.org/bcn/details.asp?id=21563&themeID=1005&topicID=1033>.
- Bromfield, N. F. (2010). *The hijacking of human trafficking legislation: A U.S. public policy study*. Saarbrücken: Verlag.
- Bunkers, K. M., Groza, V., & Lauer, D. (2009). International adoption and child protection in Guatemala: A case of the tail wagging the dog. *International Social Work*, 52(5), 649–660.
- CNN.com. (2010, February 19). *Freed missionaries from Haiti 'glad to be home'*. Retrieved from <http://www.cnn.com/2010/WORLD/americas/02/19/haiti.border.arrests/index.html>
- Dickens, J. (2009). Social policy approaches to intercountry adoption. *International Social Work*, 52(5), 1–13.
- Footen, N. B. (2007). *The making of the trafficking victims protection act: Viewed through the lens of the advocacy coalition network*. Richmond, VA: Virginia Commonwealth University.
- Gresham, K., Nackerud, L., Risler, E. (2004). Intercountry adoption from Guatemala and the United States: A comparative policy analysis. *Journal of Immigrant & Refugee Studies*, 1 (3/4), 1-20.
- Hague Conference on Private International Law. (n.d.). *Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption*. Retrieved February 14, 2010, from [http://hcch.e-vision.nl/index\\_en.php?act=conventions.text&cid=69](http://hcch.e-vision.nl/index_en.php?act=conventions.text&cid=69)
- Healy, L. M. (2008). Exploring the history of social work as a human rights profession.

- International Social Work*, 51, 735-748. doi 10.1177/0020872808095247
- Herrmann, K. J., Jr., & Kasper, B. (1992). International adoption: The exploitation of women and children. *Affilia*, 7(1), 45-58.
- Hodge, D. R. (2008). Sexual trafficking in the United States: A domestic problem with transnational dimensions. *Social Work*, 53(2), 143-152.
- Hollingsworth, L. D. (2003). International adoption among families in the United States: Considerations of social justice. *Social Work*, 48(2), 209-217.
- Horvitz, L. A., & Catherwood, C. (2006). *Encyclopedia of war crimes & genocide*. Infobased Publishing: New York.
- Indian Child Welfare Act of 1978, Pub. L. No. 95-608 (1978).
- International Committee of the American Red Cross, Central Tracing Agency and Protection Division. (2004). *Inter-agency guiding principles on unaccompanied and separated children*. Geneva, Switzerland: Author.
- International Committee of the Red Cross. (2010). *Haiti earthquake: No effort must be spared in reuniting children with their families*. Retrieved February 25, 2010, from <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/haiti-earthquake-interview-020210>.
- Intercountry Adoption Act of 2000, PL. 106-279, 114 Stat. 825. (2000).
- International Labour Organization. (2010). *A global alliance against forced labour*. Retrieved from <http://www.ilo.org/sapfl/lang-en/index.htm>
- International Social Services (ISS). (2010). *Earthquake in Haiti: Intercountry adoption cases*. Retrieved February 25, 2010, from [http://www.iss-ssi.org/2009/assets/files/news/haiti\\_position%20CIR\\_ENG.pdf](http://www.iss-ssi.org/2009/assets/files/news/haiti_position%20CIR_ENG.pdf)
- Joe, B. (1978). In defense of intercountry adoption. *The Social Service Review*, 52(1), 1-20.
- MSNBC.com News Services. (2010, February 3). Many children taken by Americans not orphans. *World News*. Retrieved February 14, 2010, from <http://www.msnbc.msn.com/id/35221007/>
- Mónico, C., Rotabi, K. S., & Alvarenga, E. (in press). Truth, Reconciliation and Searching for the Disappeared Children of Civil War: El Salvador's Search and Reunion Model Defined. In J. L. Gibbons & K. S. Rotabi (Eds.). *Intercountry Adoption: Policies, Practices, and Outcomes*. Ashgate Press: London.
- Ngabonziza, D. (1991). Moral and political issues facing relinquishing countries. *Adoption & Fostering*, 15(4), 75-80.
- National Association of Social Workers (NASW). (1999). *Code of ethics*. Revised by the 2008 NASW Delegate Assembly. Washington, DC: Author. Retrieved from <http://www.socialworkers.org/pubs/Code/code.asp>
- National Association of Social Workers (NASW). (2009a). *National Association of Social Workers 2009 Annual Report*. Retrieved from [https://www.socialworkers.org/nasw/annual\\_report/AnnualReport09.pdf](https://www.socialworkers.org/nasw/annual_report/AnnualReport09.pdf)
- National Association of Social Workers (NASW). (2009b). *Testimony of the National Association of Social Workers on the U.S. implementation of human rights treaties*. Retrieved from [http://www.naswdc.org/practice/intl/2009/NASW%20Testimony%20for%20Dec%2016%20Hearing%20on%20Human%20Rights%20\(3\).pdf](http://www.naswdc.org/practice/intl/2009/NASW%20Testimony%20for%20Dec%2016%20Hearing%20on%20Human%20Rights%20(3).pdf)
- New Life Children's Refuge (NLCR). (2010). *New life children's refuge Haitian orphan rescue mission*. Retrieved from <http://www.esbctwinfalls.com/clientimages/24453/pdf/files/haiti/nlcrhaitianorphanrescuemission.pdf>
- O'Connor, S. (2004). *Orphan trains: The story of Charles Loring Brace and the children he saved and failed*. Chicago, IL: University of Chicago Press.
- Roby, J. L. (2007). From rhetoric to best practice: Children's rights in intercountry adoption. *Child Legal Rights Journal*, 27(3), 48-71.
- Roby, J. L., & Ife, J. (2009). Human rights,

- politics, and intercountry adoption: An examination of two sending countries. *International Social Work*, 52(5), 661–671.
- Roby, J. L. & Matsumura, S. (2002). If I give you my child, aren't we family? A study of birthmothers participating in Marshall Islands—U.S. adoptions. *Adoption Quarterly*, 5 (4), 7-31.
- Rotabi, K. S. (2008). Intercountry adoption baby boom prompts new U.S. standards. *Immigration Law Today*, 27(1), 12–19.
- Rotabi, K. S. & Gibbons, J. L. (in press). Does the Hague Convention on Intercountry Adoption adequately protect orphaned and vulnerable children and the families who gave birth to them? *Journal of Child and Family Studies*. doi:10.1007/s10826-011-9508-6
- Rotabi, K. S., & Bergquist, K. J. S. (2010). Vulnerable children in the aftermath of Haiti's earthquake of 2010: A call for sound policy and processes to prevent child sales and theft. *Journal of Global Social Work Practice*. Retrieved from <http://www.globalsocialwork.org/vol3no1/Rotabi.html>
- Rotabi, K. S. & Bunkers, K. M. (November, 2008). Intercountry adoption reform based of the Hague Convention on Intercountry Adoption: An update on Guatemala in 2008. *Social Work and Society News Magazine*. Available from <http://www.socmag.net/?tag=adoption>
- Rotabi, K. S., Morris, A. W., & Weil, M. O. (2008). International child adoption in a post-conflict society: A multi-systemic assessment of Guatemala. *Journal of Intergroup Relations*, XXXIV (2), 9–41.
- Selman, P. (2009). The rise and fall of intercountry adoption in the 21st century. *International Social Work*, 52(5), 575–594.
- Smolin, D. M. (2004). Intercountry adoption as child trafficking. *Valparaiso University Law Review*, 39, 2, 281–325.
- Smolin, D. M. (2006). Child laundering: How the intercountry adoption system legitimizes and incentivizes the practices of buying, trafficking, kidnapping, and stealing children. *Wayne Law Review*, 52 (113), 113–200.
- Telegraph Media Group. (2010, February 4). Haiti earthquake: death toll reaches 200,000. *Telegraph World News*. Retrieved from <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/haiti/7152315/Haiti-earthquake-death-toll-reaches-200000.html>
- Thompson, G. (2010, February 1). Case stokes Haiti's fear for children, and itself. *New York Times*, Retrieved from <http://www.nytimes.com/2010/02/02/world/americas/02orphans.html>
- Triseliotis, J. (2000). Intercountry adoption: Global trade or global gift? *Adoption & Fostering*, 24(2), 45–54.
- United Nations. (2009). *Guidelines for the alternative care of children, Human Rights Council, Eleventh Session Resolution 11/7*. Retrieved on February 1, 2010, Retrieved from [http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_11\\_7.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_11_7.pdf)
- United Nations Human Rights Council. (2000). *Protocol to prevent, suppress, and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organized crime*.
- United Nations Interagency Standing Committee. (2006). *Protecting persons affected by natural disasters: Operational guidelines on human rights and natural disasters*. Washington, DC: Brookings-Bern Project on International Displacement.
- United Nations Office on Drugs and Crime (UNODC). (2000). *Convention on transnational organized crime*. Retrieved from <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>
- U.S. Department of State. (2009). *Trafficking in persons report 2009*. Retrieved from <http://guatemala.usembassy.gov/tipguate2009.html>
- Victims of trafficking and violence protection act of 2000, Pub. L. No. 106-386, § 1464 (2000).

Warren, A. (1996). *Orphan train rider: One boy's true story*. Boston: Houghton Mifflin.

Wiley, M. O., & Baden, A. L. (2005). Birth parents in adoption: Research, practice, and counseling psychology. *The Counseling Psychologist*, 33(1), 13–50.