CHILDREN WITHOUT PARENTAL PROTECTION: AN ANALYSIS OF CHILD'S RIGHTS-BASED POLICIES AND STANDARDS
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In keeping with the conference’s theme, “Balancing Interest and Pursuing Priorities,” this presentation will examine three issues with respect to separated and unaccompanied children:

1. Efforts to reduce family instability and insure decisions respective of children’s rights as articulated and guaranteed by international instruments.
2. Efforts to draft standards governing the state’s role in preventing and regulating the institutionalization of children and the challenges of out of home care: examples of such care arrangements, as in kindred care, reinforce ISS mandates to (a) keep children with family; (b) advocate for standards defining when a child can be taken from his family; and (c) reintegrate the child into the family when he has been separated and strengthen the unit.
3. Best practices which promote reunification in countries of residence or refuge of children rifted from parents because of immigration and refugee reasons, economic deprivation, illegal labor and trafficking, cessation of family bonds, and/or homelessness.

This presentation will discuss each of these three areas based on archival and case work research from the 144 country network of ISS social welfare agencies, as well as work by legal and social work experts in the field, UNICEF and other UN agencies, and such non-government organizations as Save the Children, World Vision, and the International Red Cross. Because of recent and on-going collaborative work between ISS-USA and ISS correspondents in Latin America and the Caribbean, the major focus of children without parental care will be on the situation of such children in North and South America, current resolutions for the needs of this population; and proposed changes in legislation, policy and service delivery to better address the needs of these children and their families.

Efforts to reduce family instability and insure decisions respective of children’s rights as articulated and guaranteed by numerous and wide-spread international instruments.

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1 Separated children include those children who are separated from both parents but not necessarily from other relatives. The majority of displaced children are separated children. Also, most of these children are not orphans, which is why it is so important to find their families.

International instruments, specifically the Convention on the Rights of the Child, are signed by the majority of world countries, yet the political and civil will to insure their implementation is largely lacking. Other instruments, the Hague Conventions dealing with abduction, adoption, trafficking and parent responsibility have not been ratified as uniformly, or countries are in the stages of developing Central Authorities for their implementation. Yet, these international and legal instruments have limitations, even philosophically, as is evident in those which specifically deal with children as unaccompanied minors and/or migrants. Such limitations are a reality multiplied by the failure of authorities to understand the child as a migrant or immigrant as someone with both legal rights; and specific social, cultural, and emotional needs. Yet, all child migrants, whether or not their migration is linked to child specific exploitation, by virtue of their minority require special protection, either by family, other private entities, or state authorities.

As international human rights experts explain it, and I am drawing many of these summaries from the work of Harvard professor, Jacqueline Bhabha, an ISS Board member, such law pertains to four areas, not all of which will pertain to the population which is the focus of this presentation: (1) the general principle of movement, of nondiscrimination, and of nationality; economic, social and cultural rights; and detention; (2) the right of children not to be separated from family, and to family reunification; (3) the right to protection as a refugee; and (4) protection from smuggling, trafficking, and exploitative adoptions.

While international law guarantees a child the freedom of movement, to leave a country and to re-enter his own country, each individual state obviously has the right to establish laws governing its own borders. Such laws must comply with international standards, i.e., they can not discriminate against any specific population (except for defined security reasons, etc.), they must not involve inhumane treatment, and they must not violate the principal opposing refoulement of refugees. Discrimination is prohibited in relation to the rights articulated in the CRC, in all instances when it is “arbitrary,

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3 Only Somalia, which has no recognized government, and the United States have not signed the CRC.
6 CRC Art. 28, CSR Art. 22.
disproportionate or unjustifiable.” Further, international law guarantees each child the right to acquire a nationality, with particular attention paid to the avoidance of statelessness and the naturalization of refugees. In addition, a broad range of economic, social and cultural (ECS) rights have also been recognized by international law and include the right to education, as in universal primary education regardless of documentation, and to “health… as progressively recognized.” Further, with respect to laws dictating conditions under which detention of unaccompanied minors is permitted, such detention must conform with domestic law, be as short a time as possible, be age-appropriate, be in the best interest of the child, and be a “measure of last resort.”

As to the second principle of international law, the right not to be separated and the right to family reunification, strong international legal norms protect the right to family unity and the support of the family as “the natural environment for the growth and well-being of all its members and particularly of children.”

A third area in which protections are guaranteed through various conventions and protocols, but not acted on, is refugee protection, general protection obligations which include the right to “public schooling, housing, health care, social security... and the obligation to insure the survival and development of the child and ..protection from torture or cruelty, as well as special protections or any child without a family environment. Within the CRC definition of refugee, five other principles apply to children who are victims of child-specific forms of persecution, as in child abuse, child sale and trafficking, vulnerabilities arising from being a street child, a member of a gang or behaviors which, while not rising to the threshold of persecution for an adult, so do for a child.

The last area involving migration and children’s rights is transnational adoption, which utilizes international legal norms which regulate transnational adoptions to insure “respect for the best interests of the child, cooperation among states to prevent abusive adoptions… and international recognition of legal adoptions.”

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7 Bhabha (2005), “Children as International Migrants.”
8 ICC, PR, Art. 19, 22; ECHR Art. 10,16; African Charter Art. 23 (2)
9 Bhabha (2005), “Children as International Migrants.”
10 Children outside their country without their families have in the past generally been termed ‘unaccompanied children’. However many such children are not in fact literally ‘unaccompanied’, at least not for their entire journey or stay; they may be escorted by family acquaintances, co-villagers, paid smugglers or traffickers working within criminal networks. Accordingly, following a growing trend initiated by the Separated Children in Europe Programme, the term ‘separated’ is preferred throughout this text. See Michael Ruxton, Separated Children Seeking Asylum in Europe: A Programme for Action (Stockholm: Save the Children and UNHCR.2000); UNHCR, Note on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum (1996) section 7.6
11 CRC Art. 9, 9(4), Art. 10.
13 Bhabha (2005).
Efforts to draft standards governing the state’s role in preventing and regulating the institutionalization of children and the challenges of out of home care

Current organizational efforts to draft standards for out of home care derive in large part from the work by McMillan and Swales for Save the Children UK, Parry-Williams for the government of Vietnam, ISS-General Secretariat and UNICEF for the UNCHR, and others. Underlying all such discussions of appropriate care for children are some dozen premises, articulated most recently by John Williams of the Global Network on Better Care, and the principles of which are applicable in situations around the world in which children are without their parents. Thus, it is necessary to

• make gender-sensitive and non-discriminatory decisions which reflect the best interest of the child as defined by the Convention on the Rights of the Child, and which maintain that every child has a right to grow up in a family
• implement, sustain and monitor early family support and a coordinated continuum of care (educational, financial, psycho-social, basic services) utilizing a multi-sectoral approach of government departments, NGOs, CBOs, religions groups and children themselves, with the priority of using residential care only as a last and temporary resort
• involve the child and his peers in all phases of planning and care placement and recognize the potential contributions of child peer groups, whether in school, residential, community, or birth family care
• insure that any form of out-of-home care receives monitoring and support from community support, as well as—in formal placements—social work officials, and that any such support to care-providers is developed through appropriate local and cultural training
• lobby for governments to support community-based care in those instances when a child can not be maintained in his family, through provision of community facilities, basic services, training, and personnel
• provide independent and certifiable means of data collection, monitoring and analysis of care provisions
• consult on laws, standards, policies, procedures and guidelines with key stakeholders
• focus on programs as part of care placements which prepare each child for an independent and productive life in the community

17 John Williams, email forwarding “Child Care Policy Standards” from j.williamson@mindspring.com. Received 5.10.05.
Such care arrangements utilize the holistic model successfully employed by JUCONI-Ecuador and Mexico City, among other groups, in their work with street children\footnote{\url{www.juconi.org.ec}}. Further they reinforce ISS global mandate which favors national solutions and (a) gives priority to maintaining children within the biological family; (b) advocates for standards defining when a child can be taken from his family and supports family-based care; and (c) reintegrates the child into the biological family when he has been separated and strengthens the family unit.

International Social Service (ISS), which has been in existence for over 70 years and is a worldwide network of 140 plus national branches, affiliated bureaus and correspondents, provides social work services and consultation, analyzes contexts and trends related to the conditions and consequences of migration. In partnership with the General Secretariat in Geneva and its International Reference Centre for the Rights of Children Deprived of their Family (IRC), ISS branches and correspondents:

- Have drafted some of the relevant Hague Conventions (1980 Civil Aspects of International Abductions, 1983 Protection of Children and Cooperation in Respect of Intercountry Adoption, etc.)
- Have partnered with UNICEF and taken an instrumental role in drafting guidelines for children without parental care for the UN Commission on Human Rights, particularly by advocating for this topic in those Latin American countries which are members of the Commission this year
- Have mandated as a strategic direction for the coming year, the provision to Central Authorities of expertise and services on the 1996 Hague Convention on Parental Rights to deal with the cross-border status of children and the concept of parental responsibility.
- Continue to broker services through non-governmental and private agencies to resolve socio-legal problems separating families because of forced migration and international movement
- Continue to provide direct service annually to more than 22,000 individual and families
- Maintain consultative status with the United Nations Economic and Social Council, Organization of American States, and is represented on the Board of the NGO Committee for UNICEF

One of the founding branches, ISS-USA works to intervene to guarantee protection of rights and extend just and humane treatment to children, families and adults affected by migration and international crisis, through advances in service, knowledge and public policy. ISS-USA’s advocacy and scholarship strengthen international and national laws and standards that guarantee rights and implement protections; while its training expands the skills and potential of individuals and institutions engaged in international social work and the development of social service systems around the globe.

ISS-USA’s strong international network allows it to locate and utilize appropriate kinship care placements for children who might otherwise be left without parental protection. The
term, kinship care is defined as “the full-time nurturing and protection of children who must be separated from their parents by relatives, members of their tribe or clans, godparents, step-parents, or other adults who have a kinship bond with the child.” (Child Welfare League of America, 1995). As individuals and families move to the US to flee poverty, war, political persecution, or natural disasters, they may enter as refugees, asylum seekers, documented and undocumented immigrants, students, or temporary or skilled workers. With respect to children, many accompany their parents, are born here and therefore become US citizens, or enter as unaccompanied minors who may be immediately returned to their country or origin or detained in detention centers or foster care pending resolution of their legal status.

This paper will examine this latter group, unaccompanied minors, and specifically those from the Americas, in the next section. However, for all other children who might enter the public child welfare system and be placed in the foster care system, due to the death, incarceration, institutionalization, or abandonment and neglect of their parents or caretakers, intercountry placement of children offers an excellent and increasingly considered plan. The population which could be thus served grows annually, with the proportion of births to foreign-born women increasing from six percent of all births in 1970 to 20.2 percent in 1999. Recent statistics from the Pew Hispanic Center put the rate of growth for the undocumented Hispanic population alone at between 300,000 and 500,000 a year, which means that the current undocumented population (2004) is estimated to be between eight and nine million. Further, one in five people in the United States is foreign born, some 27.5 million children in the US have at least one foreign born parent and of these, 14.8 million are living with two.

Logically, one way to serve such multi-national families is to determine kinship resources available not only in the USA, but also across borders, in their country of birth or heritage. Particularly during the legally mandated concurrent planning stage of foster care and adoption, international kinship care planning can be initiated, thus providing both a primary and alternate permanency plan. Any such placement must safeguard children – whether in a different state or an different country—by insuring a home study is conducted prior to placement, as well as established financial assignments, and post-placement follow-up.

Internationally, in order to protect children and insure their human rights in any international placement outside of their parental unit, international instruments bridge the variations of individuals country legislation, policies and practices. In the high volume

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19 Pew Hispanic Center, University of Southern California Annenberg School of Communicatin, “Summary: 2002 National Survey of Latinos” (January 7, 2004.)
US-Canada and US-Mexico border traffic, states bordering these countries have developed Memorandums of Understanding, or they make decisions concerning international child placements on the basis of the ICPC. However, at present few of the international instruments “appear to have an operational effect towards ensuring intercountry agreement upon formats or standards for cross-border, non-adoption placements of children.”

Further, major barriers to the use of international kinship placements come from: a lack of familiarity with the possibility of intercountry placement, and of available services and accessibility to such services in a foreign country; immigration barriers; expenses in court time and legal fees; ethnocentric prejudices against managing overseas placement for a US citizen; language barriers (foreign born residents of the US come principally from Mexico, China, the Philippines, India, Cuba, Vietnam, El Salvador, Korea, the Dominican Republic, Canada, Germany, and the CIS former states of the Soviet Union and fear of a breakdown of services for the child. In addition, there is reasonable fear that unresolved issues in the family of origin and lack of structured monitoring in such placements could lead to exploitation or abuse of the child; as well as a slower rate of family reunification because the birth family is less involved. Thus the imperative for a comprehensive home study prior to any placement of the child remains vital. Finally, other barriers come from issues confronting already overworked caseworkers, such as intolerance of the extra time and bureaucratic procedures and paperwork required for such a placement, as well as a lack of supervisory support for the procedures.

ISS-USA uses its linkages to counterparts in state welfare authorities around the world where ISS units bring their expertise in national laws and polices and social and legal systems, languages and traditions and cultural norms to specific child and family needs. As summarized in a recent ISS publication, the process is direct and effective, with ISS acting as the point of contact and information conduit for case continuity and collaboration:

ISS-USA receives international home study requests… from individual State child welfare offices and has agreements to provide these and other international case management services …on a contractual basis. The sending state agency provides ISS-USA with a case summary on the child, including court orders, relevant medical and psychological information and, if available, a sample home study format used by the state. These in turn are sent to the appropriate ISS office abroad, which works closely with its child welfare offices to procure the study. Communication is facilitated through ISS staff in both countries as the case progresses or changes.

23 Texas Department of Protective and Regulatory Services Memorandum of Understanding with El Sistema Nacional para el Desarrollo Integral de la Familia (DIF) for the four Mexican states bordering Texas DPRS regions; Maine, Oregon and other Canadian border states and who share families who reside in both countries collaborate informally with Canadian provincial authorities.
24 Naughton and Fay, “Of Kinship and Culture…”
25 Schmidley, 2001
26 Naughton.
After decades of placing children without parental care with relatives or extended family overseas, work which still represents on a fraction of the potential population which might benefit from such planning, ISS-USA has identified several ongoing recommendations. These include the need for further research on such placements, specifically the adjustment issues of international kinship placements; implementation of standard procedures and standards for international kinship placements; adaptation of the language, ideology and law articulated in the Hague Convention on Adoption (1993) to inform and facilitate a similar international kinship compact; extension of the reciprocal written standards now utilized by bordering countries; and clear written agreements of responsibilities for sending and receiving agencies prior to placement.

A very brief samples of the thousands of ISS cases, each of which involves inevitably convoluted actions, but for which services were provided through the ISS network, include the following:

- An Australian-American 14-month old child entered Child Protective Services (CPS) in the States, where it was determined she had been sexually abused by her father. ISS-USA arranged with ISS-Australia for a home study of the grandparents’, who were determined to be appropriate caretakers. The mother left the husband, returned to the parents, and post-placement reports showed the state had terminated its case and legal custody was returned to the mother.

- A 10-year old Ivory Coast child, whose father had left the family following her birth, and whose mother left her in the charge of her grandparent to migrate to France. The mother sent for the daughter nine months later but the child was subsequently removed from her care by the local CPS because of neglect and abuse. ISS-USA was involved in assessing if the mother was able and willing to assume responsibility for the child, and it was determined that the parent’s immigration status in France would not allow for her to petition for the daughter to enter France. Subsequently, ISS-France and ISS-USA collaborated to identify a kinship placement for the child with relatives in the US.

- A 11-year old Kosovo boy entered the US through the Refugee Program, along with his mother and two siblings. The mother, hospitalized with paranoid schizophrenia, during which time the children were placed in foster care, returned to Kosovo upon her release but decided to leave the son in the states to allow him to obtain a better education. The child began to demonstrate aggressive behaviors, was removed from his sponsoring parents’ home, and was diagnosed with severe Post-Traumatic Stress Syndrome, the residue of the violence he had witnessed in his village. When his father requested his return, ISS-USA arranged a home study with its ISS correspondent in Kosovo, and it was confirmed that the father and the family’s community had appropriate motivation and resources to care for the son. Following positive and periodic post-placement reports, the state will terminate its responsibility for the child’s custody.
Best practices which promote reunification in countries of residence or refuge of children rifted from parents because of refugee reasons economic deprivation, illegal labor and trafficking, cessation of family bonds, and/or homelessness.

The population of children without parental care who are not being served in foster care or other placements require different kinds of direct services, policy changes, and commitments. They may be children living in families in the United States, citizens by virtue of being born here, but with parents who have no documentation, and whose ability to stay in the country with their children could be highly precarious. As of March 2004, 13.9 million people, among them 4.7 million children, lived in families in whom the household head or wife was an undocumented immigrant. Of that total, 3.3 million children with American citizenship live in families where the parents, or some relative, is illegally in the country.\footnote{Pew Hispanic Center, 2005} To clarify this point, when US citizen children have a parent or guardian who faces deportation because of immigration or criminal violations, a state social service agency may gain protective custody of a child and make recommendations on custody or visitation to a parent or relative living in or returning to another country. In such instances, as in those in which a child is abandoned, orphaned, or had an incapacitated parent, and the only known relative lives overseas, the Vienna Convention on Consular Relations and Optional Protocols requires that States considering appointment of a guardian or trustee of a foreign national immediately notify the nearest consular authorities of that national’s country.

With respect to the second group, children without parental protection in the Americas, the term “children in migration” is used here to include all children without adult protectors, i.e., children whose normal familiar bonds have been severed, children exploited by illegal labor practices, market children who work in the streets but return to a home at night, children who live in the streets with little or no family contact; and unaccompanied and separated children moving across borders either seeking refugee protection or family reunification, or escaping trafficking.

Throughout Latin America, children and families face almost insurmountable problems resulting from political persecution, armed conflict, political oppression, government inefficiency or instability, natural disasters, disease and economic destitution, all of which contribute to the ongoing undermining, destruction and separation of families. Involuntarily, many children are left without any protections, without the most basic human needs for protection, housing, nutrition, education or adult support. They are abandoned by their parents, seek to run away, or become kidnapped or abducted for trafficking in labor, sex, or the baby market. Children may also cross international borders seeking refuge protection for various types of persecution, including child specific forms. While it is impossible to project a precise number for the size of this population, as assessed by surveys and studies by the United Nations International Children’s Emergency Fund (UNICEF), the International Labour Organization (ILO), the World Bank, and Casa Alianza, in Central America alone the estimated number of unprotected children who fall into the category of “children in migration” may

Children in migration in the Americas rarely receive the proper protection, intervention, and care they require, because of the severe dearth of resources in the region. The individual government social services and their agents who seek to work with this population are severely strained because of inadequate funding, rapid turnover from political changes, inadequate understanding of the scope of the problems, and legal constrictions. Further, while international treaties and national laws articulate protections for children and families, they are inadequately applied to the specific needs of in-country issues; or they are insufficiently enforced because of a poor understanding of the statutes by participating social services providers, or because of governmental noncompliance.

At the May 2003 meeting of the ISS International Council, members adopted the following strategic objective: to expand and strengthen the ISS global network in order to better serve women, children and families affected by 21st century displacement and migration. The International Council charged ISS leaders to devise strategies to operationalize this objective. Acting on this mandate, ISS-USA, in conjunction with ISS-Canada, ISS General Secretariat, ISS-Guatemala and ISS representatives from 31 Latin America and the Caribbean countries, academic experts, the IOM, human rights groups, and other NGOs convened a consultation in March 2005 in Antigua, Guatemala.

Several themes shaped the discussion, but what quickly dominated the discussion was an admission of the same kinds of inadequacies in providing care for children as are apparent in all situations of children who are without adult protection and who are denied their human rights:

1. the failure of a widespread political and civil will to implement international laws crafted to protect children’s rights;
2. the lack of systematic data on the numbers of children without parental protection who cross borders within the region and from Mexico into the United States, and who are subsequently returned without records of their fate;
3. the absence of standards within countries and within the region as to the care of children in migration—from the time they leave their home, through the period of their migration, through border crossing and detention, to repatriation, to placement or return to home of origin;
4. the inadequacy of regional coordination mechanisms which would insure collaboration by social workers, shelters, agencies, NGOs, and governments to locate this population, provide them services, and reunite them with families
5. the prevalence of, and vulnerability to, trafficking and the worse forms of child labor among this population;

(6) the need to document cases and use them for advocacy, especially among stakeholders and policymakers;
(7) the desirability of training for all involved with the legal or service components of these children – social workers, customs officers, judges, lawyers, shelter and detention center personnel and their supervisors, etc.

Five sources of information provided some sense of the size, distribution, and specific regional needs of this population, specifically in the cases of children entering and leaving Mexico by the northern border as recorded by UNICEF, DIF, and Mexican consulates and shelters and children migrating through Honduras as researched by the IOM; the situation of children and families crossing borders or internally displaced in Colombia, Paraguay and Argentina; and children entering the United States and repatriated without services or detained. This paper will look at some of the conclusions of that research.

A recent UNICEF study documented unaccompanied children and adolescents who migrate from and are repatriated to the eleven border cities of northern Mexico. The study, the first of its kind, produced data on the numbers involved, examined inter-institutional procedures used for this population, as well as the extent and standards of treatment for child migration. Its results typify those acknowledged in other countries in Central and South America and the Caribbean, although the numbers and circumstances and geographic scope of the migrant children vary. On the basis of the UNICEF-Mexico study, initiated in conjunction with Mexico’s DIF, and the Inter-Institutional Program for Care of Border Minors recommendations were made to each state concerning best practices for improving migratory management of these children and insuring that they be treated by institutions and legal agencies in a way compatible with children’s rights as articulated by the CRC, and to guarantee their best interest and safe returns. The intention is to coordinate efforts towards that end by governments, public institutions, national and international agencies, and civil society.

Statistically, it is evident that these migrant children who are then repatriated come predominantly from the center of the country. Some 70 per cent are male, and 80 per cent are between the ages of 13 and 17. Many unaccompanied minors are “invisible;” and records kept of their number represent different years and criteria: thus figures vary as to the total numbers of these children. The Mexican Secretary of External Affairs records

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32 Fernandez Perez, “La Situación de los ninos, ninas y adolescentes migrantes en el Consor de Latrinamerica;” Rosa Maria Ortiz, “Migración de ninos sin cuidado parental,” Comité Derechos del Niño, SSI Paraguay, Global Infancia; and Gabriella Vera, Bienstar-Columbia, La Ninez en Colombia” Consultation (as above), Antigua, 2005.

33 Frances Connell, “His Name is Today: Children in Migration in North America,” (as above)

34 Gallo 2005.
that it assisted 87,757 unaccompanied Mexican minors between 1996 and 2004. The Mexican consulates report repatriating 5,457 children in 2003 alone, while the shelters of the eleven border cities document receiving 42,342 unaccompanied minors between January 1998 and May 2003.\(^{35}\) Statistics kept by the US indicate a parallel number, an estimated 15,000 unaccompanied minors, the majority male adolescents from Central America, attempt to cross into the US and are returned without further processing; while annually some 6200, 750 of which on any given day, are detained by the Department of Homeland Security.\(^{36}\) Ninety percent of this number are repatriated while in their initial placement, and the remaining go to families or foster care pending the outcome of their immigration cases. Finally, IOM,\(^{37}\) which also concedes that reliable information does not exist on the extent of migratory flow of minors, either by country or region, reports of 20,000 minors deported in one border port alone, Mexicali-Calexico between 119 and 2001, and that 80\% of these children had relatives in the US with whom they sought reunification. On the other borders, IOM estimates that 12,500 minors were deported by Mexico to other Central American neighbors in 2001.

What is consistently apparent is that these children face innumerable risks from their place of origin, during the journey, and upon detection in Mexico or the US, including involvement in crimes, being hooked into networks as sex slaves and exploited labor, suffering accidents and even death; and violation of rights to adult protection, food, health, education, and recreation.

Finally, the most striking areas for remediation require local, regional and international implementation of existing statutes and conventions and introduction of new bilateral, regional and cross-border agreements. Findings include the following (for both Mexico and other areas of Latin America and the Caribbean):

- Children are sometimes separated from their parents or other family members at the border, and their possibility of family reunification is further aborted by deliberate efforts to transport the child to a point of repatriation removed from the point of initial entry; further, when kept in shelters following repatriation, they rarely get information about the families from whom they have been separated.

- Children were detained at the border and put in adult facilities without documentation, a practice now rectified by granting responsibility to unaccompanied minors to the Division of Unaccompanied Minors Services in the Office of Refugee Resettlement, in lieu of Homeland Security, who place 90\% of such children in foster home settings pending immigration status.

- Some of the children are used by smugglers as guides, and thus when apprehended are issued citations by US authorities, a status which makes them vulnerable to arrest and incarceration as adults upon repatriation.

- Insufficient coordination between police forces, and migration officials; corruption and lack of will by government authorities and institutions; and a mentality which groups every violation as an exception, rather than a rule, stymies efforts to address the needs for genuine protection of children; governments are

\(^{35}\) Gallo.
\(^{36}\) Connell
\(^{37}\) Ramirez,
too often complicit in allowing trafficking, sexual exploitation and domestic service to flourish

- Neither space nor adequately trained personnel is now being employed to care for the children during the repatriation process (by the National Institute of Migration); children likewise are turned over to alleged relatives without monitoring or home studies by state or municipal DIF offices.
- There is little consistency in standards of how these children are treated in terms of legal processes and participation by DIF in the family reunification process, and no follow-up system to verify children reach home safely.
- In those cases where inter-institutional collaboration, bilateral agreements about repatriation, and protocols for the children’s repatriation have been developed, they are not implemented, are often out of date, and are of minimal use, with little adherence to guarantees of a timely resolution for repatriation, privacy for the child, or the right to be free of violence and in the security of a family.
- Children have language barriers and no translators, and indigenous children are especially vulnerable during repatriation and have more difficulty locating relatives in the interior.
- There is insufficient budget in the governments of all involved shareholders to handle the numbers of unaccompanied minors, provide resources for their return, and help stabilize their families.
- Serious economic limitations within each country of origin, due to imposed programs of structural adjustment and external debt, adversely affect children’s programs and protection.
- The conditions of children’s institutions and the predominance of governments to place children in such places, as opposed to supporting vulnerable families or putting children in foster homes, makes imperative the need for standards to govern the children’s treatment in such places.
- The criminalization of migrant, trafficked and street children, and the failure to reintegrate the swelling numbers into families and offer them educational opportunities, continues to fuel the problems and create challenges.
- Domestic violence, physical abuse, parental substance abuse, poverty and deprivation trigger children to leave home and live on the streets.

Conclusions and resolutions on unaccompanied children:

With respect to unaccompanied and separated minors two relevant and timely fora need be considered. The first comes from recent research focusing on “Best Practices for Serving Unaccompanied Minors Faced with Return to their Country of Origin.” As discussed earlier, such work underscores the need for improved coordination between countries affected by the migration of minors, specifically the development of standardized protocols on both a national and international level. Regionally the Separated Children in Europe Programme (SCEP), provided an excellent model, while the development of guiding principles based on the rights of the child, as in the CRC,

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remain a core pursuit. A second discussion comes from the regional plans for action and collaborative papers developed by participants at the Regional Consultation on Children without Parental Protection in the Americas: Children in Migration.\textsuperscript{39} These plans emphasized the following trends and suggestions:

- Upon return to their own country and work, these social workers, child welfare officers, human rights advocates, and academics proposed to make changes, which can be grouped under six categories:
  (a) advocacy/enhanced outreach to and networking with media, politicians and government authorities, and other NGOs
  (b) development of training tools and implementation of training for all stakeholders/players in migration,
  (c) legal reform and monitoring of legislation relevant to children’s agenda in country and regionally,
  (d) initiation of data base to acquire accurate information on the numbers, routes, outcomes of unaccompanied children crossing borders
  (e) development and implementation of regional standards for the treatment of children in migration while in transit, during repatriation, and in follow-up programs and service provisions.
  (f) education of communities and children as to their rights and the means by which to obtain those rights.
  (g) better casework referrals and reports
  (h) education about the work of International Social Service (ISS)
  (i) stronger ties with other NGO’s and government

With respect specifically to children, those forced to migrate and separated from adult protection, regardless whether as a result of civil war and violence, or for economic or political causes; as well as in cases of children involved in the worst forms of child labor or trafficking of persons:

- All services, legal proceedings, and efforts at repatriation, family unification and alternative placements must be grounded in the needs and priorities of the children and youth themselves.
- Work on behalf of this population should utilize new, holistic models for work with children and youth\textsuperscript{40} in their relation to society as a whole rather than to single issues or specific events about which we have great concern.”
- Such a focus would allow for “evidence-based” programming, rather than programming which merely reflects some “current global values,” i.e., child soldiers, traumatized children, child laborers.
- With respect to children who are of a maturity and experience to have often been child heads of households, “set” interventions by international NGOs aimed at family

\textsuperscript{39} International Social Service, Proceedings from a “Regional Consultation on Children without Parental Protection in the Americas: Children in Migration (Antigua, Guatemala, March 2-4, 2005).
reunification may sometimes be misplaced, since parent-child separation is not always either accidental nor unwanted, but rather may reflect a youth’s choice to find better protection in the face of conflict or other adverse situations. This is not the case in the majority of instances of children without parental protection.

- The best interest of the child, along with the development of protective measures which incorporate youth’s own beliefs, practices and realities must be the premise for all interventions.
- When at all possible, there is a need to “utilize participatory research methods and operational strategies that are adolescent/youth centered and context-specific, and that involve youth as participants in the analysis of their own situations, needs and capacities.” 41
- In work to repatriate and reintegrate children who have been victims of child labor, trafficking, etc, it is important to:
  emphasize the potential of educational and livelihood opportunities for overall protective strategies—
  design education which provides survival skills and preparation for job—
circumvent the inadequacy of many primary education curricula—
  • utilize age-specific educational strategies, which are relevant to their life phases
  • provide the means to allow the children to develop and maintain constructive and productive roles in society
  • provide vocational training, livelihood generation
  • include in their educational training, information on how to protect their health (reproductive, etc.)
  • offer apprenticeships, technical skills training, etc. to keep them from being drawn again into exploitive activities.

- interventions must involve the youth in the design, management
  and implementation of protective solutions.
- Interventions must also build on and engage strengths youth have developed
- Interventions must recognize indigenous measures for healing, reconciliation, suffering, etc. Local resources must be used, such as the ritual purification ceremonies communities employ for returned child combatants.
- Interventions must be place and culture specific, not centralized, westernized, etc.

- Intervention must focus on restoring the community and respect definitions of family which may include peer or sibling groups and not parent-youth.

Final Comments:

41 Ibid. 29.
In conclusion, this paper has looked at efforts to reduce family stability, insure family reunification and utilize kinship placement when that is not possible, and initiate standards for treatment and right-based assistance to all children without parental protection, in a variety of milieus and situations. Action is needed with respect to both groups of children separated from parents but with relatives in other countries; and children without parental care and “in migration”.

- First, utilize holistic community-based interventions, collaboration, and multi-disciplinary approaches, to provide family support, education, vocational training and employment, counseling, etc., to begin to address the root causes of the massive illegal immigration by children and their families, the breakup and separation of families, and the abandonment and exploitation of children
- Second, standards based on international protocols and conventions must not just be ratified and “prettified,” but actually implemented through national, local, and regional laws and governing bodies
- Make use of family-based placements, cross-border kinship placements, and community-supported care
- Increase the work on behalf of stopping trafficking, especially of minors and work for their protection
- Increase the production and dissemination of information on the numbers of children affected by cross-border and intra-country family separation and their unique vulnerability
- Educate on the extent of trafficking and its harmful effects for children in irregular migration situation, i.e., traveling without proper documentation, whether with family members, etc.
- Decriminalize the status of unaccompanied minors by recognizing that they are children first and, and second children without adult protectors
- Increase the education, training, counseling, economic opportunities for these children and their families in the countries of origin
- Sensitize and educate the adults responsible for dealing with these children in shelters, courts, institutions, and social services as to the children’s rights and needs in the host country, as well as in the country of origin
- Provide literacy and skills training to the children, in areas in which the country of origin needs and can utilize, as determined by partnerships with local businesses or schools;
- Increase opportunities for tracking these children, to follow up on their situation once they are repatriated, specifically in terms of family reunification and social and economic reintegration; and insure follow-up on any kinship placement
- Initiate and expand collaborative and coordinated efforts among all stakeholders in the hemisphere to address the needs of these children and their families—through legislation and its implementation and enforcement; enhanced communication; and utilization of the media and community-based education

Thank you.