

The Role of the International Social Service in the History of Private International Law

 by Roxana Banu

The “International Social Service” (initially named “International Migration Service”) was created in 1920 by the Young Women Christian Association as a network of social work branches helping migrant women and children. In 1924 it became an independent transnational network of social work agencies offering socio-legal services to migrants and refugees, irrespective of gender, religion or race. It grew exponentially since then and is now present in over 120 countries helping more than 75,000 families each year. Since its inception and largely unbeknownst to private international law scholars, it worked (and continues to work) on virtually every aspect of transnational family law. In the first half of the twentieth century the ISS used its extensive database of social work case records to draft expert opinions on private international law matters for the League of Nations, bar associations, the US Congress, the Hague Conference on Private International Law and others. It devised and coordinated interdisciplinary teams of experts to conduct research on cross-border family maintenance and cross-border adoptions. It experimented with all sorts of legal arguments in order to push for new claims in private international law, especially in U.S. courts.

The ISS has been hiding in plain sight in the history of private international law since the 1920s. Anyone lucky enough to visit ISS-USA’s archives at the University of Minnesota would be astonished by ISS’s extensive engagement with virtually every aspect of transnational family law. During the first half of the 20th century the ISS left no stone untouched in an effort to devise an international socio-legal framework for cross-border family maintenance claims. It lobbied scholars, consuls, employers, national legislators and international organizations; its global network of social workers worked together to inform women living abroad when their husbands attempted to file divorce proceedings in the U.S.; it experimented with entirely new and imaginative legal arguments to convince U.S. courts to assume jurisdiction over foreign women’s maintenance claims against

their husbands living in the U.S.; and it submitted expert evidence to the Child Welfare Committee of the League of Nations.

Unbeknownst to contemporary private international law scholars, the report sent by Ernst Rabel to the League of Nations on cross-border maintenance claims had in fact been commissioned by the ISS and based almost entirely on its case files. The entire project on cross-border maintenance claims was in fact the brainchild of Suzanne Ferriere, ISS's General Secretary until 1945 and thereafter its assistant director and one of only three women on the International Committee of the Red Cross during WWII.

In the 1930s the ISS was involved in the debates on the nationality of married women at the League of Nations. Unlike other feminist organizations, which were skeptical of the League's attempt to conceptualize the issue of married women's nationality as a conflict of laws question, the ISS offered an analysis of its case records precisely to press the League to become more conscious and more precise about the conflict-of-laws dimensions of the issue of married women's nationality. It continued to press for legal aid for foreign citizens, to help foreigners bring inheritance and property claims either in the U.S. or in their countries of origin and to press U.S. and foreign courts to co-operate with each other in cross-border family law matters.

In between the two World Wars several ISS social workers were responsible for the relocation of Jewish children to the U.S., devising new rules on cross-border guardianship and adoption almost from scratch. After the Second World War ISS personnel collaborated with the United Nations Relief and Rehabilitation Administration in setting up cross-border adoption and guardianship standards for displaced unaccompanied minors. Meanwhile, back in the U.S., ISS members petitioned the US Congress to raise the quota for adopted children and to disallow adoptions by proxy.

Most of the issues the ISS had been working on in the first half of the 20th century belonged to an unchartered private international law territory. With modest funds, ISS branches often engaged in detailed legal research projects. Among many other gems, ISS USA's archive contains numerous article clippings, extensive correspondence and research inquiries sent to universities, legislators or other social workers in an attempt to piece together private international law concepts and techniques that were unknown even to legal practitioners and

scholars at the time.

Recovering the history of ISS's engagement with private international questions is worthwhile in itself. But even more remarkably, one could zoom in and out of the ISS and thereby begin to write an entirely new history of private international law. Zooming in, one is exposed to a surprising joined history between transnational social work and private international law. As the ISS was pioneering new transnational case-law methods, it placed private international law squarely in its center, to the dismay of both social workers and private international law scholars. Reading social workers' forays into private international law together with their writings on transnational social work methods and on multiculturalism offers a new window into private international law's and social workers' engagements with the foreign, contradictory and paradoxical as they may be. Zeroing in on the ISS as a private international law agent also exposes a whole range of women – social workers, philanthropists, ambassadors' wives, Hollywood actresses – that are entirely unknown to a field that it yet to write its gendered history.

Zooming out of the ISS offers yet another lens through which to re-write private international law's history. On the one hand, ISS combined a micro-analysis on individual cases and individual families with a macro-analysis of the geopolitical context causing hardship for families across borders. Tapping into this dual standpoint presses private international law, through the eyes of the ISS, to reconstruct its relationship with migration law and policy and with the field of international relations. On the other hand, moving the analysis from the ISS outward means joining private international law back with the extensive network that the ISS itself was relying on when doing its work. Among many other remarkable figures, this network exposes Jewish women émigrés to the Americas who were using their dual-legal background to help migrants or who had managed to become private international law professors in their own right. For example, although most would be familiar with Werner Goldschmidt's work in Private International Law, few would know that his sister-in-law, Ilse Jaffe Goldschmidt opened an ISS branch in Venezuela (the Nansen Medal was awarded to its director general, Maryluz Schloeter Paredes, in 1980) and worked extensively on cross-border adoption matters.

Engaging with the history of the ISS means retracing an incredible range of connections between private and public international, migration law and policy,

foreign affairs and social work, connections which were often built and fostered by the ISS itself. The archive contains interviews, studies in refugee camps, cross-branches socio-legal research studies, expert opinions offered to a whole range of actors, reports and opinion pieces on a broad set of geopolitical and socio-legal topics, as well as confidential letters sent between the branches cataloging the challenges of their unprecedented work. Whether one is interested to recover the range of private international law projects that the ISS was involved in or engages with the ISS as a window through which to gauge a new history of private international law, its extensive archives in every corner of the world are waiting to be explored.



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