

**Forum: Legal Committee (GA6)**

**Issue: Establishing a Legal Liabilities for child protective services**

**Student Officer: Livaniou Aikaterini**

**Position: Co-chair**

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## **INTRODUCTION**

An estimated number of 1.750 children, most of them under the age of five passed away in 2021 due to neglect and abuse. These avoidable child fatalities are not only the product of inefficiency or a delay in cases but rather a logical and obvious effect of a social system of care that prioritizes the maintenance of the family and the recovery of the abuser over the safety of the youngster, as the. Child Protective Services (CPS) mainly work for the union of an abusive family rather than the safety of the abused. children.

Child victims of abuse receive special consideration than other victims of violence, as they are unprotected usually in violent households. The law formation only permits Child Protective Services (CPS), a community services organization sorely missing in law enforcement objectives, preparation, and knowledge, to obtain the original review of abuse, to carry out the first investigation of the violent act, and to direct the development of the court case in cases of crimes against children. Law enforcement made a catastrophic mistake when they handed the responsibility of the criminal investigation and the decision of whether or not to rescue the child from risky situations to CPS. While CPS defines appropriate response times when it comes to days, police evaluate their reaction times to the site of adult offences in minutes. According to its policies, CPS is obligated to set up the crime scene within 24 hours after receiving a "priority one" or life-threatening complaint of child abuse (meaning that they prioritise cases). Their objective is to protect the family as a whole and cure the offender and they don't seem to have the same goal for the protection of children. A countrywide agreement has emerged that all this family reunification strategy is unsafe and ineffective, and that kids must be taken from families when they are mistreated or neglected. This agreement exists as many countries have had system defeats with Child protective services.

In addition to the welfare of vulnerable and neglected children, one must start to think about the long-term effects child violence impacts the world. A legal framework must be constructed because a community service organization that upholds the oppressive and medically unsupported belief that it is worse for the kid to be taken away from the parents than to be kept in a dangerous environment, can't fully support abused children.

## DEFINITION OF KEY-TERMS

### Child Protective Services (CPS)

“Child Protective Services (CPS) provides protection for children who are at risk of, or are experiencing neglect, physical, sexual, or emotional abuse. The focus is on the safety of the child and support for parents to strengthen families and promote safe nurturing homes for children.”<sup>1</sup>

### Law enforcement

“The department of people who enforce laws, investigate crimes, and make arrests : the police”<sup>2</sup>  
When referring to law enforcement, the police and bodies such as CPS are the ones that form it.

### Legal framework

“Comprise a set of documents that include the constitution, legislation, regulations, and contracts”<sup>3</sup>

### Neglect

“To not give enough care or attention to people or things that are your responsibility”<sup>4</sup> In this case, when a child is neglected, that child usually has no access to education, food and water, socialization and parental love.

### Abuse

“The act of treating someone cruelly or violently”<sup>5</sup> Abuse is divided into three different categories, namely physical abuse, verbal abuse and sexual abuse.

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<https://santacruzhumanservices.org/FamilyChildren/ChildProtectiveServices/WhatisChildProtectiveServices>

<sup>2</sup> <https://www.merriam-webster.com/dictionary/law%20enforcement>

<sup>3</sup> <https://www.igi-global.com/dictionary/legal-framework/73647>

<sup>4</sup> <https://dictionary.cambridge.org/dictionary/english/neglect>

<sup>5</sup> <https://dictionary.cambridge.org/dictionary/english/abuse>

## BACKGROUND INFORMATION

### History

Child Protective Services (CPS) organizations were created in 1976 with the authority to look



into allegations of child abuse and to safeguard children. The 1974 Child Abuse Prevention and Treatment Act (CAPTA), which required that all nations establish procedures to examine alleged occurrences of childhood abuse, led to the initial establishment of child protective services (CPS) organizations, which were partially funded by the federal government of the US. A government organization called Child Protection Services (CPS) is in charge of looking into allegations of child abuse or neglect, assessing if it has happened, and taking action to safeguard the minor. The CAPTA law has made it legal for CPS to enter households when children are being abused in any way, including physically, sexually, and emotionally. In most circumstances, CPS authorities help families discover the right support resources to safeguard

and enhance their children's well-being. These organizations help find children alternative settings when considered essential. When a child is facing physical abuse, CBS. Intervene in households and take away the child from the abusive family. After they ensure the safety of the child, the case goes to court and opens for trial with severe punishments for the mentioned parents.

### Issue

In the past years, child protection services are not functioning as expected, with little response to cases and injustices and not always do they work for the safety of the child, but rather try to avoid cases that need to be taken to court, which are cases that involve physical abuse. In many countries, like the USA and the UK when the service receives an abuse allegation, what the

personnel tries to do is rehabilitate the abuser and try to keep the family united. This is a problem, because, that this action puts the kid in dangerous situations that involve an abusive parent. For kids kept in the institution, the governments are paying the nations. The community services organization gets more profit from sheltering and paying for the child the more children there are in the institution. The government financial aid frequently makes it preferable to put kids under program care or with parents whose main source of income comes from paying for adopted kids rather than attempting to relocate the harmed kid into a household with possible adoptive parents. The turning of an adult is a significant turning point for all adopted by the government kids. Many of them will be forced to leave the institution once they are adults. Even if the kid is enrolled in education or not, funding ends the day the youngster becomes 18 years old. Most of them are expelled from the foster family right away. Boys and girls leaving the foster care system face the issue of poverty. Moreover, all the allegations of abuse need to be examined before action is taken, which needs plenty of time and puts that way the kid in unwanted situations that could've been avoided if action was taken immediately. One final issue about CPS is the racial biases that children go through. Initially, due to the high load of cases, CPS prioritizes cases that need to be examined first. It has been noted, that most of these cases include a Caucasian child, while only a few of them concern people of color.

## Effects

Initially, the Agency of CPS has developed into an institution whose foundation is the kidnapping and severing of children from parents. This is not to argue that there aren't some kids who do need to be protected and taken out of horrible environments. The focus of this issue is on the families who have been victims of the so-called "legal kidnapping," weak rules, and an agency that occasionally refused to take a child who was being tortured and abused. Legal kidnapping, done by CPS refers to the withdrawal of a child without consent. Children have suddenly been removed from hospitals, taken away in their sleep or even during their presence at school. This is extremely shocking, especially for young children who are not aware of such situations and are suddenly taken away from their parents or environments that they are used to. When it comes to the load of cases, there are many dangers for the child's safety. As mentioned before, cases need to be examined, which usually takes up to three months. When it comes to emergency situations, three months are unbearable for a child that lives in a dangerous environment. Moreover, children that are put into foster care by the government, usually lack necessities that young kids have. For example, most of them are homeschooled and find it difficult to socialize and be entertained, which is the key to happiness for people their age. If all nations are to successfully address the growing issue of child abuse, answers to this complicated and ineffective system must be found. Any type of child abuse is illegal and must be dealt with as such. It is crucial that main responsibility for receiving and looking into reports of child abuse be entrusted to law enforcement. When handled properly, law enforcement separates the abuser from the child. Governmental action is urgently required to guarantee that legal provisions related to abuse or neglect of children whether physical or sexual, regardless of whether committed by a relative or a stranger, be improved to better protect children. All governments can halt both real and systematic child abuse by quickly and forcefully stepping in on the kid's behalf and making sure that the child's fundamental rights are respected in any ensuing court proceedings. Governments

moreover need to follow the fundamental rights of children, as stated in the universal declaration of the rights of children.

## MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

### UNICEF

UNICEF works for the protection of the rights of children and provides help and shelter to children victims of abuse or neglect. UNICEF partners with organisations for the protection of the rights of the children and governments of all nations to better assist neglected and abused children. UNICEF's goal is to protect the universal declaration for the rights of the child and participate in assisting children, in order for their rights to not get violated.

### End Child Prostitution and Trafficking. (ECPAT) International

The main goal of the child's rights group ECPAT International is to stop the sexual abuse of children. ECPAT seeks to solve issues such as child forced prostitution, child trafficking, online exploitation of children throughout the globe.

### Save The Children

Save the Children promotes child protection of rights in a number of ways including safeguarding programs hosted by professionals, crisis intervention, and advocacy when it comes to legal issues that arise when intervention takes place)

### Iceland

With laws that supports children's rights, under article 62 of the Children's Act, a priority for the greatest advantage of minors, and a sensitivity for their opinions, Iceland is the nation with the greatest child protection services.<sup>6</sup>

### USA

Even if government payment for the child protection system in the United States reached billions of dollars, the most current estimate <sup>7</sup> reveals that there is still an enormous demand, making it impossible to provide for every child's requirement.

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<sup>6</sup> "Child Protection in Iceland." *Stöndum Vörð Um öll Börn | Barnaverndarstofa*, [www.bvs.is/media/files/file107.html](http://www.bvs.is/media/files/file107.html).

<sup>7</sup> "The Child Welfare Challenge : Policy, Practice, and Research : Pecora, Peter J : Free Download, Borrow, and Streaming : Internet Archive." *Internet Archive*, [archive.org/details/isbn\\_9780202361260](http://archive.org/details/isbn_9780202361260).

## United Kingdom

Each of the four countries that make up the United Kingdom, England, Northern Ireland, Scotland, and Wales has a system where local governments have obligations and duties for local children in need. This includes the ability to start legal processes for the removal of children from their parents' care or adoption proceedings, as well as the provision of guidance and services, housing and care for children who become unaccounted for. The latter's requirement is "serious damage," which includes neglect and physical, sexual, and emotional abuse. set up to safeguard children from maltreatment. In order to determine young people at risk of damage, take action to safeguard those children, and stop further abuse from happening, each country has a framework of laws, guidelines, and practices in place. Every UK country is in charge of its own laws and regulations pertaining to social welfare, health care, and education. The majority of safeguarding and child protection topics are covered in this. The main set of laws that apply in the UK are as follows: 1989's The Children Act (as amended). Act of 2017 Concerning Children and Social Work

## China

According to research, China does not have a dedicated body for child protection, although a variety of organizations, such as UNICEF and The Multi-Agency Safeguarding Hub (MASH) are engaged in safeguarding young people who are at risk. Therefore, it is possible that these organizations will integrate into a legal child protection system.

## European Union Treaty

The EU has contributed to improve children's lives by following Article 3 of the Lisbon Treaty, which supports the protection of children's rights. It has generated changes in legislation to better safeguard children, led to the creation of guidelines, policies, and instruments, and supported action plans both inside and beyond the EU.

## TIMELINE OF EVENTS

DATE	DESCRIPTION OF EVENT
April 10 1877	The society for the prevention of cruelty towards children is created by Henry Bergh in the United States of America.

May 9 1920	Many laws <sup>8</sup> are created concerning the protection of children in abusive environments in the US
1933	All laws created in 1920 concerning CPS in the US are formed into one single law.
1976	CPS is created to investigate cases of abused and neglected children, by rescuing them and providing them with shelters.
1989	The CPS framework is established in England and Wales
1991	The CPS framework is established in Australia
2000	CPS starts being questioned by parents and faces issues when it comes to its application of the law.

## RELEVANT UN RESOLUTIONS, TREATIES AND EVENTS

### UN RESOLUTION -A/RES/74/133

UN Resolution GA on the Rights of the Child focusing on children without parental care (A/RES/74/133). This UN resolution, formed in 2019 focuses on the protection of neglected children. The UN Resolution on the Rights of the Child is a successful resolution, submitted by many countries that are all contributing to the fight against injustice and neglect.

### UN DECLARATION OF HUMAN RIGHTS

The universal declaration for the rights of children, proposed by the Committee on the Rights of the Child and written by former founder Eglantyne Jebb in 1959, focuses on the protection of

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<sup>8</sup> "State Laws on Child Abuse and Neglect." *Child Welfare Information Gateway*, [www.childwelfare.gov/topics/systemwide/laws-policies/can/](http://www.childwelfare.gov/topics/systemwide/laws-policies/can/).

the rights of the child, namely the right to education, health, protection and more. Since, the successful declaration of children's rights, member states follow the rights of children, that are stated in this declaration.

## **PREVIOUS ATTEMPTS TO SOLVE THE ISSUE**

### **ESTABLISHMENT OF A NETWORK**

Currently working on the establishment of a network for the rights of children. The Network will improve communication and cooperation, education about children's rights between the EU and Member States. It will aid in the execution, oversight, and assessment of the European Strategy on the Protection of Children. The system will be made up of the country delegates which will include children, Organizations, officials of citizens, and other key parties in some of its operations. This will hopefully prove to be effective when it comes to the safety of child protection services in Europe.

## **POSSIBLE SOLUTIONS**

### **ESTABLISHMENT OF A SUPERVISION MECHANISM**

Establishing a supervision mechanism, where law enforcement personnel supervise child protective services (legal under the CAPTA laws), making sure that way that they do not prioritize cases and work for the protection of all children.

### **ESTABLISHMENT OF A LEGAL FRAMEWORK**

Establishing a legal framework, which states that every child that experiences abuse at home must be taken away from the abusive family, instead of working for the unity of the family. The framework may no longer acknowledge the abusive parents as legal guardians who have custody after investigation is conducted.

### **INSTALLATION OF INFRASTRUCTURE**

Installing infrastructure in countries that do not have shelters for abused and neglected children to be kept at and funding LEDCs, in order for them to be able to do so. There, children will be attending sessions by professional psychologists to deal with possible trauma and will be taken care of by daycare workers.



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