



AICHR
ASEAN Intergovernmental
Commission on Human Rights



Norwegian Ministry
of Foreign Affairs



Child Rights
Coalition Asia

THE ASEAN DIALOGUE

ON THE UN CONVENTION

ON THE RIGHTS OF THE CHILD

GENERAL COMMENTS



ASEAN Dialogue on the UN Convention on the Rights of the Child General Comments

11-12 December 2019 | Metro Manila, Philippines
Dialogue Proceedings



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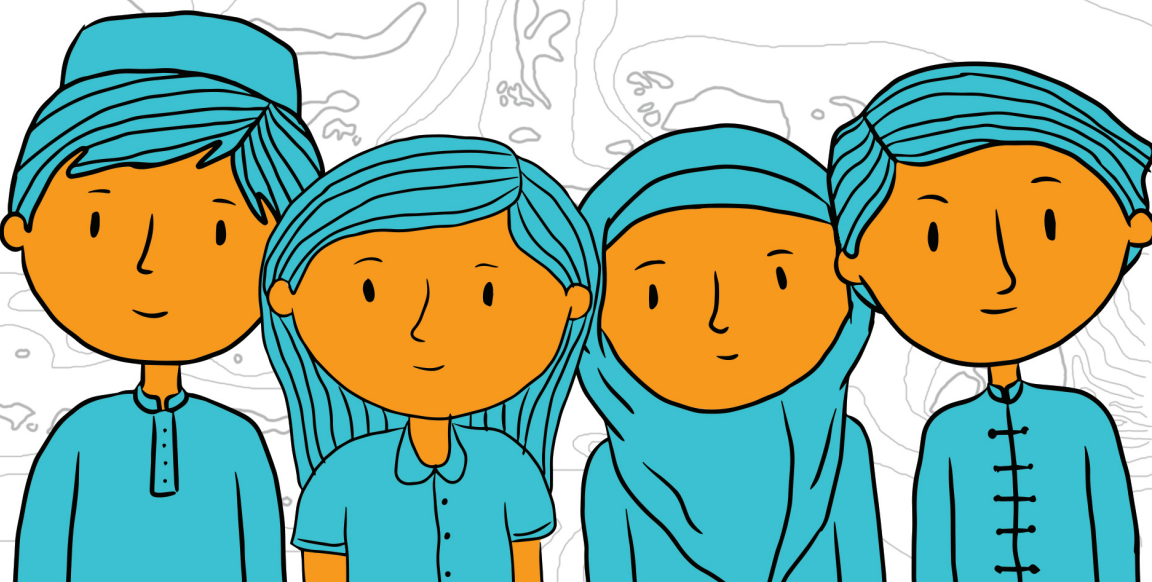




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LIST OF ABBREVIATIONS

ACWC	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children
AICHR	ASEAN Intergovernmental Commission on Human Rights
AMS	ASEAN Member States
ASEAN	Association of Southeast Asian Nations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC Asia	Child Rights Coalition Asia
CRC Committee	Committee on the Rights of a Child
CSOs	Civil society organizations
ILO	International Labour Organization
NGOs	Non-government organizations
OPAC	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
OPIC	Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure
OPSC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
SDGs	Sustainable Development Goals
UN	United Nations
UN CRC	United Nations Convention on the Rights of the Child
VAC	Violence against Children

EXECUTIVE SUMMARY

On 11-12 December 2019, stakeholders from ASEAN Member States and its partners gathered in Metro Manila, Philippines for the *ASEAN Dialogue on the United Nations Convention on the Rights of the Child (UN CRC) General Comments*, which aims to uphold the UN CRC by providing a venue for the target beneficiaries to develop a deeper understanding on child rights as guided by the General Comments.

Organized by the ASEAN Intergovernmental Commission on Human Rights (AICHR), led by AICHR Philippines in partnership with Child Rights Coalition Asia and with the support of the Norwegian Mission to ASEAN, the Dialogue focused on General Comments that provide guidance on two of the four principles of child rights: *General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration* and *General Comment No. 12 (2009) on the right of the child to be heard*.

The Dialogue started with a presentation on the background information on General Comments, which are authoritative interpretations of the UN CRC and serve as guidelines on the implementation of the convention. Afterwards, with the help of the United Nations Committee on the Rights of the Child, the salient features of the General Comments were discussed, supported by case studies and actual experiences in order to better understand the advice and application of the General Comments.

General Comment No. 14 explains that the “best interests of the child” is a right, a principle, and a rule of procedure that should be the primary consideration, not only of parents and caregivers, but also of all those concerned with the adoption of laws, policies, strategies, budgets, and other child rights implementation measures. One procedural safeguard in implementing the best interest of the child is the conduct of child rights impact assessments before and after the creation of laws and policies relevant to children.

General Comment No. 12 expresses that UN CRC Article 12 on the right of the child to be heard is a clear acknowledgement that children also have rights which they can claim and exercise, such as their civil, political, economic, and socio-cultural rights. Although the UN CRC does not explicitly mention “participation” in its text, “child participation” is now widely used to describe ongoing processes with three important components: Sharing information to children in a way that they understand; Dialogue between children and adults done on an equal basis and with mutual respect; and Feedback to children.

To deepen the understanding on the General Comments, presenters from government, civil society, and the academe, shared the good practices and the challenges in implementing the child rights principles in certain settings and situations. The session on the best interest of the child included discussions on children’s rights in the context of economic integration; children in immigration proceedings; children exposed to domestic violence; children’s right to health during the period of adolescence; and children in situations of vulnerability. For the child participation session, good practices and challenges were shared on the rights of the child to be heard in judicial and administrative proceedings and in international settings. A child speaker also shared her experience in speaking out for her rights and the rights of her peers.

During the presentations, speakers identified a few key issues on the implementation of the principles (See “*A Few Key Issues*” boxes). The open forum also brought out a multitude of insights, challenges, and action points that could be referred to by ASEAN Member States for future action (See “*Dialogue Discussion Points*” sections). In addition, the Dialogue held a workshop, which resulted in recommendations to several stakeholders including AICHR and other ASEAN Sectoral Bodies (See “*Workshop: Ways Forward*” section). Some of these recommendations and future action points include the withdrawal of reservations on the UN CRC; strengthening of collaboration between AICHR, ACWC, civil society, and children; and conduct of regional forums to improve the understanding on and implementation of the General Comments and Concluding Observations.

INTRODUCTION

In 2019, the world commemorated the 30th anniversary of the adoption of the United Nations Convention on the Rights of the Child (UN CRC). The Convention, a global act of unity to secure the rights of all children, was adopted by the United Nations (UN) General Assembly on 20 November 1989. To this day, it remains to be the most widely and swiftly ratified international human rights agreement.

In 1995, even when Cambodia, Laos, and Myanmar had yet to become members of ASEAN, all the current ten Member States of the Association of Southeast Asian Nations (ASEAN) already ratified or acceded to the UN CRC, binding themselves to its 54 Articles to respect, protect, and fulfill a full range of rights for all children. The UN CRC is the first human rights treaty ratified by all the ASEAN Member States (AMS). Since then, the AMS, together and individually, have made significant progress in improving the lives of millions of children across the region.

The AMS' commitments to the UN CRC are reaffirmed and reflected in several ASEAN regional instruments, such as the ASEAN Human Rights Declaration, Declaration on the Commitments for Children in ASEAN, Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children, Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in ASEAN, and the ASEAN Regional Plan of Action on the Elimination of Violence against Children, among others.

With more than a third (34.8%) of its population aged 19 years below, ASEAN has declared that children belong to the vulnerable group whose rights are "inalienable, integral, and indivisible part of human rights and fundamental freedoms" (ASEAN Human Rights Declaration General Principle No. 4). While there are significant steps taken by the AMS to bring about positive changes to child rights issues, like many other issues, ASEAN recognizes child rights issues are continuously evolving and requires continuous discussions and updating.

At the international level, these emerging child rights issues are addressed and discussed in instruments such as the UN CRC Optional Protocols and the General Comments. At the moment, the UN CRC has the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC), the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (OPSC), and the Optional Protocol on a Communications Procedure (OPIC or OP3 CRC).

The General Comments issued by the UN Committee on the Rights of the Child (CRC Committee) are authoritative interpretations of the articles in the UN CRC and its Optional Protocols. They aim to address what the CRC Committee sees as systematic violations, misunderstood provisions, or emerging issues relevant to children's rights. These General Comments should be used to assist the State Parties in implementing the UN CRC and in preparing its reports to the CRC Committee. As of September 2019, the CRC Committee has issued 24 General Comments.

Both the Optional Protocols and General Comments aim to address the evolving child rights issues. The ASEAN, faced with challenges in child rights issues, needs to revisit and be updated on these to better safeguard the welfare and development of children in Southeast Asia. The said instruments, when considered and adapted to the regional characteristics of ASEAN and to the national situations of the AMS, shall contribute to the full realization of the rights of millions of children in the region.

ABOUT THE DIALOGUE



On 11-12 December 2019, the ASEAN Intergovernmental Commission on Human Rights (AICHR) conducted the ***ASEAN Dialogue on the United Nations Convention on the Rights of the Child General Comments*** in Manila, Philippines. It was led by AICHR Philippines in partnership with Child Rights Coalition Asia (CRC Asia) and with the support of the Norwegian Mission to ASEAN.

Objectives

The main objective of the Dialogue is to uphold the UN CRC by providing a venue for the target beneficiaries to develop a deeper understanding on child rights as guided by the General Comments.

Specifically, the project aims to:

- Share good practices and challenges in implementing General Comment No. 14 and General Comment No. 12;
- Meet and explore ways to have a closer collaboration, cooperation, and coordination between ASEAN and the CRC Committee; and
- Share the Dialogue results to concerned stakeholders at the country-level.

In the short-term, the Dialogue is expected to provide new and relevant information for the participants and to identify possible ways forward or action points that may be used as basis for the next projects of AICHR and/or other ASEAN Sectoral Bodies. In the long-term, the impacts of the project are expected to reflect on the State reports of the AMS to the UN CRC, as well as in the regional and national level actions to implement the UN CRC.

This Dialogue is a continuation of the project *ASEAN Dialogue on the United Nations Convention on the Rights of the Child and Its Related Instruments* organized by AICHR in Manila, Philippines in October 2018, and the *AICHR-ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) Training Workshop on the UN CRC* held in Singapore in July 2017.



In the previous dialogues, recommendations were made to popularize the UN CRC General Comments and to strengthen the collaboration and cooperation between ASEAN and the CRC Committee.



Scan to view the proceedings of the 2018 ASEAN Dialogue on the UN Convention on the Rights of the Child and Its Related Instruments

ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS

The AICHR is a regional human rights body that reflects the commitment of ASEAN to promote and protect human rights and fundamental freedoms. It was established in 2009 and is composed of one representative from each of the ASEAN Member States

The ASEAN Dialogue on the UN Convention on the Rights of the Child General Comments was conducted in accordance with the following:

AICHR Mandates

- 4.3. *To enhance public awareness of human rights among the peoples of ASEAN through education, research and dissemination of information*
- 4.4. *To promote capacity building for the effective implementation of international human rights treaty obligations undertaken by ASEAN Member States*

AICHR Work Plan 2016-2020

- 4.4.3 *Design and organize an annual thematic workshop*
- 4.4.4 *Design and organize annually specific courses for target groups*

ASEAN Political-Security Community Blueprint 2025

- A.2.5.iii. *Encourage ASEAN Member States to enhance engagement with the United Nations and relevant human rights mechanisms to which ASEAN Member States are parties, including on the Universal Periodic Review and relevant Treaty Bodies as well as share experiences and best practices;*
- A.2.5.xiv. *Encourage coordination and consultation among relevant ASEAN Organs and Bodies with a view to enhancing the implementation of the AHRD, the Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children as well as the Bali Declaration on the Enhancement of the Role and Participation of Persons with Disabilities in the ASEAN Community, while maintaining their respective reporting lines*

ASEAN Human Rights Declaration

27. (3). *No child or any young person shall be subjected to economic and social exploitation. Those who employ children and young people in work harmful to their morals or health, dangerous to life, or likely to hamper their normal development, including their education should be punished by law. ASEAN Member States should also set age limits below which the paid employment of child labour should be prohibited.*

30. (2). Special protection should be accorded to mothers during a reasonable period determined by national laws and regulations before and after childbirth. During such period, working mothers should be accorded paid leave or leave with adequate security benefits.

30. (3). Motherhood and childhood are entitled to special care and assistance. Every child, whether born in or out of wedlock, shall enjoy the same protection.

31. (2). Primary education shall be compulsory and made available free to all. Secondary education in its different forms shall be available and accessible to all through every appropriate means. Technical and vocational education shall be made generally available. Higher education shall be equally accessible to all on the basis of merit.

31. (3). Education shall be directed to the full development of the human personality and the sense of his or her dignity. Education shall strengthen the respect for human rights and fundamental freedoms in ASEAN Member States. Furthermore, education shall enable all persons to participate effectively in their respective societies, promote understanding, tolerance and friendship among nations, racial and religious groups, and enhance the activities of ASEAN for maintenance of peace.

ATTENDEES



The Dialogue was attended by the participants from the following bodies, sectors, and fields:

AICHR representatives from Philippines and Thailand

ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)
Representatives on Children's Rights

ASEAN Secretariat

ASEAN Sectoral Bodies

National Ministries of Foreign Affairs

National Ministries on Education

National Coordination Bodies on Children's Rights

National Legislator Representative

Embassy of Norway to the Philippines

Embassy of Malaysia to the Philippines

Royal Thai Embassy Manila

Civil Society Organizations

SPEAKERS



H.E. Elizabeth P. Buensuceso

Ambassador and Representative of the Philippines to the ASEAN Intergovernmental Commission on Human Rights

H.E. Elizabeth Buensuceso delivered the keynote of the Secretary of Foreign Affairs, Teodoro L. Locsin Jr. The message highlighted the importance of sharing best practices and challenged the participants to find more ways to interpret and implement the Convention's core objective of promoting and protecting children's rights. In her Closing Remarks, Ambassador Buensuceso committed to report the results of the dialogue, along with the recommendations from the participants, to relevant policy makers and stakeholders. Ambassador Buensuceso also encouraged the participants to communicate the dialogue's recommendations to their stakeholders.



Undersecretary Florita Villar

Department of Social Welfare and Development (Philippines)

Undersecretary Villar delivered the special message of the Secretary of Social Welfare and Development, affirming the importance of working with the global community to uphold the rights of the child. The Department, which serves as the lead social protection agency of the country, is committed to always put premium to the children's best interest by formulating and implementing its own child protection policy, conducting children's conferences and youth development sessions, and providing technical assistance and resource augmentation to the local councils for the protection of children, among others.



Undersecretary Josephine Maribojoc

Department of Education (Philippines)

Undersecretary Maribojoc conveyed the story behind the artwork exhibits of the children who participated in the workshop on the rights of the child. She mentioned that the displayed drawings are candid depictions of the questions, thoughts, and aspirations of these children.



Atty. Mikiko Otani

Member, United Nations Committee on the Rights of the Child

Atty. Otani presented the salient features of General Comment No. 14 on the best interest of the child and General Comment No. 12 on the right of the child to be heard. She explained the key concepts and texts in the UN CRC and the General Comments by providing background information in the drafting process, presenting case studies, and sharing the experiences of the CRC Committee in monitoring the implementation of these rights. In addition, Atty. Otani provided updates on the work of the CRC Committee.



H.E. Bjørn Staurset Jahnsen
Norwegian Ambassador to the Philippines

In his opening remarks, Ambassador Jahnsen emphasized that empowering children and young people is a good investment as it fosters the development of active citizens. He proudly said that Norway is at the forefront of international efforts to uphold children's rights by, among others, ensuring compliance with the UN CRC and establishing and maintaining independent institutions that children can turn to and speak out for them.



Prof. Dato' Noor Aziah Mohd. Awal
Commissioner for Child Affairs, SUHAKAM (Malaysia)

Prof. Awal's presentation centered on the pluralistic legal system in Malaysia and how it affects the implementation of the best interest of the child in custody and divorce cases involving Muslims, non-Muslims, and natives of some states. She also provided a background on child protection legislations in Malaysia, specifically focusing on Child Act 2001 and its amendments.



Dr. Seree Nonthasoot
Former Thailand Representative to the
ASEAN Intergovernmental Commission on Human Rights

Dr. Nonthasoot emphasized the importance of incorporating child rights in the ASEAN Community Vision 2025 by presenting AICHR's child rights impact assessment of the ASEAN Community Blueprints. He brought particular attention to the impact of free trade agreements on children. Furthermore, Dr. Nonthasoot discussed the situation of children in immigration and asylum-seeking proceedings and the need to implement alternatives to detention in AMS.



Ms. Ericka
Child Advocate, Children Talk to Children

Ericka shared her experience as a child advocate since she was 12 years old. She continuously joins child rights-based activities that allow her to see child rights in different ways. The constant engagements also opened more opportunities for her to speak, recommend, and listen to children's issues. Her most recent engagement at the international level is when she attended the 30th anniversary commemoration of the UN CRC in Geneva as a panelist and keynote speaker. As a child advocate, Ericka believes that having children in discussions and letting them speak is a solution itself.



Ms. Amihan Abueva
Regional Executive Director, Child Rights Coalition Asia

In her opening remarks, Ms. Abueva expressed hope that this process of dialogue with the governments, CRC Committee, civil society, and a child representative would lead to the advancement of the implementation of child rights. Ms. Abueva, at the latter part of the Dialogue, also talked about the 2019 Asian Children's Summit as one of the experiences in upholding the rights of the child in international setting.



Ms. Hazelyn Joy Bitaña
Program Manager, Child Rights Coalition Asia

To level off the understanding of the participants on General Comments at the start of the Dialogue, Ms. Bitaña discussed the purpose, process of development, and implementation of the UN CRC General Comments. Later on, she also presented the efforts to uphold child participation in the planning, implementation, and follow-up and evaluation of the CRC Committee's 2019 Day of General Discussion on children as human rights defenders.



Dr. Emma Llanto
President, Philippine Society of Adolescent Medicine Specialists

Dr. Llanto underscored the importance of investing in adolescents through providing access to health care. Part of her discussion is about the science of the adolescent brain and how this should be taken into consideration when making laws and policies involving children. Dr. Llanto also shared the programs of *Silid Kandugan - Teen Moms Clinic* based in the Philippine General Hospital. The clinic uses a human rights-based approach to adolescent girls and boys in early pregnancy and parenthood.



Dr. Hartini Zainudin
Co-Founder, Yayasan Chow Kit

Dr. Zainudin presented the work of Yayasan Chow Kit (Chow Kit Foundation) as an example of implementing the best interests of children in situations of vulnerability. The Foundation strives to address the gaps on child protection services in Chow Kit, a suburb in central Kuala Lumpur. It provides direct services and programs to children to ensure that they get positive opportunities that allow them to reach their full potential.



Dr. Farah Nini Dusuki
Senior Lecturer of the Faculty of Law, University of Malaysia

Dr. Dusuki shared the legislations in Malaysia that have child participation elements in the judicial and administrative proceedings. For instance, Malaysia's Evidence of Child Witness Act 2007 provides optional mechanisms to support a child witness/victim in testifying or producing evidence. One of the challenges, however, is that the existing mechanisms are not being utilized by the service providers.



Ms. Maria May-i Fabros
Overall Moderator/Facilitator

Ms. Fabros of the Department of Foreign Affairs moderated the two-day Dialogue.

WELCOME REMARKS



H.E. Ambassador Elizabeth P. Buensuceso
Representative of the Philippines to the AICHR

Atty. Mikiko Otani, member of the United Nations Committee on the Rights of the Child, Ambassador Bjørn Staurset Jahnsen, Special Envoy of the President to UNICEF Monica Prieto-Teodoro, Prof. Dato' Noor Aziah Mohd. Awal, Commissioner for Child Affairs of SUHAKAM, Undersecretary Florita Villar (DSWD), Undersecretary Josephine Maribojoc (DepEd), representatives of the ASEAN Intergovernmental Commission on Human Rights, members of the Diplomatic Corps, distinguished guests, colleagues, ASEAN sisters and brothers, a very good morning to you all.

First of all, let me extend to you a very warm welcome to the Philippines and let me greet all of us a Happy International Human Rights Day, which we celebrated yesterday. Our activity, the ASEAN Dialogue on the United Nations Convention on the Rights of the Child, also comes at an opportune time as we commemorate the 30th anniversary of the United Nations Convention on the Rights of the Child. As you know, the United Nations Convention on the Rights of the Child is the most widely ratified international human rights agreement. It is also the first convention ratified by all ASEAN Member States.

Today's Dialogue will take stock of the United Nations Convention on the Rights of the Child by focusing the discussions on the UN CRC General Comments issued by the United Nations Committee on the Rights of the Child as authoritative interpretations of the UN CRC articles and their Optional Protocols. We will have exciting and productive sessions on General Comment 14 on the right of the child to have his or her best interests taken as a primary consideration; and on General Comment No. 12 on the right of the child to be heard.

We have in our roster of speakers, resource persons, and delegations from member states of ASEAN and other countries, authoritative experts in the field of advocating, promoting and protecting the rights of children. If you noticed in your registration earlier today, you were asked to abide by the Child Safeguarding Protocol and Conduct. This is because participating with us in this Dialogue is a child herself, 16-year old Ericka of VIDES Philippine Volunteers Foundation Inc. Ms. Ericka will share with us her experience as a child rights advocate.

I enjoin you to ask questions, share your experiences and expertise and suggest ways forward in implementing the CRC even as we acknowledge that our children now live in a complex world with more complicated challenges, but at the same time, are more cognizant of the need to provide space for children to live out their full potentials.

We will also witness a cultural performance by dancers from the Philippine National School for the Blind, of the Tinikling, the Philippine national dance, to showcase that our advocacy for the rights of children is also inclusive of those who would otherwise be marginalized in society. We also mounted a mini-exhibit of the artwork of children to teach us their interpretation of the United Nations Convention on the Rights of the Child.

Thank you for joining the Philippines in advancing the rights of the child in the region. Mabuhay.

KEYNOTE MESSAGE



H. E. Teodoro L. Locsin, Jr.
Secretary, Department of Foreign Affairs

Mabuhay and welcome to the Philippines!

Today, we mark the 30th anniversary of the adoption of the United Nations Convention on the Rights of the Child, one of the most widely ratified international human rights treaties covering the worse imaginable human rights violation – that of children – in the history of human cruelty.

Your presence today for the ASEAN Dialogue on the United Nations Convention on the Rights of the Child General Comments proves the importance we all give to the protection of children. It is a top priority of the Philippines and of ASEAN.

With the help of our partners, this Dialogue will sharpen the focus on child rights in the midst of new and rising threats that confront children of this and future generations, wherever they may be.

While ASEAN has collectively advanced the rights of the child through:

- The Regional Plan of Action on the Elimination of Violence Against Children;
- The Declaration on the Protection of Children from all Forms of Online Exploitation and Abuse;
- The Declaration on the Rights of Children in the Context of Migration; and
- The Joint Statement on Reaffirmation of Commitment to Advancing the Rights of the Child in ASEAN

All these will not be enough for the 200 million children in ASEAN who live in a changing world, where violence and exploitation against children persist in new forms; in the worst of which the Philippines is a hub: child pornography under the auspices of their parents. This is all the miracle that the Internet has brought our country; alongside the infinitely faster and easier spread of lies and distortions, among the far less discriminating credulity of the Filipino public taking its news online.

The protection measures we had in place for our children 30 years ago are now inadequate and ineffective. Changing values, new tactics in the war against basic humanity – because animals do not abuse their children but rather protect them; and new far more pernicious forms of slavery generated by the more indiscriminate and cruel wars of the 21st century; along with advances in digital technology that increase the vulnerability of children to be misled and abused; all these call for a major reappraisal of the methods of combating child abuse. In my view it should be in the direction of greater severity against the malefactors. There is no evil but bad people are behind it.

Use this year's Dialogue to discuss and reflect on these changes that threaten the lives and well-being of our children.

Share best practices that have saved many of them from abuse and neglect.

Find more ways to interpret and implement the provisions of the Convention in a way that gives meaning to the Convention's core objective of promoting and protecting children's rights.

Reaffirm our commitment to eliminate pockets of exclusion that continue to exist for our children.

And let's all join hands to create a world where my children's children and their children grow up happy, healthy, schooled, and safe.

I congratulate AICHR Philippines and CRC Asia, and thank Norway especially, for spearheading this important exercise and commend all of you for ensuring a fruitful Dialogue to protect the children of ASEAN.

SPECIAL MESSAGE



Hon. Rolando Joselito D. Bautista
Secretary, Department of Social Welfare and Development

His Excellency Ambassador Bjørn Jahnsen, Her Excellency Ambassador Elizabeth Buensuceso, Philippine Representative to the AICHR, Her Excellency Monica Prieto Teodoro, the Special Envoy of the Philippines to UNICEF, Ms. Amihan Abueva, Atty. Mikiko Otani from the UN Committee on the Rights of the Child, other distinguished guests and panelists, representatives from the national government agencies, non-government organizations, civil society organizations of the Philippines and other ASEAN countries, fellow child advocates, ladies and gentlemen, a pleasant morning to all of you.

It is a great honor and privilege to be invited to deliver a message for this milestone gathering as we commemorate the 30th anniversary of the adoption by the UN General Assembly of the UN CRC. As the lead social protection agency in the Philippines, the Department of Social Welfare and Development affirms the importance of working together with the global community, especially with the other ASEAN Member States in upholding the rights of children, and as a signatory to the UN Convention on the Rights of the Child, the Philippines has worked hand in hand with various child advocacy groups, civil society organizations as well as with the children's sector in promoting and protecting the rights of children.

As part of our mandate, the DSWD formulated its child protection policy in the workplace and in its seventy-one residential and nonresidential facilities all over the country, thereby sending a clear message to its officials and personnel that child protection is everybody's responsibility and priority.

Likewise, this policy reflects the Department's commitment to always put premium to the children's best interests through the implementation of child-friendly policies, programs, projects, and services that are responsive to the ever-changing needs of our children. The Department also recognizes that children should be given opportunities to articulate their needs, concerns, and aspirations.

At the ASEAN level, all the ten Member States participate in the conduct of ASEAN Children's Forum. This is one of the best, if not the best, today which is a form of enabling children to be heard. This forum serves as a venue for children from ASEAN Member States to participate in the ASEAN community building by 2015. This is also a forum for children to express their views and pursue their aspirations on issues affecting their lives and other regional issues of their interest, and also for them to enhance their capabilities as children leaders and representatives of their generation.

In the Philippines, the Council for the Welfare of Children leads in the conduct of the Philippine National Children's Conference. It is the counterpart of the ASEAN Children's Forum at the ASEAN level, which is a biennial gathering of children from all over the country involving the 17 regions wherein children are gathered and provided opportunities to discuss issues affecting them and the proposed courses of actions addressed to national government, local government, the community leaders, the parents, and the children's sector.

On the part of the DSWD in 2016, the Department started to implement the Youth Development Sessions for high school students who are beneficiaries of Pantawid Pamilya Pilipino Program or in other countries this is known as the conditional cash transfer. This is one of the biggest programs of the country led by the Department of Social Welfare and Development.

The topics discussed are envisioned to address the challenges faced by Philippine adolescents and what can be done by various stakeholders, including the children themselves. Relatedly in this year's celebration of the National Children's Month which is observed every November, a Children's Congress participated by children of 4Ps or CCT families was held and the focus was on poverty, issues affecting them, and their recommendations addressed to the various stakeholders.

Moreover, at the local government level, the local social welfare and development offices, which are the frontline implementers of social welfare and development policies, programs, and services, are provided with the needed technical assistance and resource augmentation to ensure that, among others, the local councils for the protection of children are functional. We recognize that these councils are primarily the partners of the national government agencies in directly protecting and promoting the rights and welfare of children.

For the next two days, we shall be sharing and discussing our experiences which may include good practices as well as challenges, updates, and our recommendations.

Let me congratulate in advance the organizers and the participants of this Dialogue for this opportunity to enhance our understanding of the UN CRC with focus on the two General Comments - General Comment No. 12 on the right of the child to be heard and General Comment No. 14 on the right of the child to have his or her best interests taken as primary consideration.

I will close with a challenge to all of us, including myself. This is based on the theme of the Asia-Pacific Decade for Persons with Disabilities. To all of us here in attendance, I would like to leave this message for today and tomorrow: Let us try to continue discussing and exerting efforts to make the rights of our children real.

With that, thank you, God bless, and magandang umaga, again, sa inyo!

REMARKS



H.E. Bjørn Staurset Jahnsen
Norwegian Ambassador to the Philippines

Excellencies, members of the ASEAN, distinguished guests and their friends, the Convention on the Rights of the Child sets out that all children have fundamental rights relating to survival, participation, development, and protection against discrimination.

I am proud to say that Norway is at the forefront of international efforts to protect children's rights and ensure compliance with the UN Conventions and other international instruments relating to children.

In my country, Norway, we have a tradition that children and young people should be heard in matters that affect them. This means that we also emphasize this as policy. The importance of establishing and maintaining independent institutions that children can turn to and speak out for them.

The Convention has been ratified by almost every country in the world as was mentioned. But a number of countries has made extensive reservations. There have been positive developments in recent years on key areas of education and survival. However, challenges remain.

Twenty-five years after the Convention was adopted, a huge number of children are still living in conditions that are far below standards set. The universality of the Convention on the Rights of the Child must be upheld. All governments must be held accountable for realizing children's rights through legislation and by establishing the necessary institutional mechanisms.

Governments must ensure that children and young people are protected against violence, abuse, exploitation, and recruitment to armed groups. They must give priority to safeguarding children's rights to survival, development, and education when they allocate resources.

So, dear friends, it is important that measures here in the ASEAN region and even globally target the poorest and marginalized children, and that children and young people have the opportunity to participate, to express their opinions, and to organize themselves in order to promote their interests and define their needs.

Norway's intensified efforts to promote education will improve the realization of children's rights such as the opportunity to participate and will increase children's awareness of human rights. When children are kept out of school or when schools failed to achieve adequate learning outcomes, this is a fundamental violation of children's rights with far-reaching social and economic impacts.

In order to ensure that our efforts to reach all children who are still out-of-school or not learning enough in school, my government is giving particular priority to girls, children with disabilities, and children in crisis and conflict situations. These groups account for most of those who do not have opportunities for personal development through education.

I would like to share Norway's three priorities. First, we want to strengthen the implementation of the Convention on the Rights of the Child, for instance, by incorporating the Convention into national legislation. We want to ensure that children are protected in armed conflicts and combat violence against children. We want to help all children to have the same opportunity to start and complete school so that all children and young people can learn basic skills and are equipped to tackle adult life.

Lastly, as your Filipino national hero once said, "The youth are the hope and the future." Empowering children and young people is a good investment as it fosters the development of active citizens who can assert the social, economic and political rights.

So, with those words I just want to say *salamat po!* Thank you!

REMARKS



Ms. Amihan Abueva
Regional Executive Director, Child Rights
Coalition Asia

Good morning everyone, your excellencies, and friends from various countries. We are very happy to welcome you to Manila.

The Child Rights Coalition Asia aims to work very closely with governments and also strengthen the role of civil society organizations. In the past years, CRC Asia has really made it a point to create more opportunities for children to express their views and to make sure that those views of children are really taken seriously and also included in the discussions about laws, policies, and programs.

We are very happy to help organize this event. As you know, the General Comments are quite numerous. There are already 25 General Comments. We are going to be discussing two of the General Comments. But we feel that the two Comments that we are going to discuss this time are very important - the best interests of children as well as the children's right to participate.

CRC Asia hopes to work more closely with the AICHR, ACWC, and the various ASEAN bodies as well as with the governments at the national level. CRC Asia is a network of 16 organizations located in 13 countries and territories of Asia. At the moment, we have been prioritizing our work on public investment for children, for example, making sure that the promises of governments to implement children's rights are actually seen in the way precious resources are used to improve the situation of children. We are also working on the protection of children online as well as our continuous work on protecting children from violence, and helping the ASEAN implement the Regional Plan of Action for the Elimination of Violence against Children.

We are very happy that on this occasion we have both governments as well as civil society organizations present. We hope that through this Dialogue we can discuss our experiences as well as share how we are trying to overcome our obstacles on fully implementing the rights of the child.

This also comes at a very good time because many of our ASEAN countries are about to present or have just presented their reports to the Committee on the Rights of the Child. We hope that this process of dialogue with the Committee on the Rights of the Child, the civil society, and a child representative will help governments to move it forward.

Thank you again for coming and please share your ideas. Thank you very much!

OVERVIEW: ASEAN AND THE UN CONVENTION ON THE RIGHTS OF THE CHILD

THE UN CONVENTION ON THE RIGHTS OF THE CHILD

The UN CRC is a universal convention, and is the only treaty ratified by all UN States Parties except for one. It is the first legally binding international instrument that incorporates the full range of human rights, including civil, cultural, economic, political, and social rights of children.

The UN CRC sets out the rights that must be realized for children to develop their full potential. It reflects a new vision: A child is neither the property of their parents nor helpless objects of charity. A child is an individual with rights and responsibilities appropriate to his or her age and stage of development.

The four Guiding Principles of the UN CRC are:

- The right of all children to **survival and development**;
- The respect for the **best interests** of the child as a primary consideration in all decisions relating to children;
- The right of all children to **express their views freely** on all matters affecting them; and
- The right of all children to enjoy their rights **without discrimination** of any kind.

ASEAN AND THE UN CONVENTION ON THE RIGHTS OF THE CHILD

ASEAN MEMBER STATE	Year of UN CRC Ratification/Accession
Brunei Darussalam	27 December 1995
Cambodia	15 October 1992
Indonesia	5 September 1990
Lao PDR	8 May 1991
Malaysia	17 February 1995
Myanmar	15 July 1991
Philippines	21 August 1990
Singapore	5 October 1995
Thailand	27 March 1992
Viet Nam	28 February 1990

All ten AMS have ratified the UN CRC, although a few of them have, for various reasons, made reservations or declarations on certain articles. Some of these reasons are related to the different interpretations of the articles and the perceived implications of these articles when applied to the State Party's local context. Another reason may also be that the State Party is not fully confident in its ability to fulfill the obligation to uphold these articles. Nonetheless, a historical look reveals that the number of reservations and declarations is declining over time. The reservations and declarations that were made during the date of ratification or accession were eventually withdrawn.

THE OPTIONAL PROTOCOLS OF THE UN CONVENTION ON THE RIGHTS OF THE CHILD

Like many other human rights treaties, the UN CRC has Optional Protocols. These are additional parts to a treaty that can further address something in the original treaty, or address something not mentioned in the original treaty, such as an issue that did not exist when the treaty was first adopted.

The Optional Protocols to the UN CRC

- Optional Protocol on the Involvement of Children in Armed Conflict (OPAC)
- Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (OPSC)
- Optional Protocol on a Communications Procedure (OPIC or OP3 CRC)

The first two Optional Protocols require States Parties to submit their initial reports two years upon ratification of the Optional Protocol, and then the succeeding reports are to be included in the next UN CRC reports.

What are Optional Protocols?

- They give additional details about the area they discuss and, in turn, expand a state's obligations beyond those given in the original treaty.
- They complement and add to existing treaties.
- They are treaties in their own right, and are open to signature, accession, or ratification by States Parties that are party to the main treaty. As such, they are legally binding on the individual States Parties that ratified it.
- They should be ratified by the maximum number of Member States to strengthen their acceptance as a normative standard

THE UN COMMITTEE ON THE RIGHTS OF THE CHILD

The CRC Committee is a UN body that monitors the implementation of the UN CRC and its Optional Protocols by States Parties. It is made up of 18 independent experts from a range of countries.

The CRC Committee holds regular sessions every year to review reports by the States Parties on their progress in fulfilling their obligations. Once it has reviewed all the information, it issues Concluding Observations with recommendations that will lead to the full enjoyment of children's rights.

Aside from reviewing reports, the CRC Committee also holds the biennial Day of General Discussion. It is a platform that provides an opportunity to develop a deeper understanding of the contents and implications and implementation of the UN CRC and its Optional Protocols. Additionally, the CRC Committee issues 'General Comments' or 'General Recommendations.' These comments are not specific to a country but provide guidance to all countries.

UN CRC Article 43 1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

UN CRC GENERAL COMMENTS

Presenter:

Introduction: What are General Comments?

Ms. Hazelyn Joy Bitaña

Program Manager

Child Rights Coalition Asia



UN CRC GENERAL COMMENTS

The CRC Committee produces General Comments to explain the rights contained in the UN CRC and its Optional Protocols and to provide guidance with respect to particular issues.

What are General Comments?

- They help improve both the way States Parties write reports and implement the treaties.
- They are based on the CRC Committee's experiences in monitoring reports from States parties and the systematic violations, misunderstood provisions, or emerging issues relevant to the treaties.



All human rights bodies issue general comments or recommendations.

They are used by some courts (for example, in the UK, South Africa, and Europe) to interpret the CRC and inform court judgments. They reinforce links of the CRC with other international instruments such as The Convention on the Elimination of all Forms of Discrimination Against Women and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The General Comments are prepared by the CRC Committee. The mandate or authority to make General Comments is based on Article 45 (d) of UN CRC:

"The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties." (art. 45 (d) of CRC)

Furthermore, the process for drafting and adopting general comments is based on the GA Resolution 68/268 in 2014:

"Encourages the human rights treaty bodies to develop an aligned consultation process for the elaboration of general comments that provides for consultation with States parties in particular and bears in mind the views of other stakeholders during the elaboration of new general comments." (para. 14 of GA Resolution 68/268 in 2014)

The Committee has issued 24 General Comments, the last of which is on children's rights in the child justice system. Currently, the CRC Committee is drafting the General Comment on the rights of the child in relation to the digital environment.

Why are General Comments important?

The main purpose of a General Comment is to improve the implementation of the UN CRC, OPAC, and OPSC by increasing understanding of particular provisions, ultimately helping States Parties fulfill their related obligations. It draws attention to inadequacies in the implementation of the UN CRC, OPAC, and OPSC. Although not legally binding, General Comments can make valuable contributions to the development and application of international law.

General Comments help in strengthening advocacy and in having a framework for accountability. They show how CRC articles remain relevant to the current situation of children. The Committee reinforces the links between the rights of the child and other international instruments by referencing these links in the General Comments.

General Comments should be brought to the attention of relevant government officials working on these specific areas; circulated to relevant stakeholders; distributed to judges, lawyers and national human rights institutions; translated into local languages; and disseminated widely.

The CRC Committee refers to General Comments when developing their Concluding Observations to the CRC Report. It must be noted that General Comments can affect the working methods of the CRC Committee. General Comments can be updated later on (e.g., the General Comment on Juvenile Justice - General Comments 10 and General Comments 24).

UN CRC GENERAL COMMENTS

General Comment No. 1 (2001) The Aims of education

General Comment No. 2 (2002) The role of independent national human rights institutions in the promotion and protection of the rights of the child

General Comment No. 3 (2003) HIV/AIDS and the rights of the child

General Comment No. 4 (2003) Adolescent health and development in the context of the Convention on the Rights of the Child

General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child

General Comment No. 6 (2005) Treatment of unaccompanied and separated children outside their country of origin

General Comment No. 7 (2005) Implementing child rights in early childhood

General Comment No. 8 (2006) The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (Arts. 19; 28, para. 2; and 37, inter alia)

General Comment No. 9 (2006) The rights of children with disabilities

General Comment No. 10 (2007) Children's rights in juvenile justice

General Comment No. 11 (2009) Indigenous children and their rights under the Convention

General Comment No. 12 (2009) The right of the child to be heard

General Comment No. 13 (2011) The right of the child to freedom from all forms of violence

General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Art. 3, para. 1)

General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health

General Comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights

General Comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (Art. 31)

Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on harmful practices

General Comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)

General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence

General Comment No. 21 (2017) on children in street situations

Joint General Comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration

Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return

General Comment No. 24 (2019) replacing GC No. 10 (2007) - The rights of the child in the child justice system

*Updated as of 2019

General Comment Development Process

(Approximate)

*Recently, the CRC Committee agreed to work on one General Comment at a time.
The development of a General Comment takes approximately 18-24 months.*



Theme/Topic Selection

Theme/topic selection can come from the CRC Committee members' experience in monitoring the reports on the implementation of the UN CRC. Themes/topics may also come from submissions from UN agencies and non-government organizations (NGOs) and from recommendations/follow up to the Day of General Discussion.



Call for Submissions

The Call for Submissions regarding the selected theme/topic is released through the CRC Committee's website and communication with governments. Inputs can come from Member States, regional bodies, national human rights institutions, CSOs, children's groups, individuals, and former CRC Committee members.



Children's Consultations

Organized by the CRC Committee with their drafting teams and outsourced consultants, Children's Consultations are done through online surveys and face-to-face consultations.



Experts Group Consultations

When writing General Comments, the CRC Committee often consults with organizations or individuals with expertise on the topic. Representation of experts from different parts of the world is crucial.



Call for Inputs to the Draft

Once a draft has been made, the CRC Committee publishes the Call for Inputs in its website and conducts regional consultations.



Finalization

General Comments are finalized by the CRC Committee, taking into consideration the inputs and the required word limit.



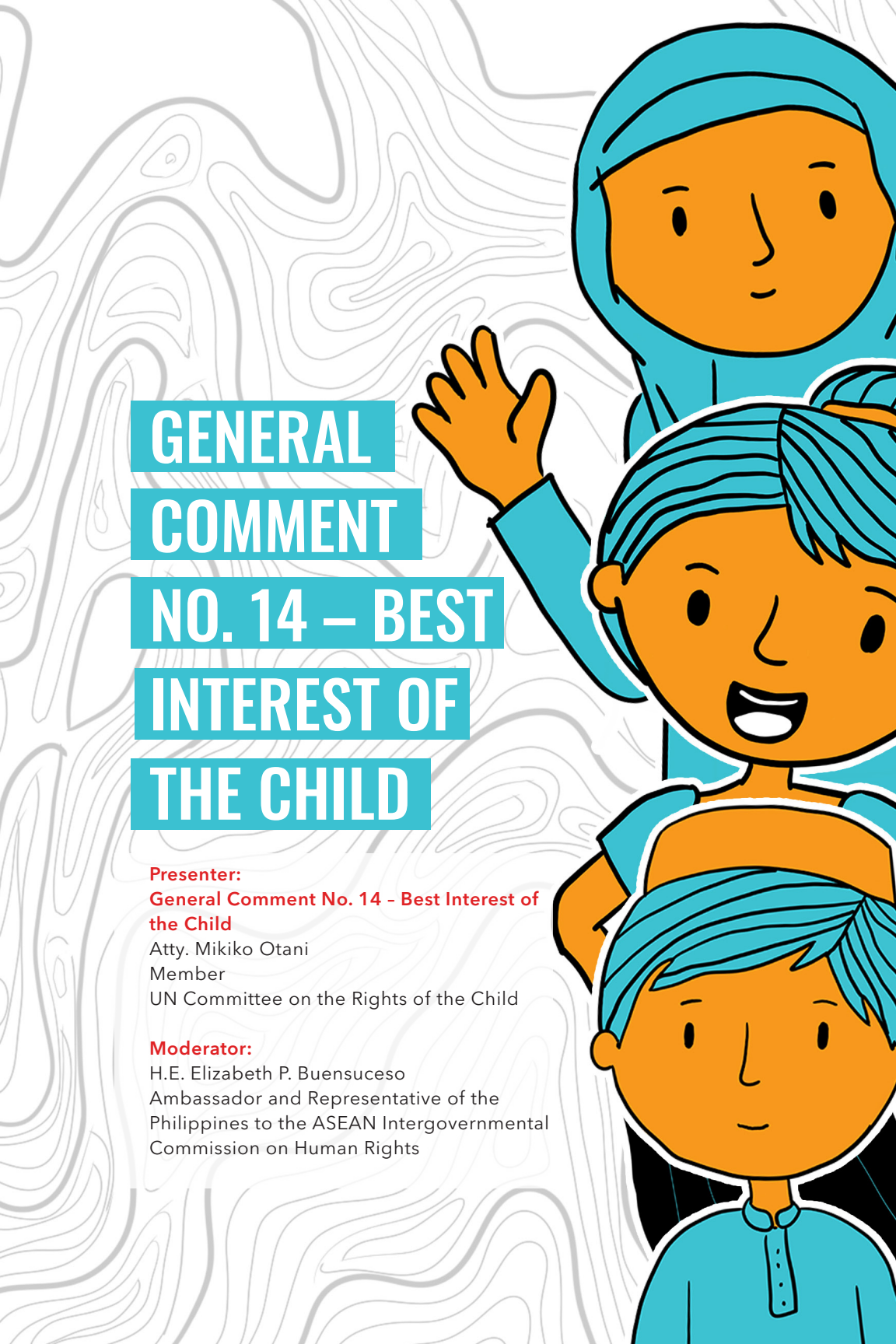
Dissemination

The CRC Committee publishes the final document in its website, and makes a separate communication about it to the States Parties. With the support of other stakeholders like civil society organizations (CSOs), the General Comments are disseminated in popular version and child-friendly version.

For the 2019 Dialogue, two General Comments were discussed:

General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Art. 3, para. 1)

General Comment No. 12 (2009) on the right of the child to be heard



GENERAL COMMENT NO. 14 – BEST INTEREST OF THE CHILD

Presenter:

General Comment No. 14 - Best Interest of the Child

Atty. Mikiko Otani

Member

UN Committee on the Rights of the Child

Moderator:

H.E. Elizabeth P. Buensuceso

Ambassador and Representative of the
Philippines to the ASEAN Intergovernmental
Commission on Human Rights

GENERAL COMMENT NO. 14 – BEST INTEREST OF THE CHILD

UN CRC Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.



The CRC Committee identified UN CRC's Article 3 paragraph 1 referring to the "best interests of the child" as one of the four general principles of children's rights.

The "best interests of the child" is a right, a principle, and a rule of procedure that should be the primary consideration, not only of parents and caregivers, but also of all those concerned with the

adoption of laws, policies, strategies, programs, plans, guidelines, budgets, and other child rights implementation measures. For example, the best interest of the child should be the primary consideration when discussing the child justice system, foster care or alternative care, children in street situations, and children in armed conflict and at risk of recruitment to violent extremism.

Three-Fold Concept of Best Interests of the Child

1. A substantive right: Children have the right to have their best interests assessed and taken as a primary consideration, especially when different interests are being considered to reach a decision. The best interest of the child should be implemented whenever a decision is to be made concerning a child, a certain group of children, or children in general.

2. A fundamental, interpretative legal principle: If a legal provision is open to more than one interpretation, the interpretation that most effectively serves the child's best interests should be chosen.

3. A rule of procedure: Whenever a decision is to be made that will affect a specific child, an identified group of children, or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned.

BEST INTEREST OF THE CHILD

UN CRC Article 3 is an important article that can be difficult to understand, interpret, and implement because of its complexity.

When to apply?

“In all actions concerning children”

Best interest of the child is applied not only in formal decisions but also in actions concerning children, where ‘concerning’ means direct or indirect impact on or involvement of children. Direct actions or situations refer to those that clearly involve or affect children. Indirect actions or situations pertain to those that do not focus primarily on children, but have an impact on the realization of child rights (e.g., budgeting process, environmental decisions, or urban planning).

The term ‘children’ has three meanings:

- As individual (e.g., in cases of adoption, medical treatment, or custody decision);
- As a group (e.g., migrant children, children with disabilities, siblings of separating parents); and
- In general (e.g., when used in laws and policies that affect children in general).

Who should apply?

“By public or private social welfare institutions, courts of law, administrative authorities or legislative bodies”

The principle of the best interest of the child should be implemented by:

- All institutions, and not only social welfare institutions
- The public or private stakeholders
- All judicial proceedings including lay and customary courts or mediation
- Administrative authorities who make all administrative decisions
- Legislative bodies that adopt laws or regulations, or make collective agreements, such as bilateral or multilateral trade or peace treaties that affect children
- Parents and caregivers

How to apply?

“Shall be a primary consideration”

In implementing the best interest of the child, there should be:

- Assessment and determination of the best interest of the child
- Procedural safeguards to formal processes designed to assess and determine the best interest of the child

✓ Best interests assessment and determination

Assessment: evaluating and balancing all the relevant elements, conducted by a multidisciplinary team and with participation of the child

Determination: formal process to determine the child's best interests on the basis of the best-interests assessment

When assessing and determining the best interest of the child, the following elements are taken into account: the child's views, identity, family environment, care and protection, situation of vulnerability, health, and education.

✓ Procedural Safeguards

The best interest of the child is a "rule of procedure" and this procedure should have safeguards and guarantees. The processes should be transparent and objective, and special attention must be given to the following safeguards and guarantees during the best interest assessment and determination: expression of children's views, establishment of facts and information, time perception, expertise of professionals dealing with children, legal representation, legal reasoning, review and revision of legal decisions, and child rights impact assessment.

CASE STUDY



On Custody Decision

If the child is only one (as individual) or if there are three siblings (as a group), when parents separate/divorce, the court will decide who will have custody of the child or children.

Assessment, determination, and application of the best interest of the child have to be done individually for each child because each of them has a different situation (e.g., on the basis of age, disability, etc.). The court should consider elements such as the child's evolving capacity, special needs, identity, religion, health, and preference. The court should also take into consideration the financial capacity of the parent, the parent's capacity to take care of the child (e.g., if the child is a baby, if both parents are working, etc.), the views of grandparents, the caring capacity of the family, and the consideration for siblings to not be separated.

To aid in decision-making, there should be guidelines on what elements should be considered by the courts, judges, family court consultants, social workers, or lawyers to assess and determine the best interests of the child.



Of Children of Parents in Prisons

If the mother of a one-year old child was found guilty, the court has to decide on the sanctions on the mother and on the actions related to the care of the child (e.g., what will happen to the child if the mother is incarcerated).

In these cases, there are many conflicts among the child's interests, including the right not to be separated from the parents and the right to live in a safe environment. As such, the court can decide to give a different kind of sanction to the mother to avoid the situation in which the child has to live in prison.

On Free Pre-School Education

In 2019, the Japanese Government decided to provide free pre-school education to all, but not everyone views this law to be for the children's best interest. According to pre-school teachers and daycare centers, this measure encourages parents to put children in pre-schools and daycare centers for longer hours, which is not good for the children.

In this case, many elements are involved. While the action fulfills the rights of children to have access to free pre-school education, it may have a negative impact on children's overall development because, according to teachers and daycare centers, children will be spending longer hours in education institutions separated from the parents.

Is the law motivated by the parents' need to work or is it motivated by the best interest of children?

SAMPLE RECOMMENDATIONS TO STATES PARTIES

In developing the Concluding Observations, the CRC Committee referred to the principle of the best interest of the child as guided by General Comment No. 14.

Lao People's Democratic Republic (2018)

“While noting with appreciation that the State party has integrated the principle of the best interests of the child into several laws and as a basis for action in several key sectors such as health, education and justice, the Committee is concerned that this principle is not properly applied in practice and that the judicial, administrative and legislative bodies do not take into account the best interests of the child in all decisions relevant to children. With reference to its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, **the Committee recommends that the State party establish compulsory processes for ex ante and ex post impact assessments of all laws and policies relevant to children.**”

Japan (2019)

“The Committee notes that the right of the child to have his or her best interests taken as a primary consideration is not appropriately integrated and consistently interpreted and applied, particularly in education, alternative care, family disputes and juvenile justice, and that the judicial, administrative and legislative bodies do not take into account the best interests of the child in all decisions relevant to children. Recalling its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, **the Committee recommends that the State party establish compulsory processes for ex ante and ex post impact assessments of all laws and policies relevant to children. It also recommends that a best-interests-of-the-child assessment always be carried out in individual cases concerning the child by a multidisciplinary team with the obligatory participation of the concerned child.**”

A Few Key Issues

Child Rights Impact Assessment: In the examples given, the CRC Committee recommended to both Lao PDR and Japan to conduct child rights impact assessments before and after the creation of laws and policies relevant to children.

Complexity of the Principle: The application of the best interests of the child principle faces so many challenges. The scope of application is so wide and different when applied to individual cases (by the court or administrative bodies) and collective cases (by the Parliament or ministries). With the varied situations and procedures, different professionals are involved (e.g., lawmakers, judges and lawyers, parents, and other professional stakeholders), all of whom require different guidelines, procedures and training.



GOOD PRACTICE!

The conduct of Child Rights Impact Assessment is recommended in General Comment No. 14 paragraph 99. It is a procedural safeguard in implementing the best interest of the child.

99. The child-rights impact assessment (CRIA) can predict the impact of any proposed policy, legislation, regulation, budget or other administrative decision which affects children and the enjoyment of their rights and should complement ongoing monitoring and evaluation of the impact of measures on children's rights. CRIA needs to be built into Government processes at all levels and as early as possible in the development of policy and other general measures in order to ensure good governance for children's rights.

The Children's Rights Impact Assessment is a useful tool for child rights advocates to use with and for businesses. It provides criteria that must be taken as a priority in policy program and action.

Child Impact Assessment Tool (New Zealand, 2018)

New Zealand's Child Impact Assessment Tool was developed to help government and non-government organisations in New Zealand to assess whether policy proposals will improve the wellbeing of children and young people. It supports New Zealand's commitment to the UN CRC and the development of policies that explicitly consider the potential impacts on children and young people.

The tool includes templates that agencies can use to identify, analyze, and assess the impacts of any proposed law or policy on the rights and wellbeing of children and young people.

The Child Impact Assessment Tool has:

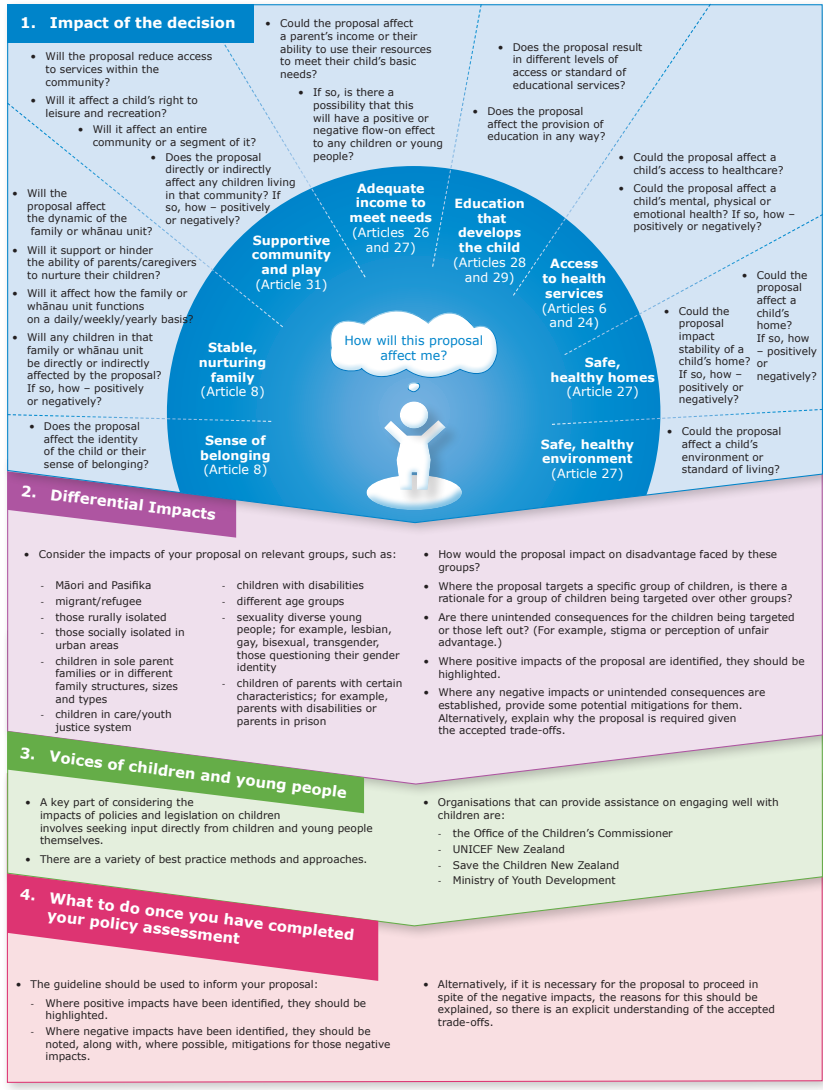
- A screening sheet
- A three-step (full) child impact assessment
- A guidance document

Scan to know more about
New Zealand's Child
Impact Assessment Tool

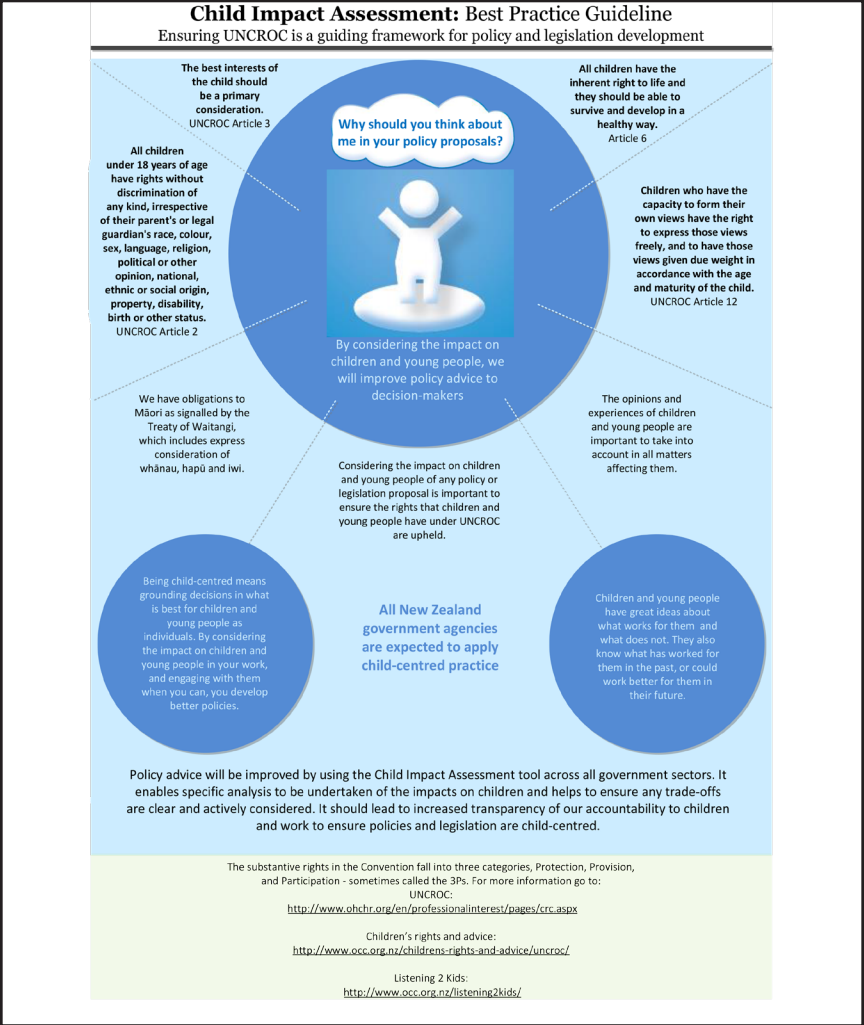


Child Impact Assessment: Best Practice Guideline⁵

This tool has been designed to offer guidance to you as policy makers in New Zealand on how you can improve practice to consider the impacts of your advice on children and young people. The guideline has been designed in a way that makes it applicable to a range of policy settings and should be used in the way that is most appropriate for you and your organisation.



Source: New Zealand's Ministry of Social Development. (2018). Child Impact Assessment: Best Practice Guideline



Source: New Zealand's Ministry of Social Development. (2018). Child Impact Assessment: Best Practice Guideline

Child-Centered Decision Tool (New Zealand, 2017)

The Office of the Children's Commissioner of New Zealand developed a five-step tool that supports child-centered decision-making anchored on the UN CRC.

Scan to view the Decision Tool



DIALOGUE DISCUSSION POINTS

During the Open Forum of this session, the following points were raised, clarified, and discussed:

On the General Comments

- The AMS must have political will to make their laws in accordance with the UN CRC and its Optional Protocols.

There are some countries where international conventions must be adopted as a domestic law in order for the convention to be enforced in the country. However, due to lack of understanding, stakeholders, including lawyers and judges, are not able to say that the international conventions are part and parcel of the existing laws.

In other countries, the lack of facilities that protect the best interest of the child, red tape, and the weak implementation of laws and policies hinder the full realization of child rights.

- Previously, States Parties were not included in the consultations for the development of General Comments. This, however, was changed recently because involving States Parties in the development process contributes positively to the implementation of the General Comment. Now, States Parties are consulted and encouraged to submit their inputs to the CRC Committee whenever a General Comment is being developed.
- States Parties, civil society, and other stakeholders should provide feedback to the CRC Committee regarding unclear provisions in the General Comments and/or articles of the UN CRC and its Optional Protocols.
- Still, there is a need to increase the awareness and understanding of the States Parties about the UN CRC General Comments. One way to do this is through the conduct of global platforms and regional dialogues. Aside from understanding the contents of the General Comments, the global platforms and regional dialogues can also facilitate the sharing of good practices and challenges in implementation.

On linking the General Comments with the Sustainable Development Goals

- The CRC Committee sees the importance of linking the UN CRC and its Optional Protocols and General Comments with the Sustainable Development Goals (SDGs). Recently, the CRC Committee refers to the SDGs in the Concluding Observations to the State Party reports. The CRC Committee also submits inputs to the High-Level Political Forum on Sustainable Development. In relation to the General Comment No. 14, however, the UN Committee has yet to frame or link it to SDGs No. 5 (Gender Equality) and No. 16 (Peace and Justice).

On the Best Interest of the Child in diversion decisions

- Multidisciplinary approach to diversion and other decisions is key in implementing the best interests of the child in the child justice system.

From UN CRC General Comment No. 24:

Diversion refers to “measures for referring children away from the judicial system at any time prior to or during the relevant proceedings” (paragraph 8). It involves the referral of children to programmes or activities, instead of resorting to judicial proceedings. It avoids stigmatization and criminal records. It also yields good results for children, promotes public safety, and is cost-effective.

“Diversion should be the preferred manner of dealing with children in the majority of cases. States parties should continually extend the range of offences for which diversion is possible, including serious offences where appropriate. Opportunities for diversion should be available from as early as possible after contact with the system, and at various stages throughout the process” (paragraph 5).



On child trafficking for organ transplantation

- Better coordination among AMS is necessary to address organ trafficking involving children, especially with the increasing demand for organ transplantation due to lifestyle diseases that lead to organ failure. There are also reports of abduction of children for illegal organ transplantation and in some AMS.



- In the Philippines, the process of identifying donors requires rigorous documentation. Child rights advocates were able to help the *Inter-Agency Council against Trafficking* to put in place more effective rules regarding organ transplantation involving children.

On Joint General Comments

- Having Joint General Comments is a valuable opportunity for the CRC Committee to collaborate with other treaty bodies. So far, the CRC Committee has adopted joint General Comments with the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), and with the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families. However, this process could take some time.
- In this context, the CRC Committee had to find ways to be more creative, practical, and efficient in providing advice on emerging issues and in collaborating with other treaty bodies. For example, five UN treaty bodies, including the CRC Committee, issued a *Joint Statement on Human Rights and Climate Change* in 2019.

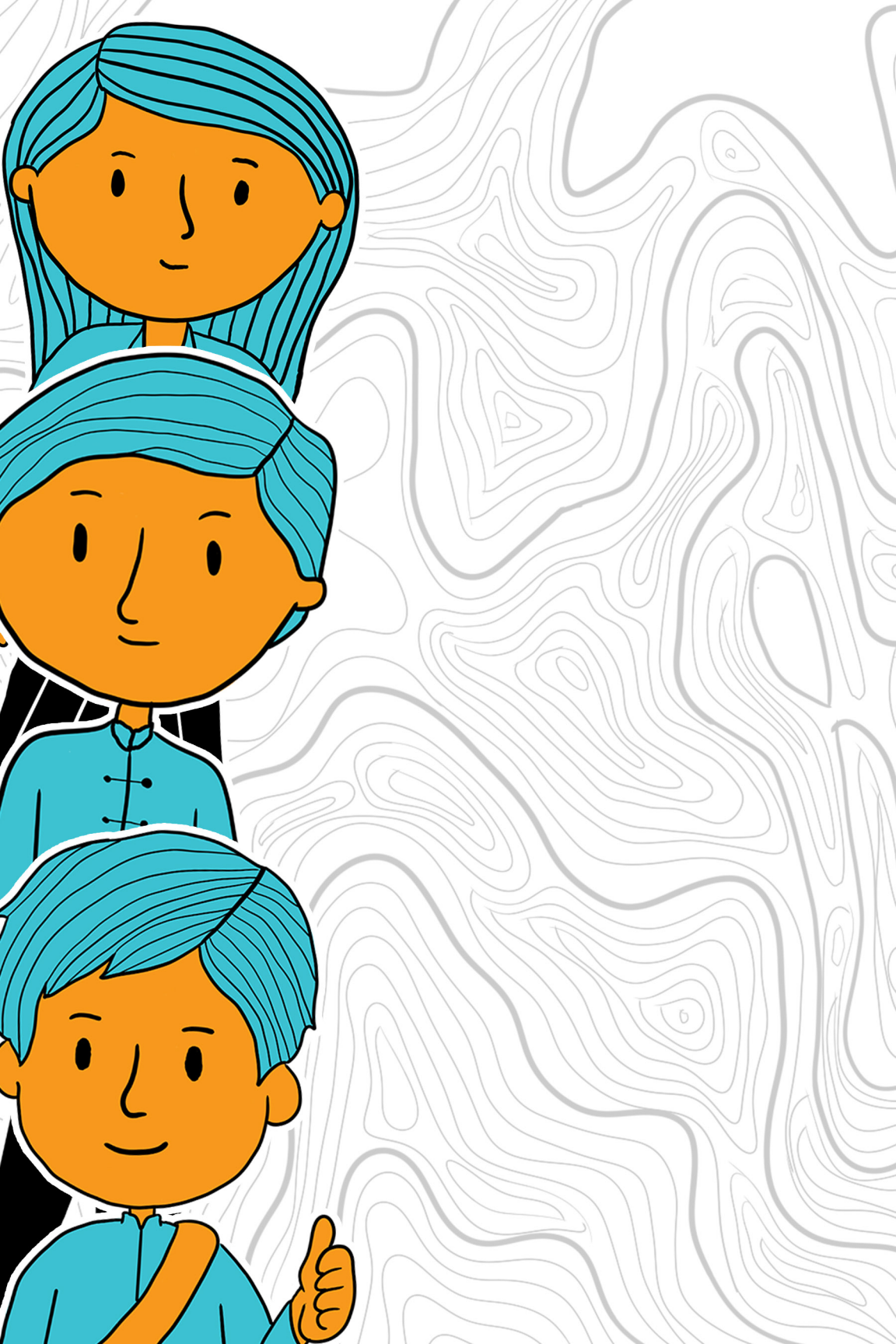
On 'Primary Consideration' and 'Paramount Consideration'

- The use of the terms 'primary consideration' and 'paramount consideration' is a source of confusion. General Comment No. 14 para. 38 clarified the distinction between the two.

The UN CRC uses the terms "primary consideration" and "paramount consideration" regarding the best interest of the child. In general, the term "primary" consideration allows exemption or discretion to give priority to other considerations, while "paramount" gives no exceptions.



- UN CRC Article 3 paragraph 1 mentions that "the best interest of the child shall be a primary consideration." In various articles throughout the UN CRC, the best interest of the child is used as a guiding principle, such as in Article 9 on the separation of the child from the parents or maintaining contact with both parents.
- In the UN CRC, the word "paramount" only appears in Article 21 regarding adoption.
- The CRC Committee deems it good to continue using the term "primary consideration" as it always has.
- When used in national laws, the meaning of the "paramount consideration" or "primary consideration" shall be looked at to avoid confusion. For instance, "paramount consideration" can be used not only in adoption cases, but also in custody cases.



GOOD PRACTICES AND CHALLENGES IN IMPLEMENTING THE PRINCIPLE OF THE BEST INTERESTS OF THE CHILD

Presenters:

Children's Rights in the Context of ASEAN Economic Integration and Immigration Proceedings

Dr. Seree Nonthasoot

Former Thailand Representative to the ASEAN Intergovernmental Commission on Human Rights

Children Exposed to Domestic Violence, Either as Witnesses or Victims

Prof. Dato' Noor Aziah Mohd. Awal

Commissioner for Child Affairs
SUHAKAM (Malaysia)

Adolescent Health Care: Ensuring a Right, the Right Way

Dr. Emma Llanto

President

Philippine Society of Adolescent Medicine Specialists

Children in Situations of Vulnerability

Dr. Hartini Zainudin

Co-Founder

Yayasan Chow Kit

Moderators:

Ms. Amihan Abueva

Regional Executive Director

Child Rights Coalition Asia

Ms. Maria May-i Fabros

Dialogue's Overall Moderator/Facilitator

CHILDREN'S RIGHTS IN THE CONTEXT OF ASEAN ECONOMIC INTEGRATION AND IMMIGRATION PROCEEDINGS

All human rights instruments are interconnected. Even if a country has not yet ratified the treaty on enforced disappearances, all individuals still have the right to be protected against enforced disappearance.

When it comes to children's rights, the UN CRC does not operate alone. Children's rights are enshrined in our treaties. Also, the broader ecosystem of human rights is demonstrated by the multiplicity of the International Labor Organization (ILO) Conventions. However, the status of ratification of the four categories of the ILO Conventions (freedom of association, forced labor, discrimination, and child labor) is a telling sign of the degree of reception of the AMS, in spite of being sincere to the UN CRC.



Moreover, the AMS' reservations fundamental rights of children – such as non-discrimination, freedom of expression, freedom of thought, special protection in the event of family separation (Articles 2, 12, 14, 20), among others – is a cause of concern. The reservation to Article 37 on torture is especially alarming. Therefore, there is a lot more work to do in lifting up the standards of the UN CRC in AMS, despite the fact the ratification of the whole convention. The goal of ASEAN that should be set at the third decade of the UN CRC should be the withdrawal of all reservations.

UN CRC and ASEAN

Out of the nine core Human Rights Treaties in the world, three Human Rights Instruments have been ratified by all ten AMS.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is ratified by Indonesia and the Philippines only, while the *International Convention for the Protection of All Persons from Enforced Disappearance* was ratified by Cambodia only.

Also, the UN CRC does not equally apply in full to all AMS due to the reservations on certain articles of the UN CRC and to the partial ratification of the three UN CRC Optional Protocols.

Human Rights Treaty		Treaty Date
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination	21 Dec 1965
ICCPR	International Covenant on Civil and Political Rights	16 Dec 1966
ICESCR	International Covenant on Economic, Social and Cultural Rights	16 Dec 1966
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	18 Dec 1979
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	10 Dec 1984
CRC	Convention on the Rights of the Child	20 Nov 1989
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	18 Dec 1990
CPED	International Convention for the Protection of All Persons from Enforced Disappearance	20 Dec 2006
CRPD	Convention on the Rights of Persons with Disabilities	13 Dec 2006

RATIFICATION OF CORE HUMAN RIGHTS TREATIES BY ASEAN MEMBER STATES

Human Rights Treaty	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam	%
ICERD		R	R	R			R	R	R	R	70
ICCPR		R	R	R			R		R	R	60
ICESCR		R	R	R		R	R		R	R	70
CEDAW	R	R	R	R	R	R	R	R	R	R	100
CAT	S	R	R	R			R		R	R	60
CRC	R	R	R	R	R	R	R	R	R	R	100
ICMW		S	R				R				20
CPED		R	S	S					S		10
CRPD	R	R	R	R	R	R	R	R	R	R	100
%	34	89	89	78	34	44	89	44	78	78	

Legend: **R** - ratified **S** - signed

RATIFICATION OF THE UN CRC AND ITS OPTIONAL PROTOCOLS IN ASEAN MEMBER STATES

Country	Ratification/Accession	Reservations
Brunei Darussalam	CRC:27/12/1995 OP1: Not signed OP2: 21/06/2006	Art. 14, 20, 21
Cambodia	CRC:15/10/1992 OP1: 16/07/2004 OP2: 30/05/2002	NO
Indonesia	CRC:05/09/1990 OP1: 24/09/2012 OP2: 24/09/2012	NO
Lao PDR	CRC:08/05/1991 OP1: 20/09/2006 OP2: 20/09/2006	NO
Malaysia	CRC:17/02/1995 OP1: 12/04/2012 OP2: 12/04/2012	Art. 2,7,15,28,37
Myanmar	CRC:15/07/1991 OP1: Signed 25/09/2015 OP2: 16/01/2012	NO
Philippines	CRC:21/08/1990 OP1: 26/08/2003 OP2: 28/05/2002	NO
Singapore	CRC:05/10/1995 OP1: 11/12/2008 OP2: Not signed	Declarations on Art. 12-17, 19839/ Reservations to Art. 7,9,10,12,22,28 and 32
Thailand	CRC:27/03/1992 OP1: 27/02/2006 OP2: 11/01/2006 OP3: 25/09/2012	Art. 22
Viet Nam	CRC:28/02/1990 OP1: 20/12/2001 OP2: 20/12/2001	NO

Source: Institute of Human Rights and Peace Studies, Mahidol University. (2016). *Child Rights Analysis within ASEAN Region*

RATIFICATION OF ILO CONVENTIONS BY ASEAN MEMBER STATES

Country	Freedom of association		Forced Labour		Discrimination		Child Labour	
	C.87 Freedom of Association and Protection of the Right to Organize Convention, 1948	C.98 Right to Organize and Collective Bargaining Convention, 1949	C.29 Forced Labor Convention, 1930	C. 105 Abolition of Forced Labor Convention, 1957	C. 100 Equal Remuneration Convention	C.111 Discrimination (Employment and Occupation) Convention, 1958	C.138 Minimum Age Convention, 1973	C.182 Worst Forms of Labor Convention, 1999
Brunei Darussalam	-	-	-	-	-	-	2011	2008
Cambodia	1999	1999	1969	1999	1999	1999	1999	2006
Indonesia	1998	1957	1950	1999	1958	1999	1999	2000
Lao PDR	-	-	1964	-	2008	2008	2005	2005
Malaysia	-	1961	1957	(1958) ⁸⁷	1997	-	1997	2000
Myanmar	1955	-	1955	-	-	-	-	2013
Philippines	1953	1955	2005	1960	1953	1960	1998	2000
Singapore	-	1965	1965	(1965)	2002	-	2005	2001
Thailand	-	-	1969	1969	1999	-	2004	2001
Viet Nam	-	-	2007	-	1997	1997	2003	2000

Children's Rights and the ASEAN Economic Integration

The impact of economic integration on children's rights in ASEAN involves the implementation of the UN Guiding Principles on Business and Human Rights, the Comprehensive and Progressive for Trans-Pacific Partnership, the Regional Comprehensive Economic Partnership, and the ASEAN Community.

United Nations Guiding Principles on Business & Human Rights

The "Protect, Respect and Remedy" Framework on human rights and business, was adopted on 16 June 2011. The UN Guiding Principles on Business and Human Rights have a framework consisting of three pillars: (1) States have the duty to protect human rights; (2) Transnational corporations and other business enterprises have the responsibility to respect human rights; and (3) States and businesses have responsibility to provide effective remedy in case of human rights violation.

Pillar 1:

States' Duty to Protect
(Investigate, provide guidance, requiring Human Rights Due Diligence)



Pillar 2:

Businesses' Responsibility to Respect (Policy Commitment, Human Rights Due Diligence Process, Mitigation of impacts)



Pillar 3:

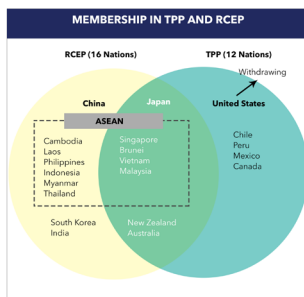
Effective Remedy



"States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts."

-Principle 9 of UN Guiding Principles on Business and Human Rights

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership



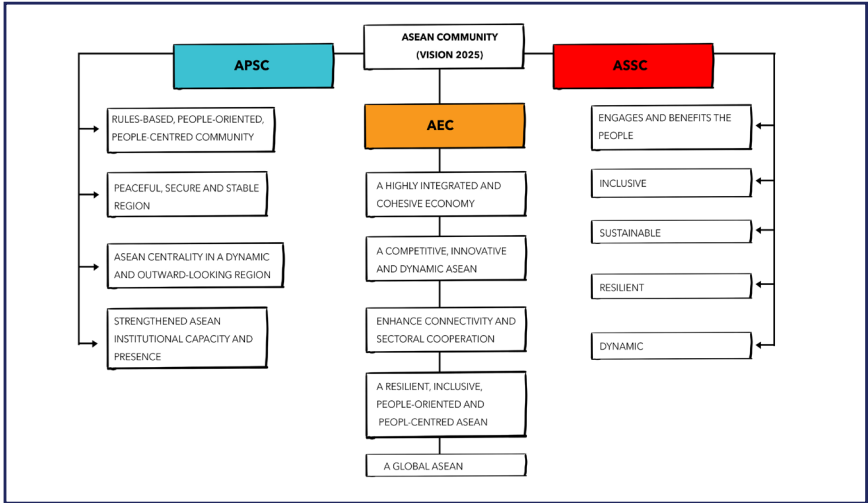
The Comprehensive and Progressive Agreement for Trans-Pacific Partnership is a trade and investment agreement signed by Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Viet Nam, and the United States. The TPP began as an agreement between the four Pacific states of Brunei Darussalam, Chile, New Zealand, and Singapore.

The Regional Comprehensive Economic Partnership



The Regional Comprehensive Economic Partnership is a mega-regional trade agreement currently being negotiated by the AMS and those countries with existing bilateral trade agreements with ASEAN. The RCEP negotiations were launched by leaders from the ten AMS and its free trade agreement partners during the East Asia Summit in Phnom Penh, Cambodia in 2012. 9 Once signed, the RCEP will create the largest free trade area in the world.

The ASEAN Community Vision 2025



At the 23rd ASEAN Summit in November 2013, ASEAN leaders took the decision to develop a Post-2015 Vision to realize a politically cohesive, economically integrated, socially responsible, and a truly people-oriented, people-centered, and rules-based ASEAN. As community building is a continuous and evolving process, the vision shall chart the future direction of the ASEAN community in the next decade, and when realized, will further consolidate and deepen the ASEAN community-building and regional integration process.

The comprehensive document covers all three aspects of the ASEAN Community, namely the Political-Security Community Pillar, the Economic Community Pillar and the Socio-Cultural Community Pillar . A specific blueprint was developed for each Pillar detailing the outcomes the ASEAN wants to achieve in the next ten years. Children’s rights belong to all the ASEAN Community Pillars.

Through the ASEAN Vision 2025, the ASEAN integrates the SDGs, which are founded substantively on human rights.



In 2013, 38.1% of the total ASEAN population was below 19 years of age. The ASEAN, through its Charter and 2012 Human Rights Declaration, particularly Article 27 paragraph 3, expressed in unity that it would promote and protect children's rights.

The ASEAN Community has adopted a number of "soft law" instruments on children. These instruments are not binding, as they are not subject to ratification.

- Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children
- Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN
- Bandar Seri Begawan Declaration on Youth Entrepreneurship and Employment
- ASEAN Declaration on Strengthening Education for Out-of-School Children and Youth

ASEAN Human Rights Declaration Art. 27

(1) Every person has the right to work, to the free choice of employment, to enjoy just, decent and favourable conditions of work and to have access to assistance schemes for the unemployed.

(2) Every person has the right to form trade unions and join the trade union of his or her choice for the protection of his or her interests, in accordance with national laws and regulations.

(3) No child or any young person shall be subjected to economic and social exploitation. Those who employ children and young people in work harmful to their morals or health, dangerous to life, or likely to hamper their normal development, including their education should be punished by law. ASEAN Member States should also set age limits below which the paid employment of child labour should be prohibited and punished by law.

At the moment, ASEAN has one legally binding instrument. Signed in November 2015, the *ASEAN Convention against Trafficking in Persons, Especially Women and Children* entered into force in March 2017 after being ratified by six AMS.

A Few Key Issues

Children's Rights in the ASEAN Community: Just like all human rights, children's rights are cross-cutting. Children wear the status of an economic actor, a political actor, and a socio-cultural actor. However, there is a perception that all human rights belong to just one ASEAN Community pillar.

Children's Rights in Free Trade Agreements: Trade liberalization can have positive and negative impacts on the realization of child rights in ASEAN. Stronger commitment and action must be taken to ensure that the economic integration does not pose more risks for children, but instead contributes to greater political, economic, social, and cultural opportunities for them.

What ASEAN Integration Could Mean for Children

Following the Bangkok Human Rights Dialogue on the Impact of ASEAN Integration to Children's Rights in 2015, AICHR produced a study "What ASEAN Integration could mean for Children: Assessment of the ASEAN Community Blueprints and Potential Impacts on Children" with the support of UNICEF East Asia and the Pacific Regional Office. The study looked at the ASEAN Community Vision 2025 and the three Community Blueprints, and identified their possible impacts on children's rights.



WHAT ASEAN INTEGRATION COULD MEAN FOR CHILDREN

Assessment of the ASEAN Community Blueprints
and potential impacts on children

Scan the view the 2018
publication "What ASEAN Integration
Could Mean for Children:
Assessment of the ASEAN
Community Blueprints and potential
impacts on children"



The ASEAN 2025 Vision and the Blueprints are intended to provide ASEAN with its integration plan. Children's rights and the core principles of the UN CRC are represented in these to varying degrees.

The study examined the four core principles of children's rights - the best interest of the child, non-discrimination, survival and development, and the participation rights of the child - and how these general principles evolved in the normative legal, institutional and policy framework of ASEAN, and their current incorporation within the ASEAN 2025: Forging Ahead Together framework and the related Blueprints.

Frameworks such as the ASEAN Community Blueprints provide a mechanism for coordination and cooperation amongst various government bodies and different stakeholders. The blueprints of the three ASEAN Community Pillars are a guiding force for all sectoral bodies. The statement in ASEAN's Vision was used in the study to map out possible positive and negative impacts on children.

Based on the study, ASEAN integration can have negative or positive impacts on children as a whole, or on specific groups of children. These impacts could be direct or indirect, depending on the way the policies are shaped and implemented at national and regional levels.

Regarding the alignment of UN CRC general principles with ASEAN's working principles of respect for state sovereignty, non-interference, consultation and consensus, the study noted some observations:

- Non-discrimination is either specifically or implied in two Blueprints: ASEAN Socio-Cultural Community Blueprint (ASCC) and ASEAN Political-Security Community (APSC).
- There are no specific mentions of LGBTQ children, irregular migrants, child migrants, stateless children, refugee children and children seeking asylum.
- The Principle of the Best Interests of the Child is not specifically mentioned in the ASEAN Blueprints.
- The Child's Right to Life, Survival and Development has most attention in the three Blueprints
- 'Elimination of all forms of discrimination, exploitation, trafficking and violence and abuse against children' are in the ASEAN Socio-Cultural Community Blueprint (ASCC) and ASEAN Political-Security Community (APSC).
- Other human security threats are dealt with minimally.
- The ASEAN Socio-Cultural Community Blueprint (ASCC) is the only one that explicitly mentions child participation.

OBJECTIVES OF THE STUDY

Elaborate the multi-dimensional aspect of the right of development in the context of ASEAN integrated community and its implication to marginalized and vulnerable members of the population

Identify opportunities and challenges in mainstreaming the right to development in ASEAN regionalism projects in the context of globalization and sustainable development goals

Explore possible steps to be taken to narrow development gaps and the impact of globalization and regionalism project to the people in ASEAN

ASEAN SOCIO-CULTURAL COMMUNITY BLUEPRINT 2025 AND IMPACTS ON CHILDREN

ASSC BLUEPRINT	
EXAMPLES OF POSITIVE IMPACTS	EXAMPLES OF NEGATIVE IMPACTS
<ul style="list-style-type: none">• Access to ICT gives children more opportunities• Ensure caring, peaceful and harmonious societies• Children’s exposure to illicit drugs reduced	<ul style="list-style-type: none">• Risk of online child abuse• ASEAN could result in some freedoms being curtailed• Increased in juvenile offenders end up in prison

ASEAN POLITICAL-SECURITY COMMUNITY BLUEPRINT 2025 AND IMPACTS ON CHILDREN

APSC BLUEPRINT	
EXAMPLES OF POSITIVE IMPACTS	EXAMPLES OF NEGATIVE IMPACTS
<ul style="list-style-type: none">• Promote understanding and appreciation of political systems, culture and history of AMS• Reduced number of children trafficked	<ul style="list-style-type: none">• Harmful traditional practices against children continue- ‘ASEAN values’ used to mask different interpretations of human rights• Distinction between trafficked children and irregular child migrants blurred further

ASEAN ECONOMIC COMMUNITY BLUEPRINT 2025 AND IMPACTS ON CHILDREN

AEC BLUEPRINT	
EXAMPLES OF POSITIVE IMPACTS	EXAMPLES OF NEGATIVE IMPACTS
<ul style="list-style-type: none">• Remittances sent home contribute to child development• Better healthcare facilities, products and services• Increased ASEAN tourism alleviates poverty• Increased food production reduces malnutrition	<ul style="list-style-type: none">• Child left behind• Improved access to health care services does not necessarily mean they are affordable• Great risk of the sexual exploitation of children in travel and tourism• Child labour mostly found in agriculture

Source: What ASEAN Integration Could Mean for Children (UNICEF, 2018)

ASEAN Institutional and Policy Framework

The study also looked at the ASEAN Institutional and Policy Framework, focusing specifically on the institutional dimensions, which are reflected in regional legal documents (both binding and non-binding), policies, and mechanisms.

The following challenges in the ASEAN regional legal documents and policies were presented:

- The *Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in ASEAN* includes the phrase “taking into consideration the regional and national contexts bearing in mind the different historical, political socio-cultural, religious, legal and economic backgrounds in the region” as a qualifier in promoting and protecting human rights. This particular clause is very problematic as it allows ‘relativism’ rather than universality for rights of women and children. It fails to recognize that violence is violence, and that it does not depend on the different historical, political socio-cultural, religious, legal and economic backgrounds in the region. The regional aspiration does not represent one regional standard.
- The ASEAN Economic Community projects a single market and production base with a free flow of goods, services, investment, capital, and skilled labor. It envisages a highly competitive economic region provided for an environment conducive for economic growth but not for the promotion and protection of the rights of people, and of children in particular. It does not grant legal protection to citizens, except to investors, or protection to free movement of ordinary citizens, etc.
- Under the ASEAN Political and Security Community, the ASEAN Convention on Counter-Terrorism, which was adopted in 2007, stipulates that “subject to the consent of the Parties concerned, Parties shall cooperate to address the root causes of terrorism and conditions conducive to the spread of terrorism to prevent the perpetration of terrorist acts and the propagation of terrorist cells” (Article 5), which may well support ASEAN Member States to address issues of poverty and inequality, discrimination, persecution and human rights violations, and conflicts and violence within national borders.

From 1969 to 2013, ASEAN has adopted several hundreds of declarations and agreements. The study cited that, based on the ASEAN website and a list compiled by the National University of Singapore (with material dating from 1969 to 2013), a total of 209 declarations/protocols, frameworks, agreements, Memorandums of Agreement, Joint Ministerial Meeting Statements, and letters of understanding were developed, integrated, and classified under what now comprises the Economic Community.

At present, there are 81 items listed on the ASEAN website as legal instruments: 14 of which are under the Political and Security Community, 59 are under the Economic Community, and 8 are under the Socio-Cultural Community.

- With the vision for a drug-free ASEAN, the *ASEAN Declaration of Principles to Combat the Abuse of Narcotics Drugs* was adopted in 1976. Although a drug-free society is desirable and it is recognized that drug abuse is harmful to society and future generations, by examining Clause I of the Declaration, there are some worrying messages which, in many cases, may lead to abuses and violations that are harmful to people and children. While the original focus of a drug-free ASEAN is the 'health and welfare of humankind', in practice, there has been an overwhelming focus on punishment, law enforcement and criminal justice.
- While the concepts of 'people-oriented' and 'people-centered' have been adopted in all three communities, these concepts were not well understood and subject to different interpretations and practices.
- There has also been confusion over which ASEAN sectoral body will be addressing issues related to child rights. A few sectoral bodies can be identified to have direct work on matters related to children, but each of the sectoral bodies has its own work plan or programs that could overlap with the work plans or programs of the others.
- ASEAN and its Member States have shown their commitment to the promotion and protection of the rights of children through its various policies, legal framework, and institutions. Its different declarations and various work plans designed and adopted by various bodies, especially by the ACWC and the AICHR, are geared towards realizing child rights and could potentially contribute to mitigating negative impacts of the blueprints. However, none of these bodies has monitoring power to investigate human rights violations, despite the mandate to 'promote' and 'protect', as in the case of ACWC and AICHR. Implementation of laws, policies (in the form of declarations), and work plans are all subject to the discretion of the AMS.
- As legal documents and policies are based on ASEAN's working principles, existing regional human rights commissions are not equipped with the mandates to receive complaints or to investigate cases of violations. In addition, the overall implementation of policies and laws on children are left to national governments, which can lead to conflicts with international human rights standards.

The ASEAN has various sectoral bodies, such as ASEAN Senior Officials Meeting on Social Welfare and Development (SOMSWD), the ASEAN Senior Labor Officials Meetings (ASLOM), the Senior Officials Meeting on Education (SOMED), the ASEAN Senior Officials Meeting on Youth (SOMY), the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), and the ASEAN Intergovernmental Commission on Human Rights (AICHR).

The AMS have adopted the following fundamental principles, as contained in the Treaty of Amity and Cooperation in Southeast Asia of 1976:

1. Mutual respect for the independence, sovereignty, equality, territorial integrity, and national identity of all nations;
2. The right of every State to lead its national existence free from external interference, subversion or coercion;
3. Non-interference in the internal affairs of one another;
4. Settlement of differences or disputes by peaceful manner;
5. Renunciation of the threat or use of force; and
6. Effective cooperation among themselves.

Engaging ASEAN Stakeholders, Duty Bearers, and Civil Society on Children's Rights

The three 2025 ASEAN Community Blueprints recognize the link between different stakeholders and the achievements of the established goals and targets. Consultation, interaction, engagement, cooperation, and collaboration with stakeholders are the approaches identified from a socio-cultural, political, security, and economic points of view.

The engagement and strengthened cooperation with the private sector are especially prominent in the Community Blueprints as a way to instill a culture of good governance and corporate social responsibility, promote integrity and anti-corruption, and combat transnational crimes and cybercrimes.

All Community Blueprints recognize the essential contribution of civil society and the civil society organizations to the regional integration efforts. Although the reference to CSOs are weak in the ASEAN Socio-Cultural Community Blueprint, the ASEAN Political-Security Community Blueprint considered collaboration and cooperation with CSOs as essential not only to promote and protect the principles of democracy, human rights, fundamental freedoms, and social justice, but also to combat transnational crimes and strengthen peace-oriented values.

The desired child-focused implementation of the activities provided by the Community Blueprints is envisioned to be realized through the cooperative engagements and commitments among Member States, ASEAN, and the United Nations.

Conclusions and Recommendations of the Study

ASEAN people and children should benefit from ASEAN integration in many ways. However, there are certain risks to be considered as detailed in the analysis of potential positive and negative impacts of the Community Blueprints on children. Generally, the Community Blueprints are more principled than action-oriented. Plans of actions are left to sectoral bodies. The challenge is how to monitor and evaluate their implementation.

While the ASEAN Community Blueprints were developed before the SDGs were finalized, the goals and targets as set out by SDGs are more or less in line with the Community Blueprints. Linking and complementing the Community Blueprints to the SDGs are essential and can enable the meaningful involvement of all stakeholders.

Identifying child rights champions in different mechanisms and institutions would also contribute to facilitating closer engagement and positive impacts for children. A system for 'child rights impact assessments', across all Community Blueprints could help inform planning based on the best interests of the child.

Recommendations of the Study to ASEAN as a Regional Body

- Advocate for the ratification all international human rights instruments
- Develop child rights indicators for the ASEAN Integration Scorecards and collect better data
- Improve institutional coordination with all stakeholders
- Systematize consultation with children and youth

Recommendations of the Study to ASEAN Member States

- Strengthen legal frameworks, enforcement mechanisms, national policies, coordination and implementation plans in relation to children.
- Carry out Children's Rights Impact Assessments, in collaboration with CSOs, on all policies and investments proposed with in the three ASEAN Community Blueprints, particularly in key areas of focus or concern: tourism, migration, health care, information and communication technology, and employability
- Increase public investment in social spending and basic services that impact children, especially those considered most vulnerable

Recommendations of the Study to CSOs, international non-government organizations and the UN

- Promote, facilitate and support regional debate and action on children's rights (in line with the SDGs) with appropriate ASEAN mechanisms and bodies such as the ACWC, AICHR, Senior Officials Meeting on Social Welfare and Development, and the ASEAN Children's Forum
- Stronger links between the Blueprints and the SDGs
- Go beyond the usual child rights actors to work with private sector (such as the primary industries, tourism and services sector, ICT and infrastructure, etc.) and law enforcement

Children's Rights in Immigration and Asylum Proceedings

The Joint General Comment No. 22 (2017) of the CRC Committee with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families clearly indicates the principles with regard to children's rights in the context of international migration:

- Non-Discrimination (Art. 2)
- Best Interests of the Child (Art. 3)
- Right to be heard, express his or her views and participation (Art. 12)
- Right to life, survival and development (Art. 6)
- Non refoulement, prohibition of collective expulsion (Arts. 6, 22, 37)

However, countries are still putting children in detention, either in immigration detention centers or in prison or police stations. This remains a problem in all AMS. Worse, the conditions of detention centers are widely reported as substandard. A number of global and regional studies support the advice that children should not be put in detention centers and that detention should be the measure of last resort.

From the *Joint General Comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families* and *No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration*

Non discrimination (Art. 2)

21. . . . All children involved in or affected by international migration are entitled to the enjoyment of their rights, regardless of the children's or their parents', legal guardians' or family members' age, gender, gender identity or sexual orientation, ethnic or national origin, disability, religion, economic status, migration/documentation status, statelessness, race, colour, marital or family status, health status or other social conditions, activities, expressed opinions, or beliefs....

Best Interests of the Child (Art. 3)

32. The Committees stress that States parties should:

e) Assess and determine the best interests of the child at the different stages of migration and asylum procedures that could result in the detention or deportation of the parents due to their migration status. Best-interests determination procedures should be put in place in any decision that would separate children from their family, and the same standards applied in child custody, when the best interests of the child should be a primary consideration;

f) Conduct a best-interests assessment on a case-by-case basis in order to decide... the type of accommodation that would be most appropriate for an unaccompanied or separated child, or children with parents. In that process, community-based care solutions should be prioritized. Any measure that constrains children's liberty in order to protect them (e.g., placement in secure accommodation) should be implemented within the child protection system with the same standards and safeguards;

Right to be heard, express his or her views and participation (Art. 12)

35. ... Children may have their own migration projects and migration-driving factors, and policies and decisions cannot be effective or appropriate without their participation. The Committee also emphasizes that these children should be provided with all relevant information, inter alia, on their rights, the services available, means of communication, complaints mechanisms, the immigration and asylum processes and their outcomes. Information should be provided in the child's own language in a timely manner, in a child sensitive and age-appropriate manner, in order to make their voice heard and to be given due weight in the proceedings.

Non-refoulement, prohibition of collective expulsion (Arts. 6, 22, 37)

40. ... The Committees highlight that the principle of non-refoulement has been interpreted by international human rights bodies, regional human rights courts and national courts to be an implicit guarantee flowing from the obligations to respect, protect and fulfil human rights. It prohibits States from removing individuals, regardless of migration, nationality, asylum or other status, from their jurisdiction when they would be at risk of irreparable harm upon return, including persecution, torture, gross violations of human rights or other irreparable harm.

Right to life, survival and development (Art. 6)

40. ... At any point during the migratory process, a child's right to life and survival may be at stake owing to, inter alia, violence as a result of organized crime, violence in camps, push-back or interception operations, excessive use of force of border authorities, refusal of vessels to rescue them, or extreme conditions of travel and limited access to basic services. Unaccompanied and separated children may face further vulnerabilities and can be more exposed to risks, such as gender-based, sexual and other forms of violence and trafficking for sexual or labour exploitation. Children travelling with their families often also witness and experience violence. While migration can provide opportunities to improve living conditions and escape from abuses, migration processes can pose risks, including physical harm, psychological trauma, marginalization, discrimination, xenophobia and sexual and economic exploitation, family separation, immigration raids and detention.

“ Throughout the Southeast Asian region, detention as a response to the irregular entry of stay of refugees, asylum seekers, stateless people and trafficked people including children, is the norm rather than an exception. The negative and long lasting physical and psychological impacts of immigration detention on children have been widely documented. 'Alternative to Detention (ATD)' on the other hand have proven to be effective in meeting states' migration management objectives including upholding national security and achieving timely case resolution, whilst also removing the negative impacts of detention on children. Yet, little progress has been made in Southeast Asia in developing sustainable and comprehensive ATD for children and other vulnerable populations, including those seeking asylum.

- From the Report on Regional Expert Roundtable on Alternatives to Immigration Detention for Children, 19-20 November 2015, Bangkok, Thailand

“

The 2015 *Regional Expert Roundtable on Alternatives to Immigration Detention for Children* organized by AICHR Thailand, Asia Pacific Refugee Rights Network, and International Detention Coalition came up with a study, but the matter remains sensitive to ASEAN governments and most of them do not reveal the number of children in detention.

The United Nations High Commissioner for Refugees Global Strategy Beyond Detention 2014-2019 Goal 2 is to ensure that alternatives to detention are available in law and implemented in practice. It explains that “alternative to detention” is any legislation, policy or practice that allows asylum-seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement.

The ASEAN does not have the maximum periods for detention, so children are put in detention center with no maximum time limit. Some children can stay in detention until they become adults.

Maximum time limits in detention and automatic release



“To guard against arbitrariness, maximum periods of detention should be set in national legislation. Without maximum periods, detention can become prolonged, and in some cases indefinite, including particularly for stateless asylum-seekers. Maximum periods in detention cannot be circumvented by ordering the release of an asylum-seeker only to re-detain them on the same grounds shortly afterwards.”

-From the UN High Commissioner for Refugees Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, Guideline 6, para. 46.

In the manual titled *There are Alternatives* published in 2015 by the International Detention Coalition, detention and alternatives to it were compared, showing that detention is more harmful and costlier. The International Detention Coalition advocates for placement options (i) in community without conditions, (ii) with conditions or limited restrictions in the community with review, or (iii) detention as a last resort with review.

A COMPARISON OF DETENTION AND ALTERNATIVES

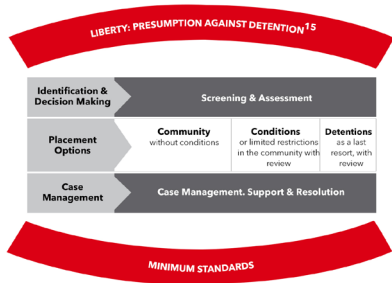
Detention

- Is costly
- Is harmful to health and wellbeing
- Interferes with human rights
- Does not encourage participation in case resolution processes
- Is not an effective deterrent
- Can contribute to decisions to undertake secondary movement
- Can expose governments to litigation for unlawful detention and for the impacts of detention on health

Alternatives

- Cost less than detention
- Support health and wellbeing
- Respect and fulfill human rights
- Strengthen participation in case resolution processes
- Improve voluntary and independent departure rates
- Can help stabilize vulnerable individuals in transit
- Avoid wrongful detention and reduce overcrowding and long-term detention

Source: Sampson, R., Chew, V., Mitchell, G., and Bowring, L. *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention (Revised)*, (Melbourne: International Detention Coalition, 2015), page III

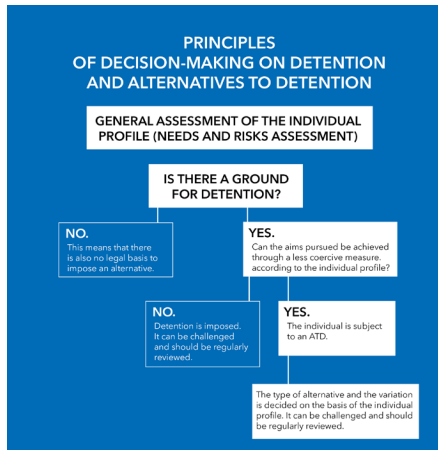


Source: Sampson, R., Chew, V., Mitchell, G., and Bowring, L. *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention (Revised)*, (Melbourne: International Detention Coalition, 2015), page 18

UNICEF, in 2019, also produced the *Working Paper on the Alternatives to Immigration Detention of Children* with the following recommendations on alternatives to immigration detention of children:

- Develop National Action Plans to end immigration detention of children and their families
- Invest in inclusive child protection systems
- Invest Overseas Development Assistance into building and strengthening alternatives to detention
- Provide access to clear, objective information about migration options, migrants' rights and the forms of assistance and support available to migrants
- Ensure host community support
- Strengthen referral networks to avoid any referral into detention

In the European region, a similar study was conducted in 2015. The publication *Alternatives to Immigration and Asylum Detention in the EU: Time for Implementation* puts in place principles of decision-making regarding detention of children.



Source: De Bruycker, et al. (2015). *Alternatives to immigration and asylum detention in the EU: Time for implementation*

Some countries in Europe have introduced the following measures as alternatives to children detention:

- i. Reporting
- ii. Financial guarantee
- iii. Guarantor/sponsor
- iv. Surrender document
- v. Electronic tagging,
- vi. Designated residence (in private housing)

Designated open center (for asylum seekers and returnees)

MECHANISMS	AUSTRIA		BELGIUM		LITHUANIA		SLOVENIA		SWEDEN		UK	
	Law	Practice	Law	Practice	Law	Practice	Law	Practice	Law	Practice	Law	Practice
Reporting	x	x			x	x	x only return	x only return	x	x	x	x
Financial guarantee											x	x
Guarantor/ sponsor	x				x	x only return		x			x	x
Surrender document									x	x		
Electronic tagging											x	x
Designated residence (in private housing)			x only return				x only return	x only return			x	x
Designated open centre (for asylum seekers and returnees)	x	x	x	x only families	x only asylum seekers	x only asylum seekers	x House Arrest	x House Arrest			x only return	

Source: De Bruycker, et al. (2015). *Alternatives to immigration and asylum detention in the EU: Time for implementation*

In 2018, The Council of Europe published an analysis titled *Legal and practical aspects of effective alternatives to detention in the context of migration*. This analysis provides a comprehensive overview of the relevant international human rights standards in the context of alternatives to immigration detention. It also puts forward different types of alternatives with due consideration given to the special needs and protection of persons in vulnerable situations.

Persons in vulnerable situations may include the following:

- Children
- Asylum seekers
- Persons in stateless situations
- Persons with serious health conditions, including mental health
- Victims of human trafficking
- Victims of torture, ill-treatment, and domestic violence
- Pregnant women and nursing mothers
- LGBTI persons
- The elderly
- Persons with disabilities

The necessity of examining alternatives is of particular importance as regards to persons in vulnerable situations. Due consideration must be given to the special needs of persons concerned, ensuring that they have access to appropriate protection and care. While identified categories of vulnerability can vary between different international instances, the following groupings have been specifically addressed to one or more international bodies in non-exhaustive, indicative listings.

Vulnerable individuals/groups and/or persons in vulnerable situations require special protection. This narrows both the scope for detention and the State's margin of appreciation. In such cases, detention will be unlawful if the aim pursued by detention can be achieved by other less coercive measures. Alternatives must be thoroughly considered and detention used as a last resort. States should detect vulnerabilities that may preclude detention by virtue of vulnerability assessment procedures.

IN FOCUS: THAILAND

According to the UN High Commissioner for Refugees, there are around 97,000 refugees in Thailand, most of whom come from ethnic minorities in Myanmar.

Thailand is not a signatory to the *Convention Relating to the Status of Refugees* or the 1951 Refugee Convention. The country also lacks a domestic legal framework that recognizes and protects the rights of refugees. Legal protection is usually ad hoc cabinet resolutions regarding various populations. As such, refugees and asylum seekers can be treated as illegal migrants. They are vulnerable to arrest, detention, discrimination, deportation, and refoulement. They may be subjected to exploitation and abuse by authorities, with limited access to justice. Arrested migrants, refugees, and asylum seekers could end up in police lock-ups or immigration detention centers.

Conditions in Thai detention facilities

In 2014, Human Rights Watch, through its publication *Two Years with No Moon: Immigration Detention of Children in Thailand*, reported that Thailand arbitrarily detains thousands of infants and toddlers and older children in substandard immigration facilities and police lock-ups. They are detained due to their own immigration status or that of their parents. The report added that while children are in the immigration detention facilities, they do not get access to education, proper nutrition, exercise, or clean sanitation facilities.

Displaced Persons in Rakhine State

According to the Asia Pacific Refugee Rights Network in 2017, there is a sizable population of displaced persons who arrive in Thailand to escape violence and persecution. They reach Thailand by land and sea, en route to Malaysia, their intended final destination. Due to desperation, some of them rely on smugglers working with deeply-entrenched human trafficking networks. Refugees who have been rescued by authorities from human traffickers are subjected to indefinite detention in immigration detention centers or government-run shelters.

Urban Refugees in Bangkok

The Asia Pacific Refugee Rights Network in 2017 reports that there are 3,801 urban refugees and 4,130 asylum seekers registered with the UN High Commissioner for Refugees in Thailand. The sudden increase in the number of asylum seekers in the capital city of Bangkok exacerbates the problem regarding under-resourced service providers.

Thailand's Policy Reform in 2019

As a step to reduce the detention of migrant children and children in refugee situations, the Thai government signed the *Memorandum of Understanding on the Determination of Measures and Approaches Alternative to Detention of Children in Immigration Detention Centers*, which knowledges that children should only be detained as a measure of last resort and that any detention period should be as brief as possible. It is signed by seven concerned Thai agencies: the Royal Thai Police, Ministry of Social Development and Human Security, Ministry of Foreign Affairs, Ministry of Interior, Ministry of Public Health, Ministry of Education, and Ministry of Labour. It commits to upholding the best interests of the child and affirms the responsibility of the government to ensure that children remain under the care of their family.

Sources:

- Asia Pacific Refugee Rights Network. (March 2017). *Thailand Factsheet*.
- Fortify Rights. (2017). *A work in progress: Thailand's compliance with the International Covenant on Civil and Political Rights*.
- Human Rights Watch. (2014). *Two Years with No Moon: Immigration Detention of Children in Thailand*
- UN High Commissioner for Refugees (UNHCR). *Refugees in Thailand*. <https://www.unhcr.or.th/en>

A Few Key Issues

The following are points that need to be addressed in relation to children's rights in immigration and asylum proceedings:

- Having a better database system within and among AMS
- Addressing the concerns for marginalized groups (e.g., children who are indigenous, children who identify as LGBT, children who are refugees or seekers, children in migration, and children with disabilities)
- Gender mainstreaming and addressing the vulnerability of girls
- Having concrete action lines
- Developing ASEAN SDG Indicators on Children or Child-Friendly Community Guidelines
- Designating duty-bearers or agencies
- Engaging with and empowerment of other stakeholders
- Implementing a regional approach to UN CRC obligations, such as studying how to address the commonalities to Concluding Observations
- Review of ASEAN Charter and AICHR TOR for more effective protection mandate

CHILDREN EXPOSED TO DOMESTIC VIOLENCE EITHER AS WITNESSES OR VICTIMS

General Comment No. 14 provides advice on the best interest of the child in relation to the preservation of family environment and maintaining relations (paras. 58-70) and to the care, protection, and safety of the child (paras. 71-74). An issue closely linked with these is the situation of children who witness or become victims of violence at home.

IN FOCUS: MALAYSIA

Best Interest of the Child vs. Welfare of the Child

Just like the United Kingdom, Malaysia prefers the wording 'welfare of the child' rather than 'best interest of the child.' However, the two terms are used interchangeably in various scholarly works as well as in practice and decisions by courts. In Malaysia, the welfare of the child is of paramount consideration.

The Pluralistic Legal System in Malaysia

Malaysia is a federation with a pluralistic legal system which includes family laws and laws for Muslim and non-Muslim children, aside from the customary law that governs native children in some states.

Laws and Courts in Malaysia

FEDERAL	ISLAMIC	NATIVE
<div>Federal Court Court of Appeals High Court Session Court Magistrate Court</div>	<div>Syariah Appeal Court Syariah High Court Syariah Subordinate Court</div>	<div>Native Court of Appeal Native Resident's Court District Native Court Chief's Court Penghulu's Court Headman's Court</div>

Islamic laws in Malaysia are state laws that are applicable to Muslims only. In each state, there exists a Syariah Court where matters relating to Islamic laws are adjudicated.

Occasionally, the two laws, federal laws and Islamic laws, come into conflict. As a solution to this, at the moment, civil courts (under 'Federal' in the table above) cannot interfere into matters under the jurisdiction of the Syariah court. However, in the recent case of Indira Ghandi in 2018, the High Court may judicially review the decision of various Islamic authorities or bodies, such as the Religious Department.

Family Laws in Malaysia

NON-MUSLIM	MUSLIM	NATIVE
<div>Law Reform (Marriage and Reform) Act 1976 Guardianship of Infants Act 1961 Maintenance Act 1950</div>	<div>Islamic Laws enacted in each state</div>	<div>Customary laws in each native group</div>

In Cases of Child Custody

Under the Law Reform (Marriage and Divorce) Act 1976 for non-Muslims, the welfare of the child serves as the paramount consideration for the court in deciding on child custody cases, but due regard is given on the wishes of the parents and of the child being of an age to express an independent opinion. A child psychologist or counselor may be called to make an independent assessment as to what is “the best interest of the child” in relation to custody.



In handling child custody upon divorce, the provisions for family laws for Muslims are similar to the Law Reform (Marriage and Divorce) Act 1976, but the mother and grandmother have better rights to custody. The father, whether or not he has custody of the child, is responsible for the sustenance of the child. In Syariah Court, judges often call independent counselors to review a child’s custody.

Custody of Children upon Divorce under the Law Reform Act (Marriage and Divorce) 1976, Section 88:

1. *The court may at any time by order place a child in the custody of his or her father or his or her mother or, where there are exceptional circumstances making it undesirable that the child be entrusted to either parent, of any other relative of the child or of any association the objects of which include child welfare or to any other suitable person.*
2. *In deciding in whose custody a child should be placed **the paramount consideration shall be the welfare of the child** and subject to this the court shall have regard—*
3. *to **the wishes of the parents of the child**; and (b) to **the wishes of the child**, where he or she is of an age to express an independent opinion.*
4. *There shall be a rebuttable presumption that it is for the **good of a child below the age of seven years to be with his or her mother** but in deciding whether that presumption applies to the facts of any particular case, the court shall have regard to the undesirability of disturbing the life of a child by changes of custody*
5. *Where there are two or more children of a marriage, the court shall not be bound to place both or all in the custody of the same person but shall consider the welfare of each independently*

In cases of divorce:

- i. *One parent get custody and the other access/ visiting unless parent found guilty of abuse*
- ii. *Paternal and maternal grandparents can apply for custody if parents are not available (abandoned/neglect children, imprisonment or death)*
- iii. *Wishes of children –child psychologist /counsellors may be called to make an independent assessment as to what is “the best interest of the child” in relation to custody*

Laws on Violence against Children in Malaysia

Statutes have been passed in relation to violence against children (VAC). The Child Act 2001, amended in 2016, introduced the concept of family-based care to provide a more loving environment for every child. For example, a child in need of protection, care, and rehabilitation, including children in conflict with the law, is placed in a family or family setting. The whole idea of deinstitutionalization was to ensure children are integrated with their families, relatives, neighbors, friends, community, and not in an institution.

Category of children protected under the Child Act 2001

- ▶ Children in need of care and protection;
- ▶ Children in need of protection and rehabilitation;
- ▶ Children beyond control;
- ▶ Children being abducted or trafficked
- ▶ Children who commit crimes

Under the welfare services, the Malaysian government provides 'children's homes' – a place of safety for abused children and a place of refuge for trafficking victims. The government also provides different types of institutions for children in conflict with the law: 1) Sekolah Tunas Bakti, 2) Tunas Harapan Homes, 3) Akhlaq Hostels; and 4) Seri Putri School. For children with disabilities, the *Persons with Disabilities Act* is all encompassing and does not have a special heading for children.

The whipping of children executed by the courts was also abolished in the amended Child Act 2001. Instead, child offenders receive a Community Service Order as a form of correctional approach. When the Child Act was amended in 2016, 'children beyond control' as a category of children protected under this law was not removed.

In December 2017, the *Special Guidelines for Managing Cases of Sexual Offence Against Children in Malaysia* were introduced to improve the procedures and handling of child victims/witnesses to guide stakeholders in the management of court proceedings related to sexual offences against children.

Of the 1,200 children in homes under the Ministry and 11,000 children in 200 homes run by NGOs, 451 children have been deinstitutionalized in 2017 and were in family-based care. The target is to deinstitutionalize 450 children annually. However, there are pitfalls when it comes to domestic violence and child abuse cases wherein children are returned to homes where they were abused.

INSTITUTION UNDER WELFARE SERVICES

1. Children homes
 - (a) place of safety-abuse children etc.
 - (b) place of refuge-trafficking victims
 2. Sekolah Tunas Bakti
 3. Tunas Harapan Homes
 4. Akhlaq Hostels
 5. Seri Putri School
- } children that conflict with the law

With technical support from UNICEF The Government of Malaysia is in the final stages of introducing a pilot project for diversion for children in conflict with the law in selected and identified districts. Tentatively, the Diversion Programme will be implemented in 2020 where children that conflict with the law shall not be sent to detention center. They are not to be charged but diverted and rehabilitated in a family-based care.

Statutes, which has been passed in relation to Violence Against Children (VAC)

- Penal Code
- Child Act 2001 (Act 611) and amended 2016
- Domestic Violence Act 1994 and amended 2012
- Evidence Of Child Witness Act 2007 (Act 676)
- Sexual Offences Against Children Act 2017
- Children and Young Person (Employment) Act 1966 (Act 350), amended 2011 (Act 1386)
- Person with Disabilities Act 2008

Challenges in protecting the best interest of the child in Malaysia

- Malaysia has not ratified the *Hague Convention on the Civil Aspects of International Child Abduction*, also known as Hague Abduction Convention, or the *Convention Relating to the Status of Refugees*.
- In the laws in Malaysia, the definition of 'family' does not include unmarried couples and same-sex couples.
- In domestic violence and child abuse cases, 80% of the abusers are family members, while in sexual offenses, 50% of the abusers was the father or the stepfather. More often, children are sent back to their family or to the mother. In all cases of abuse, there is no structured and continuous counselling or psychological help for the child victim-survivors.
- The Powers of Protectors in the Child Act of 2001 are quite limited. On many occasions, the protector refused to get involved, especially in cases of custody.
- Medical officers felt restricted from having to require parental consent for certain medical services for children.
- Children in institutions lack a family-based environment. Foster parenting needs to be encouraged to give children the opportunity to live in a family atmosphere.
- Public and private shelters should have proper procedures regarding handling of child abuses cases.
- For children whose parents are in prison because of criminal offenses, the prison rule is that the mother can only keep the child with her until the child reaches the age of 3 years because there are no special prisons for mothers with children. If the child has no other family member to go to, the child will be sent to a shelter.
- For children whose parents are in prison because of immigration or immigration cases, the mother and child are kept together until the child is 7 years old. Afterwards, the child will be moved to another cell with other children of the same age group, but once children reach the age of 12 years, they have to stay with adults. Given that unaccompanied children run the high risk of children being abused and exploited, children should be taken out of immigration detention, be provided a foster family, and be allowed to go to school.
- To date, Malaysia has 5 reservations on UN CRC articles, including on the article on education. Nonetheless, Malaysia has declared that, even though primary education is not compulsory and not available for free to all children in Malaysia, primary education is available to everybody and Malaysia achieved 98% enrolment rate for primary education.

DIALOGUE DISCUSSION POINTS

During the Open Forum of this session, the following points were raised, clarified, and discussed:

On UN CRC and ASEAN

- Regional standards should not fall behind international standards. Instead, ASEAN conventions or standards must be developed to enhance the standards that already exist at the international level.
- The *ASEAN Convention against Trafficking in Persons, Especially Women and Children* does not stipulate obligations for monitoring and evaluation. The next ASEAN convention to be developed must have a monitoring mechanism.
- The Council of Europe's *Convention on Preventing and Combating Violence against Women and Domestic Violence* or the Istanbul Convention may be considered as one of the best examples of a legally binding regional framework on human rights.
- There is a need to examine the reasons behind the reservations on some articles in the UN CRC in order to properly address these issues, which could then eventually lead to the withdrawal of reservations. Part of the mandate of AICHR and ACWC is to advise governments not only of ratification of human rights instruments, but also of withdrawal of reservations.
- Ratifying treaties takes a long time since everything must be agreed between States Parties. With the openness to share good practices and challenges in the region, ASEAN could offer a regional platform to look at good practices, identify challenges, and discuss collaborative efforts.
- ASEAN should consider expanding its cooperation to its dialogue partners, such as China, Japan, and Republic of Korea, not only in the context of regional economic cooperation and trade partnership agreements, but also on the realization of human rights, including children's rights.
- AICHR Philippines might be able to conduct a regional dialogue to discuss collaborative efforts to follow up on the UN CRC Concluding Observations of the AMS. A regional platform like this has not been conducted in the world yet, and ASEAN could set an example. There should be more focus and energy on the follow up to the Concluding Observations, especially because it is a challenge to every country.
- Education is a basic right and a child's nationality should not be a prerequisite to have access to education. However, some AMS are unable to provide free and compulsory education to children that are not citizens of the country due to lack of resources.



On Child Rights Impact Assessment

- As part of ensuring the best interest of the child as a primary consideration in legislation and policy development and delivery, there should be child rights impact assessment of all laws and policies relevant to children. The assessment should be done before and after these laws and policies were adopted.
- All government ministries should integrate the children's perspective in their work and one way to do this is by conducting a child rights impact assessment.



On Access to Justice and Alternatives to Detention

- AICHR has thematic studies on legal aid and child justice. One of the challenges for the majority of the AMS is that legal aid is only given to children who are their nationals or citizens. In some cases, legal aid is given only to those who are proven to be very poor or indigent by the Ministry.
- Just like in having access to education, a child's nationality should not be a prerequisite to have access to child justice.
- Some AMS are reluctant to ratify the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* because of the obligation mandating the state to provide legal aid to those in need, regardless of nationality and equal standing.
- Bilateral agreements for cooperation (e.g., between the governments of Thailand and Malaysia) can help in providing legal aid to children who are not their nationals or citizens.
- A multi-disciplinary approach is important in child rights policymaking, including in the area of child justice system. The diversion of children from the formal judicial processes entails working together to make assessments to implement a diversion program. In some countries, however, a multi-disciplinary approach is applied in other areas, such as addressing child victims of sexual abuse, but not yet in the process of developing diversion programs.
- Indonesia has community-based housing for asylum seekers in transit. However, adult asylum seekers cannot work in Indonesia, and this may have an impact on the children of asylum seekers.
- Foster care is an alternative to detention or institutionalization. If there is awareness and proper education regarding foster care, there might be more willingness in becoming foster parents.

On Eliminating Physical and Humiliating Punishment

- Out of the ten AMS, five of them have their own national human rights institution. The role of national human rights institutions should be part of the discussions on eliminating physical and humiliating punishment of children in all settings.
- All actors – the children, parents, family members, teachers, and the community – should receive the same message about the importance of eliminating corporal punishment as a way to discipline children.
- In some countries, a documented good practice to end physical and humiliating punishment of children was not about the adoption or revision of a legislation, but about strategies that worked to overcome the resistance from the parents, caretakers, and teachers. In this regard, a mechanism or platform to collect good practices and adjust these to the local context might be a strategy to address the issue in each AMS.
- Addressing corporal punishment in AMS should take into consideration the existing norms within the family unit. In some cases, children are used to being hit at home that when corporal punishment is used in the classroom, children see view it as a normal occurrence.
- In some AMS, there is a disparity in the acceptance of the use of corporal punishment between those in rural and urban areas. In most cases, physical and humiliating punishment is still accepted in rural communities.
- Gender plays a role in the use of physical and humiliating punishment of children. In some AMS, caning is accepted and allowed as a disciplining practice for boys in the school setting.
- Some AMS have guidelines about the prohibition of the use of physical and humiliating punishment in the school setting. In line with this, some teachers or coalitions of teachers request for training on implementing positive discipline. A few of them, however, feel threatened by these new child protection guidelines. To address this, teachers and educators have to understand the fundamental reason behind these guidelines, especially because in reality, there is difficulty in drawing clear lines on disciplining children. Most often, the training is centered on the Do's and Don'ts, which can be limiting and can overlook the core concepts of human rights, including the respect on the rights and dignity of a child.



ADOLESCENT HEALTH CARE: ENSURING A RIGHT, THE RIGHT WAY

General Comment No. 14 provides advice on the best interest of the child in relation to child's right to health (paras. 77-78), especially because a child's health or health condition is essential in assessing the child's best interest. In the General Comment, the CRC Committee also highlighted the obligation of States Parties to ensure that all adolescents have access to health information and services, including those related to early pregnancy, HIV/AIDS and sexually transmitted diseases, and sexual and reproductive health and rights.

What 1.8 billion adolescents are facing in the world today



Source: The Lancet. (2016). Infographic - Our future: a Lancet commission on adolescent health and wellbeing.

Adolescents or young people need care and protection. Around 1.8 billion adolescents in the world today are facing unemployment, armed conflict, unhealthy lifestyles, less stable families, environmental degradation, and mass migration.

According to Patton, et al. in the report called *Our future: a Lancet commission on adolescent health and wellbeing* (2016), the global patterns in young people showed that there were 2.6 million deaths in 2004. Out of these, 2.56 million or 97% occurred in lower middle-income countries.

The report also reveals the different types of burdens that adolescents experience today:

1. **Multi-burden**, experienced by 51% of the global adolescent population and includes problems related to infectious and vaccine-preventable diseases, undernutrition, and sexual and reproductive health;
2. **Injury excess**, experienced by 12% of the global adolescent population includes problems related to violence, unintentional injury, and traffic accidents; and
3. **Non-communicable diseases**, experienced by 37% of the global adolescent population and includes problems related to physical disorders, mental disorders, and substance abuse disorders.



The Science of Adolescent Brain

Science has shown that the back part of the brain – or the part in charge of emotions, motivations, and rewards – develops first during adolescence, while the front part of the brain – or the part in charge of decision-making, impulse control, future orientation, and planning – continues to develop until the third decade of life. As such, adults must understand the cognitive or brain development of adolescents in order to provide appropriate response and care. The science of brain development should be referred to when crafting child-related laws that are logical and evidence-based.

In the Philippines, young people at age 18 can marry, buy alcohol, and get a driver's license. The minimum age of criminal responsibility is presently at 15 years old, but there are moves to lower it to either 12 years old or 9 years old, implying that children fully understand the consequences of their actions. Thus, there is a lot of discrepancy in laws and policies on adolescents that need to be addressed. The science of the adolescent brain can assist in and impact the crafting of child-related laws that are evidence-based and logical.

Investing in Adolescent Health

Adolescence presents both new health risks and unique opportunities for health promotion. An estimated 70% of premature adult deaths are due to behaviors that begin in adolescence, such as unhealthy eating, tobacco use, inactivity, and excessive drinking. However, in terms of health care, adolescents are invisible because they are often perceived as healthy and, as such, they are not prioritized when it comes to budgets, programs, or medical training.

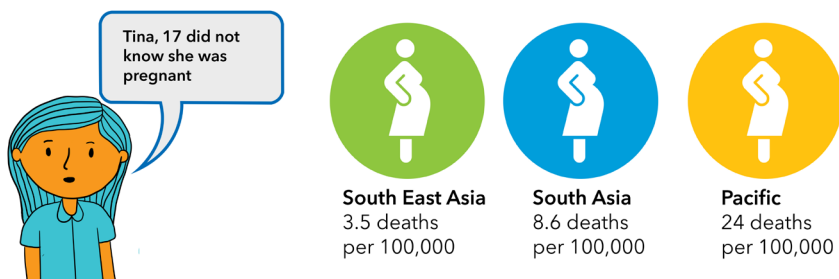
Intergenerational Cycle of Malnutrition



Additional nutrition is required during adolescence, which is characterized as a period of rapid physical growth. The nutritional status of adolescents can be improved through distribution and practice of nutrition knowledge. Female adolescent nutrition is a predominantly significant tool as undernourished mothers produce low birth weight babies, who grow into undernourished children and adolescents. In this regard, investing in adolescents ensures a healthy future generation.

Source: Sakir, G. (2017). *Breaking The Vicious Cycle Of Intergenerational Undernutrition*. Share-Net Bangladesh

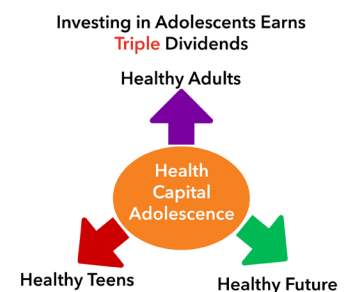
Moreover, early or teenage pregnancies present challenges to the full realization of rights. Adolescents who become parents at an early age experience gender-based issues, coercion, abuse, and discrimination from health service providers and school representatives. These adolescents also do not get access to comprehensive sexuality education and services. Complications from pregnancy and childbirth are a leading cause of death of girls aged 10-24 years in Asia and the Pacific.



According to the World Health Organization in its 2012 publication called *Making Health Services Adolescent Friendly: Developing national quality standards for adolescent friendly health services*, young people, particularly unmarried and marginalized adolescents, face major barriers to sexual and reproductive health and rights. Health services for adolescents are not available or accessible, and if they are, these services are either too expensive or of poor quality. Adolescents also have to deal with health service providers who are judgmental and discriminatory, who do not respect the adolescents' right to privacy and confidentiality, or who do not have the communication skills to effectively provide adolescent-friendly information.

Challenges also occur when adolescents:

- Have low knowledge on sexual and reproductive health and rights;
- Have poor health literacy
- Experience shame and stigma
- Are not involved in the decision-making process
- Have to deal with socio-cultural norms and community/family objections



Source: Patton, et al. (2016). *Our future: a Lancet commission on adolescent health and wellbeing*

If the rights of adolescents are not recognized and if government does not invest in adolescent health, the country suffers economic loss because of malnutrition, with the impact evident on education outcomes and workforce productivity. Investing in adolescents is a must because it yields triple dividends. It results to healthy teens, healthy adults, and healthy future generation.

To provide more advice on the realization of the rights of children during adolescence, the CRC Committee released General Comment No. 20 in 2016.

IN FOCUS: SILID KANDUNGAN (PHILIPPINES)

Silid Kandungan of the Philippine General Hospital runs a comprehensive one-stop shop and adolescent-responsive services. It offers obstetric care, contraceptive services, nutrition, and adolescent health care. It conducts psychosocial risk assessment, options counseling, child protection services, social services (i.e., adoption), and health classes. It also has modules on anger Signs and Birth Planning, Family Planning, and Breastfeeding and Infant Care.

Silid Kandungan uses a human rights-based approach to adolescent health care, following the standards of the World Health Organization. It ensures that the services to adolescents are:

- Accessible
- Affordable
- Acceptable
- Appropriate
- Equitable
- Effective

The operations of Silid Kandungan are also anchored on adolescent-friendly basics.

Adolescent-Friendly Basics (ABCDE):

- Support emerging Autonomy
- Screen for risk Behaviors, including on intimate partner violence
- Assure Confidentiality
- Develop Decision-making skills given their respect for evolving capacity
- Promote self-Efficacy through education and skills development in planning and problem solving

<p>Support emerging AUTONOMY</p> <ul style="list-style-type: none">• Support Autonomy-See the patient alone-Encourage questions-Shift responsibilities from parent to teen	<p>Screen for risk BEHAVIORS Assure CONFIDENTIALITY</p> <ul style="list-style-type: none">• SCREEN RISK TAKING BEHAVIORS using HEADSSS to assess risk-taking behaviors such as alcohol, tobacco, drugs, depression• Assure confidentiality (with limits) "What we will talk about will be private. Except if there's threat to safety: harm to self" <p>Asking sensitive issues: Suggested framing questions on INTIMATE PARTNER VIOLENCE:</p> <p>"Because violence is so common in most people's lives, I have begun to ask all my patients about it" "Have you ever been emotionally or physically abused by your partner or someone important to you?"</p> <p><small>Source: Abuse Assessment Screen, National Consensus Guideline on Identifying and response to domestic violence estimation, 2012</small></p>	<p>Develop DECISION making skills RESPECT for evolving capacity</p> <ul style="list-style-type: none">• Options Counseling using guided decision-making• MAJOR ISSUES-Raise child? adoption?-Stay with parents? cohabit/marry?-Resume? quit school? Work?-Contraception (parents' written consent/oral assent of teen)	<p>Promote Self -EFFICACY</p> <ul style="list-style-type: none">• Educate- Provide information and teach skills (health classes)• Develop skills in planning and problem solving- Preparations for delivery- Birth plan- Philhealth membership
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The Program for Young Parents, a project with USAID and EngenderHealth Philippines, covers 33 hospitals in the Visayas, involves male partners, strengthens the social health insurance (PhilHealth membership), and gives emphasis on education and jobs.

A Few Key Issues

Engagement and empowerment: Adolescents need care and protection, but they also need to be engaged and empowered. Adults have the responsibility to find the balance, taking into consideration the adolescents' evolving capacities.

Making adolescents visible: Adolescence offers a huge opportunity for intervention and for laying the foundation of future health. The rights of children during adolescence must be recognized and, along with this recognition, investments in the fulfillment of their rights should be done.

Human rights-based approach: More work needs to be done in systematically integrating the human rights-based approach in the planning, implementation, monitoring and evaluation stage of health programs and services; in the professional training and capacity building of health service providers; and in the development of an evidence based for a rights-based approach to child health.

CHILDREN IN SITUATIONS OF VULNERABILITY

General Comment No. 14 provides advice on the best interest of the child in situations of vulnerability (paras. 75-76). The CRC Committee highlights that the best interests of an individual child in a specific situation of vulnerability – such as disability, belonging to a minority group, being a refugee or asylum seeking, living in street situations, among others – will not be the same as those of all the children in the same vulnerable situation.

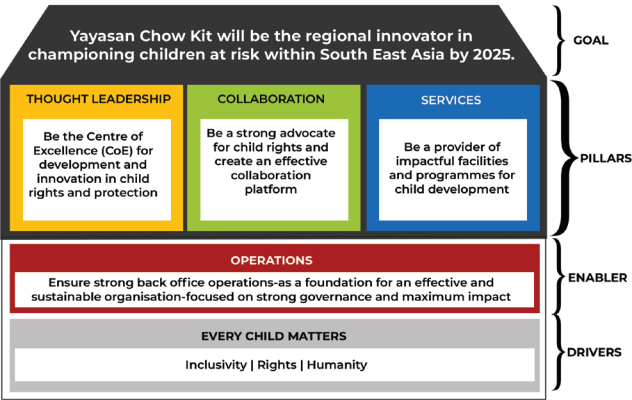
IN FOCUS: YAYASAN CHOW KIT (MALAYSIA)

Before becoming an independent foundation, Yayasan Chow Kit (or Chow Kit Foundation) started as a collaborative project between Yayasan Salam Malaysia and the Social Welfare Department of Wilayah Persekutuan, Kuala Lumpur, building on programs already present at Pusat Aktiviti Kanak-Kanak Chow Kit, a child activity centre.

Yayasan Chow Kit strives to address the gaps in child protection services in Chow Kit, a suburb in central Kuala Lumpur. The foundation provides direct services and programs to children registered with the foundation and works for children and families living in poverty. It aims to provide safe spaces that present children with positive opportunities and allow each child to reach their full potential.

Of the children registered at Yayasan Chow Kit, 60% are Malaysians and 40% are children in stateless situations, refugee children, migrant children, and undocumented children.

YCK Strategic Framework



Yayasan Chow Kit’s work is compartmentalized into pillar-components: services, thought leadership, and collaboration.



Pillar Components



Yayasan Chow Kit’s daycare centers provides homeschooling program for children aged 7 to12 years old who have not been allowed into the government educational track. Its teenage center for 13 to18 years old also has a homeschooling program, as well as extracurricular and skills development program, and internship program.

Yayasan Chow Kit believes that the best forms of child protection for children are self-empowerment and self-care through education and obtaining life skills.

CHOW KIT: A Closer Look**Average Income per Household:**

Less than RM800- RM1000 (approx. USD 200-250 a month)

General Environment:

Thriving trading hub

Presence of prostitution, drug use, baby selling, and illegal activities

State of Children:

Marginalization and discrimination are experienced by children born out of wedlock, children with no documents, non-Malaysian children, children of women in prostitution, children who are homeless, children who dropped out of school, children in the street situations.

Cases of children who are: victims of rape or abuse; homeless; living without parents; exploited through prostitution; victims of “baby selling” or “baby dumping”; forced into child marriage; having problems with drug addiction; not in school or are dropouts; missing; in conflict with the law; malnourished or obese; or going through early pregnancy.

A Few Key Issues

Child Protection Legislation: Malaysia’s child protection system is based on Child Act 2001 and its amendments. However, there is uncertainty whether or not Child Act 2001 supersedes other laws and policies related to the protection of certain groups of children (i.e., children in conflict with the law and marginalized or non-Malaysian children victims of trafficking).

Right to identity: There is a conflict between Syariah laws and civil laws concerning the right to identity of children born out of wedlock, children who are stateless, or children who are abandoned.

Moving away from charity-based approach: There is a need to uphold a rights-based approach, instead of a charity-based approach, in designing programs.

Child-centered perspective: Programs for children should be anchored on the rights of the child. Solutions to child rights issues should not be based on knee-jerk reactions and punitive approaches. Interventions should be data driven and based on careful planning.

DIALOGUE DISCUSSION POINTS

During the Open Forum of this session, the following points were raised, clarified, and discussed:

On Early/Child Marriage

- Early marriage happens not only because of unwanted pregnancy but also because of lack of information on sexual and reproductive health and rights.
- In some cases, early marriage is believed to be better than committing adultery in cases where polygamy is acceptable. The perception that children who are victims of rape are better off marrying the perpetrators also persists. Other factors, such as gender stereotype and poverty, play a part in contributing to child marriage.
- In some countries, the principle of the best interest of the child is used as a basis to allow child marriage. There are laws prohibiting child marriage that allow exceptions if marriage is believed to be for the best interest of the child (i.e., due to the stigma attached to early pregnancy, early marriage is assumed to be for the child's best interests).
- Using the experience of African countries, community clinics can help in detecting cases and religious leaders can help in reshaping views on child marriage and the stigma of being pregnant at a young age. In the same light, South Asia has invested a lot in working with religious leaders to prevent child marriage.

On Early Pregnancy

- One contributor for early sex and early pregnancy is the lack of access to sexual and reproductive health information and services due to restrictive laws on contraception. Among the solutions is to have comprehensive sexuality education, which, as part of its implementation, should include training for teachers.
- The discourse on early pregnancy involves gender issues, abuse, discrimination, and lack of access to free or affordable adolescent-friendly services. Service providers should use non-discriminatory approach, respect the rights to privacy and confidentiality of adolescents, and communicate in a language that the adolescent would understand.
- Religion can also be a big barrier to providing sexual and reproductive health information and services to adolescents.

On the Application of the Best Interest of the Child

- The science of brain development should be referred to when crafting child-related laws. It would help in having legislations that are logical and evidence-based.
- In child custody cases involving a mother in prostitution, several factors have to be weighed in, including the safety of the child, the child's age and level of understanding, and the resources of the parents, among others. In some countries, there are specific laws for children with a mother or father in prostitution.

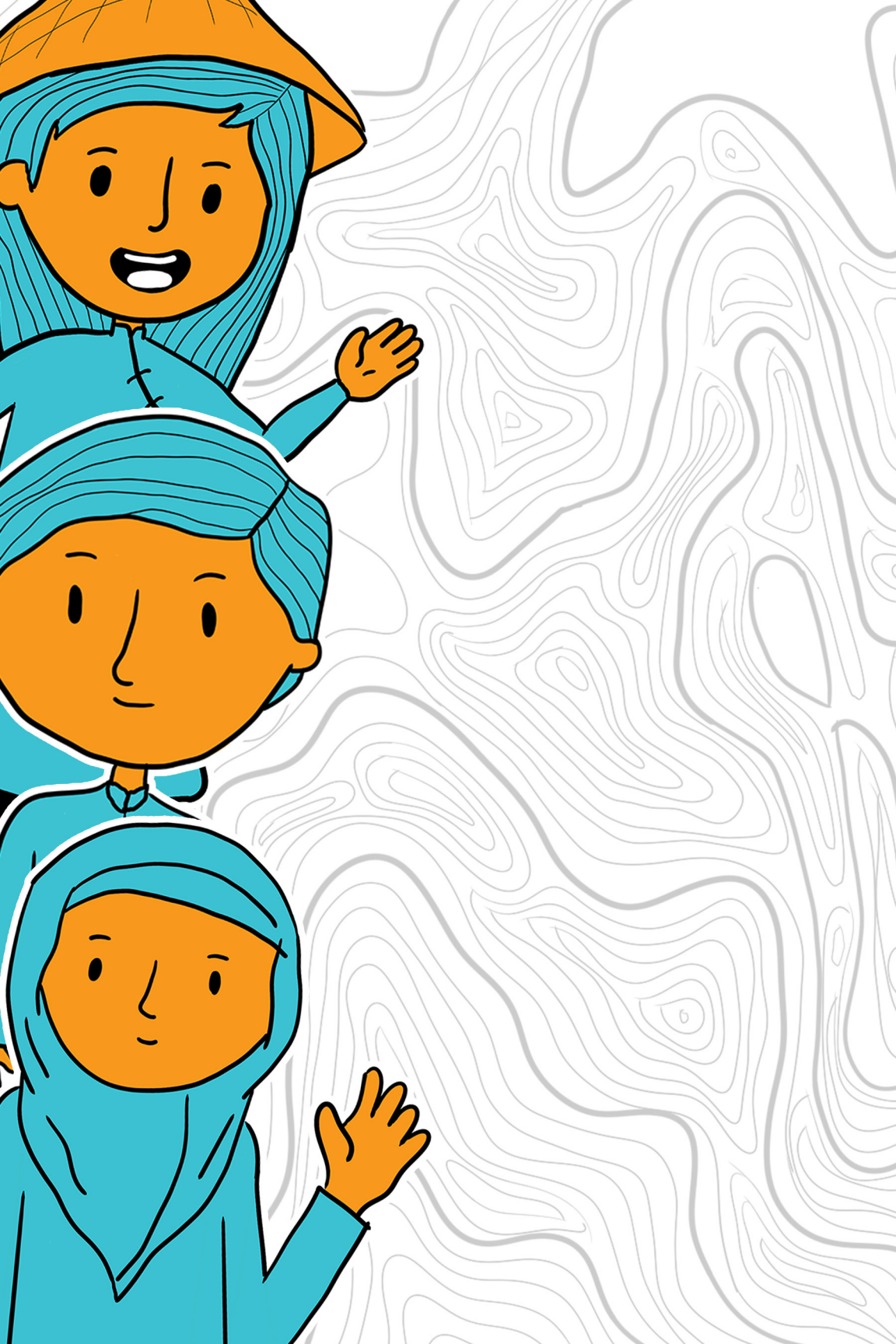
On Young People in Situations of Vulnerability

- Young people beyond 18 years old who are still in vulnerable conditions should still be able to get support. Child rights advocates are increasingly using the term “children and young people” to recognize the additional support needed during this age. One sustainable approach is to teach life skills to children before they reach adulthood.
- In Thailand, a consulting firm works with the government to find ways to allow the refugees to leave the camps. Refugees will be provided with life skills so they can go elsewhere and be able to live by themselves.
- CSOs in Malaysia that run children’s homes set up a group so that young people over the age of 18 years can still return to the house.
- Yayasan Chow Kit’s approach to case management can serve as a good example of providing support to young people who reached 18 years old. Yayasan Chow Kit’s educational track does not stop even when the child reaches 18 years old. The support continues until the young person gets a job. Children, before they become adults, are provided with life skills. Once they are old enough, Yayasan Chow Kit helps these children find jobs (i.e., by posting online or by talking to different companies).



On Public Investments in Children and Adolescents

- Adolescence is a critical period of a child’s development. The basic recognition of the rights of children during adolescence and investing in adolescent health are necessary and crucial, not only to the child’s individual development, but also to the country’s economic development.
- Good initiatives and practices on upholding the rights of the child – like the case of Silid Kandungan – must be documented and, when appropriate, replicated. Public resources must be invested in effective, efficient, equitable and sustainable solutions.
- The UN CRC has articles about international cooperation, indicating that States Parties with resources should assist other States Parties that have difficulty fulfilling their obligations due to limited resources.





GENERAL COMMENT

NO. 12 –

RIGHT OF THE CHILD

TO BE HEARD

Presenter:

**General Comment No. 12 -
Right of the Child to be Heard**

Atty. Mikiko Otani

Member

UN Committee on the Rights of the Child

Moderator:

Ms. Amihan Abueva

Regional Executive Director

Child Rights Coalition Asia

GENERAL COMMENT NO. 12 – RIGHT OF THE CHILD TO BE HEARD

UN CRC Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The CRC Committee identified UN CRC Article 12 as one of the four general principles of child rights.

Children as Rights-Holders

"Article 12 manifests that the child holds rights which have an influence on her or his life, and not only rights derived from her or his vulnerability (protection) or dependency on adults (provision). The Convention recognizes the child as a subject of rights, and the nearly universal ratification of this international instrument by States parties emphasizes this status of the child, which is clearly expressed in article 12."

-UN CRC General Comment No. 12,
paragraph 18



The UN CRC serves as the first international document that identified children as rights-holders. Although the Universal Declaration of Human Rights and other conventions use the term "every person", which includes children, the UN CRC is the convention that explicitly recognized children as subjects of human rights.

Through UN CRC Article 12, children are acknowledged to have not only the right to be protected, but also the rights which they can claim and exercise, such as their civil, political, economic, and socio-cultural rights.

General Comment No. 12 paragraph 18 is a clear recognition of the status of children as rights holders.

Evolving Capacities of Children

"Capable of forming his or her own views"

General Comment No. 12 refers several times to the children's evolving capacities, highlighting that the children's capacity to form their own views should not be seen as a limitation, but as an obligation for the adults to assess, to the greatest extent possible, this capacity of children. General Comment No. 12 also discourages setting age limits, in law or in practice, on the children's right to express their views.

"... This means that States parties cannot begin with the assumption that a child is incapable of expressing her or his own views. On the contrary, States parties should presume that a child has the capacity to form her or his own views and recognize that she or he has the right to express them; it is not up to the child to first prove her or his capacity."

-UN CRC General Comment No. 12, paragraph 20

In upholding the children's right to be heard, the CRC Committee underlines the following:

- **Recognition of non-verbal forms of communication** – Children are able to form views from youngest age, even when they are unable to express these views verbally. They may communicate their understanding, choices, and preference through play, body language, facial expressions, drawing, painting, and the like.
- **Sufficient understanding vs. Comprehensive knowledge** – Children do not need to have comprehensive knowledge of the matter. They only need to have sufficient understanding to be able to form their views on the matter.
- **Obligation to support** – Children experiencing difficulties to make their views heard must be equipped with the tools and skills to express their views. These include support to children with disabilities, children in minority and indigenous groups, children in the context of migration, and children who do not speak the language.
- **Protection against negative consequences** – Adults must be aware of the potential negative consequences of an inconsiderate practice of this right. There must be measures to ensure that the right to be heard is exercised with the full protection of the child.

Due weight on the views of the child

"Being given due weight in accordance with the age and maturity of the child"

UN CRC Article 12 makes it clear that simply listening to children is insufficient. The children's views should be seriously taken into consideration. In addition, the age alone cannot be the basis to determine the significance of the child's view, especially because children's level of understanding is not uniformly linked to their biological age. Children mature at different rates and, as such, the views of a child shall be assessed on a case-by-case examination.

"Child Participation"

UN CRC Article 12 does not explicitly mention "participation", but as explained in paragraph 3 of General Comment No. 12, a widespread practice in previous years forms the concept of participation.

"Child participation" is now widely used to describe ongoing processes with three important components:

1. **Sharing information to children** in a way that they understand
2. **Dialogue between children and adults** done on an equal basis and with mutual respect
3. **Feedback to children** on how their views were given due weight

Child participation" can also be done in two ways:

1. **Individual** child participation
2. **Collective** child participation

"Since the adoption of the Convention in 1989, considerable progress has been achieved at the local, national, regional and global levels in the development of legislation, policies and methodologies to promote the implementation of article 12. A widespread practice has emerged in recent years, which has been broadly conceptualized as 'participation', although this term itself does not appear in the text of article 12. This term has evolved and is now widely used to describe ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes."

-UN CRC General Comment No. 12, paragraph 3

Children's views in all matters that concern them

"In all matters affecting the child"

The right of the child must be heard if the decision has an impact on the child, whether directly or indirectly.

"...it was decided that the right of the child to be heard should refer to 'all matters affecting the child'. The Committee is concerned that children are often denied the right to be heard, even though it is obvious that the matter under consideration is affecting them and they are capable of expressing their own views with regard to this matter. While the Committee supports a broad definition of 'matters', which also covers issues not explicitly mentioned in the Convention, it recognizes the clause 'affecting the child', which was added in order to clarify that no general political mandate was intended...."

-UN CRC General Comment No. 12, paragraph 27

IN FOCUS: JAPAN

In Japan, there are still gaps in upholding child participation in certain proceedings. For example, in adoption proceedings, children are not consulted during administrative or judicial decisions about their preferred alternative care or child protection institution. In immigration proceedings, the deportation case is often against the whole family in which parents are given the chance to speak up, but not the children.

Another example is on the process related to citizenship and nationality. Previously, children born from an unmarried Japanese father and a non-Japanese mother were denied Japanese nationality based on the Japanese Nationality Act. Later on, the Japanese Supreme Court regarded this to be contrary to the equality provision under the Japanese Constitution and to the non-discrimination principle under the UN CRC and CEDAW. However, there is still a child rights concern under the Japanese Nationality Act, particularly on child participation regarding dual nationality. Under the Act, a child with parents of different nationalities (one who is Japanese and one who is non-Japanese) can hold a dual nationality until the age of 21, but the Japanese nationality can be renounced even before that age. A child of legal age can make this renunciation decision, but parents can also make the decision as the legal representative of the child, if the child is still a minor.

A Few Key Issues

Age Limits: Challenges remain in setting age limits in legislations that restrict the child's right to be heard in all matters affecting him or her.

In all settings and proceedings: In the CRC Committee's review of reports, many States Parties provide the opportunity for children to be heard in child custody cases or in the child justice system. However, most States Parties have not fully implemented child participation in all settings and proceedings. A review of processes and issues using the child rights lens can help in improving the understanding on the impact of decisions on children.

Free legal representation for children: UN CRC Article 12 does not explicitly say that children always need to have legal representation. This emerged as an issue in many countries wherein children are not represented by lawyers in deportation or asylum-seeking proceedings.

Collective child participation: Certain challenges have to be addressed in upholding collective child participation. These include the preference for older children (15 to below 18 years old) over younger children to attend child-focused forums and consultations; representation issues that discriminate against children of certain situations, backgrounds, language, and capacities; existing social norms and culture that do not encourage children to speak out even if mechanisms for child participation are available; and attack, harassment, or intimidation against children who exercise their right to be heard.

CHILD PARTICIPATION AND THE CRC COMMITTEE

The CRC Committee integrates child participation in its work. This is reflected in the following examples:

- Children can submit their own reports to the CRC Committee as part of the process to monitor the progress made by State Parties in implementing the UN CRC
- Children, as part of the UN CRC reporting cycle, can attend the pre-session, either through face-to-face meeting or through video conferencing
- Children can submit complaints/communications to the CRC Committee through the OPIC
- Children's consultations are being conducted as part of the development process of UN CRC General Comments
- Children are involved in the CRC Committee's Day of General Discussion

The OPIC is another manifestation of children recognized as rights holders. OPIC gives children the right to remedy at the international level.

DIALOGUE DISCUSSION POINTS

During the Open Forum of this session, the following points were raised, clarified, and discussed:

On Improving Child Participation

- Adults might have the difficulty seeing that all matters actually concern children. For instance, the ministries of foreign affairs or other ministries not related to social welfare may not clearly see how their work impacts children. To address this, all ministries should integrate the children's perspective in their work by involving children in the process, by conducting a child rights impact assessment, and by engaging deeply with child rights experts through an open dialogue.
- Professionals working with and for children have different points of view regarding child participation. Some family court judges think that hearing the children's views is not a difficult task. Others, however, consider this as a sensitive matter and believe that adults need training or assistance from specialists on child participation.
- Having a Child Safeguarding Protocol, like the one signed by the delegates of this Dialogue, is one way to help create a safe environment for children to take part. A child-friendly environment must be ensured every time there are children involved in order to encourage participation and maximize engagement.
- Child participation and the best interest of the child are interrelated and are present in all areas of the life of the child. It is a question of how these can be integrated in all stages of a child's development and their life in the community.



On Working with Children and CSOs

- In advancing child participation, children should be taught and asked to also think about issues that may not affect them, but may affect other children; they should be asked how they can contribute in protecting themselves; and they should be asked how they want to be heard or how they want to participate.
- The preparation of the dialogue between the CRC Committee and the children as part of the reporting process is preceded by several preparatory activities on the ground done by CSOs that usually try to bring together children from different situations and contexts. CSOs also conduct child rights impact assessments when lobbying for policies. In this regard, the CSOs could be tapped by ministries and government agencies to advance child participation.

On Follow-up Actions

- Part of the child participation process is the follow-up action. When involving children in activities or other efforts, adults must always have a plan for follow-up, such as how to put forward the children's recommendations. Moreover, there should be efforts to learn from the lessons from previous opportunities in order to improve the succeeding processes.
- Children have views on how they want to be heard or how they want to participate. As such, adults can learn from the children's feedback on how to better interact with children.

On Child Participation and the CRC Committee

- The CRC Committee also experiences challenges in implementing child participation in its work, other than in the UN CRC reporting process. For example, the Day of General Discussion started in 1992, but children were only invited to participate in 2016 when children joined as speakers and as audience members. In the 2018 Day of General Discussion, children became more involved, and to prepare for the activity, the CRC Committee sought the assistance of an expert to train the CRC Committee members on how to interact with children.
- A documentation prepared by the CRC Committee regarding child participation good practices – such as the conduct of adult training on interacting with children and on organizing dialogues with children – would be useful for governments in institutionalizing child participation. The CRC Committee can seek the help of Child Rights Connect in producing these reports.

On Child Participation in ASEAN

- ASEAN could explore advancing child participation by involving children at the planning stage of ASEAN efforts.
- AMS can develop compilations of good practices in upholding child participation and evidences of the outcomes and advantages of involving children in the process.
- ASEAN Member States should consider ratifying the OPIC.



GOOD PRACTICES AND CHALLENGES IN IMPLEMENTING THE PRINCIPLE OF CHILD PARTICIPATION

Presenters:

The Right to be Heard in Judicial and Administrative Proceedings

Dr. Farah Nini Dusuki
Senior Lecturer of the Faculty of Law
University of Malaysia

The Right to be Heard in International Settings

Ms. Amihan Abueva
Regional Executive Director
Child Rights Coalition Asia

Ms. Hazelyn Joy Bitaña
Program Manager
Child Rights Coalition Asia

A Child's Perspective

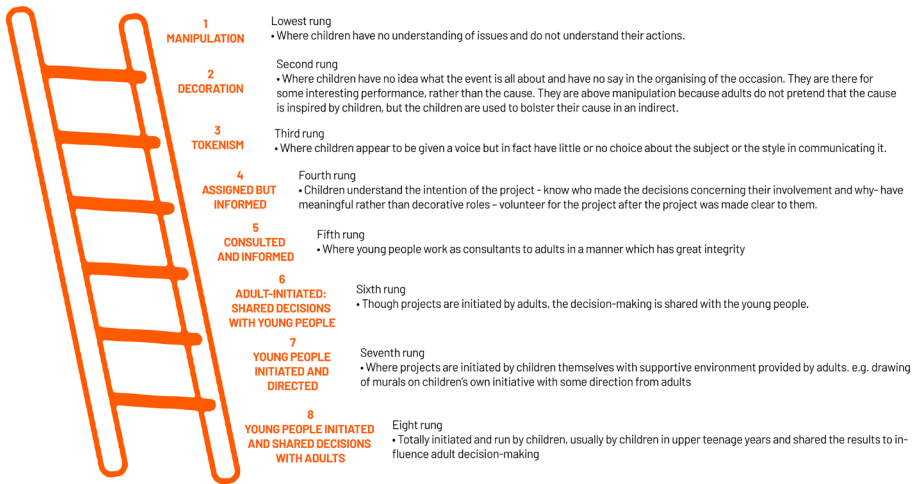
Ericka
Child Advocate, Children Talk to Children

Moderators:

Ms. Amihan Abueva
Ms. Hazelyn Joy Bitaña

THE LADDER OF PARTICIPATION

The Ladder of Participation was developed by sociologist Roger Hart for UNICEF, when he proposed the first definition for the concept of participation. There are 8 levels or rungs of participation.



THE RIGHT TO BE HEARD IN JUDICIAL AND ADMINISTRATIVE PROCEEDINGS

UN CRC Article 12 provides specific obligations of States Parties in upholding child participation in judicial and administrative proceedings.

General Comment No. 12 identified the main issues related to civil and penal judicial proceedings:

- Divorce and separation
- Separation from parents and alternative care
- Adoption and kafalah of Islamic law
- The child in conflict with the law
- The child victim and child witness

In terms of administrative proceedings, the following examples were presented in General Comment No. 12:

- Mechanisms to address discipline issues in schools (e.g., suspensions and expulsions)
- Refusals to grant school certificates and performance-related issues
- Disciplinary measures and refusals to grant privileges in detention centers
- Asylum requests from unaccompanied children
- Applications for driver's licenses

IN FOCUS: MALAYSIA

“Acknowledging that a child, by reason of his physical, mental and emotional immaturity, is in need of special safeguards, care and assistance, after birth, to enable him to participate in and contribute positively towards the attainment of the ideals of a civil Malaysian society...”

- Malaysia's Child Act 2001



For quite some time, Malaysia has legislations that uphold the right to participation of children in private law practice. These laws include the expressed provisions under the Law Reform (Marriage and Divorce) Act 1976, the earlier Islamic family enactments, and the acts of the States and the Federal Territories. In cases of custody, judges are obliged to seek the views of children who have reached the age of 7 years. However, there are no provisions in Malaysian

law that specifically mandates the compulsory legal representation for children, but the right to legal counsel under Article 5 of the Federal Constitution of Malaysia applies to both adults and children.

In public proceedings, children were given the participation space only recently. The Child Act 2001, since 2016, requires the National Council for Children to have two child representatives. Through this space, children have a voice when the National Council for Children provides advice and recommendations to the government on all issues and aspects relating to the care, protection, rehabilitation, development, and participation of children at the national, regional, and international levels. Government ministries are also progressively including children in their technical committees on matters relating to children and youth.

“The [National Council for Children] shall consist of the following members:

- (a) the Minister charged with the responsibility for welfare services who shall be the Chairman;*
- (b) the Secretary General of Treasury or his representative;*
- .*
- .*
- .*
- (r) two representatives from amongst the children who shall be appointed by the Minister, on the recommendation of the Director General of Social Welfare; and ...”*

-Malaysia's Child Act 2001, Part II, Section 4

Malaysia's Evidence of Child Witness Act 2007

In this Act, optional mechanisms are made available to support a child witness/victim in testifying or producing evidence. The Act facilitates child participation by:

1. Allowing the admissibility of video testimony of the child to replace the examination-in-chief;
2. Having a closed-circuit television link allowing the child to be away from the actual courtroom; and
3. Allowing the use of screen to shield the accused perpetrator from the sight of the child in the courtroom.

Laws in Malaysia with Participatory Elements:

- Child Act 2001 (Act No. 611)
- Youth Societies and Youth Development Act 2007 (Act No. 668)
- Evidence of Child Witness Act 2007 (Act No. 676)

A Few Key Issues

Ensuring meaningful and safe child participation: In child custody cases, if the judge is not sensitive, the judge would ask the child about his or her views in open court - in front of both parents - which could limit the child in expressing an honest opinion.

Utilizing the available mechanisms: While there are existing mechanisms, such as those mentioned in Malaysia's Evidence of Child Witness Act 2007, in reality, judges or prosecutors do not use these mechanisms.

THE RIGHT TO BE HEARD IN INTERNATIONAL SETTINGS

The CRC Committee, through General Comment No. 12, emphasizes that the right of the child to be heard has to be implemented in diverse settings and situations, including in the national and international setting (paragraphs 127-131).

To facilitate child participation at different levels of governance, children should be supported and encouraged to form their own child-led organizations and initiatives. They should also be included in calls for public consultations and be given the opportunity to present their views and make them known to relevant audiences. In addition, States Parties can develop partnerships with UNICEF, NGOs, and CSOs that have developed practices to support children in exercising their right to be heard in all matters affecting children, including at the grassroots, community, national, regional, or international levels.

IN FOCUS: 2018 DAY OF GENERAL DISCUSSION

The Day of General Discussion is one of the regular activities of the CRC Committee. Held in Geneva around September, the Day of General Discussion started in 1992 and was held yearly until 2008 when it became a biennial activity. The theme for the Day of General Discussion is selected by the CRC Committee and announced at least one year in advance.

In 2018, the Day of General Discussion centered on “Protecting and empowering children as human rights defenders”, a theme proposed by Child Rights Connect where CRC Asia is a member. As such, Child Rights Connect provided support to the CRC Committee in the conduct of the one-day activity.

The 2018 Day of General Discussion on Children can be considered as a milestone because, since the first time it was held, this is the first Day of General Discussion that involved children in the activity process. A Child Advisory Team, composed of 21 children from 19 countries, was formed to participate in each step of the planning, implementation, and follow-up of the activity.

During the planning stage, the Child Advisors provided concrete suggestions to make the program more interactive, improve the working methods, and involve child speakers and child moderators, instead of having a traditional high-level panel. The Child Advisors also provided inputs to the production of child-friendly materials and helped facilitate the Global Children’s Consultation at the national level.

At the activity proper, the children served as speakers in the plenary and the working groups and moderators in the dialogue. They also played a central role in creating an interactive dynamic with the audience.

For the follow up and evaluation, the children provided feedback to the CRC Committee. The comments, assessments, and criticisms from the children were being referred to by the CRC Committee in the conduct of succeeding activities, including the commemoration of the 30th anniversary of the UN CRC in 2019. In addition, with the support of Child Rights Connect, the Child Advisors are continuously engaging in the follow up activities.



Scan to view the
Outcome Report
of the 2018 Day of
General Discussion



Children as human rights defenders

The *UN Declaration on Human Rights Defenders* states that “**everyone** has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”. Based on this, children have the same rights as adult human rights defenders. While the UN CRC does not specifically mention “children as human rights defenders”, it recognizes children as rights holders, and it particularly states that children have the right to be heard and are entitled to civil and political rights.

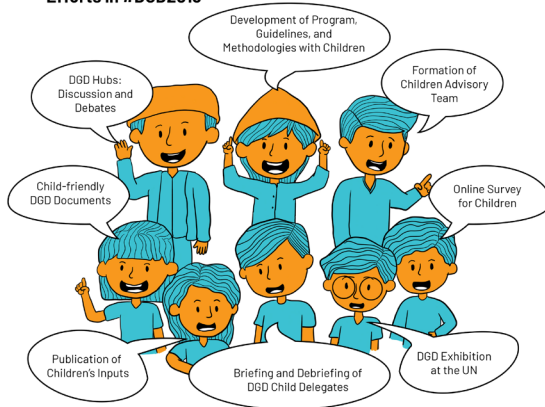
Who are Children Human Rights Defenders?

“Children who take actions to promote, protect and fulfil their own human rights, or the human rights of their peers or of others, including adults, are human rights defenders, even if they do not see themselves as such, or are not considered and called as such by others.”

-From the Outcome Report of the 2018 Day of General Discussion

The 2018 Day of General Discussion (#DGD2018) aimed to collect children’s views about their experiences; assess legislation, jurisprudence, policies and measures; clarify the obligations of States; and identify key elements for an effective implementation of a child rights approach.

Efforts in #DGD2018



According to the results of the Children’s Survey conducted as part of the Day of General Discussion, children as human rights defenders experience the following problems, issues, and challenges:

- Adults who do not take children seriously
- Children do not feel safe
- Children lack information
- Children struggling to act due to a lack of time, money, and ability to travel to meetings
- Children with disabilities, girls and children from other marginalized and deprived groups face additional challenges to promote and defend human rights

In the Regional Day of General Discussion Hub organized by CRC Asia during the Asia-Pacific Partnership Meeting of Child Rights Coalitions and Networks in June 2018 in Manila, three key points were identified. These key points were also shared in the Day of General Discussion in Geneva:

- Children should be given the choice to be or not to be a human rights defender.
- Adults should be ready to provide support to children as human rights defenders.
- Adults must recognize that human rights work comes in many forms, especially with the creativity and imagination of children.

IN FOCUS: 2019 ASIAN CHILDREN'S SUMMIT

“ *We're not looking for easy. We're looking for effective. So it's fine if [the solution] is hard.... The world will end before our spirit will and we would like to prevent that from happening.*

- Child delegate of the 2018 Asian Children's Summit **”**

The 2019 Asian Children's Summit created a space for children from Southeast Asia, South Asia, and East Asia to come together to form their opinions and give recommendations that would inform the decisions and actions at the international, regional, and local levels. At the culmination of the Summit, these recommendations were presented to representatives from UN mechanisms, regional intergovernmental bodies, and civil society organizations.

The 2019 Asian Children's Summit, held in November 2019 in Bangkok, Thailand, was organized by ACWC Thailand, South Asia Initiative to End Violence against Children, and CRC Asia, in collaboration with ECPAT International, International Justice Mission, Thailand Institute of Justice, VSO International, WePROTECT Global Alliance, UNICEF, and the Joining Forces, a coalition of six child-focused organizations namely ChildFund Alliance, Plan International, Save the Children, SOS Children's Villages, Terre des Hommes, and World Vision.

The Summit focused on four key themes - the right to be protected from violence against children, the right to a healthy environment, children's rights in the digital environment, and the rights of children on the move - with children and the SDGs, child participation, and justice for children serving as the cross-cutting themes.

Scan to know more about the 2019 Asian Children's Summit, including the children's recommendations



The Summit's Consultation Process

To ensure that the children are adequately prepared and are able to represent the views of the wider group of children and young people in their respective countries, preparatory activities were conducted before the regional activity in Bangkok. Country-level consultations and selection processes were done wherein children were provided information about the Summit, including its themes and sessions, and were asked to prepare the issues and recommendations that they want to raise during the Summit. This stage also helped the children decide and elect who among them should be their representative in the Summit.

During the Summit, the selected child delegates were supported by their adult mentors whose responsibilities, among others, include being the translators. A group of facilitators helped the children in developing their recommendations, as well as in preparing the children's presentations during the Dialogue Session between child delegates and adults. Child speakers were given the space to share their experiences and inputs regarding the Summit's key themes. In between the learning sessions and workshops, there was a cultural night and a tour of the market booths prepared by the children to introduce themselves and their child-led organizations, distribute their advocacy materials, and share their traditional wear, food, and games.

At the end of the Summit, child delegates shared their feedback and evaluation. As part of the follow-up action, CRC Asia continues to promote and act on the children's recommendations, sharing them with the relevant UN bodies and special procedures, and incorporating them in CRC Asia's strategic plan and advocacy calls. The child delegates, supported by their adult mentors, also shared their experience and recommendations to their respective child-led groups.

A Few Key Issues

Ensuring representation: In the conduct of national, regional, or international children's consultations, one of the challenges is ensuring that children from different backgrounds and situations are represented in the activity. To address this, preparatory activities – such as pre-meetings with children and child-led groups and a selection process wherein children get to decide on their representative – can be conducted.

Addressing the language barrier: In Asia, English serves as the official language of the regional consultations, but this should not mean that only children who speak English can take part in regional and international consultations. Organizers and supporters of regional and international consultations should make the necessary arrangements to accommodate children who do not speak the majority language.

Selection of themes: National, regional, and international discussions and consultations are usually centered on key themes selected by adults. When children are to be involved, however, efforts should be made to provide a space for children to inform the selection of themes.

DIALOGUE DISCUSSION POINTS

During the Open Forum of this session, the following points were raised, clarified, and discussed:

On the Child Rights Situation

- The enjoyment of the child's right to be heard may be hindered by the overall human rights situation. Challenges occur when the mainstream political narrative is not human rights-centered but is well-known and socially and culturally acceptable. For instance, there are some opinions in AMS that view children of other races as inferior to theirs.
- The children's sector cannot be isolated from other human rights work. Child rights advocates must talk about children's issues whenever there is an opportunity, even if the activity is not focused on children.
- Discussions on human rights must begin early in life in order to discontinue the cycle of abuse and disregard for human dignity.
- Human rights education is crucial in creating a society that respects the rights and fundamental freedom of every person and every child. In Malaysia, the Ministry of Education collaborated with the Human Rights Commission in launching a post-exam syllabus on human rights. The Human Rights Commission also requested colleges and universities to include child rights in the curriculum for students training to become teachers.



On Children's Recommendations

- The ASEAN Secretariat can help in sharing the recommendations of the 2019 Asian Children's Summit to the ACWC and ASEAN other sectoral bodies, especially to those in the ASEAN Economic Community Pillar.

On Mechanisms for Child Participation

- Some AMS have designated child and family courts, but problems arise when there is no budget allocated for them.



- Technology and the digital environment can provide tools that improve the access to child participation platforms by children with disabilities, children who do not speak the majority language, and other marginalized children. At the same time, however, the use of digital media and tools can also exacerbate discrimination against children.

- In court proceedings, using a child's local language, getting the assistance of a child psychologist, and putting children in a comfortable setting enable children to speak out and not feel intimidated.

On Promoting Child Participation

- In the Philippines, the Department of Foreign Affairs, in partnership with the Australian Embassy and Anvil Publishing, launched the children's book "*Ayaw Ko Po Sana/I am Sorry, But...*" in November 2019 in commemoration of the 30th Anniversary of the UN CRC. This book aims to encourage parents to listen to children and uphold their right to be heard.

On Disciplining Children without Harm

- Adults need to understand the complexity of upholding the best interest of the child and child participation. For instance, even if a child says that he/she does not feel degraded by receiving corporal punishment; adults know that this is a form of violence against children. The child's opinion, then, must not be the final decision.



A CHILD'S PERSPECTIVE

Experience of a Child Rights Advocate



Ericka is a 17-year old child rights advocate. She is a Council Member of the Children Sector of the *National Anti-Poverty Commission*, a government agency in the Philippines coordinating poverty reduction programs by national and local governments.

As an advocate, Ericka started as a Project Team Member of the child-led organization *Children Talk to Children Coalition* and a youth leader of the organization called *VIDES Philippines*.

She lives in an informal settler area where her organization not only educates children about their rights, but also nurtures them to become youth leaders. Her basic knowledge about child rights developed through the series of activities that she became a part of since she was 12 years old. By continuously joining these activities, she learned to see her rights in different ways. The constant engagements also opened more opportunities for her to speak, recommend, and listen to children's views.

She sees her involvement in the Children Sector of the *National Anti-Poverty Commission* as her platform to bring children's voices to the processes of governance. As an elected Council Member, she is part of crafting resolutions that are submitted to concerned government agencies, and of identifying the Children Sector's three priority agendas: teenage pregnancy, child labor, and corporal punishment. For Ericka, being a Council Member is important because it enables her to participate in the government planning and budgeting processes for programs for children.

As a Project Team Member of *Children Talk to Children Coalition*, she took part in the monitoring of UN CRC, in conducting island-wide consultations, and in developing the children's report submitted to the CRC Committee. Ericka's most recent engagement with the CRC Committee is when she attended the commemoration of the 30th anniversary of the UN CRC in Geneva as a panelist and keynote speaker in the Children in Justice Working Group. In this international platform, Ericka was able to talk about the issues and recommendations that were raised during the island-wide consultations in the Philippines.

As a child advocate, Ericka believes that the right to be heard is important. Listening and giving children more opportunities to speak must go hand in hand. Children should have the opportunity to be part of formal meetings, like the commemoration activity she attended in Geneva and this ASEAN Dialogue. She believes that having children in discussions and letting them speak is a solution itself.

Children are not problems to solve. They are part of the solution.

DIALOGUE DISCUSSION POINTS

The open forum served as a way for the adult delegate to seek Ericka's points of view on certain matters. Below are Ericka's inputs and recommendations.

On addressing teenage pregnancy

- The Children's Sector of the National Anti-Poverty Commission recommended that the Philippine Department of Health and the Commission on Population and Development should develop child-friendly modules on adolescent and sexual reproductive health and rights. These modules should be accompanied by forums or discussions conducted not only in schools, but also in the community at the *barangay* (village) level.
- In addition to this, all levels of governance - from the *barangay*, municipal, city, and provincial levels - should have an accessible and functional council for the protection of children.

On the education system

- Ericka is a Grade 12 student who is taking up the Humanities, Education, and Social Sciences strand of the Philippines' *K to 12 Basic Education Program*. She chose this strand because she wants to be a social worker in the future. However, she and other students became worried about the certainty of their education when news came out the Program will be abolished due to the pending case in the Supreme Court. At the moment, there are different perceptions about the Program.
- To avoid children from worrying like this, the concerned ministry/department should release statements so that the children will understand what is happening. Also, if the education Program needs improvement, consultations should be done with students in both public schools and private schools.
- Ericka shared that before becoming a youth leader, she attended workshops that helped develop her confidence to speak out and share her views. She wants other children to have this experience too. The government can help by allotting time for workshops or sessions on confidence building, public speaking, and child rights as part of the school curriculum or school schedule. Doing this will encourage children to express their views.



On being a child human rights defender

- Ericka considers herself both as a child rights advocate and a human rights defender. She and other children need support because they experience different kinds of attacks online and offline.
- Adults should be oriented on how to understand and respond to children, including children human rights defenders. As Save the Children practiced when Ericka attended one international event, having risk assessments and guidelines to protect children human rights defenders in social media are helpful when children participate in public events.

On attending national, regional, and international proceedings

- Ericka's involvement in the National Anti-Poverty Commission is a good example of child participation in national proceedings. Through this platform, children get to have dialogues with government agencies regarding children's concerns and emerging child rights issues.
- Children should be invited more often in formal meetings with leaders because children do not have many opportunities to talk with the adults.
- In attending formal meetings though, the participation of children is limited due to time restrictions. Nonetheless, children become more comfortable speaking when other children are present as well.
- Ericka attended the ASEAN regional children's consultation for ACWC's baseline study on child participation held in Manila in 2016. The children's recommendations here were included in the ethical considerations in the conduct of the research.
- Adults should make sure that the national, regional, and international proceedings not only allow children to speak up, but also make the experience an enjoyable one for the children. For instance, when Ericka attended the 30th anniversary commemoration of the UN CRC in Geneva, she saw how the adults listened to her and felt the sincerity of the adults in position. However, the sessions were still quite formal and some children lost their attention in the middle of some sessions because of this.
- Some government officials become sensitive to the views expressed by the children and resort to defending the government rather than dealing with the criticism constructively.
- When children appear to be "criticizing" the government, the governments must not take it negatively. Children being critical of the government must be viewed positively because it shows that the children care and are concerned with what is happening in society.
- By being critical of the situation, children also learn to come up with recommendations and these recommendations, just like what Ericka and her group is doing, are submitted for consideration of relevant government agencies.



UPDATES FROM THE UN COMMITTEE ON THE RIGHTS OF THE CHILD

Presenter:

Atty. Mikiko Otani

Member

UN Committee on the Rights of the Child

Moderator:

Ms. Maria May-I Fabros

Dialogue's Overall Moderator/Facilitator

RECENT DOCUMENTS

UN CRC General Comment No. 24

In 2019, the CRC Committee adopted General Comment No. 24 on children's rights in the justice system.

The salient features include:

- The use of the term "child justice" as non-stigmatizing language
- Setting the minimum age of criminal responsibility at 14 years old
- Diversion throughout the proceedings
- Establishment of child justice courts either as separate units or as part of existing courts

Scan to view the UN CRC General Comment No. 24 (2019) on children's rights in the child justice system



Guidelines regarding the implementation of the OPSC

During its 81st session in 2019, the CRC Committee adopted the *Guidelines regarding the implementation of OPSC* to provide interpretations that are adapted to today's realities, especially with the development of information and communications technology and social media. The Guidelines aims to provide a deeper understanding on the substantive provisions of the OPSC, to enable a more effective implementation, and to ensure that the OPSC remains as an instrument that enhances the protection of children from sale and sexual exploitation online or offline.

Among the areas discussed in the Guidelines include:

- Ensuring that legal frameworks' applicability are not eroded by technological advancement and future developments
- New forms of online sale and sexual exploitation of children
- Sale and sexual exploitation of children in the context of travel and tourism
- Terminologies to be used in the development of legislation and policies addressing the prevention of and protection from the sexual exploitation and sexual abuse of children
- Extraterritorial jurisdiction

The official word limit on any document adopted by the UN monitoring bodies became a challenge for the CRC Committee in developing the Guidelines. As such, the CRC Committee, in consultation with ECPAT International and others, produced an Explanatory Report as the accompanying document to the Guidelines.

Scan to view the Guidelines regarding the implementation of the OPSC



Scan to view the Explanatory Report to the Guidelines regarding the implementation of the OPSC



The CRC Committee is currently drafting General Comment No. 25 on children's rights in relation to the digital environment. All States Parties and other stakeholders are encouraged to provide comments on the draft.

WORKING METHODS

Treaty Body Strengthening

In 2020, the UN is set to adopt a resolution regarding the strengthening of Treaty Bodies, including the CRC Committee. The Treaty Body System review aims to address challenges such as the growing backlog of State reports and individual communications, insufficient compliance by States, and different working methods among the ten Treaty Bodies.

Scan to know more about the strengthening of the UN Treaty Bodies



Scan to know more about the Simplified Reporting Procedure



Simplified Reporting Procedure

The CRC Committee now gives States Parties the choice to opt-in to the Simplified Reporting Procedure, a reporting procedure to the Treaty Bodies adopted by the UN General Assembly. The Simplified Reporting Procedure is made available to States Parties that with UN CRC periodic reports that are due on 1 September 2019 onwards.

In the Simplified Reporting Procedure, the States Parties are no longer required to submit a State Party Report in the beginning of the reporting cycle. Instead, the CRC Committee sends a request for information containing up to 30 questions, known as List of Issues Prior to Reporting.

The CRC Committee recognizes that the Simplified Reporting Procedure could help States Parties whose reports are long overdue or who are having difficulty in writing its State Party report.

At the moment, none of the AMS has opted-in to the Simplified Reporting Procedure.

Regional Dimensions

The CRC Committee is now exploring to bring some of its work outside Geneva. There was also a suggestion for the CRC Committee to come to the country or the regional centers of the UN to have a continuing dialogue with the government and civil society to help or follow up in the implementation of the Concluding Observations.

DIALOGUE DISCUSSION POINTS

During the Open Forum of this session, the following points were raised, clarified, and discussed:

On Using Non-Discriminatory Language



- Language influences the mindset. As such, the CRC Committee and other child rights advocates recommend the use of non-discriminatory terminologies when referring to children or the situation they are in.
- In General Comment No. 24, the CRC Committee uses “child justice system” instead of “juvenile justice.”
- In the Guidelines regarding the implementation of the OPSC, the CRC Committee refers to another document, the *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, for guidance on terms that are now being used internationally and regionally to avoid language that can provide misleading interpretations, undermine the gravity of the crime, or switch the blame to the child, among others.
- A review of the CRC Committee’s Concluding Observations in the past years would reveal the transition from using the term “children born out of wedlock” to “children born to unmarried parents”.

On Mainstreaming Child Rights

- The children’s sector cannot be isolated from other human rights work. Child rights advocates must talk about children’s issues whenever there is an opportunity, even if the activity is not focused on children.
- The new General Comment No. 24 on children’s rights in the child justice system could be taken as an agenda for a future ASEAN Dialogue because the topic is a common challenge to many AMS.



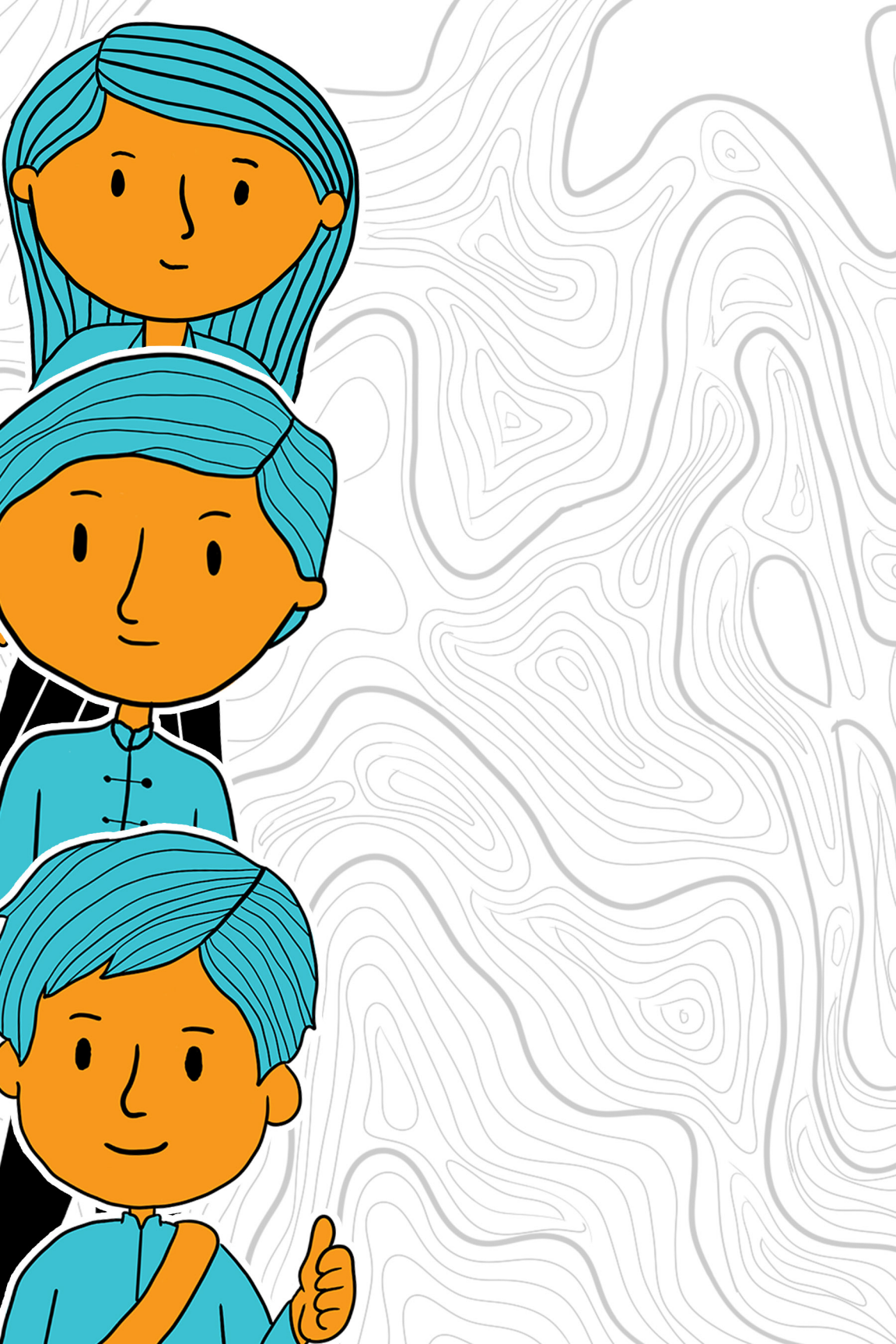
On Learning from Good Practices

- Learning about "what worked" and "what did not" can help in implementing the obligations to respect, protect, and fulfill the rights of the child. There is a need to build people's confidence and capacities to learn from experience - whether it is from their own experience or the experience of others - and encourage one other about the progress made.
- Experiences from different cultures and contexts could be converted into sustainable programs.
- The concept of best practices still has its skeptics, mainly arguing that local contexts differ and that what worked for some countries may not work for others. To address this, good practices can be treated either as something that can be replicated or as something that can be appropriated to the local context.
- There should be a forum or any platform where progress or good examples in the implementation of human rights treaties can be shared. ASEAN, as a regional body, could provide these platforms.
- With the CRC Committee's nature of mandate, which is to monitor the gaps in implementation, it may not be the ideal body or platform to collect good practices.

On Concluding Observations

- Due to the word limit, the CRC Committee's Concluding Observations tends to focus on the gaps and not on the good practices.
- The actions after the Concluding Observations are critical, and there should be more focus and energy on these, especially because every States Party faces the challenge of following up on the Concluding Observations.
- The Concluding Observations should be referred to not only when making decisions at the national and sub-national levels, but also when developing regional and international cooperation agreements.
- The UN Treaty Body Review is expected to recognize the regional dimensions of the treaty bodies' work. In line with this, ASEAN could offer a regional platform to discuss collaborative efforts to follow up on the UN CRC Concluding Observations. A regional platform like this has not been conducted in the world yet, and ASEAN could set an example.







EXHIBIT, PERFORMANCE, AND WORKSHOP

Exhibit of Children's Illustrations on the UN CRC

Undersecretary Josephine Maribojoc
Department of Education (Philippines)

Performance

Philippine National School for the Blind

Workshop: Ways Forward

EXHIBIT OF CHILDREN'S ILLUSTRATIONS ON THE UN CRC

In commemoration of the 30th anniversary of the UN CRC, the Department of Education held its first *National Summit on Child Rights in Education* last November 2019. It brought together key stakeholders who gave statements of commitment, signed a covenant, and took the oath to uphold the rights of the child. The participants include representatives from the executive, legislative, and judiciary branches of government; the Commission on Human Rights; the Permanent Mission of the Philippines to the UN in Geneva; AICHR; the CRC Committee; child rights-focused NGOs, business groups, media, the academe, and children.



The Summit, through plenary and breakout sessions, aimed to celebrate success and identify challenges in realizing child rights in the context of basic education, while using a child rights-based education framework.

Artworks created by Grade 5 and junior high school students on children's rights were featured in the Summit's Souvenir Program, which also includes a child-friendly version of the UN CRC translated into the different local languages in the Philippines and into braille.



PERFORMANCE



Philippine National School for the Blind

The Dialogue featured a cultural performance by dancers from the Philippine National School for the Blind. The performance showcased that the advocacy for children's rights is inclusive of all children from different situations and backgrounds.

WORKSHOP: WAYS FORWARD

The body was divided into four groups to focus on discussions on identifying ways forward at the national and regional levels.

To guide the discussions, the four groups were tasked to answer the following questions:

1. How does your country disseminate the General Comments?
2. Do you/does your country conduct child rights assessment before and after passing a law?
3. What kind of support do you need to implement the principles of the best interest of the child and child participation in your work?
4. When do you start human rights education in your country? How?
5. Any other recommendations to AICHR, ASEAN, and the CRC Committee?



Summary of Workshop Results

On the dissemination of the General Comments

- There is limited dissemination of the General Comments in their respective countries.
- For AMS, the General Comments need to be translated into the local language. In some countries, like Japan, the CEDAW General Recommendations are translated into Japanese because the government has the political will to do so.
- The CRC Committee's Note Verbale about the General Comments must be officially shared to the national governments once the Missions received it from the CRC Committee.

On the conduct of a child rights impact assessment before and after passing a law

- Child rights pre-assessment of law is done. Most of the time, however, this is done by CSOs.
- There is also usually no post-assessment.
- The AMS can learn from New Zealand's child impact assessment tool, which is an example of good practice.

On support and recommendations on the implementation of principles of the best interest of the child and child participation in practice

- There is a need to conduct learning sessions on child rights impact assessment, trainings of enforcement agencies for these principles, and sharing of good practices/ examples from other countries.
- There should be regular dialogues between the CRC Committee and AMS to promote communication, and the work of UN Geneva and UN New York (e.g., interconnection between SDGs and human rights treaty bodies) must be strengthened.
- There should be closer collaboration between AICHR Representatives and national governments in order for recommendations from regional dialogues and workshops to be disseminated.

On human rights education

- Cambodia and Myanmar shared that human rights education is present in high school. In the Philippines, there is a subject on social studies and values education but still needs enhancement. In Malaysia, high schools are expected to have compulsory human rights education in between exams and classes starting 2020.



Workshop Results

	COUNTRY: INDONESIA
How does your country disseminate the General Comments?	<ul style="list-style-type: none"> • Not specific for General Comments • In the case of UN CRC, the Ministry on Women and Children has socialization program involving different stakeholders • CSOs did outreach - translated into Indonesian (harmful practices)
Do you/does your country conduct child rights assessment before and after passing a law?	<ul style="list-style-type: none"> • Government has started passing laws to address issues directly affecting children but not those that are indirect • Role of the National Commission on Children is more on monitoring and evaluation of implementation of law • Only CSOs brought children Constitutional Court • Jurisprudence / judicial activism
What kind of support do you need to implement the principles of the best interest of the child and child participation in your work?	<ul style="list-style-type: none"> • Raising awareness of senior management to get them to support • More capacity building / information-sharing support, synergizing with rights of women and girls (e.g., SDG 5)
When do you start human rights education in your country? How?	<ul style="list-style-type: none"> • No school subject on human rights but there is citizenship subject in higher education/ university level • ASEAN Curriculum Source Book - in the process of producing a module on ASEAN • Since 1998 in schools and universities
Any other recommendations to AICHR, ASEAN, and the UN Committee on the Rights of the Child?	<ul style="list-style-type: none"> • Grassroots need to be informed by use of practical/layman words • Integrated calendar of events and invitations - Avoid timing overlap or work in silos • Dissemination and increased visibility especially of ACWC's work linkage with AICHR and ASEAN • ASEAN Representative should get more support • Dissemination and wide human rights education • Policy formulation with clear-cut focus areas • Children as human rights defenders are amplified & Youth-led movement building in certain focus areas • UN CRC General Comment No. 25 in 2021 on digital environment • Plans of action: radicalism and violent extremism; trafficking

	COUNTRY: LAO PDR
How does your country disseminate the General Comments?	<ul style="list-style-type: none"> • Dissemination is not that institutionalized/systematic • Unit for women and children provides information • Community leaders disseminate at the local level through partners (INGOs & Local NGOs) • UN CRC mainly disseminated but not General Comments • Concluding Observations disseminated as well
Do you/does your country conduct child rights assessment before and after passing a law?	<ul style="list-style-type: none"> • Law on Gender Equality was recently passed • Villages were consulted first, it goes through the CSOs, Ministries, and then the Parliament
What kind of support do you need to implement the principles of the best interest of the child and child participation in your work?	<ul style="list-style-type: none"> • Gets support from all the Ministries for the implementation • Need more information regarding policy position
When do you start human rights education in your country? How?	<ul style="list-style-type: none"> • Only people with access to education get it
Any other recommendations to AICHR, ASEAN, and the UN Committee on the Rights of the Child?	<ul style="list-style-type: none"> • Need child-friendly/digestible/practical version of UN CRC and the General Comments • Integrated calendar of events and invitations - Avoid timing overlap or work in silos • Dissemination and increased visibility especially of ACWC's work linkage with AICHR and ASEAN • ASEAN Representative should get more support • Dissemination and wide human rights education • Policy formulation with clear-cut focus areas • Children as human rights defenders are amplified & Youth-led movement building in certain focus areas • UN CRC General Comment No. 25 in 2021 on digital environment • Plans of action: radicalism and violent extremism; trafficking

	COUNTRY: MALAYSIA
How does your country disseminate the General Comments?	<ul style="list-style-type: none"> No proper policy on dissemination so it is not institutionalized or done systematically Only CSOs did in reports, and only the General Comment on harmful practices Concluding Observations only within selected institutions: AG's Chambers, Judicial and Legal Training Centre
Do you/does your country conduct child rights assessment before and after passing a law?	<ul style="list-style-type: none"> Ad hoc; speedy passage of law related to children happens if high profile cases come up and there is public outcry Legislative reform consultations are not systematic None/not mainstreamed impact assessment (e.g., Child Act amendments and Sexual Offences against Children Act)
What kind of support do you need to implement the principles of the best interest of the child and child participation in your work?	<ul style="list-style-type: none"> Resource mapping and tracking of implementation costs (e.g., corruption/wastage) Building new linkages and networks on evidence-based/ lived realities
When do you start human rights education in your country? How?	<ul style="list-style-type: none"> Since December 10, 2019 - International Human Rights Day There is SUHAKAM but is often called a "toothless tiger"
Any other recommendations to AICHR, ASEAN, and the UN Committee on the Rights of the Child?	<ul style="list-style-type: none"> Grassroots need to understand the spirit of the General Comments, especially on the right of the child to be heard Integrated calendar of events and invitations - Avoid timing overlap or work in silos Dissemination and increased visibility especially of ACWC's work linkage with AICHR and ASEAN ASEAN Representative should get more support Dissemination and wide human rights education Policy formulation with clear-cut focus areas Children as human rights defenders are amplified & Youth-led movement building in certain focus areas UN CRC General Comment No. 25 in 2021 on digital environment Plans of action: radicalism and violent extremism; trafficking

	COUNTRY: MYANMAR
How does your country disseminate the General Comments?	<ul style="list-style-type: none"> Concluding Observations-focused work in National Committee, including translated version and outreach (Concluding Observations only, not General Comments)
Do you/does your country conduct child rights assessment before and after passing a law?	<ul style="list-style-type: none"> Child Rights Law - In July 2019 had an assessment on violence vs. children aspects Minimum age of criminal responsibility: Public consultation resulted in raising the age to 18 years old Community-based education
What kind of support do you need to implement the principles of the best interest of the child and child participation in your work?	<ul style="list-style-type: none"> Priority to child rights policies through awareness of new laws
When do you start human rights education in your country? How?	<ul style="list-style-type: none"> Since 2010 - Gender and Positive Discipline
Any other recommendations to AICHR, ASEAN, and the UN Committee on the Rights of the Child?	<ul style="list-style-type: none"> Integrated calendar of events and invitations - Avoid timing overlap or work in silos Dissemination and increased visibility especially of ACWC's work linkage with AICHR and ASEAN ASEAN Representative should get more support Dissemination and wide human rights education Policy formulation with clear-cut focus areas Children as human rights defenders are amplified & Youth-led movement building in certain focus areas UN CRC General Comment No. 25 in 2021 on digital environment Plans of action: radicalism and violent extremism; trafficking

	COUNTRY: PHILIPPINES
How does your country disseminate the General Comments?	<ul style="list-style-type: none"> • Dissemination is champion-based, through lobbying by CSOs, or partnership of CSOs and government agencies through training at the policy level • CSO coalitions/networks were focused on General Comment No. 19 and General Comment No. 21 • Concluding Observations - Summary and translation into different languages (in big posters for 2009 Concluding Observations' main points)
Do you/does your country conduct child rights assessment before and after passing a law?	<ul style="list-style-type: none"> • No formal assessment but when a bill is in the legislative houses, Committee hearings are done where experts/ different stakeholders give their comments on the bill for consideration by the Committee • CSOs write to the Legislative Committee to express child rights position • Children brought to Senate for key measures (e.g., quality natural disasters relief)
What kind of support do you need to implement the principles of the best interest of the child and child participation in your work?	<ul style="list-style-type: none"> • Need to lay groundwork first to get resources (financial and human)
When do you start human rights education in your country? How?	<ul style="list-style-type: none"> • Through Social Studies subject in school but not exclusively on human rights • Efforts of the Commission on Human Rights • Since Martial Law • Also survival learning methods
Any other recommendations to AICHR, ASEAN, and the UN Committee on the Rights of the Child?	<ul style="list-style-type: none"> • Institutionalize general guidelines on the child rights assessment before and after the passage of law • Integrated calendar of events and invitations - Avoid timing overlap or work in silos • Dissemination and increased visibility especially of ACWC's work linkage with AICHR and ASEAN • ASEAN Representative should get more support • Dissemination and wide human rights education • Policy formulation with clear-cut focus areas • Children as human rights defenders are amplified & Youth-led movement building in certain focus areas • UN CRC General Comment No. 25 in 2021 on digital environment • Plans of action: radicalism and violent extremism; trafficking

	COUNTRY: THAILAND
How does your country disseminate the General Comments?	<ul style="list-style-type: none"> • Not for General Comments, but dissemination of UN CRC is quite widespread • Translation is needed for the General Comments and it takes time • Ministry of Social Welfare and Department of Children & Youth oversee dissemination of translated UN CRC
Do you/does your country conduct child rights assessment before and after passing a law?	<ul style="list-style-type: none"> • No specific assessment • Drafting of law goes through a consultative process in the Parliament
What kind of support do you need to implement the principles of the best interest of the child and child participation in your work?	<ul style="list-style-type: none"> • Political will is there so there is funding, but technical support is needed in some areas (e.g., police force)
When do you start human rights education in your country? How?	<ul style="list-style-type: none"> • Since the establishment of the National Human Rights Commission which mainstreams human rights
Any other recommendations to AICHR, ASEAN, and the UN Committee on the Rights of the Child?	<ul style="list-style-type: none"> • For AICHR and ASEAN to encourage AMS to withdraw reservations

	COUNTRY: VIET NAM
How does your country disseminate the General Comments?	<ul style="list-style-type: none"> • General Comments are taken into consideration depending on how relevant it is to country/context • UN CRC is already integrated in laws • There is new Department on Children
Do you/does your country conduct child rights assessment before and after passing a law?	<ul style="list-style-type: none"> • It takes years to pass a law, but it takes a short time for its implementation • Amendments are not done • Bill/draft law is sent to different concerned ministries for comments
What kind of support do you need to implement the principles of the best interest of the child and child participation in your work?	<ul style="list-style-type: none"> • Get funding support from INGOs, private sectors and annual budget from government • More technical support from local NGOs
When do you start human rights education in your country? How?	<ul style="list-style-type: none"> • Subject in school teaches about rights but not specific on child rights • Issues related to human rights go to the relevant Ministry where there is a technical group headed by the Prime Minister • Forums and annual talks with local leaders
Any other recommendations to AICHR, ASEAN, and the UN Committee on the Rights of the Child?	<ul style="list-style-type: none"> • To involve more children in interactive sessions, especially marginalized children (e.g., children with disabilities, minorities, etc.)

LIST OF ATTENDEES

Speakers, Participants, and Guests

COUNTRY	NAME	REPRESENTATION
Cambodia	H.E. Polyn Hean	AICHR Cambodia
Cambodia	Ms. Ouch Nipon	Cambodian Human Rights Committee
Cambodia	Mr. Sokpech Khun	Office of the Council of Ministers
Indonesia	Ms. Lindi Mahesi	Ministry of Foreign Affairs
Indonesia	Ms. Liya Yuliana	Legal Aid Foundation - Indonesian Women's Association for Justice
Indonesia	Ms. Rena Herdiyani	Kalyanamitra
Indonesia	Ms. Desiana Natalia Sagita	ASEAN Secretariat
Indonesia	Ms. Windi Arini Anam	ASEAN Secretariat
Japan	Atty. Mikiko Otani	UN Committee on the Rights of the Child
Laos	Mr. Xanaphonh Phonethip	National Commission for the Advancement of Women and Mother-Child
Laos	Mr. Vanpaserth Phonsamleth	ACWC Representative (Alternate)
Laos	Mr. Soulasack Pichit	Ministry of Foreign Affairs of Lao PDR
Malaysia	Prof. Dato' Noor Aziah Mohd. Awal	The Human Rights Commission of Malaysia (SUHAKAM)
Malaysia	Ms. Nurdyana Baharum	Ministry of Women, Family, and Community Development
Malaysia	Mr. Ridzwan Shahabudin	Embassy of Malaysia in the Philippines
Malaysia	Dr. Farah Nini Dusuki	University of Malaysia
Malaysia	Dr. Hartini Zainudin	Yayasan Chow Kit
Malaysia	Ms. Thanam Visvanathan	Johor Women's League
Malaysia	Ms. Melissa Akhir	Women's Aid Organization
Myanmar	Mr. Kyaw Myo Thant	Ministry of Social Welfare, Relief, and Resettlement
Myanmar	Mr. Aung Soe Kyaw	Ministry of Social Welfare, Relief, and Resettlement
Myanmar	Mr. Kyaw Thu Nain	Ministry of Social Welfare, Relief, and Resettlement
Norway	H.E. Bjørn Staurset Jahnsen	Norwegian Ambassador to the Philippines
Philippines	H.E. Elizabeth Buensuceso	AICHR Philippines
Philippines	Mr. Ivan Frank Olea	Department of Foreign Affairs
Philippines	Ms. Ramona Jose	Department of Foreign Affairs
Philippines	Ms. Maria May-I Fabros	Department of Foreign Affairs
Philippines	Mr. Louie Merced	Department of Foreign Affairs
Philippines	Usec. Florita Villar	ASEAN SOMSWD/Department of Social Welfare and Development
Philippines	Usec. Josephine Maribojoc	Department of Education
Philippines	Mr. Jose Marco Arosa	Department of Education
Philippines	Ms. Emily Mallari	Department of Education
Philippines	Ms. Monica Prieto-Teodero	Special Envoy of the President to UNICEF
Philippines	Ms. Maria Florinda Cabrido	Team Kiko Legislative Unit
Philippines	Mr. Ian Caro	Team Kiko Legislative Unit
Philippines	Ms. Julie Laconico-Tancio	Team Kiko Legislative Unit

COUNTRY	NAME	REPRESENTATION
Philippines	Ms. Ericka	Children Talk to Children
Philippines	Dr. Emma Llanto	Silid Kandungan - Teen Mom Clinic
Philippines	Dr. Miriam Domingo-Valenzuela	Silid Kandungan - Teen Mom Clinic
Philippines	Ms. Amihan Abueva	Child Rights Coalition Asia
Philippines	Ms. Hazelyn Joy Bitaña	Child Rights Coalition Asia
Philippines	Ms. Luz Indah Abayan	Child Rights Coalition Asia
Philippines	Ms. Rosheic Sims	Child Rights Coalition Asia
Philippines	Atty. Ma. Perpetua Unico	Ateneo Human Rights Center
Philippines	Ms. Magnolia Eva Jacinto-Escobedo	Civil Society Coalition on the Convention on the Rights of the Child
Philippines	Ms. Lizbeth Kollin	Women's Legal Bureau
Philippines	Ms. Melanie Ramos-Llana	Save the Children Philippines
Philippines	Ms. Lizbeth Kollin	Women's Legal Bureau
Singapore	Ms. Sue Cheng	Singapore Children's Society
Thailand	Dr. Seree Nonthasoot	Former Thailand Representative to the AICHR
Thailand	Mr. Jharas Boonrak	Office of AICHR Thailand
Thailand	Mr. Ratchanand Vichaidit	Royal Thai Embassy Manila
Viet Nam	Ms. Khanh Nguyen An Le	Ministry of Foreign Affairs
Viet Nam	Ms. Pham Huyan Ngoc	ASEAN-Viet Nam

Secretariat

COUNTRY	NAME	REPRESENTATION
Philippines	Ms. Cecille Joyce Lao	Department of Foreign Affairs
Philippines	Ms. Maria Odessa Cruz	Department of Foreign Affairs
Philippines	Ms. Carmela Angela Liwanag	Department of Foreign Affairs
Philippines	Ms. Jeannie Petrola	Department of Foreign Affairs
Philippines	Ms. Claudia Delos Santos	Department of Foreign Affairs
Philippines	Ms. Genina Marion Rafal	Department of Foreign Affairs
Philippines	Ms. Hannah Zulayka Abubakar	Department of Foreign Affairs
Philippines	Mr. Renz Oliver Tabil	Department of Foreign Affairs
Philippines	Ms. Cedric Danielle Barcena	Department of Foreign Affairs
Philippines	Ms. Patricia Alexandra Gwaran	Department of Foreign Affairs
Philippines	Ms. Nina Angelica Arquiza	Department of Foreign Affairs
Philippines	Mr. JR Salinas	Department of Foreign Affairs
Philippines	Mr. Kyle Endozo	Department of Foreign Affairs
Philippines	Ms. Irma Dela Cruz	Child Rights Coalition Asia
Philippines	Mr. Francis Copino	Child Rights Coalition Asia
Philippines	Ms. Joy Carrera Pacete	Documenter
Philippines	Mr. Elendil Gil-Galad Cañete	Photographer

ANNEX



Scan to view the full text of the UN Convention on the Rights of the Child



Scan to view the full text of the UN CRC General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration



Scan to view the full text of the UN CRC General Comment No. 12 (2009) - The right of the child to be heard



Scan to view the full text of the ASEAN Human Rights Declaration



Scan to view the full text of the ASEAN Community Vision 2025 and ASEAN Community Blueprints 2025



Scan to visit the website of AICHR



