ASEAN DIALOGUE
ON THE UN CONVENTION
ON THE RIGHTS OF THE CHILD
AND ITS RELATED INSTRUMENTS

25-26 OCTOBER 2018 | MANILA, PHILIPPINES
DIALOGUE PROCEEDINGS
ASEAN DIALOGUE
ON THE UN CONVENTION
ON THE RIGHTS OF THE CHILD
AND ITS RELATED INSTRUMENTS

25-26 October 2018 | Manila, Philippines
Dialogue Proceedings
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<td>ASEAN Commission on the Promotion and Protection of the Rights of Women and Children</td>
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<td>AICHR</td>
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<td>AIPR</td>
<td>ASEAN Institute for Peace and Reconciliation</td>
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<td>AMS</td>
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<td>ASEAN</td>
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<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
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<td>OPAC</td>
<td>Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict</td>
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<td>OPIC</td>
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<td>SRP</td>
<td>Simplified Reporting Procedure</td>
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<td>UN</td>
<td>United Nations</td>
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<td>VAC</td>
<td>Violence against Children</td>
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INTRODUCTION

The United Nations (UN) Convention on the Rights of the Child (UN CRC) is the first human rights treaty ratified by all the ASEAN Member States (AMS). By 1995, even when Cambodia, Laos, and Myanmar are yet to become members of ASEAN, all the current ten Member States have already ratified or acceded to the UN CRC. 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,¹ 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). As such, ASEAN has recognized the importance of bringing about positive changes to child rights issues. Like other issues, however, child rights issues are continuously evolving and requires continuous discussions and updating. For instance, the concern on the welfare of orphaned children at the end of the second world war had advanced to dialogues about children’s right to nationality, right to education, and right to play and recreation. The scientific and technological advancements also demanded reconsideration on efforts to address the issues of juvenile justice, early childhood care, and sexual exploitation and abuse of children.

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). Among them, the OPAC is the most widely signed, ratified, or acceded to by the AMS, followed by the OPSC. The OPIC, the newest of the Optional Protocols, comes last.

The UN CRC also has General Comments issued by the UN Committee on the Rights of the Child (Committee). The General Comments are authoritative interpretations of the articles in the UN CRC and its Optional Protocols. They aim to address what the Committee sees as systematic violations, misunderstood provisions, or emerging issues relevant to children’s rights.

¹ASEAN Secretariat. (2016). ASEAN Statistical Yearbook 2016/2017
These General Comments should be used to assist the State Parties in implementing the UN CRC and in preparing its reports to the Committee. As of November 2018, the Committee has issued 23 General Comments, with the latest ones focusing on public budgeting for children’s rights, the rights of the child during adolescence, the rights of children in street situations, and the rights of children in the context of international migration.

UN CRC General Comment No. 20 focuses on the implementation of the rights of the child during adolescence. Special attention has been given to the period of adolescence as it is a critical life stage of children “characterized by growing opportunities, capacities, aspirations, energy and creativity, but also significant vulnerability.” Adolescents engage in a different sphere and they are highly advanced in the digital and social media environments. As such, there is a need to enhance the understanding on the evolving capacities of children during adolescence, and their implications in the enjoyment of their rights in cross-cutting themes and issues. UN CRC General Comment No. 20 covers the adolescents’ civil rights and freedoms; digital environment; violence against children; family environment and alternative care; basic health and welfare; education, leisure and cultural activities; and special protection measures in the context of migration, trafficking, conflict and crisis, child labor, and justice.

Both the Optional Protocols and General Comments aim to address the evolving child rights issues, and ASEAN needs to revisit and be updated on these in order to better safeguard the welfare and development of children in Southeast Asia. These instruments should be considered and adapted to the regional characteristics of ASEAN and to the national situations of the AMS.

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2 Committee on the Rights of the Child General Comment No. 20 (2016) on the implementation on the rights of the child during adolescence
On 25-26 October 2018, the ASEAN Intergovernmental Commission on Human Rights (AICHR) conducted the ASEAN Dialogue on the UN CRC and Its Related Instruments in Manila, Philippines. It was led by AICHR Philippines and AICHR Singapore in partnership with Child Rights Coalition Asia (CRC Asia) and with the support of the Embassy of Switzerland in the Philippines.

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.

On 13-14 July 2017, the AICHR, in partnership with the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), conducted the AICHR-ACWC Training Workshop on the UN CRC in Singapore.
As a follow up to this, AICHR conducted the Dialogue to deepen the understanding on the UN CRC and its related instruments. The Dialogue was conducted in accordance with the following AICHR mandates and work plan:

**AICHR Mandates**

3. To enhance public awareness of human rights among the peoples of ASEAN through education, research and dissemination of information

4. To promote capacity building for the effective implementation of international human rights treaty obligations undertaken by ASEAN Member States

5. To encourage ASEAN Member States to consider acceding to and ratifying international human rights instruments

**AICHR Work Plan 2016-2020**

- Mandate 4.5 Item Number 2: Identify priority for accession and ratification of international human rights instruments for ASEAN Member States, through study and dialogue

Additionally, the Dialogue was conducted to contribute to the ASEAN Political-Security Community Blueprint 2025, particularly in the following action lines:

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
Objectives

The main objective of the project is:

- To improve the understanding on the UNCRC Optional Protocols and General Comment No. 20 on the implementation of the rights of the child during adolescence.

Specifically, the project will be a venue to:

- Share good practices and challenges in implementing/ratifying the Optional Protocols
- Identify adolescence issues and recommendations that need immediate action at the regional and national levels

At the short-term, the Dialogue is expected to provide new and useful information for the participants. At the long-term, the impacts of the project are expected to reflect on the UN CRC State reports of the AMS, as well as in the regional and national level actions to implement the UN CRC. Moreover, the identified possible ways forward or actions in the Dialogue may be used as basis for the next project/s of AICHR and/or ACWC.
The Dialogue was attended by the participants in the following bodies, sectors, and fields:

1. AICHR Representatives and/or Alternate Representatives from:
   a. Lao PDR  
   b. Malaysia  
   c. Philippines  
   d. Singapore  
   e. Viet Nam

2. ACWC Representatives and/or Alternate Representatives on Children’s Rights from:
   a. Brunei Darussalam  
   b. Lao PDR  
   c. Malaysia  
   d. Myanmar  
   e. Singapore  
   f. Thailand  
   g. Viet Nam

3. ASEAN Secretariat
4. ASEAN Sectoral Bodies
   a. Senior Officials Meeting on Social Welfare and Development
   b. Senior Labor Officials Meeting
5. National ministries of foreign affairs
6. National coordination bodies on children’s rights
7. Embassy of Switzerland in the Philippines
8. Civil society organizations

All participants were expected to have a background on the UN CRC.

The Dialogue invited the following experts as Resource Speakers:

1. Atty. Wanchai Roujanavong, Vice Chair and Thailand’s Representative on Children’s Rights to the ACWC
2. Dato’ Atty. Yasmeen Muhammad Shariff, Former Member of the UN Committee on the Rights of the Child
3. Mr. Ahmad Taufan Damanik, Chairman of the National Human Rights Commission of Indonesia (Komnas HAM)
4. Atty. Dorine van Der Keur, Legal Consultant of ECPAT International
5. Atty. Mikiko Otani, Member of the UN Committee on the Rights of the Child

The sessions were moderated and facilitated by:

1. Dato Dr. Junaidi A. Rahman, Brunei Darussalam’s Representative on Children’s Rights to the ACWC
2. Dr. Shashi Jayakumar, Representative of AICHR Singapore
3. Ms. Amihan Abueva, Regional Executive Director of CRC Asia
WELCOME REMARKS

By Mr. Leo M. Herrera-Lim
Philippine Representative to AICHR

Ambassador Andrea Reichlin, Ambassador of Switzerland and our partner in terms of organizing this event; Dr. Shashi Jayakumar, the Representative of Singapore for AICHR, who is the current chair of AICHR for the year; and Mr. Koh, the Representative of Singapore for ACWC; my other colleagues in AICHR and ACWC and other ASEAN bodies; My colleague from the Department of Foreign Affairs, Assistant Secretary Oyen Baja of the Office of the United Nations and other International Organizations; Ms. Amihan Abueva of CRC Asia, the co-partner of the Philippines in organizing this event; Excellencies; colleagues; and friends, welcome to the Philippines.

If it’s your first time in Manila, we’ll excuse you by around 5 o’clock just to see the sunset because if you go up to the 27th floor, look west and you’ll have the sunset, pretty much the pride of Manila.

A little more than a year ago, AICHR and ACWC collaborated to have a pioneer Training Workshop on the UN Convention on the Rights of the Child in Singapore, July of 2017. It brought together various ASEAN stakeholders working on the implementation and reporting on the CRC. It was a venue for sharing experiences, learning from international and regional experts, and discussing developments and emerging issues in children’s rights. At that workshop, everyone agreed on the importance of integrating children’s rights into the policy-making process, capacity-building, monitoring, data collection, and strengthening inter-agency coordination at the national level and inclusive participation of stakeholders, including children.
The UN CRC is special because it not only deals with the most vulnerable members of our society, but also because the Convention has been ratified by all the ASEAN Member States. In our very own ASEAN Human Rights Declaration, specific provisions recognize the inalienable, integral and indivisible part of children’s rights in human rights and fundamental freedoms. It also recognized therein that children should be given special care and assistance and that no child or any young person be subjected to economic and social exploitation.

Building on this, AICHR Philippines and AICHR Singapore, in collaboration with CRC Asia and with the support of the Swiss Embassy here in the Philippines, banded together for the convening of this ASEAN Dialogue on the UN CRC and its Related Instruments. At this ASEAN Dialogue, we hope to deepen the understanding on implementing the rights of the child by putting a spotlight on the CRC Optional Protocols that address substantive areas of children’s rights. Unlike the UN CRC, not all Optional Protocols have been ratified by all ASEAN Member States. It is our hope that through this Dialogue, there would be a good exchange of information regarding good practices and challenges involving the Optional Protocols. We also anticipate that there would be discussions on the possibilities and the challenges in ratifying the Optional Protocols.

The Dialogue will also focus on specific areas of children’s rights through the discussion of one of the latest UN CRC General Comments. A deeper understanding on the purpose and contents of the General Comments could supplement the knowledge relative to the integration of children’s rights in the policy-making process. With respect to the purposes of AICHR as mandated in our Terms of Reference, this Dialogue addresses not only the promotion and protection aspect of our work in human rights but also the realization of the purposes of ASEAN as set out in our Charter and the recognition of our national and regional peculiarities.
This is the primary reason why this activity is called a Dialogue. Our aim is to allow participants to share and be heard and, at the same time, create awareness not only on the subject of our discussion, but more importantly, awareness of where each participant is coming from.

We all agree that children’s rights are important. We all agree that the voice of the children should reach policy-makers. The challenge, now, is how to concretize this agreement in order to realize our vision and benefit the ASEAN children, and eventually, the ASEAN community. The issues of children’s rights, or of human rights, in general, is cross-cutting. Thus, it is important that we work not only with the different sectoral bodies in ASEAN, but also with the various stakeholders.

At this point, allow me to recognize the valuable contribution of Child Rights Coalition Asia, represented here by Amihan Abueva and her team, in the implementation of this project. We are proud to say that this is the first joint project of AICHR-Philippines with a civil society organization (CSO) on children’s rights. CRC Asia is one of the first few CSOs which gained consultative relationship status with AICHR. Right now, we have around thirty CSOs who have consultative status with AICHR. They were also one of the few who have met the challenge of submitting a project proposal within days when such a call was made in early 2017. They did a lot of the work for this Dialogue. We will also be benefiting from their experience and technical expertise on the subject.

I would also like to take the opportunity to express my appreciation for the support of the Swiss Embassy, through Ambassador Andrea Reichlin and her team, she also made the Dialogue possible, I think we met each other, we discussed a few months ago in another ASEAN event, a few weeks ago, in another ASEAN event, and, Ambassador Andrea and her team, including Saskia, stepped up to the plate and wanted generously to join the organization of this Dialogue.
Finally, I wish to thank all of you for your presence and for sharing your valuable time. I think, aside from the sunset, you have the obligation to enjoy the Dialogue in the next two days and bring back to your respective countries the wisdom gained from this activity.

Thank you, and as we say in the Philippines, mabuhay po kayong lahat.
By Dr. Shashi Jayakumar
Representative of AICHR Singapore

Mr. Leo Herrera-Lim, Philippine Representative to the AICHR; Your Excellencies; Ladies and Gentlemen, Good morning. I am honoured to be here, especially among many of you whom I note are experts in the area of children’s rights and the UN Convention on the Rights of the Child and its related instruments. I am certain that in the next one and a half days, there will be a robust exchange of knowledge and views, and I look forward to a fruitful discussion.

The UN Convention on the Rights of the Child, adopted by the UN General Assembly in 1989, remains the most widely ratified international human rights treaty.

It comprehensively provides for the rights of children, and sets out the standards on child healthcare, education, legal and social services, to provide a conducive and safe environment for our children. I am heartened that all ten ASEAN Member States are part of the 196 countries that have ratified the UN CRC. This reflects ASEAN’s commitment to affirm the Convention’s four basic principles, namely: a child’s right to survival; a child’s right to development; a child’s right to be protected; and a child’s right to participate actively in his/her community. It also reflects ASEAN’s recognition of the fundamental human dignity of all children, and the need to ensure their well-being and development.
With a combined population of 630 million, ASEAN has become one of the largest regions in the world. With almost a third of its population who are below the age of 19, ASEAN recognizes the need to provide a nurturing, and empowering environment for our children so that all children can fulfil their full potential. In the last decade, not only did ASEAN enjoy greater political stability and economic growth, we have also made good progress in our social development. ASEAN Member States’ commitment to the UNCRC, and the promotion and protection of children’s rights, are reaffirmed and reflected in several ASEAN instruments and documents. These include the ASEAN Human Rights Declaration; the Declaration on the Commitments for Children in ASEAN; the Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children; as well as the ASEAN Regional Plan of Action on the Elimination of Violence against Children, among others. Today, children in ASEAN are generally better off. They are healthier, have more access to education, and enjoy a better quality of life.

However, in the broader global context, pockets of exclusion remain and progress is not consistent nor keeping pace with the scale of challenges faced by children and young people today. For example, with an increasing number of countries affected by armed conflict in the last decade, the number of children living in conflict zones have dramatically risen by 74 per cent. Separately, while digital technology and the Internet have provided children greater access to education and learning opportunities, it has also made them more vulnerable to new threats such as cyber bullying, as well as exploitation by sex offenders, traffickers and abusers in the online space.

To address these global child rights challenges, the UNCRC has developed three Optional Protocols: One, the Optional Protocol on the Involvement of Children in Armed Conflict. Two, the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, and three, the Optional Protocol on a Communications Procedure.
The UNCRC has also issued 23 General Comments that aim to address systemic violations, misunderstood provisions, and/or emerging child rights' issues such as (i) children in street situations; (ii) the rights of the child during adolescence; and (iii) the rights of the child in the context of international migration.

To promote a greater awareness and a deeper understanding of current developments in children’s rights in ASEAN, AICHR and the ACWC had organized the AICHR-ACWC Training Workshop on the UN CRC in Singapore last July. The workshop gave AICHR and ACWC Representatives, CSOs, as well as international and regional experts the platform to discuss current developments and emerging trends in children’s rights. Participants and speakers also took the opportunity to share case studies, as well as exchange good practices with one another.

I am encouraged that we have decided to follow up on the Workshop with a Dialogue on the UN CRC as well as its Related Instruments. Given that child rights issues continue to evolve, ASEAN needs to stay updated and be prepared to respond to new challenges that affect our children, who are vulnerable and in need of special care and attention at various stages of their development. I believe that this Dialogue provides a good platform for the exchange of knowledge, views, and good practices. It is also a timely opportunity for us to explore how the Optional Protocols and General Comments could be adopted by ASEAN and AMS to better protect our children.

After all, children in ASEAN form the bedrock of ASEAN’s future. We need to do what we can to ensure that they can grow up in an inclusive, safe, and empowering environment, where they feel a sense of belonging to. There is no one-size-fits-all solution to address the many challenges to child rights. However, recognizing that more can be done, and willing to do more to improve the lives of our children, will lay the foundation for a better and more equitable ASEAN community.
We are not a perfect community yet but I am certain that with political will and buy-in from various stakeholders, including civil society organizations, we can help create an equitable, safe, and conducive environment for children so that they can thrive and fulfil their full potential. By investing in the well-being and protecting the rights of our children, we are investing and securing the future of a stronger and more resilient ASEAN community. I look forward to our discussions.

Thank you.
Opening Message

By Ms. Andrea Reichlin
Ambassador of Switzerland to the Philippines

Distinguished AICHR and ACWC representatives and members of ASEAN Bodies, Esteemed Speakers, Dear workshop participants, Switzerland as an ASEAN Sectoral Dialogue Partner, has great pleasure to support this AICHR initiative and to join the opening today. No doubt the topic deserves our highest attention.

Children have a special place in our societies not only because they represent our future, but also because they make up an important percentage of our population.

In the ten ASEAN Member States for instance, more than a third of the population is aged 19 years below and is therefore covered by the Convention on the Rights of the Child. Realizing a world where every child reaches his/her full potential requires, therefore, concrete actions by governments to live up to their obligations to ensure respect for every child’s fundamental human rights.

Since the UN Convention on the Rights of the Child entered into force in 1989, significant progress has been achieved with regard to protecting children from discrimination, exclusion and inequality worldwide. Yet, millions of boys and girls around the world continue to be exposed to physical, psychological and sexual violence or neglect, and respect for their rights is being threatened, especially in conflict-affected areas. The recent report of the Secretary-General on Children and Armed Conflict verified over 21,000 grave violations of children’s rights, which is a 35 per cent increase compared to the previous year. This significant increase requires the international community to take action.
Supporting dialogues like the present one, is at the heart of our sectoral dialogue partnership commitment with a strong focus on human security. In the same spirit, in 2015, we engaged with AIPR on the Symposium on the Plight of Women and Children in Conflict Situations and in July 2017 we co-financed a workshop of the Commission on the Protection and Promotion of the Rights of Women and Children on the CRC in Singapore.

Furthermore, Switzerland welcomes the ASEAN Regional Plan of Action 2016-2025 on the Elimination of Violence against Children and the development of National Plans of Action to support laws and policies. These efforts are guided by the fundamental principle that “no violence against children is justifiable; all violence against children is preventable.” The ultimate goal to eliminate all forms of violence against children in ASEAN Member States and the definition of an eight-pillar regional action framework is indeed ambitious and timely.

The adults of this world have not long ago committed to the Agenda 2030 and, in particular, to the Sustainable Development objective 16.2. This dialogue about the CRC, the Regional Plan of Action, the ASEAN Institute for Peace and Reconciliation (AIPR) and ASEAN Member States’ initiatives underline converging efforts for a safer space where children grow up free from fear and violence and where no child is left behind. This is also the objective of the Global Partnership to End Violence Against Children which Switzerland supports.

This year, we also commemorated the 18th anniversary of the Optional Protocol on the Rights of the Child on the Involvement of Children in Armed Conflict, which is an important milestone in the international community’s engagement on children and armed conflict. OPAC focuses on the prevention of child recruitment and use in hostilities as well as the release and reintegration of children recruited by armed forces and armed groups. It therefore encompasses a holistic approach in terms of looking at prevention and release. While OPAC has been ratified to date by 167 state parties, among them Switzerland, more needs to be done to achieve universal ratification and effective implementation.
The Convention and its three Optional Protocols offer an important set of standards and obligations. The difficulty is the slow pace of implementation or non-compliance.

Switzerland acceded to the third Optional Protocol to the Child's Rights Convention in April 2017. We are convinced that it complements the Convention by creating three new control mechanisms.

One important novelty is the individual communication procedure empowering individuals who have exhausted all available domestic remedies to submit complaints to the UN Committee on the Rights of the Child. Another important novelty is the inter-state communication procedure of the inter-state party to draw the Committee’s attention to claims that another State Party is not fulfilling its obligation under the Convention or its Optional Protocols. And finally, if reliable information is submitted indicating grave or systematic violations by a State Party, the Committee may also initiate an inquiry procedure. Such control mechanisms are essential for effectively enforcing human rights and reinforcing the Convention’s practical significance.

Switzerland has already recognized similar mechanisms under other UN treaties. It is also actively taking part in efforts to strengthen the control mechanism and to promote the future expansion.

In this context, we are happy to contribute to today’s Dialogue and thereby increase the understanding of the UNCRC and the three Optional Protocols and further its practical implementation.

Let me close with a poem by William Blake:
“Know you what it is to be a child? It is to believe in loveliness…
“To see a World in a Grain of Sand
And a Heaven in a wild flower
Hold infinity in the palm of your hand
And Eternity in an hour.”

I wish you a fruitful discussion. Thank you.
OVERVIEW: ASEAN AND THE UN CONVENTION ON THE RIGHTS OF THE CHILD

The objectives of this session are:

• To present the summary of the AMS’ ratifications of the UN CRC and Optional Protocols, including the reservations and declarations
• To present the overview or background information on the UN CRC Optional Protocols and General Comments
• To identify the importance, purpose, and means of implementing the Optional Protocols and General Comments at the regional level and national level
Presenters and Moderator

Atty. Wanchai Roujanavong  
Vice Chair and Thailand’s Representative on Children’s Rights to the ACWC

Atty. Roujanavong presented the summary of the AMS’ ratifications of the UN CRC and Optional Protocols.

Dato’ Atty. Yasmeen Muhammad Shariff  
Former Member of the UN Committee on the Rights of the Child

Dato’ Atty. Shariff provided an overview of the Committee on the Rights of the Child, the Optional Protocols, and General Comments.

Dato Dr. Junaidi A. Rahman  
Brunei Darussalam’s Representative on Children’s Rights to the ACWC

Dato Dr. Rahman moderated this session.
The UN Convention on the Rights of the Child

The UN CRC is a universal Convention as it is the only treaty ratified by all United Nations 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 are they 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
- 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

All ten AMS have ratified the UN CRC, although there are a few that have reservations or declarations on certain articles. These reservations and declarations were made for various reasons. 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 be because the State Party is not confident yet that it can fully fulfill its obligation to uphold these articles. Nonetheless, a historical look at these reservations and declarations reveals that the number is declining over time. Some of the reservations or declarations made during the date of ratification or accession were eventually withdrawn.

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<thead>
<tr>
<th>ASEAN Member State</th>
<th>Year of UN CRC Ratification/Accession</th>
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<tr>
<td>Brunei Darussalam</td>
<td>27 December 1995</td>
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</table>

**Ratification**

Defines the international act whereby a state indicates its consent to be bound to a treaty if the parties intended to show their consent by such an act.

**Accession**

Is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force.

Source: Articles 2 (1) (b) and 15 of the Vienna Convention on the Law of Treaties (1969)
**Reservation**

is a declaration made by a state by which it purports to exclude or alter the legal effect of certain provisions of the treaty in their application to that state. A reservation enables a state to accept a multilateral treaty as a whole by giving it the possibility not to apply certain provisions with which it does not want to comply.

**Declarations**

merely clarify the state’s position and do not purport to exclude or modify the legal effect of a treaty. Sometimes states make “declarations” as to their understanding of some matter or as to the interpretation of a particular provision.

**ASEAN Member States with reservations/declarations on UN CRC articles**

<table>
<thead>
<tr>
<th>Country</th>
<th>Reservations</th>
<th>Declarations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Singapore</td>
<td>6 reservations and 8 declarations</td>
<td></td>
</tr>
<tr>
<td>Malaysia</td>
<td>4 reservations and 1 declaration</td>
<td></td>
</tr>
<tr>
<td>Brunei Darussalam</td>
<td>3 reservations</td>
<td></td>
</tr>
<tr>
<td>Thailand</td>
<td>1 reservation</td>
<td></td>
</tr>
</tbody>
</table>

As of October 2018

Source: Articles 2 (1) (b), 14 (1) and 19 of the Vienna Convention on the Law of Treaties (1969)
<table>
<thead>
<tr>
<th>UN CRC Article</th>
<th>No. of AMS with Initial Reservations/ Declarations upon Ratification/Accession</th>
<th>No. of AMS with existing reservations / declarations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1: Definition of a child</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>2: Non-discrimination</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>7: Registration, Name, Nationality, and Care</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>9: Separation from parents</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>10: Family reunification</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>12: Right to be heard</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>13: Freedom of expression</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>14: Freedom of thought, conscience, and religion</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>15: Freedom of association</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>16: Right to privacy</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>17: Access to information; mass media</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>19: Protection from all forms of violence</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>20: Children deprived of family environment (paragraphs 1 and 2)</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>20: Children deprived of family environment (paragraph 3)</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>21: Adoption (paragraph a)</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>21: Adoption (paragraph b to e)</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>22: Children in refugee situations</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>28: Right to education (paragraph 1a)</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>28: Right to education (paragraphs b to e, paragraphs 2 and 3)</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>29: Goals of education</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>32: Child labor</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>37: Detention and punishment</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>40: Juvenile Justice (paragraphs 3 and 4 [under 2b])</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>44: Submission of Report</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>45: International Cooperation</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

*As of October 2018; not presented during the Dialogue*
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.

What are Optional Protocols?
- They give more 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 CRC currently has three Optional Protocols:
1. Optional Protocol on the Involvement of Children in Armed Conflict (OPAC)
3. Optional Protocol on a Communications Procedure (OPIC or OP3 CRC)

Most of the time, a lot of emphasis is given to the UN CRC but not so much on its Optional Protocols.

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 should be included in the next UN CRC reports.
ASEAN and the Optional Protocols of the UN Convention on the Rights of the Child

The Optional Protocol on the Involvement of Children in Armed Conflict (OPAC)

The OPAC entered into force on 12 February 2012. Among the ten AMS, nine ratified this Optional Protocol.

<table>
<thead>
<tr>
<th>ASEAN Member State</th>
<th>Year of OPAC Ratification/Accession</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei Darussalam</td>
<td>17 May 2016</td>
</tr>
<tr>
<td>Cambodia</td>
<td>16 July 2004</td>
</tr>
<tr>
<td>Indonesia</td>
<td>24 September 2012</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>20 September 2006</td>
</tr>
<tr>
<td>Malaysia</td>
<td>12 April 2012</td>
</tr>
<tr>
<td>Myanmar</td>
<td>(Signed on 18 September 2015 subject to Ratification, Acceptance or Approval)</td>
</tr>
<tr>
<td>Philippines</td>
<td>26 August 2003</td>
</tr>
<tr>
<td>Singapore</td>
<td>11 December 2012</td>
</tr>
<tr>
<td>Thailand</td>
<td>27 February 2006</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>20 December 2001</td>
</tr>
</tbody>
</table>

Signature Subject to Ratification, Acceptance or Approval is a means of authentication and expresses the willingness of the signatory state to continue the treaty-making process. It does not establish the consent to be bound, but it creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty.

*As of October 2018*
The Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (OPSC)

The OPSC entered into force on 18 January 2002. Among the ten AMS, nine ratified this Optional Protocol. The OPSC can be used together with the UN Convention against Transnational Organized Crime and the Trafficking Protocol.

### ASEAN Member State

<table>
<thead>
<tr>
<th>ASEAN Member State</th>
<th>Year of OPSC Ratification/Accession</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei Darussalam</td>
<td>21 November 2006</td>
</tr>
<tr>
<td>Cambodia</td>
<td>30 May 2002</td>
</tr>
<tr>
<td>Indonesia</td>
<td>24 September 2012</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>20 September 2006</td>
</tr>
<tr>
<td>Malaysia</td>
<td>12 April 2012</td>
</tr>
<tr>
<td>Myanmar</td>
<td>16 January 2012</td>
</tr>
<tr>
<td>Philippines</td>
<td>28 May 2002</td>
</tr>
<tr>
<td>Singapore</td>
<td>N/A*</td>
</tr>
<tr>
<td>Thailand</td>
<td>11 January 2006</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>20 December 2001</td>
</tr>
</tbody>
</table>

*According to Singapore’s 2016 National Report for the Universal Periodic Review and 2017 UN CRC State Report, Singapore is currently considering accession to the OPSC.
The Optional Protocol on a Communications Procedure (OPIC)\(^3\)

The OPIC entered into force on 14 April 2014. Among the ten AMS, only Thailand has ratified this Optional Protocol.

Thailand’s ratification of the Optional Protocol on a Communications Procedure

Thailand ratified the Optional Protocol in September 2012, making the country the second States Party around the world to do so. Thailand is confident in its ratification of this Optional Protocol because the country believes that they can fully implement all their obligations under the UN CRC, OPAC, and OPSC. Thailand is also confident that its institutions can provide solutions and remedies to all the claims of child rights violations. As such, Thailand believes that there shall not be any claim that will pass the conditions set forth in Optional Protocol.

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\(^3\)For purposes of clear presentation and exposition, the discussions regarding the OPIC that occurred in this session were moved to the next section In Focus: The UN Convention on the Rights of the Child Optional Protocols starting on page 42.
The UN Committee on the Rights of the Child

The Committee on the Rights of the Child 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 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 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 Committee issues ‘General Comments’ or ‘General Recommendations.’ These comments are not specific to a country but provide guidance to all countries.
The UN CRC General Comments

The 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 are key standards that help States improve both the way they write their reports and the way they implement the treaties.
• They provide an authoritative interpretation of the rights contained in the articles and provisions of the UN CRC, OPAC, and OPSC.
• They are based on the Committee’s experiences in monitoring reports from States parties and the systematic violations, misunderstood provisions, or emerging issues relevant to the treaties.

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 fulfil their related obligations.
• Although they are not legally binding, General Comments can make valuable contributions to the development and application of international law.
• General Comments draw attention to inadequacies in the implementation of the UN CRC, OPAC, and OPSC.
• General Comments help in strengthening advocacy and in having a framework for accountability.
• The Committee reinforces the links between the rights of the child and other international instruments by referencing these links in the General Comments.
When writing General Comments, the Committee often consults with organizations or individuals with expertise on the topic.

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 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. 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
<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>General Comment No. 11 (2009) Indigenous children and their rights under the Convention</td>
</tr>
<tr>
<td>12</td>
<td>General Comment No. 12 (2009) The right of the child to be heard</td>
</tr>
<tr>
<td>13</td>
<td>General Comment No. 13 (2011) The right of the child to freedom from all forms of violence</td>
</tr>
<tr>
<td>14</td>
<td>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)</td>
</tr>
<tr>
<td>15</td>
<td>General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health</td>
</tr>
<tr>
<td>16</td>
<td>General Comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights</td>
</tr>
<tr>
<td>17</td>
<td>General Comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (Art. 31)</td>
</tr>
<tr>
<td></td>
<td>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</td>
</tr>
<tr>
<td>19</td>
<td>General Comment No. 19 (2016) on public budgeting for the realization of children’s rights (art. 4)</td>
</tr>
<tr>
<td>20</td>
<td>General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence</td>
</tr>
<tr>
<td>21</td>
<td>General Comment No. 21 (2017) on children in street situations</td>
</tr>
<tr>
<td></td>
<td>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</td>
</tr>
<tr>
<td></td>
<td>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</td>
</tr>
</tbody>
</table>

*As of November 2018*
During the Open Forum of this session, the following points were raised, clarified, and discussed:

A. On indicators and statistics

1. Having child rights indicators can be an effective way of encouraging States Parties to fulfil their obligations. The UN (through the Sustainable Development Goals or SDGs), UNICEF, and other non-government organizations (NGOs) working for children have identified indicators related to children’s rights.

2. Using child rights indicators means securing data or statistics. However, gathering data or statistics is often a challenge not only in ASEAN, but all around the world. This is something that should be reviewed and improved.

3. In ASEAN, each of the sectoral bodies may request the central body in charge of statistics to consider including indicators in its regular monitoring. A working group will then review the request to check if it can be included in the ASEAN key indicators.

4. The UN Committee on the Rights of the Child does not have the financial resources, manpower, or mandate to look into indicators. Nonetheless, in preparation for the 2019 High-Level Political Forum on Sustainable Development, the Committee is collaborating with the UN Special Representative of the Secretary-General on Violence Against Children (VAC) in producing a study on VAC. The Committee is compiling all Concluding Observations related to VAC to recap the Committee’s work that contributes to achieving SDG 16.

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4For purposes of clear presentation and exposition, the discussions regarding the OPIC that occurred in this session were moved to the section In Focus: The UN Convention on the Rights of the Child Optional Protocols starting on page 42.
B. On reservations and declarations

1. Since the AMS’ ratification of the UN CRC, most of the reservations and declarations have been withdrawn.

2. Based on the Committee’s experience, States Parties usually withdraw their reservations and declarations once they get a clearer understanding on what the articles really say. As such, discussions on reservations and declarations, even at a regional level, are encouraged to be carried out.

3. During the review of State reports, if the Committee sees a number of reservations or declarations that have not been withdrawn by the State Party for some time, the Committee makes an effort to discuss and urge the withdrawal of these reservations and declarations.

C. On reporting to the UN Committee on the Rights of the Child

1. The dialogue between the Committee and States Parties tends to focus on identifying the gaps and concerns and making recommendations because of the limited time and/or limited word count. Moreover, if the States Parties show that they are meeting the minimum standards, the Committee tries to encourage the States Parties to move towards higher standards. Additionally, States Parties should bear in mind that the Committee also receives information from several sources. When the Committee gets conflicting information, it has the duty to raise questions and seek more data.

2. Because of the limited interaction with the Committee during the reporting process, States Parties are encouraged to conduct regional or sub-regional fora that facilitate the exchange of good practices on the implementation of the UN CRC and its related instruments.
IN FOCUS: THE UN CONVENTION ON THE RIGHTS OF THE CHILD OPTIONAL PROTOCOLS

The objective of this session is:

• To present the salient features of the Optional Protocols and related key issues in ASEAN

**Presenters and Moderator**

**Mr. Ahmad Taufan Damanik**  
Chairman of the National Human Rights Commission of Indonesia (Komnas HAM)

Mr. Damanik presented about the OPAC, with a focus on the key issues in AMS.

**Atty. Dorine van Der Keur**  
Legal Consultant of ECPAT International

**Ms. Andrea Varella**  
Legal Programme Associate of ECPAT International

Atty. van Der Keur and Ms. Varella presented about OPSC, specifically on the issue of sexual exploitation of children.
Atty. Mikiko Otani  
Member of the UN Committee on the Rights of the Child  

Atty. Otani presented about OPIC, including decisions made by the Committee under this Optional Protocol.

Dr. Shashi Jayakumar  
Representative of AICHR Singapore  

Dato Dr. Jayakumar moderated this session.

Optional Protocol on the Involvement of Children in Armed Conflict (OPAC)

The OPAC addresses the practice of recruitment and use of children as soldiers in armed conflict. It talks about the age of recruitment into armed forces and groups, banning compulsory recruitment of children below the age of 18. It also obliges the States Parties to raise the minimum age of voluntary recruitment into national armed forces. It reminds States Parties that allow the children’s voluntary recruitment that these children require special protection through sufficient safeguards. States Parties must also take legal measures to prohibit independent armed groups from recruiting and using children under the age of 18 in conflicts.
**Additional Information: Declarations upon Ratification/Accession of the OPAC by the ASEAN Member States**

All AMS that have ratified or acceded to the OPAC issued declarations. Most of these pertain to the age of recruitment into armed forces.

**Brunei Darussalam**

Declaration under article 3(2):

“Pursuant to Article 3 paragraph 2 of the Optional Protocol, the Government of Brunei Darussalam declares that, as stipulated in the Royal Brunei Armed Forces Act (Cap. 149), the minimum age of enlistment to the Royal Brunei Armed Forces and Reserve Regiment is 18 years and that enlistment is voluntary.”

**Cambodia**

Declaration:

“According to Article 42 of the Law on the General Status of Royal Cambodian Armed Forces stipulated that the Cambodian citizen of either sex who has attained the age of 18 years should be permitted or recruited into the armed forces.”

**Indonesia**

Declaration:

The minimum age for voluntary recruitment into the Indonesian National Armed Forces is 18 years old. Further, Article 28, paragraph (1) d, of the Law Number 34 Year 2004 on the Indonesian National Armed Forces regulates that “at the time of inauguration as a soldier, he/she shall be 18 (eighteen) years old at the minimum”.

The recruitment of the member of the Indonesian National Armed Forces is genuinely voluntary. It is conducted openly and the public announcement is carried out by utilizing various means of communication and information technology. The recruitment requires, among others, birth certificate and proof of consent of parents or legal guardians, including for those who have aged 18 years.
Lao PDR

Declaration:
“In accordance with the Law of the Lao People’s Democratic Republic, the minimum age at which it will permit voluntary recruitment into its national armed forces is 18 (eighteen). The law on obligations of national defense service stipulates in Article 13 that ‘all young men of Lao nationality between 18 (eighteen) and 28 (twenty-eight) years of age, having good health conditions, shall be obliged to serve for a short-term in national defense forces. In case of necessity, young women between 18 (eighteen) and 23 (twenty-three) years of age may also be called upon to serve for a short-term in national defense; and in Article 7 that following health check-up, there shall be a selection process at a district level to select voluntary recruits, with good health, into short-term defense services, according to the recruitment number officially set forth on a yearly basis.’ “

Malaysia

Declaration:
“Pursuant to article 3 paragraph 2 of the said Optional Protocol, the Government of Malaysia declares that the minimum age for a person to voluntarily enlist in its armed forces is at the age of seventeen and a half years. This enlistment shall be realised on the basis of deliberative consent of parents or guardians, upon the provision of full information regarding the general conditions of the engagement to be entered, and the production of a certified copy of an entry in the register of births verifying the enlistee’s age.”

Philippines

Declaration:
“1. The minimum age for voluntary recruitment into the Armed Forces of the Philippines is 18 years, except for training purposes whose duration shall have the students/cadets/trainees attain the majority age at the completion date;
2. There is no compulsory, forced or coerced recruitment into the Armed Forces of the Philippines; and,
3. Recruitment is exclusively on a voluntary basis.”
Singapore

Declaration

“Pursuant to Article 3, Paragraph 2 of the Optional Protocol, the Republic of Singapore declares that:

1. The minimum age at which persons may be voluntarily recruited or enlisted into the Singapore Armed Forces is 16 years and 6 months; and

2. The Republic of Singapore maintains the following safeguards in respect of voluntary recruitment or enlistment of persons below the age of 18 years into the Singapore Armed Forces -
   a. The person is required to produce documentary proof of age, including an authentic birth certificate and identity card;
   b. Written consent of a parent or legal guardian of the person is required; and
   c. The person is fully informed of the duties involved in military service by the Singapore Armed Forces through, among other things, informational brochures and career counselors to explain the demands of military life.”

Thailand

Declarations:

“1. Military service is compulsory by law. Thai men reaching the age of 18 have a duty to register on the inactive military personnel list. At the age of 21, selected inactive military personnel will become active military personnel. Inactive military personnel may also voluntarily apply to become active military personnel to serve in the national armed forces. Women are exempt from compulsory military service both in times of peace and in times of war, but are subjected to other duties assigned by law.

2. In times of war or national crisis, inactive military personnel (men aged over 18) may be recruited to participate in the armed forces.

3. Admittances to military schools such as Army Non-commissioned Officer School, Air technical Training School, Navy Non-Commissioned Officer School, Armed Forces Academies Preparatory School and Army, Naval, and Air Forces Academies is on a voluntary basis, depending on the success in the entrance examinations and subject to the
Viet Nam

Declaration:

“To defend the Homeland is the sacred duty and right of all citizens. Citizens have the obligation to fulfil military service and participate in building the all-people national defense.

Under the law of the Socialist Republic of Viet Nam, only male citizens at the age of 18 and over shall be recruited in the military service. Those who are under the age of 18 shall not be directly involved in military battles unless there is an urgent need for safeguarding national independence, sovereignty, unity and territorial integrity.

Male citizens up to the age of 17 who wish to make a long-term service in the army may be admitted to military schools. Voluntary recruitment to military schools shall be ensured by measures which, inter alia, include:

- The Law on Military Duty and other regulations on the recruitment to military schools are widely disseminated through mass media;
- Those who wish to study at a military school shall, on the voluntary basis, file their application, participate in and pass competitive examinations; they shall submit their birth certificates provided by the local authority, their education records, secondary education diploma; they shall also undergo health check in order to ensure that they are physically qualified to study and serve the military.”

**Additional Information: OPAC Initial Reports in ASEAN Member States**

States Parties that ratified the OPAC must submit an initial report within two years of ratification.

<table>
<thead>
<tr>
<th>ASEAN Member State</th>
<th>Year of OPAC Ratification/Accession</th>
<th>Submission of Initial Report on Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei Darussalam</td>
<td>17 May 2016</td>
<td>N/A**</td>
</tr>
<tr>
<td>Cambodia</td>
<td>16 July 2004</td>
<td>✓</td>
</tr>
<tr>
<td>Indonesia</td>
<td>24 September 2012</td>
<td>Due September 2014</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>20 September 2006</td>
<td>✓</td>
</tr>
<tr>
<td>Malaysia</td>
<td>12 April 2012</td>
<td>Due May 2014</td>
</tr>
<tr>
<td>Myanmar</td>
<td>(Signed on 28 September 2015 subject to Ratification, Acceptance or Approval)</td>
<td>N/A</td>
</tr>
<tr>
<td>Philippines</td>
<td>26 August 2003</td>
<td>✓</td>
</tr>
<tr>
<td>Singapore</td>
<td>11 December 2012</td>
<td>✓</td>
</tr>
<tr>
<td>Thailand</td>
<td>27 February 2006</td>
<td>✓</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>20 December 2001</td>
<td>✓</td>
</tr>
</tbody>
</table>

*As of October 2018; Not presented during the Dialogue


**OPAC entered into force in Brunei Darussalam on 17 June 2016 (Source: https://treaties.un.org/doc/Publication/CN/2016/CN.404.2016-Eng.pdf). OPAC Article 8 states that each State Party shall submit an initial report within two years following the entry into force.*
Children in Armed Conflict: Key Issues in ASEAN Member States

Armed conflict still exists in several parts of the ASEAN region, particularly in the following areas:

- Papua in Indonesia (The conflicts in Aceh, West Kalimantan, and Central Sulawesi are resolved.)
- Southern Thailand
- Southern Philippines
- Myanmar

At the moment, there is a new trend of terrorism (and, consequently counter-terrorism) especially in Indonesia and the Philippines. The ASEAN, individual countries, and other stakeholders like NGOs have taken several initiatives to address not only the issue of armed conflict in general, but also the issue of children in armed conflict in particular.

In Myanmar, the peace process is still ongoing between the Government of Myanmar and several armed groups. However, in Kachin, Shan and northern Rakhine States, the security situation remains volatile and grave violations against children continue to be documented.

In the UN Secretary-General’s report on children and armed conflict issued in May 2018, Myanmar made progress in implementing its action plan to end and prevent the recruitment and use of children by the Myanmar Armed Forces. The Kachin Independence Army, the Karenni National Progressive Party/Karenni Army, the Democratic Karen Benevolent Army, the Karen National Liberation Army Peace Council and the Shan State Army also engaged with the UN on child protection and expressed commitment to end and prevent the recruitment and use of children. However, the Government of Myanmar is urged “to immediately allow unimpeded access for child protection actors to conflict-affected areas, including Rakhine State, and to conduct transparent investigations into the allegations of grave violations against children and ensure support services for survivors and returnees.”
Children in Armed Conflict: Grave Violations in Myanmar

**Recruitment and Use of Children:** 38 verified (438 documented) cases of recruitment and use of children

**Killing and Maiming:** 29 verified incidents of killing and maiming of children, involving 47 children (36 boys, 11 girls) in Kachin and Shan States

**Sexual Violence:** 3 verified cases of sexual violence committed against 4 girls aged as young as 7 years old

**Attacks on Schools:** 15 attacks on schools, including damage to a school owing to an armed clash, and attacks on school personnel, including the rape of 1 middle school director

**Abduction:** 12 documented incidents involving 14 boys and 3 girls (10 incidents were attributed to KIA, mainly for the purposes of the recruitment and use of children)

**Denial of Humanitarian Access:** Further deteriorated in 2017, particularly in Kachin, Shan and Rakhine States.

**Children in Armed Conflict:** Grave Violations in northern Rakhine State

**Recruitment and Use of Children:** 53 boys in northern Rakhine State verified to be used largely by the Border Guard Police (47 boys), including for camp maintenance, construction, and carrying of equipment

**Killing and Maiming:** 196 verified cases of killing and 24 cases of maiming of 220 children (133 boys, 51 girls, 36 sex unknown)

**Sexual Violence:** 10 verified cases among 41 documented cases of rape by the Tatmadaw, including the gang rape of girls as young as 10 years old

Source: Report of the Secretary-General on children and armed conflict issued on 16 May 2018
Thailand has mechanisms on OPAC implementation, including a child protection system encompassing general issues of child rights and a curriculum of International Humanitarian Law in its military training.

However, according to the UN Secretary-General’s report on children and armed conflict issued in May 2018, Thailand’s southern border provinces still have sporadic clashes between security forces and armed groups, and attacks by armed groups on civilian targets. As such, the Government of Thailand is urged to take measures to prevent future violations, including by inviting the UN to conduct regular monitoring of grave violations against children and by including child protection concerns in the ongoing talks with armed groups.

**Killing and Maiming:** 1 killed and 16 injured (This is the lowest number documented by UN in the past 14 years. Incidents resulted from attacks with the use of improvised explosive devices and shooting)

Source: Report of the Secretary-General on children and armed conflict issued on 16 May 2018

The Philippines had an increase in the number of grave violations against children in 2017. The Government has difficulty in armed conflict negotiations because there are different armed groups. As revealed in the UN Secretary-General’s report on children and armed conflict issued in May 2018, the Philippine Government revived formal coordination meetings with the UN to facilitate appropriate response to incidents of grave violations against children. Nevertheless, the UN Secretary-General urges the Government to “intensify engagement with the United Nations to address ongoing violations against children, ensure consistent application of its national child protection procedures and guidelines and facilitate access to conflict-affected areas for child protection actors.”
Children in Armed Conflict: Grave Violations in the Philippines

Recruitment and Use of children: 30 documented children (6 girls, 8 boys, 16 sex unknown) recruited and used for combat by armed groups, as part of medical squads, as cooks and to extract gunpowder from firecrackers (The UN received additional unverified reports of the large-scale recruitment and use of children by the Maute Group).

Detention: 12 children for their alleged association with armed groups, none of whom were formally charged.

Killing and Maiming: 33 children were verified (16 killed, 17 injured; 21 boys, 12 girls), with 12 cases attributed to the Armed Forces of the Philippines and 1 case to New People’s Army, and included incidents of indiscriminate attacks.

Sexual Violence: 3 verified cases of the rape of girls aged as young as 14 years old by the Maute Group.

Attacks on Schools and Hospitals: 60 verified attacks on schools and educational personnel (24) and health-care facilities (36), with almost all cases as a result of armed engagements, including bombardments, in the context of the Marawi siege. In addition, the military use of 6 schools and 1 hospital was verified.

Abduction: 5 verified incidents of abduction involving 7 children, including the abduction of a 7-year-old boy by Abu Sayyaf Group for a period of seven months, in Sulu province and of two 14-year-old girls by the Maute Group for four months.

In Indonesia, there has been a long conflict in Aceh, West Kalimantan, Central Sulawesi, Ambon-Moluccan, and Papua. The Government acknowledges the vulnerable situations of people, including women and children, living under these circumstances. To promote and protect the rights of children victims of such situations, the Government provided foster homes, children centers, and other forms of assistance. The Indonesian Government will also undertake the following efforts to fulfill the rights of children in conflict areas: design standard operational procedures for the reunification of children separated from families and communities; provide access to NGOs to assist in trauma healing in schools; build capacity of stakeholders in the field of child protection in accordance with the UN CRC and its Optional Protocols; and provide social protection homes or foster homes for children victims of conflict.

Moreover, Indonesia has several cases where children are involved in terrorism and are affected by operations of counter-terrorism. Komnas HAM recommends the standard of norm on human rights to be used in counter-terrorism operations.

In the discussions related to OPAC in ASEAN, the following issues should be addressed:

- Regeneration or recruitment of children, especially those who were orphaned because of armed conflict, by terrorist groups
- Revisitation of the belief that jihad is an obligation of everybody, including children
- Addressing Rohingya refugees fleeing to Thailand, Indonesia, and Malaysia
- Taking action to provide rehabilitation, psychosocial support to trauma, education, and health services to children survivors of armed conflict
The OPSC draws special attention to the criminalization of the sale of children, child prostitution and child pornography. It addresses the growing issue of child trafficking and provides detailed requirements not only to end the sexual exploitation and abuse of children, but also to protect children from being sold for non-sexual purposes, such as other forms of forced labor, illegal adoption, and organ donation.

<table>
<thead>
<tr>
<th>ASEAN Member State</th>
<th>Year of OPSC Ratification/Accession</th>
<th>Reservations/Declarations</th>
<th>Submission of Initial Report on Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei Darussalam</td>
<td>21 November 2006</td>
<td></td>
<td>Due Dec 2008</td>
</tr>
<tr>
<td>Cambodia</td>
<td>30 May 2002</td>
<td>✓</td>
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</tr>
<tr>
<td>Indonesia</td>
<td>24 September 2012</td>
<td></td>
<td>Due September 2014</td>
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<tr>
<td>Lao PDR</td>
<td>20 September 2006</td>
<td>Yes: Article 5(2)</td>
<td>✓</td>
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<td>Malaysia</td>
<td>12 April 2012</td>
<td>Yes: Articles 2(c) and 3(1) (a)(ii)</td>
<td>Due May 2014</td>
</tr>
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<td>Myanmar</td>
<td>16 January 2012</td>
<td></td>
<td>Due Feb 2014</td>
</tr>
<tr>
<td>Philippines</td>
<td>28 May 2002</td>
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<td>-</td>
</tr>
<tr>
<td>Thailand</td>
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<td></td>
<td>✓</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>20 December 2001</td>
<td>Withdrawn in 2009</td>
<td>✓</td>
</tr>
</tbody>
</table>

*According to Singapore’s 2016 National Report for the Universal Periodic Review and 2017 UN CRC State Report, Singapore is currently considering accession to the OPSC.
Lao PDR’s reservation pertains to the article on extradition, while Malaysia’s declarations refers to the definition of child pornography and to the inclusion of illegal adoption in the definition of the sale of children.

Upon the ratification of OPSC, Malaysia says:

“1. The Government of Malaysia declares that the words ‘any representation’ in article 2 paragraph (c), shall be interpreted to mean ‘any visual representation’.

2. The Government of Malaysia understands that article 3 paragraph (1)(a)(ii) of the said Optional Protocol is applicable only to States Parties to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at the Hague on 29 May 1993.”

**OPSC Articles with Reservations/ Declarations:**

Article 2 (c): *Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.*

Article 3(1)(a)(ii): *(1) Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether these offences are committed domestically or transnationally or on an individual or organized basis: (a) In the context of sale of children as defined in Article 2: (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption.*

Article 5 (2): *If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Protocol as a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.*

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Sexual Exploitation of Children in ASEAN

A child is a victim of sexual exploitation when he/she takes part in sexual activity in exchange for any forms of gain, benefit, or even just a promise that is not fulfilled. The gains or benefits are received by a third party, by the perpetrator, or by the child. “Sexual exploitation” of children is different from “sexual abuse” of children because the latter has no element of exchange of any forms of gain of benefit.

The OPSC does not cover “sexual abuse,” but in recent years, the term “sexual violence against children” has become a more popular term as it covers both sexual exploitation and sexual abuse of children.

ECPAT International reports on five manifestations of sexual exploitation of children.
At the moment, however, the lines separating these different manifestations are gradually becoming blurred because an increasing number of children are becoming victims of multiple manifestations of sexual exploitation. Additionally, child sex offenders have found new ways of exploitation that are not included in the OPSC, which was developed in 2000.

In this regard, ECPAT International, through an Inter-agency Working Group, developed the Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, which is commonly referred to as Luxembourg Guidelines. The Guidelines provides details of manifestations of sexual exploitation of children and it gives guidance on the use and understanding of the different terms and concepts related to sexual violence against children. It also addresses new forms of offenses that have emerged since the OPSC came about and introduces appropriate terminologies to avoid revictimization of survivors.
The OPSC, through Article 3, prescribes criminalization of sexual exploitation of children and ensures that offenders get appropriate penalties and cannot escape justice just by crossing borders. Comprehensive definitions of sexual exploitation of children in national laws are necessary to ensure that these acts are criminalized. However, because of the absence of a comprehensive definition of child pornography and child prostitution in some AMS, ASEAN faces the challenge of ensuring that the region criminalizes all the acts, including any attempt to commit the acts, under the OPSC.

According to the research conducted by ECPAT International in selected AMS, there is an absence of comprehensive definitions of child pornography and child prostitution in their national laws, with the exception of Cambodia’s definition of child prostitution and Malaysia’s definition of child pornography. There are also discrepancies between the acts of sexual exploitation of children identified in the laws of AMS and those prohibited by the OPSC. To tackle these legal loopholes, AMS must take action to ensure the criminalization of acts under the OPSC.

At the same time, AMS must also start looking at criminalizing the acts beyond those mentioned by the OPSC to catch up with recent developments. For instance, ASEAN has to consider criminalizing emerging forms of exploitation of children such as the mere possession of child pornography, online “grooming” for sexual purposes, and using “voluntourism” as an opportunity to carry out sexual exploitation of children.

Among the AMS, only Malaysia and the Philippines have criminalized grooming explicitly, while Brunei Darussalam, Indonesia, and Singapore have indirectly done so. Also, none of the AMS have taken measures yet to regulate voluntourism and mitigate the risks that it poses when often unqualified staff and foreigners work in places with direct contact with children.
Criminalizing emerging forms of sexual exploitation of children in ASEAN

Art. 3. OPSC

Article 3 of OPSC also calls for sufficiently stringent sentences, taking into account the grave nature of sexual exploitation of children. According to the research conducted by ECPAT International in selected AMS, Viet Nam’s penalties related to child pornography are lower compared to the penalties in Cambodia and Malaysia. The penalties for sexual exploitation of...
children are also lower in Lao PDR compared to the penalties in other countries.

**Sufficiently stringent sentences**
Art. 3.3 OPSC: Appropriate penalties that take into account the grave nature of sexual exploitation of children

*Based on the research conducted by ECPAT International

The OPSC advises States Parties to take appropriate measures that will establish the legal liability of entities for the offenses mentioned in the Optional Protocol. Among the AMS, some form of corporate criminal liability exists in Brunei Darussalam, Cambodia, and Indonesia, while Singapore and the Philippines have explicit legislation for businesses which prohibits sexual exploitation-related activities.

**Legal Liability of Legal Entities**
Art. 3.4 OPSC

Article 4 of the OPSC advises the State Parties to ensure that their domestic courts are competent to prosecute all offenses related to sexual exploitation of children that have been committed abroad by their nationals or by people that have their habitual residence in
their countries. Most AMS have territorial jurisdiction over offenses that are committed against their own nationals, i.e. the victims are their citizens (Passive Jurisdiction). Only Cambodia, Thailand, and Viet Nam have provisions in their criminal legislation that allows their courts to apply their laws to prosecute illegal conduct committed abroad by their nationals, i.e. the offenders are their citizens (Active Jurisdiction).

Extra-territorial Jurisdiction
Art. 4. OPSC: Passive and Active Jurisdiction

Article 5 of OPSC stipulates that the offenses mentioned in the Optional Protocol shall be deemed as extraditable offenses. In their extradition laws and in bilateral extradition treaties that they are a party of, most AMS do not have specific provisions that mention sexual exploitation of children as an extraditable offense. However, the general rules on these extradition laws and treaties can be applied to offenses related to sexual exploitation of children.

Extradition
Art. 5. OPSC: Define SEC as extraditable offence and include the principle of either prosecuting or extraditing
Article 8 of the OPSC aims to protect the rights and interests of children at all stages of the criminal justice process. Almost all AMS have some form of measures in place related to the protection of children during criminal proceedings. Article 45 of the Child Protection Law of Lao PDR is an example of good practice of implementation of Article 8 of OPSC.

Protection of the rights of child victims in criminal proceedings
Art. 8. OPSC

On the paramount importance of prevention, Article 9 of the OPSC requires State Parties to disseminate information to children and the general public through education and training and publicity about the harmful effects of sexual exploitation. Many of the AMS have, to a certain extent, awareness-raising programs to prevent sexual exploitation of children. An example of good practice is Cambodia’s integration of the UN CRC into the school curricula. Another example of good practice is Vietnam’s law providing children’s participation in issues involving them. Nonetheless, most AMS do not actively involve children or child victims in their prevention programs.

Most AMS do not fully meet ECPAT International’s additional recommendations for prevention, including conducting criminal background checks for every national or foreigner applying to work with children and having a sex offender registry.
At the moment, only Malaysia has developed a sex offender registry and Singapore also has a registration of crimes that cover sexual offenses.

**Prevention**

**Art. 9. OPSC**

<table>
<thead>
<tr>
<th>Criminal background checks for every national or foreigner applying to work with children</th>
<th>Development of a sex offender registry that complies with international standards on confidentiality and privacy</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Brunei Darussalam</td>
<td>Cambodia</td>
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<tr>
<td>Yes*</td>
<td></td>
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<tr>
<td>Thailand</td>
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<td>Yes</td>
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<tr>
<td>Brunei Darussalam</td>
<td>Cambodia</td>
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</tbody>
</table>

In relation to OPSC Article 9 on prompt, fair, and adequate compensation for victims, all of the AMS have provisions on this. In practice, however, access to compensation is very limited due to reasons that include the lengthy judicial proceedings, the exclusion of victims with irregular migration status, the lack of available free legal aid. Furthermore, stigmatization hinders victims of sexual exploitation from reporting the crime, depriving them of opportunity to claim compensation for the harm suffered. To address this, a state-managed compensation scheme, like the one being done by the Philippines, could be an important restitution mechanism and an effective means for providing compensation to child victims of sexual exploitation.
Because the issues related to sexual exploitation of children are continuously emerging, in October 2017, the Committee approved the establishment of an inter-agency working group in charge of creating guidelines on the OPSC that will respond to all the new trends that developed in the past years.

**Right to Compensation**

Art. 9.4. OPSC: Prompt, fair and adequate compensation for the harm suffered

- Yes
  - Brunei Darussalam
  - Cambodia
  - Indonesia
  - Lao PDR
  - Malaysia
  - Myanmar
  - Philippines
  - Singapore
  - Thailand

- Yes*
  - Viet Nam

**Optional Protocol on a Communications Procedure (OPIC or OP3 CRC)**

The OPIC was an initiative of the Committee that started in 2009, the year of the 20th anniversary of the UN CRC. Before the adoption of OPIC, the UN CRC was the only core international human rights treaty that did not have a communications procedure.
Why should States Parties ratify the OPIC?

- The OPIC sets up a mechanism for:
  - Children to make individual complaints to the Committee
  - States Parties to submit a complaint against other States Parties under certain conditions/options
  - The Committee to investigate grave or systematic violations of the child rights without necessarily receiving a complaint under certain conditions/options

- It contributes to the achievement of SDG 16: Peace and Justice - Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

Compared to the first two UN CRC Optional Protocols – OPAC and OPSC – that strengthen the substantive rights of children, the OPIC supplements the procedural rights of children.

The OPIC provides two new ways for children to challenge violations of their rights committed by States:

1. A communications procedure through individual communications or inter-state communications regarding violations of child rights
2. An inquiry procedure for grave and systematic violations of child rights
Under the OPIC, the Committee is not a court but functions very much like a court, making it quasi-judicial in nature. The 18-member Committee established the Working Group on OPIC composed of nine members. Procedures are confidential but when the case is closed after adopting a decision, the results become public, but without revealing the identities of the parties.

**For individual communications, who can submit or author the communications?**
- A child claiming violation of his/her own rights
- An adult claiming violation of his/her own rights when he/she was a child
- A group of individuals claiming violation of their own rights
- A third person/institution acting on behalf of a child victim in principle with the consent of the victim, unless the third person/institution can justify acting on the child victim’s behalf without such consent

*Alleged victims need to be individuals within the jurisdiction of a State party

Inter-state communication is optional by declaration. This means that a States Party may opt-in or opt-out to this article.

**For inter-state communications:**
- Only States Parties that ratified/acceded to the OPIC and opted-in to inter-state communication can submit inter-state communications.
- Only States Parties that ratified/acceded to the OPIC and opted-in to inter-state communication can be the subject of the communications.

Inquiry procedure is also optional by declaration.

**For inquiry procedure:**
- The criteria for establishment of inquiry procedure must be based on reliable information.
- The visit of the Committee may be conducted with the consent of the State Party.
- The proceedings are confidential, but summary account of the results of the proceedings may be public.
Which rights violations can be claimed?

- The rights set forth in UN CRC
- The rights set forth in OPAC
- The rights set forth in OPSC

*The concerned States Party must have ratified/acceded to these treaties.

The Committee has to decide fast whether the communication is admissible or not. Admissibility is the precondition of a merit decision or a requirement for the communication to be examined on the merits.

**Grounds for Inadmissibility**

**OPIC Article 7: Admissibility**

*The Committee shall consider a communication inadmissible when:*

(a) The communication is anonymous;
(b) The communication is not in writing;
(c) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention and/or the Optional Protocols thereto;
(d) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
(e) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;
(f) The communication is manifestly ill-founded or not sufficiently substantiated;
(g) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State party concerned, unless those facts continued after that date;
(h) The communication is not submitted within one year after the exhaustion of domestic remedies, except in cases where the author can demonstrate that it had not been possible to submit the communication within that time limit.
Only facts that occurred after OPIC entered into force for the concerned State Party can be submitted in communications. Nonetheless, facts that occurred prior to the entry into force but continued after that date may be submitted as well.

### OPIC’s Entry into Force

**Article 19: Entry into force**

1. *The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.*

2. *For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.*

Only communications that have exhausted all available remedies are admissible, except when the application of the remedies is unreasonably prolonged or unlikely to bring effective relief.

Moreover, communications will become inadmissible if it was not submitted within one year after the exhaustion of remedies, unless the author can show that it had not been possible to submit the communication with the one-year time limit.
What happens when the Committee finds violation?

- The Committee makes recommendations on the remedies for the victims and on general measures to prevent future violations.
- The State Party has the obligation to implement the recommendations and submit a follow up report within six months.

In exceptional circumstances, the Committee, under OPIC Article 6, may request the State Party to take interim measures to avoid possible irreparable damage to the victim. The request to take interim measures may be transmitted by the Committee to the State Party at any time after the receipt of a communication and before a determination on the merits has been reached.

Under OPIC Article 9, friendly settlement may also be arranged.

Unlike in the Convention and the two protocols, the Committee does not have the mandate to review the implementation of OPIC and make recommendations. It only acts on specific cases.

As of October 2018, the Committee has registered 52 communications under OPIC, and has made 13 decisions (4 discontinuation, 6 inadmissibility, 3 violation).
DIALOGUE DISCUSSION POINTS

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

A. On OPAC

1. In some conflict areas in Indonesia and the Philippines, there is a lack of programmatic interventions for child victims of armed conflict, making them vulnerable to recruitment. The need for post-conflict programs for children should be underscored as part of government programs.

B. On OPSC

1. The child sex offender registry may be used not only by employers within the country, but also by others abroad. In Australia, a person registered as a child sex offender requires permission before travelling. Many States have also tried to limit the arrival of sex offenders in their own country by requiring criminal background checks prior to issuing a visa.

2. The Interpol system can be used to notify the country where the child sex offender is travelling to so that the country of destination can decide whether to allow or deny the entry of the child sex offender. Utilizing this system and measures, however, are better implemented when backed by a law.

3. The recommendation in the OPSC about a shared registry of child sex offenders is a matter that CSOs had asked the ACWC to look into as part of the implementation of the ASEAN Regional Plan of Action on the Elimination of Violence against Children. Having a shared registry of child sex offenders can prevent the offenders from eluding arrests or extradition requests. In order to have a regional registry of child sex offenders, each of the country’s system must be updated and then connected to other countries.
4. ASEAN could explore establishing a general agreement that limits, restricts, or monitors the movement of people with child sexual offenses. In some countries like the United States of America, information about being a convicted child sex offender is electronically embedded in the offender’s passport. Also, the AMS can also explore having an extradition treaty.

5. Having the information visually written in the passport of child sex offenders is an effective way of preventing them from getting inside another country. However, there should be balance between establishing a child sex offender registry/prevention mechanism and ensuring respect for the offenders’ right to privacy, especially because some of them could be going through a process of rehabilitation.

C. On OPIC

1. The low number of Committee’s decisions to the communications may be because (1) only 41 have ratified the OPIC so far, (2) the States Parties are able to prevent and provide remedies for child rights violations, (3) the child rights violations are usually committed by individuals and not by the State, (4) stakeholders, such as lawyers, children, and parents, do not have enough information on how to utilize the OPIC.

2. Most of the cases of communications under OPIC are immigration-related, such as age determination or deportation to the country where the risk of female genital mutilation exists. So far, the Committee found violation for three cases (against Denmark, Belgium, and Spain).

3. If the AMS study the Committee’s jurisprudence, there might be something relevant for the region. The jurisprudence on the OPIC has been published but it is not user-friendly. The UN Human Rights Committee produces its own case analysis about views adopted every year. Such a good practice should be copied and followed by other human rights treaty bodies, including the UN CRC Committee.
4. There are no clear guidelines yet on the kinds of preparations that countries should do before ratifying the OPIC. Some of the countries fear that if they ratify the OPIC without domestic remedies in place, individual communications could be used and that would put the country in a negative light.

5. If the countries are preparing towards the ratification of OPIC, they need to harmonize national laws with the international standards under the CRC, OPAC, and OPSC; and strengthen their domestic remedies, both judicial and administrative, so that children can make complaints to national human rights institutions and have access to legal aid and trained lawyers.

6. Lawyers and other potential authors of the communications need training, not only on child rights but also on the UN system and the OPIC. The number of registered inadmissible cases may reflect the lack of understanding on OPIC.

7. There should be reference materials on OPIC designed for different types of users, such as government representatives, lawyers, and adults, and children. These materials should be disseminated to States Parties that ratified the OPIC. The reference materials should help the target users in preparing communications to the Committee, providing information on the requirements needed or even explanation/definition of the term “communications.” These reference materials must be translated to the local language.

8. International NGOs/agencies based outside of the jurisdiction of the concerned States Party can submit communications on behalf of a child who is a citizen of the State, provided that consent is given or the lack of consent is justified.
9. OPIC does not cover violations committed by non-government or private actors. However, if the States Party failed to protect the rights of the child or did not act properly to provide remedies to violations against children committed by non-government or private actors (e.g. failed to conduct investigation or prosecute the crimes), the OPIC can be applied.

10. Under the OPIC, if the Committee does not receive the States Party’s follow up report within 6 months after the decision, the Rules of Procedures says that the Committee can give a reminder or, if the report received is unsatisfactory, the Committee can request for additional report/s. However, the Committee cannot force the implementation because the Committee’s views are not considered legally binding. The Committee can also request States Parties to include the OPIC follow up report in the next UN CRC periodic report, but this is not a strong enforcement mechanism because it might take five years (the time in between periodic report submissions).

11. For some Asian countries, one of the challenges in submitting a communication under OPIC is that the communication must be submitted in one of the UN languages. The author also has to submit several documents proving that all domestic remedies have been exhausted. In some cases, these documents have to be translated into one of the UN languages.

12. Unlike in Europe and Latin America, Asia or even ASEAN does not have a regional human rights complaints mechanism that can provide remedies at the regional level after the exhaustion of all domestic remedies.
IN FOCUS: GENERAL COMMENT NO. 20 AND OTHER UPDATES

The objectives of this session are:
• To present the salient features, process of development, and the impacts of the General Comment
• To provide updates on the work of the Committee on the Rights of the Child

PRESENTER

Atty. Mikiko Otani
Member of the UN Committee on the Rights of the Child

Atty. Otani presented salient features of General Comment No. 20 based on her understanding, and also shared updates on the work of the Committee on the Rights of the Child.
General Comment No. 20 (2016) on the Implementation of the Rights of the Child during Adolescence (GC 20)

GC 20 provides guidance to States on the measures necessary to ensure the realization of the rights of children during adolescence. It does not define the age of adolescence but focuses on the period of childhood that may begin at 10 years old until the 18th birthday.

The Committee decided to focus on this period of a child’s life because, as stated in GC 20, “adolescents are agents of change and a key asset and resource with the potential to contribute positively to their families, communities and countries.” It goes on to say that, however, “policies designed for children or young people often fail to address adolescents in all their diversity and are inadequate to guarantee the realization of their rights.”

Adolescence is a valuable period of childhood in its own right but is also a critical period of transition and opportunity for improving life chances. Positive early childhood interventions and experiences facilitate optimal development as young children become adolescents. However, any investment in young people risks being wasted if their rights throughout adolescence do not also receive adequate attention.

Furthermore, positive and supportive opportunities during adolescence can be used to offset some of the consequences caused by harm suffered during early childhood, and build resilience to mitigate future damage.
SOME KEY FEATURES OF GC 20

1. Positive and holistic approach (GC 20 paras.16-17)

• Valuing adolescence and its associated characteristics as a positive developmental stage of childhood instead of negative characterization of adolescence and narrow problem-focused interventions and services

• Building optimum environments to guarantee the rights of adolescents and support the development of their physical, psychological, spiritual, social, emotional, cognitive, cultural and economic capacities

• Promoting environments, through dialogue and engagement with adolescents themselves, that acknowledge the intrinsic value of adolescence and introduce measures to help them to thrive, explore their emerging identities, beliefs, sexualities and opportunities, balance risk and safety, build capacity for making free, informed and positive decisions and life choices, and successfully navigate the transition into adulthood

2. Respect for evolving capacities (GC 20 para. 18)

• Evolving capacities: an enabling principle that addresses the process of maturation and learning through which children progressively acquire competencies, understanding and increasing levels of agency to take responsibility and exercise their rights

• Balance between parental direction or guidance and allowing adolescents to have their own views and decisions as they increase their agency to take responsibility and exercise their rights; as well as balance between the State’s respect for adolescents’ evolving capacities and appropriate levels of protection
States’ obligations to guarantee protection
(GC 20 para.19-20)

- Gradual emergence from the protection of the family or another care environment
- Relative inexperience and lack of power
- Vulnerable to violation of their rights
- Balance between respect for the evolving capacities of adolescents and appropriate levels of protection

Child Participation is key!
By being guaranteed the right to be heard, to challenge rights violations and to seek redress, adolescents are enabled to exercise agency progressively in their own protection.

3. Intersectional analysis of discrimination against adolescents

- Adolescence itself can be a source of discrimination because:
  - adolescent children are treated as dangerous or hostile
  - adolescent children are viewed as incompetent and incapable of making decisions about their lives
  - adolescent children may be incarcerated, exploited or exposed to violence as a direct consequence of their status

- Adolescents requiring particular attention include:
  - Girls (GC 20 paras. 27-28)
  - Boys (GC 20 paras. 29-30)
  - Adolescents with disabilities (GC 20 paras. 31-32)
  - Lesbian, gay, bisexual, transgender and intersex adolescents (GC 20 paras. 33-34)
  - Minority and indigenous adolescents (GC 20 paras. 35-36)
  - Adolescent migrants, unaccompanied and separated refugee and asylum-seeking adolescent (GC 20 paras. 76-77)
  - Adolescents recruited into armed forces and groups (GC 20 paras. 81-83)

4. More emphasis on the right of adolescents to take increasing responsibility for decisions affecting their lives
5. Digital environment: Reality, Opportunities, Risks, and Challenges

• The digital environment is a key to children’s right to information, right to participation, and right to work

• Reality: Adolescents increasingly use mobile technology and as social and digital media become the primary means through which they communicate and receive, create and disseminate information (GC 20 para. 47).

• Opportunities: Adolescents use the online environment, inter alia, to explore their identity, learn, participate, express opinions, play, socialize, engage politically and discover employment opportunities. Internet provides opportunities for gaining access to online health information, protective support and sources of advice and counselling and can be utilized by States as a means of communicating and engaging with adolescents (GC 20 para. 47).

• Risks: Expose adolescents to risks – online fraud, violence and hate speech, sexist speech against girls and LGBTI adolescents, cyberbullying, grooming for sexual exploitation, trafficking and child pornography, over-sexualization and targeting by armed or extremist groups (GC 20 para. 48).

• Challenges: Intergenerational divergence of experiences. the capacity of parents and caregivers to communicate effectively with adolescents and provide guidance and protection in a manner that takes into account the current realities of their lives (GC 20 para. 51).
Holistic strategies for safety: Restriction is not a solution (GC 20 para. 48)

- Digital literacy with regard to online risks and strategies for keeping adolescents safe
- Strengthened legislation and law enforcement mechanisms to tackle abuse online and fight impunity
- Training parents and professionals who work with children
- Active engagement of adolescents in the design and implementation of initiatives aimed at fostering online safety, including through peer mentoring
- Development of technological solutions on prevention and protection and the availability of assistance and support
- Require businesses to undertake child-rights due diligence with a view to identifying, preventing and mitigating the impact of risks on children’s rights when using digital media and information and communications technology.

6. More emphasis on child participation in addressing challenges

- Investment is needed in measures to strengthen the capacities of adolescents to overcome or mitigate those challenges, address the societal drivers serving to exclude and marginalize them and equip them to face challenging and changing social, economic and digital environments (GC 20 para. 12).

- Engage adolescents in the identification of potential risks and the development and implementation of programmes to mitigate them will lead to more effective protection (GC 20 para. 19).

- Consult adolescents on the barriers impeding their continued participation in school, given the high levels of early school leaving while still illiterate or without obtaining qualifications (GC 20 para. 71).

- Undertake research with adolescents to explore the factors driving their engagement in terrorist activities. Support opportunities for adolescent participation in peace movements and peer-to-peer approaches to non-violent conflict resolution rooted in local communities, to ensure the sustainability and cultural appropriateness of interventions (GC 20 paras. 81-82).
Updates on the Work of the Committee on the Rights of the Child

- There will be a 2020 Review of GA resolution 68/268 on strengthening treaty bodies to harmonize the different working methods/terminology of treaty bodies, including how to draft and adopt General Comments.

- The Committee will work on the revision of General Comment No. 10 (2007) Children’s rights in juvenile justice.

- The Committee will develop a new general comment on children’s rights and the digital media and it will start sometime next year after the revision of GC 10.

- The Committee has successfully conducted the Day of General Discussion 2018 with the theme “Protecting and Empowering Children as Human Rights Defenders.”

- 2019 is the 30th Anniversary of the UN CRC.

- The High-Level Political Forum on SDGs (July 2019 in New York) will focus on SDG 16, which will include issues related to ending VAC, birth registration, and access to justice.

- With the election of new Committee members in June 2018, there will be new composition of the Committee starting 1 March 2019 (There is a need to increase the number of Committee members from Asia-Pacific).

- The Simplified Reporting Procedure (SRP) is another focus now for all treaty bodies and is related to GA Resolution 68/268. Under the SRP, the State parties' written replies to the list of issues they receive from the Committee are treated as the periodic report (no more traditional States parties’ reports). The invitation to opt-in to SRP will be sent to all States Parties.
reporting after September 2019 (about 83% of all UN Member States). Invitations will be sent roughly three years before due dates. From the ASEAN, Indonesia was invited but did not opt-in and Brunei Darussalam is yet to submit its reply.

- Like the previous General Comments, the Committee has used the General Comment No. 20 in preparing the Concluding Observations and recommendations to States.

**DIALOGUE DISCUSSION POINTS**

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

**A. On the General Comments**

1. General Comments should be disseminated to government representatives, national and local legislators, police, judges, lawyers, health workers, social workers, teachers, parents, and other adults working with children.

2. General Comments are quite long and not everyone in the government working with children has seen all these documents. General Comments should be translated into national or local languages and disseminated as widely as possible, and put on the website. A running workshop would also be helpful to improve the understanding on the contents of the General Comments.
3. General Comments reflect the Committee’s recognition of emerging issues of the remaining challenges in the area of child rights. They are not legally binding. In adopting the General Comments, the Committee is expressing its own interpretation on certain articles, very often, not necessarily legal but more of policy guidance. The General Comments may be included as “practice” under Article 31 of the Vienna Convention on the Law of Treaties, although some academia and judges disagree with this view. Some European States even question the mandate of the Committee to create a General Comment. Nonetheless, General Comments are useful because they help State Parties in improving the implementation of the UN CRC and its Optional Protocols.

4. States Parties may have different interpretations from those of the Committee so there should be more collaborative work in developing the General Comments.

5. Although the Committee communicates to States Parties the call for inputs on drafting a General Comment, the responses from the States Parties are not immediately sent because of the language barrier and the lengthy internal decision-making process.

6. International committees are trying to strengthen the protection of children but sometimes the perpetrators are also children. The balance between enforcing more protection and increasing criminalization and stigma for those children is a very serious issue for the Committee. The minimum age of criminal responsibility is being discussed in the Committee and they are aware of negative implications if the minimum age of criminal responsibility is increased to 18 years. If this happens there is no need for a juvenile justice system at all. Raising the minimum age of criminal responsibility to 18 is not the Committee’s position.
B. On reporting to the UN Committee on the Rights of the Child

1. Sometimes, governments do not understand the questions of Committee members in a dialogue or in the list of issues. This may be because the Committee sets the limit to six lines for one question without the context.

2. The different Conventions have different periodic reporting cycles and this creates more confusion and burden for the State Parties. This is the background of GA resolution 68/268 adopted in 2014. The GA should review the implementation of the resolution within six years from the date of adoption which will be in 2020. The GA will discuss again the many problems of the UN human rights treaty system before 2020 (2020 treaty bodies review process). This is an opportunity for everyone, including State Parties and CSOs, to give inputs on how to address problems of reporting and change the practice without amending the treaty.

3. The SRP does not apply to the initial reports of Optional Protocols.

4. There is no official status or special weight given to UNICEF’s alternative report. Nonetheless, UNICEF’s reports are often very comprehensive and the Committee has some confidence in the report because it comes from a UN agency, especially if the Committee does not get much information from the CSOs. The Committee also expects to get information from a UN country team if it exists in the States Party. Reports from national human rights institutions have special meaning for the Committee because of their unique nature.
C. On linking the Committee and ASEAN

1. State Parties are encouraged to share what they think is a better approach if the Committee recommendations do not sound great to them. The ASEAN situation is difficult for the Committee to understand. A compilation within ASEAN of some case studies that come up locally or in the local context would help the AMS get a bit more comfortable with accepting the OPIC and in situating some of the General Comments. This compilation could include case studies on issues, concerns and common problems, as well as information about how States Parties responded to the Concluding Observations. Sometimes the recommendations in Concluding Observations do not match the country’s situation so the compilation would also be helpful to the Committee.

2. The possibility of improved better interaction between the Committee and ASEAN should be explored. Other members of the Committee can also be invited to ASEAN-related activities. State Parties, if they can come to Geneva, are also encouraged to ask some time from the Committee members to have some dialogue.

WORKSHOP

Moderator

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

Ms. Abueva facilitated the plenary discussion by posing two questions:
1. What are your main learnings/insights from the sessions?
2. What are the possible ways forward that can be done at the regional and national level?
KEY LEARNINGS AND INSIGHTS

1. The format of the dialogue allowed everyone to discuss and talk to each other without being too formal. This helped foster the spirit of cooperation among the AMS.

2. The presentations refreshed details and information about the obligations at the national and regional level. Countries that have ratified the UN CRC need to practically implement child rights and submit the reports regularly and on time.

3. The exchange was helpful, especially for national agencies in charge of writing reports, not only on the implementation of the UN CRC but also of other Conventions. Hearing about the SRP is also very much appreciated.

4. Several AMS are now party to several treaties. Preparing the reports, implementing the recommendations, and doing other things related to the reporting processes of each treaty entail a lot of work.

5. There is no aversion to any of the norms set forth by UN CRC where there is universality within the ASEAN. Even with the OPIC, the least ratified among the Optional Protocols, there is no aversion to the principle of procedural justice for any of the victims. However, there is fear stemming from the anticipation of the overwhelming arrival of communication, the numerous review processes, and the “burden” imposed by the procedures that sometimes appear to overshadow the very essence of adhering to the norms set forth by the Conventions.

6. The AMS that have just received their most recent Concluding Observations from the Committee will be busy in translating the document and in organizing sectoral bodies to disseminate the results and task them to implement accordingly.
7. The OPIC is something new that can be explored and considered. In other AMS, their respective Ministries/Departments have already recommended the ratification of the OPIC but their internal national processes, such as obtaining the support of other ministries, agencies, or departments, take time.

8. Invitations/Information from the Committee sometimes come very late to the people concerned because of the bureaucracy in the government. As such, they may miss the deadline of the Committee.

9. The presentations enriched the knowledge of the participants, especially on General Comment No. 20 which is quite new. The limited time of this two-day Dialogue hindered a longer discussion and sharing of experiences. Nonetheless, participants became cognizant of the perspective of the Committee and of new ways to ensure the realization of the rights of the child.

10. The General Comments are not diligently used as a guide by the national processes in implementing the UN CRC and its Optional Protocols. The contents of the General Comments are sometimes difficult to share with other stakeholders.

11. Awareness of the General Comments is very limited. The Committee is expected to make the General Comments more well-known. The General Comments should have popularized versions targeted to different stakeholders, e.g. a child-friendly version, an adult-friendly version, and a government-friendly version.
12. Child-friendly versions of the General Comments are usually produced by CSOs. The child-friendly material on General Comment No. 19, for instance, was produced by a CSO working group in which CRC Asia is a member of. The material also has an accompanying video providing longer discussion on the General Comment. There is already an existing child-friendly material on General Comment No. 21, and CRC Asia will be producing a popularized version of the General Comment No. 20. As a tip, the popularized versions should clearly indicate in the front cover that it is about a General Comment.

13. In drafting, disseminating, and implementing the General Comments, the key is to look for other partners. Bringing them together also helps create a wider set of stakeholders or community of child rights practitioners. There are several General Comments that do not have popularized versions, such as General Comment No. 17.

14. There is a communication gap among lawyers, government representatives, and even at the ASEAN level on how the General Comments practically apply to actual cases.

15. One of the biggest challenges for the ACWC is funding because it does not receive support from the government, unlike AICHR. ACWC gets things done because of support from funding partners.
POSSIBLE WAYS FORWARD

1. Strive for ASEAN to be a model of implementation of children’s rights for the other regions. Every country has a different view, whether geographic or political, and different mechanisms to implement human rights but the goal remains the same: to enhance and promote children’s rights. The AMS may be diverse but there is unity in their goal.

2. Disseminate the results of this Dialogue. Part of the mandate of AICHR is to encourage AMS to consider ratifying or acceding to international human rights instruments, including the Optional Protocols. The reason for activities like this Dialogue is to investigate the reasons behind the cause of delay of ratifications.

3. Look at the existing or upcoming national mechanisms and explore how these can be utilized to strengthen the implementation of the UN CRC and its related instruments.

4. Establish a closer collaboration, cooperation, and coordination between the Committee and ASEAN or AMS.

5. Submit the reports to the Committee that are long overdue.

6. Explore possible ways on how to advocate the ratification of the OPIC.

7. Compile a comprehensive book containing the UN CRC, OPSC, OPAC, OPIC, and the 23 General Comments to serve as reference. This can be disseminated among AMS, and the ACWC in each country will have to look for funds to translate these documents into the local language. There are existing translations of the UN CRC and the three Optional Protocols, but not all General Comments are translated. This book could then be sent to schools and organizations that work with children. ACWC is more than willing to work with AICHR and
they can have a co-project together to strengthen that initiative. If funding is a problem, online publication may become an option.

8. Compile case studies of ten common human rights and child rights problems in ASEAN. This can contribute to addressing the communication gap brought about by inadequate sharing of experiences that happen at the national level. ACWC and AICHR can work together on this.

9. Compile good practices and give highlight to the OPAC and OPSC. A lot has been done but improvement is also necessary by learning from ASEAN counterparts on the good practices to also improve the implementation of other Conventions that are related to the UN CRC Optional Protocols, such as the International Labour Organisation Convention 182.

10. Explore having a mini-Universal Periodic Review that will be a venue to discuss human rights or child rights cases within the region. This can also be a mock-session within ASEAN to prepare AMS when they report to the Committee. This is a way to address the need for more intersectoral, technical cooperation among the ASEAN sectoral bodies.

11. Do more cross-sectoral collaborations. For instance, in implementing the ASEAN Declaration on the Culture of Prevention, AICHR, ACWC and the ASEAN Commission on Women can lead Working Group 2 that will ensure that the women and children’s perspectives are taken into consideration.

12. Strengthen collaboration through ACWC’s workshop on developing its Work Plan 2021-2025, which will aim to be more results-oriented through outcome-based indicators.
Responses from Members of the Committee on the Rights of the Child

Atty. Shariff congratulated the organizers and commended everyone for conducting this Dialogue that is long overdue. She expressed her commitment to be of assistance to ASEAN and the AMS, especially since the Committee have an arrangement with its former members to be active in the region where they are in. Former members can also assist the Committee whenever the participation by the Committee is requested but the current members are not available to attend.

Additionally, she shared that:

• When appearing before the Committee, States Party should understand they share a common objective with the Committee: to protect the interests of children. The Committee appears to be “never satisfied” because if a States Party seems to be doing well, the Committee knows that the States Party can do better, so the Committee raises the benchmarks.

• States Parties should understand that the Committee is not judgmental. It is there to help push the States Parties forward in the right direction.

• The Committee appreciates open sharing of difficulties and challenges.

• When the State Party is not able to come to Geneva, the Committee accepts presentations via Skype.

• All State Parties are urged to regularly report and keep to their time frame so that they do not have too many issues to discuss.
• When the Committee issues the Concluding Observations, States Parties are urged to immediately share the results with government agencies, the public, CSOs, and children so that they can immediately start working on the recommendations. Publicize the Concluding Observations as much as possible, including in the form of a child-friendly material.

• Once the Committee fixes a date for the dialogue with a States Party, rescheduling is difficult because there will be no available slots. The Committee is also faced with a constrained budget because of requirements like interpreters, accommodations, etc.

• State Parties are urged to have mock sessions to be more prepared for the questions of the Committee.

• Consultations with CSOs and the public are important preparatory measures. State Parties must work together with NGOs so that there will be no extra pressure arising from conflicting reports.

• States Parties can look at using the SRP to lessen the paperwork, which could lessen the fear about getting more paperwork when a new treaty is ratified.
Atty. Otani complimented the Dialogue's less formal environment, which encourages the participants to share ideas and challenges. She also benefits from hearing the feedback from the government and being exposed to the ASEAN regional perspectives.

She also shared that:
- The Committee should learn more about the ASEAN perspective. ASEAN and the AMS are urged to coordinate more with the Committee. As much as she can, Atty. Mikiko is trying to bring the Asian perspective in Geneva, but she comes from a developed country in East Asia so she might not be able to bring the ASEAN voice at the international level.
- AMS are encouraged to pay attention to the work of the Committee and provide feedback on how things can be done better.
- Atty. Otani is interested to hear more from Thailand regarding its experience in OPIC and from the Philippines regarding its experience in the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women on a Communication Procedure.
- Mock sessions are good ideas. UNICEF may be approached for financial support on this because UN Women supports the mock sessions on CEDAW.
- Concluding Observations must be shared immediately. Follow up activities on how to implement recommendations are also very important. Resources are usually spent on reporting but not on the follow up.
- ECPAT International's analysis on the OPSC and the emerging issues of sexual exploitation of children is very useful to the Committee. ECPAT International might also want to think about how to keep the focus on the implementation of the OPSC after the review of the initial reports.
Because only 41 countries ratified the OPIC, AMS might want to look at the Optional Protocol on a Communications Procedure of other Conventions.

Japan is not a Member State of ASEAN but is part of the ASEAN + 3. On this note, maybe the Japan International Cooperation Agency can be requested to look at the UN CRC Concluding Observations in the ASEAN and help in identifying the areas where international cooperation could provide assistance.

Thailand’s Ministry of Interior, Ministry of Foreign Affairs, and other relevant ministries were convinced they do not have to worry about ratifying an Optional Protocol on a Communications Procedure because they have a strong intention to implement the Conventions. They enacted or amended laws in order to implement every aspect of the Convention and the Optional Protocols. If there are violations, Thailand has the criminal court, the Human Rights Commission, Ombudsman, Ministry of Justice, Anti-Corruption Commission, and administrative court to provide remedies. Failure of all these institutions to redress or correct violations means the system is seriously wrong. If there is any communication going to the Committee, it means that there is something in the justice system that needs to be fixed or changed. The Thai government ratified the two Optional Protocols on Communication Procedures – one for the CEDAW and one for the UN CRC – but no communication has been sent to the treaty bodies until now, which may imply that Thailand was able to provide remedies domestically.
CLOSING REMARKS

By Mr. Leo M. Herrera-Lim
Philippine Representative to AICHR

I am delivering my Closing Remarks on behalf of, first of all, our partner in organizing this event, AICHR-Singapore, and also on behalf of my other colleagues from AICHR, Edmund from AICHR-Malaysia, Nguyen from Viet Nam, and Riki, who’s not here anymore, from AICHR-Indonesia, and also from our partner organizations, Amihan Abueva of CRC Asia and her team, and the Ambassador of Switzerland, Andrea Reichlin.

I think it’s difficult to close an event like this because we still want to continue on learning from each other. It has been both wonderful and productive exercise to have the ASEAN Dialogue on the UN CRC and the Related Instruments. I think I wish to thank also our experts and speakers, Khun Wanchai, Atty. Yasmeen, Ahmad Taufan, Atty. Dorine and her duet partner, Andrea, and Atty. Mikiko. All of us were enlightened on the three Optional Protocols to the UN CRC and, I think, your openness to continue the engagement is most welcome from our part.

We also want to thank the moderators Dato from Brunei and Shashi, who has already left, and Amihan. They allowed us to have a participation from everybody during the exchange of views and to pretty much keep the discussion going.

I also wish to appreciate not only the presence, but also the openness and the candor of everybody. I think it helped that we had the format of a dialogue. Otherwise, if we had a different format, probably, Mikiko and Yasmeen will be on one side, the others on the government’s side, the CSO will be on another side,
and none of government will speak and will just consult with their capital before they deliver any statements.

So, I think it helped that we had both a mechanism or a format that allowed everybody to share and collectively address some of the concerns towards the promotion and protection of children’s rights in the region. As we all know, the CRC has been one of the three UN core human rights conventions ratified by all members of ASEAN.

However, towards this afternoon, we recognized that much more has to be done. For some, the aspiration is that all of us in ASEAN would ratify all the three Optional Protocols, particularly the Optional Protocol on a Communications Procedure.

We also realized the need to put more attention on the General Comments and the value of these in terms of planning programs and activities to promote and protect children’s rights, or, as Khun Wanchai put it, to compile one book for the reference of everybody in the region.

There is also a need to harness technological developments in informing our decisions.

We realize that there are challenges and barriers that hinder ASEAN’s general engagements in various reporting processes in the Committee on the Rights of the Child. This is where the value of cooperation comes in. In our discussions on the instruments, it cannot be overemphasized that we need each other – whether bilaterally, regional, or multilaterally – to move forward on children’s rights.

We are thankful that we were given this opportunity during the past two days to have this Dialogue as friends. And, hopefully, we can continue to strengthen our cooperation on children’s rights. This is more crucial as we witness how issues on children’s rights quickly evolve. We hope that this would not be the last time that we talk about this, to review our commitments, and assess how
we can continue to improve.

I would also like to inform that we will continue on the processes here and provide you with a report on the proceedings and the results of this Dialogue. And hopefully, we can share it with everybody in the soonest possible time.

With that, I thank you, and if we don't see each other in the next few hours, by tomorrow, I hope that everybody would have safe travels and continue to aspire for more cooperation on children's rights.

Thank you and have a pleasant afternoon.
### ANNEX: LIST OF ATTENDEES

**Participants**

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<thead>
<tr>
<th>Country</th>
<th>Name</th>
<th>Position/Organization</th>
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Speakers and Guests

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<th>Country</th>
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<tr>
<td>Australia</td>
<td>Atty. Dorine van Der Keur</td>
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<td>Indonesia</td>
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<tr>
<td>Thailand</td>
<td>Atty. Wanchai Roujanavong</td>
<td>Vice Chair and Thailand’s Representative on Children’s Rights to the ACWC</td>
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<tr>
<td>Thailand</td>
<td>Ms. Andrea Varella</td>
<td>Legal Programme Associate, ECPAT International</td>
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<tr>
<td>Switzerland</td>
<td>Ms. Andrea Reichlin</td>
<td>Ambassador of the Embassy of Switzerland</td>
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<tr>
<td>Switzerland</td>
<td>Ms. Saskia Kobelt</td>
<td>Diplomatic Affairs Officer Embassy of Switzerland</td>
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<tr>
<td>Malaysia</td>
<td>Ms. Lina Binti Mohamad Razalan</td>
<td>Senior Assistant Director, Department of Social Welfare</td>
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Secretariat

<table>
<thead>
<tr>
<th>Name</th>
<th>Position/Organization</th>
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<tbody>
<tr>
<td>Ms. Maria Angelica Genotiva</td>
<td>Assistant Director, Office of ASEAN Affairs, Department of Foreign Affairs</td>
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<td>Ms. Jeannie Ferrer Petrola</td>
<td>Assistant, Office of ASEAN Affairs, Department of Foreign Affairs</td>
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<td>Ms. Maria Odessa Cruz</td>
<td>Special Disbursing Officer, Office of ASEAN Affairs, Department of Foreign Affairs</td>
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<td>Photographer, Office of Strategic Communications and Research, Department of Foreign Affairs</td>
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<td>Photographer, Office of Strategic Communications and Research, Department of Foreign Affairs</td>
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<td>Ms. Amihan Abueva</td>
<td>Regional Executive Director, CRC Asia</td>
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<td>Ms. Irma dela Cruz</td>
<td>Finance Officer, CRC Asia</td>
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<td>Mr. Francis Copino</td>
<td>Finance and Administration Officer, CRC Asia</td>
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<td>Ms. Joy Carrera-Pacete</td>
<td>Documenter</td>
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<tr>
<td>Ms. Hazelyn Joy Bitaña</td>
<td>Program Manager, CRC Asia</td>
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