



# Ending violence against children in ASEAN member States

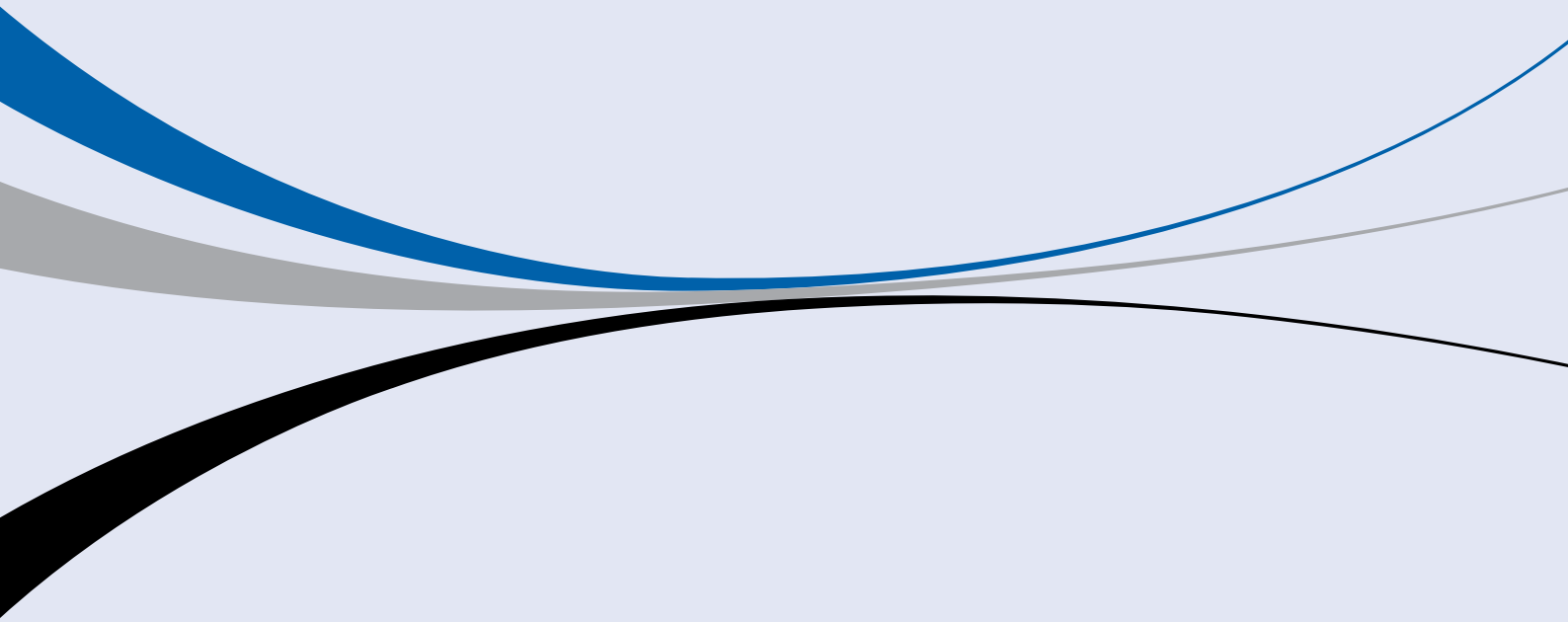
Baseline study of priority areas under  
the ASEAN Regional Plan of Action on  
the Elimination of Violence against Children  
A snapshot as of 2016

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one identity  
one community





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*Baseline study of priority areas under the  
ASEAN Regional Plan of Action on the  
Elimination of Violence against Children  
A snapshot as of 2016*

Member States of the Association are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. The ASEAN Secretariat is based in Jakarta, Indonesia.

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This report was prepared and written by Afrooz Kaviani Johnson, in collaboration with the Thailand Representative to the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). Inputs were sought from the ACWC representatives from all ASEAN Member States. Contributions were also made by the Regional Interagency Child Protection Working Group, the Child Protection team at the UNICEF East Asia & Pacific Regional office, and by UNICEF Country Office Child Protection teams across the region.

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# ACRONYMS

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<b>ACWC</b>	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children
<b>AMS</b>	ASEAN Member State
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>CRC</b>	United Nations Convention on the Rights of the Child
<b>CSO</b>	Civil Society Organisation
<b>EVAC</b>	Elimination of Violence Against Children
<b>ICT</b>	Information and Communication Technologies
<b>ISP</b>	Internet Service Provider
<b>RPA</b>	Regional Plan of Action
<b>UNICEF</b>	United Nations Children's Fund
<b>VAC</b>	Violence Against Children

# FOREWORD

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I fondly recall what a great privilege it was to promote with ASEAN the Declaration on the Elimination of Violence against Women and against Children, adopted in 2013. The Declaration was a landmark in the global effort to establish a regional agenda on violence against children. It was a powerful example of the potential that regional cooperation can have in supporting national level action on ending violence against children. In 2015, the adoption of the ASEAN Regional Plan of Action on the Elimination of Violence against Children 2016-2025 (RPA) was a major step towards realizing the aims of the Declaration. The RPA is also a major contribution towards implementation of the 2030 Sustainable Development Agenda and reaching SDG target 16.2, which calls for an end to all forms of violence against children.

The RPA is a remarkable document and reflects the consistent and determined efforts of ASEAN to place ending violence against children firmly on its agenda. The RPA identifies a comprehensive set of priorities, including for the deinstitutionalization of children, the protection of children from online abuse, the prevention of deprivation of liberty, and promotion of alternatives to judicial proceedings for children involved with the administration of justice, as well as awareness-raising campaigns among policy makers and the public at large. It also anticipates the need for action on emerging risks to children's protection from violence, such as those associated with the use of new information and communication technologies.

Data and research are essential to inform action towards the prevention of violence against children and safeguarding children's safety, development and wellbeing. The RPA is notable in this regard in having a monitoring and evaluation framework to help ensure accountability, as well as for the assessment of the impact of measures adopted by member states at national level. The *Baseline study of priority areas under the ASEAN Regional Plan of Action on the Elimination of Violence against Children* prepared by UNICEF in collaboration with the members of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children is an essential foundation for the RPA monitoring and evaluation framework, and for sustaining steady progress in children's protection from all forms of violence across the ASEAN region. I commend its preparation and look forward to supporting its wide dissemination.



**Marta Santos Pais**

*Special Representative of the Secretary-General on Violence against Children*

# FOREWORD

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The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) is mandated to develop policies, programmes, and innovative strategies to promote and protect the rights of women and children to complement the building of the ASEAN Community. In order to ensure children in ASEAN live in peace, equal, justice, dignity, and prosperity, ACWC has to reach out those purposes by realising the implementation of Regional Plan of Action on the Prevention of Violence Against Children (RPA-EVAC).

The publication of the Regional Plan of Action on the Prevention of Violence Against Children (RPA-EVAC) was a momentous milestone for the ACWC in 2015, and it is very encouraging to see this policy document now being implemented at a national level by governments in the region. This baseline study is one of the first very important steps in making sure that the momentum is continued, and that we soon reach a point where the rights of children to protection from violence are protected in full throughout the region.

This remarkable baseline study will also be a move forwards to review and monitor the implementation of the RPA-EVAC as well as to ensure the implementation of RPA EVAC in line with the Sustainable Development Goals (SDGs) agenda and target 16.2. It is with a high hope that this baseline study will not only be utilized and referred by ASEAN Member States (AMS) but also for multi stakeholders in the ASEAN region to promote collaboration in expediting and strengthening the effective implementation of the RPA-EVAC.

I wish to extend my appreciation to ACWC Thailand for conducting this important Baseline Study of priority areas under the ASEAN Regional Plan of Action on the Elimination of Violence against Children. Furthermore, I also would like to thank UNICEF East Asia and Pacific Regional Office for their continued support both technically and financially for protecting and promoting the rights of children in ASEAN region through this baseline study collaboration. Last but not least, I would like to thank all related stakeholders which have contributed to produce this study. I look forward to the dissemination of this study in public widely.



**Madame Yuyum Fhahni Paryani**

*Acting Chair, ASEAN Commission on the Promotion and Protection of the Rights of Women and Children*

*Indonesia Representative on Children's Rights*



# PREFACE

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In November 2015, ASEAN leaders approved the ASEAN Regional Plan of Action on the Elimination of Violence against Children (RPA-EVAC). The RPA-EVAC spans 10 years (2016- 2025) and within this time frame: first, commits the ASEAN body to institutionalising EVAC policies, and sustaining support across pillars and sectors and; second, commits the ASEAN Member States (AMS) to ensuring they have effective prevention and protection services in place, supported by national EVAC legal frameworks and institutional mechanisms. Importantly, the implementation of the RPA-EVAC will also contribute towards the achievement of target 16.2 to end all forms of violence against children under the 2030 agenda for sustainable development.

In order to ensure that the RPA-EVAC is effectively implemented during the ten year timeframe, it is crucial to begin with a stock-taking exercise to understand where we are starting from, what is going well, and which areas could be improved. This baseline study provides an overview of existing initiatives by AMS in relation to implementation of the RPA-EVAC, and provides examples of lessons learned, highlighting initiatives, approaches or services that may be seen as good models. The review also identifies gaps and opportunities under each priority area. This study is an important resource for AMS as we implement the RPA-EVAC at a national level, and will also be helpful as we report on our progress under target 16.2 of the Sustainable Development Goals.

I would like to thank the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) for their extensive contributions to this study, as well as members of the Regional Inter-Agency Working Group on Child Protection (IAWG). I would also like to thank the UNICEF East Asia and Pacific Regional Office (EAPRO) for their financial and technical support.

The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) is committed to leading on implementing the RPA-EVAC, with a view to eliminating all forms of violence against children in the region.



**Wanchai Roujanavong**

*Thailand's Representative to the ACWC for Children's Rights*

# EXECUTIVE SUMMARY

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Violence against children is prevalent throughout the world, including in the East Asia and Pacific region. In recognition of the need for States to work together at a regional level, in 2013 the Association of Southeast Asian Nations (ASEAN) Heads of State signed a *Declaration on the Elimination of Violence Against Children in ASEAN*.

In 2016 the ASEAN Regional Plan of Action on the Elimination of Violence Against Children (RPA-EVAC) came into force, setting out the commitments of Member States to protect children from violence and respond to the needs of child victims across twelve key priority areas. The RPA-EVAC applies to all ASEAN Member States (Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Viet Nam) and covers the years 2016-2025. This study provides a baseline for the twelve priority areas for the first five years of the RPA-EVAC.

## RPA-EVAC Priority actions

### 1) ASEAN Guidelines for non-violent child nurturing

To fill a gap in terms of practical evidence based guidance on parenting, caring for, and nurturing children, the ASEAN produced a set of guidelines which set out proven approaches to child development and child care<sup>1</sup>. The core components of the guidelines relate to encouraging child development from a rights-based perspective through positive communication, positive discipline, and empowerment of children. AMS are encouraged to adopt the ASEAN Guidelines at a national level, and adapt them according to local contexts.

This study found that only two AMS (Thailand and Viet Nam) has so far adopted the ASEAN Guidelines.

### 2) Awareness raising campaigns on all forms of VAC

In order to promote a change in attitudes, behaviours and practices at a societal level, AMS are encouraged to conduct systematic behaviour change campaigns on all forms of VAC, using traditional and social media to change adherence to harmful social and gender norms and to mobilise communities.

Nine out of ten AMS in this study were found to be developing or partly conducting systematic behaviour change campaigns on all forms of VAC, disaggregated by setting if relevant - although only Lao PDR had adopted a comprehensive campaign on *all* forms of VAC.

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1 ASEAN, 'The ASEAN Guidelines for a Non-violent Approach to Nurture, Care and Development of Children in All Settings', 2016. Available at: [http://asean.org/?static\\_post=asean-guidelines-non-violent-approach-nurture-care-development-children-settings](http://asean.org/?static_post=asean-guidelines-non-violent-approach-nurture-care-development-children-settings)

### 3) Alternative family care services

The State has a duty to provide care for children who are unable to remain in or return to the care of their parents or guardians. International evidence shows that children looked after in State institutions may be at greater risk of violence than children living in a family setting. Consequently, the RPA-EVAC promotes the deinstitutionalisation of children by strengthening the implementation of alternative family care settings such as adoption, foster care, and legal guardianship.

This study found that the process of deinstitutionalisation is at different stages amongst AMS, with all ten AMS having at least some framework in place for alternative family-based care.

### 4) Preventive measures against violence in cyberspace

As ICT usage becomes ever more a part of children's lives and an integral part of societies and economies in the ASEAN region, the online space has become another setting in which VAC occurs. The RPA-EVAC directs AMS to develop preventive measures against violence in cyberspace such as bullying and sexual exploitation, and ensure that these measures are extended to all settings including homes, schools, communities and the business sector. This can be done through law and policy, educational programmes, and industry engagement.

Nine out of ten countries in this study were found to have at least partly developed such measures: Six countries had developed child online protection plans (Brunei Darussalam and Malaysia), incorporated cyberspace into national action plans on EVAC (Cambodia and Philippines), or developed specific policies related to protection of children online (Viet Nam and Thailand). In the school setting two countries had implemented cybersafety school programmes, and three countries were in the process of integrating the topic into the school curriculum (Brunei Darussalam, Malaysia, Philippines), or into teacher training curricula (Cambodia); and most countries had in place at least some frameworks and processes for industry to contribute towards the prevention of online violence against children.

### 5) Child and gender sensitive reporting and complaint mechanisms

In order for child victims of violence to have access to remedies the State needs to ensure that accessible child-sensitive reporting and complaints mechanisms are in place at a national and local level for children to file their VAC grievances. The RPA-EVAC requires children to be provided with child-sensitive information, advice, advocacy and support for self-advocacy, and access to complaints procedures and the court system where appropriate.

All ten countries in this study were found to be at least partly providing child and gender sensitive reporting and complaint mechanisms. In a number of countries, commune or village authorities were at the front-line of receiving reports of VAC (Cambodia, Lao PDR, Viet Nam). In other countries telephone 'hotlines' are promoted for reporting cases of VAC (Philippines, Lao PDR). Hospital based One-Stop-Crisis-Centres also received complaints on VAC (Malaysia, Philippines, Thailand). Examples of reporting and complaints mechanisms *within* internal bodies that have responsibility (e.g. police stations, detention facilities, alternative care settings) are rare. Four countries have National Human Rights Institutions which may vary in the degree to which children can realistically access them (Malaysia, Myanmar, Philippines, Thailand). Only Thailand has ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OP3).

## 6) Robust protective and supportive services for children affected by violence

The RPA-EVAC highlights the need for AMS to improve protective and supportive services for children affected by violence, which includes physical and psychosocial rehabilitation, counselling services, appointment of guardians, legal assistance, shelter, provisions of life skills development, and peer-to-peer and family support.

Such protective and supportive services for children were found to be partly established, or under development in all ten AMS in this study. All AMS have a national agency responsible for child protection, and in most countries service delivery takes place at a sub-national level. At least six AMS have community-based child protection mechanisms in place at district and village level (Cambodia, Indonesia, Lao PDR, Myanmar, Thailand, and Viet Nam). Emergency response services to respond to cases of VAC were found to be well-developed in Malaysia, Thailand, Indonesia and the Philippines through one stop services via child protection units, one stop crisis centres, or multi-disciplinary hospital-based services.

## 7) Legislative review on VAC

All AMS have committed under the RPA-EVAC to undertake a legislative review to ensure that legislation relevant to children's protection from violence is in full conformity with international human rights standards that the AMS are party to, such as the CRC and its optional protocols. Key laws in relation to EVAC are laws that prohibit behaviours such as violent punishment and sexual abuse, and laws that hold perpetrators accountable for their actions.

This study found that only Viet Nam has reportedly undertaken a comprehensive review of national legislation on VAC in relation to applicable international human rights standards, and this resulted in the Child Law 2016 which comes closer to international standards except for the definition of a child as being under the age of 16 rather than 18. Other significant legal developments have taken place in the region to improve aspects of legal frameworks related to VAC. Significant gaps however include the failure to explicitly prohibit corporal punishment in all its forms in all settings; weaknesses in laws related to child labour; ensuring the age of the child is defined as up to 18; and raising the minimum age of marriage for both girls and boys to 18.

## 8) Legislative and/or policy framework for diversion and alternatives to detention

It has been recognised at an international level that children in justice institutions or in the custody of police are especially vulnerable to violence. It is for this reason that the RPA-EVAC advises AMS to reduce their recourse to judicial proceedings and deprivation of liberty through diversion and alternative measures. AMS are directed to develop laws, policies, capacities and quality alternatives to judicial proceedings and deprivation of liberty. Ideally alternative measures of each of the six categories of the Committee on the Rights of the Child's General Comment on Children's Rights in Juvenile Justice 2007<sup>2</sup> should be regulated by national law and implemented nationwide.

All ten AMS in this study were found to have alternative measures in place for children in conflict with the law, but many of these were at a pilot stage or were being implemented only at a few locations at a local level. Three countries have significantly improved legislation to encourage diversion (Cambodia, Viet Nam,

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2 Committee on the Rights of the Child, General Comment No. 10 – Children's Rights in Juvenile Justice (2007): (1) unconditional diversion / police warning; (2) diversion from formal judicial proceedings; (3) alternatives to pre-trial detention; (4) measures to minimise time spent in pre-trial detention; (5) alternatives to post-trial detention; and (6) measures to minimise time spent in post-trial detention.

Malaysia). In at least four AMS there is legislation that provides for unconditional diversion police warning (Cambodia, Indonesia, Lao PDR, Viet Nam), although this reportedly occurs to some degree in practice in all countries except the Philippines. Seven AMS provide for diversion from formal judicial proceedings in their national legislation. Alternatives to both pre-trial and post-trial detention are provided for in law in all AMS for which information was available<sup>3</sup>, as are measures to minimise time in post-trial detention<sup>4</sup>.

## 9) Advocacy materials on EVAC

With a view to changing attitudes towards VAC at all levels of society, the RPA-EVAC recommends AMS to develop advocacy materials for various audiences. Advocacy materials can be aimed at parliamentarians, helpline personnel, emergency responders, humanitarian actors, community leaders, faith leaders, people in business, public employees, prosecutors, law enforcement, media staff, and civil society organisations.

Five AMS in the study were found to be in the process of developing advocacy materials for various audiences to generate awareness and support to EVAC (Cambodia, Indonesia, Lao PDR, Thailand, Viet Nam). In some countries advocacy materials and campaigns targeted the general public rather than a specific audience (Cambodia, Philippines). In some countries training and reference materials on EVAC have been developed for different audiences such as parents, police, judiciary (Thailand), and for different contexts such as protecting children online (Viet Nam).

## 10) Disaggregated survey data on VAC

In order to effectively plan and design intervention strategies to combat VAC it is essential to know where it occurs, in what forms, and which age groups, genders, and communities of children are most affected. Data is also necessary to monitor progress towards EVAC according to numerical and time bound targets. The RPA-EVAC requires AMS to develop and strengthen national systems for disaggregated data collection, analysis, sharing and dissemination on VAC.

Six AMS in the study were found to be using survey data, at least to some extent, in national policy documents on VAC (Cambodia, Indonesia, Philippines, Thailand, Viet Nam, and Lao PDR), and the same States are developing or strengthening a system for consolidating data on VAC. Five AMS can disaggregate data on VAC, at least by gender (Cambodia, Philippines, Thailand, Viet Nam, Lao PDR).

## 11) National plans of action

In line with international recommendations<sup>5</sup>, the RPA-EVAC calls for AMS to develop National Plans of Action (NPA) on VAC that are integrated into national planning processes. These should be accompanied by a coordinating mechanism for implementation on EVAC which is developed with participation of all relevant stakeholders including children at all stages of the process.

Three AMS in this study were found to have an NPA to address VAC (Indonesia, Lao PDR, Thailand) with NPAs under development in two other countries (Cambodia, Philippines). Only Indonesia's NPA was developed with the participation of stakeholders, including inputs from children.

3 Information was not available for Brunei Darussalam or Singapore with regard to pre-trial detention and for Singapore with regard to post-trial detention.

4 Information was not available for Brunei Darussalam or Singapore.

5 UN General Assembly, 'Report of the independent expert for the United Nations study on violence against children', A/61/299, 29 August 2006, [96], <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>, last accessed 23 November 2016.

## 12) Response to VAC in disasters and conflict situations

The Committee on the Rights of the Child has explained that the situation of children in emergencies is one element to be mainstreamed into national coordinating frameworks on VAC across legislative, administrative, social and educational sectors, and across all stages of intervention from prevention through to recovery and reintegration. The RPA-EVAC consequently commits AMS to creating or incorporating a coordination mechanism into existing structures to prevent and respond to VAC in disaster and conflict situations.

Four AMS were found to include VAC in their emergency-response programming (Cambodia, Indonesia, Lao PDR, Philippines).

## Conclusions

There have been promising developments in the region in efforts to combat VAC. The development of the ASEAN Guidelines for non-violent child nurturing was a very positive step towards reducing VAC by parents, guardians and caregivers. Significant efforts have been made in the region to conduct systematic behaviour change campaigns on different forms of VAC, and there is potential to learn from these and build on them. Several countries have developed and implemented new law and policy promoting alternative family care services, and child and gender sensitive reporting and complaint mechanisms have been improved. Efforts have also been made to provide protective and supporting services for children affected by VAC in many countries. However, all of these areas still require continued development and support. Promising new laws and policies must be implemented if they are to be effective, and sufficient resources need to be allocated to ensure this is possible.

Throughout this study, examples of lessons learned are provided under each area and initiatives approaches or services that may be seen as good models to assist in ASEAN Member State (AMS) implementation of the RPA-EVAC are highlighted throughout.

Overall the areas that require most attention across the AMS are:

- Undertaking a legislative review on VAC vis-a-vis applicable international human rights standards
- Data collection including using survey data in national policy documents on VAC; developing a reliable and consistent national system for consolidation of data on VAC; and disaggregating data on VAC such as by age, ethnicity, gender and disability status
- Developing a coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC with participation of stakeholders including children

**Table 1: Summary of baseline status of priority areas under RPA-EVAC**

	BRN	CAM	IDN	LAO	MYS	MMR	PHI	SGP	THA	VNM
- A. ASEAN Guidelines for non-violent child nurturing developed (regional)	●	●	●	●	●	●	●	●	●	●
B. Contextualize the ASEAN Guideline and provide free and easy-to-access information	○	○	○	●	●	○	○	○	●	●
- Conducting systematic behaviour change campaign/s on all forms of VAC	●	●	●	●	●	○	●	●	●	●
- Develop and implement legislative/policy framework for alternative family care services	●	●	●	●	●	●	●	●	●	●
- Develop and implement preventive measures against violence against children in cyberspace	●	●	●	●	●	●	●	●	●	●
- Providing child and gender sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances	●	●	●	●	●	●	●	●	●	●
- Providing protective and supportive services for children affected by violence	●	●	●	●	●	●	●	●	●	●
- Undertake a legislative review on VAC vis-à-vis applicable international human rights standards	●	●	●	●	●	●	●	●	●	●
- Implement diversion programmes and/or other alternative measures to judicial proceedings and detention	●	●	●	●	●	●	●	●	●	●
- Develop and disseminate advocacy materials for various audiences to generate awareness and support EVAC	○	●	●	●	●	○	●	○	●	●
- A. Using survey data in national policy documents on VAC	●	●	●	●	●	●	●	●	●	●
B. Reliable and consistent national system for consolidation of data on VAC	●	●	●	●	●	●	●	●	●	●
C. Data on VAC disaggregated such as by age, ethnicity, gender and disability status	●	●	●	●	●	●	●	●	●	●
- National coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process	●	●	●	●	●	●	●	●	●	●
- Include VAC in emergency-response programming	○	●	●	●	●	○	●	○	○	●

Key

- Information not available
- Not yet started
- Partly/ Under development
- Completed/Implementation underway

# INTRODUCTION

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## BACKGROUND

In November 2015, ASEAN leaders approved the ASEAN Regional Plan of Action on the Elimination of Violence against Children (RPA-EVAC). The RPA-EVAC will span 10 years (2016- 2025) and has the following objectives:

1. ASEAN has institutionalized EVAC policies and sustained support across pillars and sectors;
2. ASEAN Member States (AMS) have effective prevention and protection services supported by national EVAC legal framework and institutional mechanisms.

Importantly, the implementation of the RPA-EVAC will also contribute towards the achievement of the Sustainable Development Goals. Five goals and 11 targets address violence, abuse and exploitation. Most notably, target 16.2 aims to end abuse, exploitation, trafficking and all forms of violence against and torture of children and target 5.3 calls for an end to violence against women and girls.

In order to take forward the priority areas of the RPA-EVAC, there is a need for a robust analysis of existing initiatives underway by AMS and partners so as to leverage existing resources, incorporate learning and good practice, and track progress. Such an analysis can serve as a baseline of initiatives under the RPA-EVAC and will be useful as the ASEAN Commission on Women and Children (ACWC) together with the Senior Officials Meeting on Social Welfare and Development (SOMSWD) undertake a midterm review after five years. It will also be useful for AMS as they report on their progress under relevant targets of the Sustainable Development Goals. Through this activity, AMS have the opportunity to learn from one another and to further develop strategies and mechanisms for ending violence against children in the region. This study is part of the workplan of ACWC for 2016-2020.

## OBJECTIVES

The objectives of the study are to:

- Provide a baseline for the 12 priority areas for the first five years of the RPA-EVAC (Part X., RPA-EVAC).
- Provide examples of lessons learned under each area and highlight initiatives, approaches or services that may be seen as good models to assist in AMS implementation of the RPA-EVAC.
- Identify gaps and opportunities under each priority area.



## Scope

There are many important initiatives being undertaken in AMS by CSOs and NGOs, however as the RPA-EVAC represents an official commitment of the Governments of AMS, the link with government policy and service delivery is an important criteria for inclusion in this review. The review is therefore limited to those initiatives:

- Led, delivered or in partnership with AMS; and
- Relating to the priority areas for the first five years of the RPA-EVAC.

## METHODOLOGY

The study has primarily relied upon a desk review of documents and self-reporting by AMS. The documentation reviewed by the author includes:

- Reports relating to the Universal Periodic Review.
- Reports to and from the UN Treaty Bodies, especially the Committee on the Rights of the Child.
- Reports by the UN Special Representative of the Secretary-General on violence against children and the Special Rapporteur on the sale of children, child prostitution and child pornography.
- Reports by ASEAN including the ACWC report, 'Assembling the future: Child protection system in AMS, a baseline study'.
- Reports by individual AMS.
- Reports by international and regional organisations.
- Reports by international, regional and local NGOs.

## Indicators

In carrying out the study, it became evident that there was scope for refining some of the indicators for review. Given the short timeframe for the priority actions (five years) it is understandable that the indicators focus on processes and outputs rather than ultimate results for children such as prevalence rates of violence against children. However, several indicators were ambiguous making it difficult to know what sorts of activities or information should be captured even in the short term. Also, indicators that attempted to capture the quality of the processes and outputs were rare. For the purposes of the baseline, some operational indicators have been put forward to address these challenges (see Table 2 below). The rationale for the operational indicators are outlined in the footnotes in the section of the report titled 'Findings'. ASEAN representatives may wish to consider these suggestions in taking forward implementation and monitoring of the RPA-EVAC.

## Limitations

The desk review was undertaken over a two month period in 2016 and shared with UNICEF country offices to confirm, verify and update initial findings, and to source case studies. A draft report was subsequently shared with the ACWC for review and inputs.

**Table 2: Summary of RPA-EVAC priority actions and respective indicators for the baseline study**

	<b>RPA-EVAC priority actions</b>	<b>RPA-EVAC indicators</b>	<b>Baseline study indicators</b>
1.	Develop ASEAN Guidelines on the non-violent approach to nurture, care, for the development of children in all settings (e.g. home, school, community, juvenile justice center, alternative care institutions). (Regional)	ASEAN guidelines for non-violent child nurturing developed.	<p><b>1. A</b> ASEAN Guidelines for non-violent child nurturing developed.</p> <p><b>1. B</b> Number of AMS that contextualize the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.</p>
2.	Raise awareness among all sectors of society on the harmful effects of all forms of violence against children through formal and informal education (e.g. traditional and social media) to promote change in attitudes, behaviours and practices). (National)	Number of AMS conducting awareness raising campaigns on all forms of VAC.	<b>2.</b> Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.
3.	Promote the deinstitutionalization of children especially those aged three years and under to reduce violence by strengthening the implementation of alternative family care services (e.g. adoption, foster and kinship care, and legal guardianship). (National)	Number of AMS with alternative family care services.	<b>3.</b> Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).
4.	Develop preventive measures against violence in cyberspace (e.g. bullying and sexual exploitation) and ensure that these measures are extended to all settings including homes, schools, communities, and the business sector. (National)	Number of AMS which developed preventive measures against violence in cyberspace.	<b>4.</b> Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).
5.	Create and/or strengthen a child and gender sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances and enable such mechanism to facilitate effective and timely remedies. (National)	Number of AMS providing such services and number of services available by type and by setting.	<b>5.</b> Number of AMS providing child- and gender- sensitive reporting and complaint mechanisms for children and/or their representatives to file their VAC grievances (by type and by setting).
6.	Improve protective and supportive services for children affected by violence including physical and psychosocial rehabilitation, counselling services in school and in community, appointment of guardian(s), legal assistance, shelter/housing, provision of life skills development, peer to peer and family supports. (National)	Number of AMS providing protective services, number of services by type of VAC and by setting	<b>6.</b> Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).

7.	Undertake a legislative review to ensure that legislation relevant to children's protection from violence, are in full conformity with applicable international human rights standards, including but not limited to the CRC and its optional Protocols. (National)	Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.	<b>7.</b> Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.
8.	Reduce the recourse to judicial proceedings and deprivation of liberty through diversion and other alternative measures, and in addition, protect children from all forms of violence through development of laws, policies, capacities and quality alternatives to judicial proceedings and deprivation of liberty. (National)	Number of AMS which implement diversion programmes and/or other alternative measures to judicial proceedings and detention.	<b>8.</b> Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.
9.	Develop advocacy materials for various audiences (e.g., parliamentarians, helpline personnel, emergency responders, humanitarian actors, community leaders, leaders of faith-based organizations, people in business, relevant public employees, prosecutors, law enforcers, and media staff and civil society organizations) to generate awareness and support EVAC. (National)	Number of advocacy materials developed.	<b>9.</b> Number of AMS that develop and disseminate advocacy materials for various audiences to generate awareness and support to EVAC (by content and medium, i.e. handbook, online training, etc.).
10.	Develop and strengthen national system for disaggregated data collection, analysis, sharing and dissemination on VAC using international indicators and research protocols including survey and administrative data, to be used for policy formulation, planning and programme development on EVAC. Ensure that the data is regularly updated and analyzed. (National)	Number of countries with disaggregated data on VAC	<b>10. A</b> Number of AMS using survey data in national policy documents on VAC. <b>10. B</b> Number of AMS with reliable and consistent national system for consolidation of data on VAC. <b>10. C</b> Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.
11.	Develop and/or strengthen national plans of action to eliminate all forms of VAC with participation of all relevant stakeholders, including children, at all stages of the process and ensure coordinating mechanism for its implementation. (National)	Number of AMS with national plans of action on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process with a coordinating mechanism for implementation.	<b>11.</b> Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.
12.	Create or incorporate a coordination mechanism into existing structures to prevent and respond to VAC in disasters and conflict situations. (National)	Number of AMS with coordination mechanisms at national and local levels that prevent and respond to VAC in disasters and conflict situations.	<b>12.</b> Number of AMS that include VAC in emergency-response programming.



# FINDINGS

## ACTION 1: PREVENTION

1. Non-violent approach to nurture, care, for the development of children in all settings

**Action: Develop ASEAN Guidelines on the non-violent approach to nurture, care, for the development of children in all settings (e.g. home, school, community, juvenile justice centre, alternative care institutions). (Regional)**

**Indicator 1A:** ASEAN Guidelines for non-violent child nurturing developed.

**Baseline:** Achieved.

**Indicator 1B:**<sup>6</sup> Number of AMS that contextualize the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.

**Baseline:** 1 (partly)

## Discussion

The ASEAN Guidelines for a Non-violent Approach to Nurture, Care and Development of Children in All Settings (the ASEAN Guidelines) was one of the projects in the ACWC Work Plan (2012 - 2016). Led by Thailand as the coordinating country and designated coordinator for the ASEAN Guidelines project, the development of the ASEAN Guidelines involved a participatory process over one year starting in February 2015 with the establishment of Thailand's Sub-Committee Working Group on Drafting the RPA-EVAC and the ASEAN Guidelines for a Non-Violent Approach. Document review, consultation meetings and expert review and inputs, including those of ACWC and SOMSWD focal points, culminated in the final version presented at the ACWC 12<sup>th</sup> meeting in Jakarta, Indonesia on 16 February 2016. Accordingly, the target for Indicator 1A has been met.

6 Action 1(b) in the RPA-EVAC states: "Contextualize the ASEAN Guideline (as it appears in No. 1) for suitable application and implementation in respective AMS and provide free and easy access to information and support to parents, caregivers, and communities to improve their skills and understanding on positive discipline, ensure non-violent interactive communication and relationship with children, child nurture, child care, and promote an enabling environment for effective child development and learning." Although not a priority action, the baseline survey will also seek to measure progress in this area given Action 1(a) (development of the Guideline) has already been achieved.

The ASEAN Guidelines apply in the seven settings in which violence against children occurs: home, school, community, workplace, alternative care, early childhood centres and juvenile justice centres. The ASEAN Guidelines also look at violence against children by children. The ASEAN Guidelines aim to serve as guidance, or as an example, to all those who nurture and care for children to enable them to attain their full potential and well-being and work towards the elimination of violence against children. Six core elements are elaborated in the ASEAN Guidelines, which serve as the foundation for a non-violent approach to the nurture, care, and development of children in all seven settings. The core components are: (1) Child rights; (2) Child development; (3) Understanding yourself (i.e. parents, teachers and other caregivers); (4) Positive communication; (5) Positive discipline; and (6) Empowerment of children for their own self-protection. Substantial detail and reference to further readings and resources are provided under each component and each setting in the ASEAN Guidelines.

The ASEAN Guidelines have been developed for use by ASEAN Member States, through their relevant government agencies and ministries, NGOs, INGOs, business, academic institutions, human rights institutions/organizations, parental groups, communities, community leaders, religious organizations, professional organizations, civil society, children/youth organizations and children themselves, media, politicians/legislators, members of the judiciary, police, interested individuals and all people who work with and for children in ASEAN Member States. It is recommended that the ASEAN Guidelines are adopted and/or adapted at the national and at all local levels in ASEAN Member States, in accordance with national and local contexts and circumstances for further effective implementation of the Convention on the Rights of the Child (clause 4). Indicator 1B seeks to measure the number of ASEAN Member States that have progressed this process of national adoption and/or adaptation of the ASEAN Guidelines.

As of December 2016, contextualization of the ASEAN Guidelines for application and implementation at national and local levels is still in its initial stages. In **Viet Nam**, the Ministry of Education and Training has adopted the ASEAN Guidelines in the development and implementation of the Five-Year Plan on Child Protection in Schools (2016-2020), while the Ministry of Labour, Invalids and Social Affairs is using the Guidelines to inform the development of a Plan of Action on Ending Violence against Children in Homes (2017-2020). While express reference to the ASEAN Guidelines in national contexts is still rare, there are several emerging initiatives underway by ASEAN Member States to promote a non-violent approach to children in one or more settings. For example, there have been a number of efforts across the region to enhance and reinforce positive parenting and reduce violent discipline in the home. In **Cambodia**, for example, the Ministry of Women's Affairs is developing a Positive Parenting Strategic Plan linked to national policy frameworks. In **Malaysia**, the National Population and Family Development Board has plans to review its parenting modules to strengthen positive discipline in the home. In the **Philippines**, a 'Parenting for Lifelong Health' initiative is being piloted by the Department of Social Welfare and Development. In **Thailand**, positive parenting has been incorporated into the Department of Health's curriculum for community-level parenting education. These initiatives align with growing global attention to the role of positive parenting in preventing violence against children. One of the seven strategies of the World Health Organization's INSPIRE package<sup>7</sup> is helping parents and caregivers to understand the importance of positive, non-violent discipline in child development and of close, effective parent-child communication. This has been evidenced to reduce harsh parenting practices, create positive parent-child interactions and help increase bonding between parents or other caregivers and children thereby helping to prevent violence against children. Global evidence supports a number of different delivery modalities for the dissemination of this information including through home visits, group-based training and support in community settings, and parenting as a component of comprehensive interventions.<sup>8</sup>

7 World Health Organization, 'INSPIRE: seven strategies for ending violence against children', 2016, [http://www.who.int/violence\\_injury\\_prevention/violence/inspire/en/](http://www.who.int/violence_injury_prevention/violence/inspire/en/), last accessed 21 November 2016.

8 Ibid., pp. 50-53.

In this region, positive parenting programmes to date have evolved largely in isolation from one another. In order to facilitate a shared understanding of the principles, frameworks and best practices for parenting support interventions and strengthened plans for specific parenting interventions at national level, UNICEF convened a 'Parenting Support Interventions for Violence Prevention in East Asia and the Pacific' workshop in June 2016 for government and non-government participants.<sup>9</sup> The workshop observations and recommendations may be useful for ASEAN Member States. Participants noted that one of the most significant challenges in working with parents and caregivers across different contexts was changing perceptions about parenting and parents' role in the family and the child's life. Participants reported that parenting in the region tended towards a more authoritarian style, where corporal punishment and violent discipline were considered the best for children. The process towards positive parenting was viewed therefore as a transformative process beginning with a deep change, supported with the acquisition of positive parenting skills. One concluding recommendation was to focus on the theoretical framework of 'Attachment', 'Behaviour' and 'Cognitive stimulation', or the 'ABCs' of violence prevention, which rigorous research from evaluating effective programmes shows can help prevent future incidence of violence. The importance of considering context-specific elements in the creation of any intervention, programme, framework or monitoring and evaluation mechanism was also stressed. The engagement of men in parenting programmes was observed as a key gap in the region and greater focus to engage men was highlighted as crucial given the positive influence of involved fatherhood to children's lives. This would include dedicating time to recruiting and training men as facilitators to influence other men, specifically developing the skills to help other men open up and examine existing norms around men and fatherhood. With respect to government leadership in this area, it was concluded that there was a need to develop necessary policies and legislation and drive for programme implementation based on existing country contexts. In order to address a lack of resources, it was recommended to utilize existing structures and services such as Early Childhood Development centres and schools for parenting education. Participants recommended governments and country programmes undertake research into the different modalities such as home visits and group-based training, and consider if new modalities could be created or approaches combined.

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9 UNICEF, 'Parenting support interventions for violence against children in East Asia and the Pacific: Workshop report, Manila, Philippines, 7-9 June 2016'. The content of this paragraph is drawn from the conclusions and recommendations of the Workshop report.

# The ASEAN Guidelines for a Non-Violent Approach to Nurture, Care and Development of Children in all Settings

## Summary of Core Components:

### Child Rights

The UN Convention on the Rights of the Child and its optional protocols should be used to guide all actions with children, including the four key principles of non-discrimination, best interests of the child, and survival and development. Other related human rights treaties should also be followed, as well as national laws and regulations such as criminal codes, laws relating to corporal punishment, and child protection frameworks.

### Child Development

Understanding the different stages of child development can prevent parents, guardians or caregivers from misunderstanding children's behaviour. Understanding these concepts may help the adult to avoid interpreting children's behaviour negatively as willful misbehaviour, and reacting by punishing the child.

### Understanding yourself

It is important for parents, guardians, teachers and child caregivers to know themselves, including their strengths and weaknesses, because this is likely to affect their treatment of their children. Adults can learn their triggers for anger and stress, and thereby recognise them and adjust their behaviour to avoid hitting or otherwise being violent towards children.

### Positive Communication

It is important to use an appropriate type and manner of communication according to the stages of development of the child. This can change from non-verbal, to verbal, through to increasingly difficult words as the child gets older.

### Positive Discipline

Discipline involves teaching and guiding children so they will learn self-control. Positive discipline does not involve punishment, but rather involves teaching the child the reasons and guiding them, not punishing or using rewards to change the child's behaviours.

### Empowerment of children for their own self-protection

Information of different strategies for self-protection should be continuously provided to children, and should be age-appropriate and gender-sensitive, according to the evolving capacities of the child.



## Case study example

### **Cambodia: Implementing positive discipline in schools:**

The Ministry of Education and Ministry of Youth and Sports (MoEYS) of the Royal Government of Cambodia have worked together to develop an in-service teacher training package on effective classroom management and 'positive discipline'. This is an approach that helps teachers to guide children's behaviour by focusing on creating positive teacher-student relationships, rather than using violence to reinforce learning.

Over the 2015-16 school year training was provided for a total of 1,608 teachers and 265 school directors in 172 primary schools in the three targeted provinces which impacted 51,000 students. The MoEYS plans to scale up this in-service training to approximately 800 primary schools in other provinces by the end of 2018. Positive discipline training will also be integrated into pre-service training and will be expanded to include pre-primary schools and secondary schools in the near future.

## 2. Awareness raising and behaviour change communications on all forms of violence against children

**Action: Raise awareness among all sectors of society on the harmful effects of all forms of violence against children through formal and informal education (e.g. traditional and social media) to promote change in attitudes, behaviors and practices). (National)**

**Indicator 2:**<sup>10</sup> Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.

**Baseline:** 9 (partly/ under development)

## Discussion

To prevent violence against children and encourage reporting of violence, there is a need to modify deeply engrained social and cultural norms and behaviors. These norms include the idea that some forms of violence against children are not only normal but even sometimes justifiable. They also include norms surrounding gender and masculinity such as male entitlement over girls and women's bodies; accepting child marriage or intimate partner violence as normal; male peers coercing younger boys into gang violence as a 'rite of passage'; and girls and boys not reporting violence because of fear of stigma and shame.<sup>11</sup> The 2006 UN Study on Violence against Children included the transformation of attitudes as one of its core recommendations. The UN Study called for States to ensure that children's rights are disseminated and understood, including by children. It recommended public information campaigns to sensitize the public

<sup>10</sup> The indicator for priority action 2 in the RPA-EVAC reads: "Number of AMS conducting awareness raising campaigns on all forms of VAC." The indicator for the purposes of the baseline captures the intent of the action, which is to promote behaviour change. It also provides more specificity on the types of campaigns to be counted, i.e. an ad-hoc, one-off event would not be captured. Ideally, an additional indicator would seek to measure attitudinal and intended behaviour change among a sample of the audience.

<sup>11</sup> World Health Organization, 'INSPIRE: seven strategies for ending violence against children', 2016, p. 37, [http://www.who.int/violence\\_injury\\_prevention/violence/inspire/en/](http://www.who.int/violence_injury_prevention/violence/inspire/en/), last accessed 21 November 2016.

about the harmful effects that violence has on children. It also recommended that States encourage the media to promote non-violent values and implement guidelines to ensure full respect for the rights of the child in all media coverage.<sup>12</sup> The Committee on the Rights of the Child has repeatedly emphasized the important role of addressing attitudes, traditions, customs and behavioural practices which condone and promote violence against children, including in its reports on ASEAN Member States. The Committee on the Rights of the Child has explained that such measures should “*encourage open discussion about violence, including the engagement of media and civil society.*” These initiatives can be initiated and implemented by both State and civil society actors under the responsibility of the State.<sup>13</sup>

In the recently released INSPIRE package led by the World Health Organization, shifting attitudes and norms is included as one of seven key strategies to help countries and communities intensify their focus on the prevention programmes and services with the greatest potential to reduce violence against children.<sup>14</sup> International evidence suggests that promising approaches in this area include changing adherence to harmful gender and social norms, community mobilization programmes and bystander interventions. When supported by mass media and social mobilization campaigns and supportive services, these approaches have successfully encouraged greater reporting of violence and the enactment of new laws and policies that make certain forms of violence a punishable offence.<sup>15</sup>

Indicator 2 seeks to measure how many ASEAN Member States are implementing behaviour change campaigns to transform attitudes and norms related to violence against children. As of December 2016, there are a number of campaigns under development or underway in all ASEAN Member States, except for **Myanmar**, varying in scope and scale. Only **Lao PDR** is currently conducting a campaign on *all* forms of violence against children. Lao PDR launched an #ENDviolence campaign in May 2015 in the capital city, followed by two provincial events. While these were one-off launch events, communication materials continue to be used to raise awareness about violence against children among different audiences. In collaboration with the Government, UNICEF is driving an ongoing digital campaign which targets young people using online influencers. In **Thailand**, the Ministry of Social Development and Human Security and UNICEF launched an #ENDviolence campaign in 2015, raising public awareness that corporal punishment is a form of violence which can have serious, life-long consequences for a child’s emotional, psychological and physical well-being. Other examples from the region illustrate how multiple stakeholders can be engaged to promote positive social norms and transform harmful norms. In **Cambodia**, for example, the Ministry of Cult and Religion mobilized CSOs and faith leaders to work together to end violence against children through interfaith dialogues and celebration of the Day of Prayer and Action for Children in 2015 and 2016. The subject ‘Buddhist’s response to violence against children’ is to be officially incorporated into the Buddhist graduate programme division by the end of 2016. In **Indonesia**, churches in East Nusa Tenggara were mobilized to deliver key messages to prevent violence against children. Youth networks were also mobilized to conduct workshops on ending violence against children with similar peer-to-peer initiatives planned for 2017.

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12 UN General Assembly, ‘Report of the independent expert for the United Nations study on violence against children’, A/61/299, 29 August 2006, [100], <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>, last accessed 23 November 2016.

13 Committee on the Rights of the Child, ‘General comment No. 13 (2011): The right of the child to freedom from all forms of violence’, CRC/C/GC/13, 18 April 2011, [44].

14 World Health Organisation, ‘INSPIRE: seven strategies for ending violence against children’, 2016, [http://www.who.int/violence\\_injury\\_prevention/violence/inspire/en/](http://www.who.int/violence_injury_prevention/violence/inspire/en/), last accessed 21 November 2016.

15 Ibid., pp. 38-41.

As of December 2016, there do not yet appear to be any national strategies or plans to conduct sustained, systematic behaviour change campaigns, through for example, mass media and community participation. However, **Cambodia** and the **Philippines** are currently developing strategies which may reflect a more systematic approach to behaviour change. **Cambodia** is developing a C4D and behaviour change campaign strategy, which aims to reduce violence against children and reduce family separation. In the **Philippines**, the Government plans to develop a national campaign anchored on the recently launched results of the National Baseline Study on Violence against Children. Both campaigns are expected to be rolled out in 2017. The review of existing campaigns as of December 2016 also reveals a critical gap in messaging to transform harmful norms surrounding gender and masculinity. Insufficient attention to gender can risk reinforcing harmful norms that perpetuate violence in the first place.<sup>16</sup> This may be an area for further attention by ASEAN Member States.

## Case study example

### Thailand: Promoting positive parenting

In 2016, the National Health Foundation and the Ministry of Public Health worked together to integrate non-violent child-rearing into hospital based parenting education programs. The aim was to steer away from negative condemnation of violence against children, towards messages on positive parenting. Messages were developed by a multidisciplinary working group consisting of experts in child protection and child development from many local agencies and medical schools, including paediatrics, child psychiatrists, social workers, psychologists, safety experts, and lawyers. This team worked together to synthesize their own knowledge and experience and combine that with global advancement in understanding of the topic, such as the growing evidence on brain development.

Media kits were cultivated around the theme of “Happily Together as Family”, with content that focused on: ensuring safety of the child by avoiding situations that put children at risk of harm; attachment, as an emotional or spiritual bond between children and their caregivers; boundaries, which relate to the development of “self” for the child; development of self-esteem starting from trust and stability in relationships with parents and caretakers; and positive discipline which helps the child to grow into a respectful and peaceful adult.

The kits were distributed through collaboration with the Department of Health, Ministry of Public Health which operates the Parenting School in various health settings from the provincial to community level. By mid-2017, the kits had already been launched in 12 pilot provinces and distributed through social welfare agencies.

<sup>16</sup> Heslop, J, ‘Technical Brief: Engaging communities in dialogue on gender norms to tackle sexual violence in and around schools’, Global Working Group To End School-Related Gender-Based Violence, p. 4, [http://www.ungei.org/Technical\\_Brief\\_Final.pdf](http://www.ungei.org/Technical_Brief_Final.pdf), last accessed 22 December 2016.

### 3. Deinstitutionalization of children and strengthening alternative family care services

**Action: Promote the deinstitutionalization of children especially those aged three years and under to reduce violence by strengthening the implementation of alternative family care services (e.g. adoption, foster and kinship care, and legal guardianship).<sup>17</sup> (National)**

**Indicator 3:**<sup>18</sup> Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).

**Baseline:** 10 (partly/ under development)

## Discussion

The family is the fundamental group of society and the natural environment for the growth, well-being and protection of children. In circumstances where it is not possible for a child to remain in or return to the care of her or his parents, even with appropriate support, the State is responsible for protecting the rights of the child and ensuring appropriate alternative care.<sup>19</sup> ‘Institutional’ or ‘residential’ care (i.e. care provided in any non-family-based group setting) is one form of alternative care for children. Tragically, although such institutions, at least ostensibly, are established to provide care, guidance, support and protection to children, international evidence shows that girls and boys who live in institutions may be at heightened risk of violence compared to children living in a family setting. Often, it is those staff and officials responsible for children’s well-being that inflict violence upon the children in their care. Children may also be vulnerable to violence from their peers. The factors that contribute to violence in institutions are many and varied and may include poor conditions in the institution, a lack of qualified professional staff, a lack of oversight and monitoring of institutions, and a failure to segregate vulnerable children from peers that exhibit violent or dangerous behaviours. A lack of priority accorded to the most disadvantaged children in society, namely those who have been orphaned, abandoned, and those living with disabilities, enable such circumstances to continue.<sup>20</sup>

To prevent and respond to violence against children in institutions, the UN Study on Violence against Children recommended a two-pronged primary prevention approach. The first approach was to reduce the main factors that lead to children being placed in institutions, and the second, to provide alternatives to the institutions themselves.<sup>21</sup> Specifically, the UN Study recommended States prioritize reducing rates of institutionalization of children by supporting family preservation and community-based alternatives,

17 The action includes ‘adoption’ but according to the UN Guidelines for the Alternative Care of Children, alternative care includes formal and informal care of children without parental care and once adopted, children would be said to be in parental care. Notwithstanding, ‘adoption’ has been included given many countries in the region are still in the process of regulating/formalizing these processes.

18 The indicator for priority action 3 in the RPA-EVAC reads: “*Number of AMS with alternative family care services*”. Given many countries are still in the stage of developing law and policy, the indicator for the purposes of the baseline also captures this stage so that progress can be tracked.

19 UN General Assembly, ‘Guidelines for the Alternative Care of Children’, A/RES/64/142, 24 February 2010, [5], [http://www.unicef.org/protection/alternative\\_care\\_Guidelines-English.pdf](http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf), last accessed 23 November 2016.

20 This paragraph is based on Chapter 5 of Paulo Sérgio Pinheiro, ‘World report on violence against children’, UN Secretary-General’s Study on Violence against Children, 2006, <https://www.unicef.org/violencestudy/reports.html>, last accessed 23 November 2016.

21 Paulo Sérgio Pinheiro, ‘World report on violence against children’, UN Secretary-General’s Study on Violence against Children, 2006, <https://www.unicef.org/violencestudy/reports.html>, last accessed 23 November 2016.

ensuring that institutionalized care is used only as a last resort. The UN Study explained that family-based care options should be favoured in all cases and should be the only option for infants and very young children.<sup>22</sup> This recommendation is reflected in the RPA-EVAC.

Numerous studies have consistently established the negative impacts of institutionalization (including poor physical health, severe developmental delays, disability, and potentially irreversible psychological damage). Globally, there has been a move away from institutionalization to community or family-based types of care for children without primary caregivers.<sup>23</sup> In this region, few countries are able to provide accurate figures on the number of children in out-of-home care<sup>24</sup> and the implementation of alternative care for children without parental care or who cannot in their best interests be permitted to remain in parental care. The process of deinstitutionalisation is at different stages amongst ASEAN Member States. While some countries do not have a history of institutionalisation, in others, the Committee on the Rights of the Child has expressed its concern about *increasing* numbers of institutionalised children. For those countries, the Committee has recommended that States develop a strategy for the deinstitutionalisation of children with a clear time frame and budget, which includes reintegration of children with their families, as far as possible, while taking into account the best interests of the child. These efforts must include family support programmes geared towards family preservation. Poverty and economic disadvantage should not be a main reason to separate a child from her or his family. In some countries, the high prevalence of institutionalisation of children with disabilities and children with HIV/AIDS is cause for concern, which the Committee has recommended be targeted with awareness and social-change interventions to address widespread stigma and discrimination as well as assistance services and community-based child care solutions. Promising commitments to deinstitutionalisation have been seen over the last two years. In **Cambodia**, for example, the Ministry of Social Affairs, Veterans and Youth Rehabilitation has issued a statement of commitment to reduce the number of children in institutions by 30 per cent by 2018. A National Plan of Action on Reintegration of Children from Residential Care Institutions was signed by the Minister of Social Affairs, Veterans and Youth Rehabilitation and two out of five provincial operational plans were approved by Provincial Governors. In **Lao PDR**, the Ministry of Labour and Social Welfare is currently conducting an assessment of children without parental care, with the report expected in late 2017. This assessment will give a clearer picture and understanding of the situation in order to plan a suitable response and will inform the development of Alternative Care Guidelines for children without parental care.

As of December 2016, alternative family-based programmes such as adoption,<sup>25</sup> foster care, kinship care and guardianship are still limited in comparison with residential care in most ASEAN Member States. Notwithstanding, all 10 ASEAN Member States have in place at least some frameworks for alternative family based care.

22 UN General Assembly, 'Report of the independent expert for the United Nations study on violence against children', A/61/299, 29 August 2006, [112], <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>, last accessed 23 November 2016.

23 This paragraph is based on Chapter 5 of Paulo Sérgio Pinheiro, 'World report on violence against children', UN Secretary-General's Study on Violence against Children, 2006, <https://www.unicef.org/violencestudy/reports.html>, last accessed 23 November 2016.

24 Fry, D, 'Preventing Violence against Children and how this contributes to building stronger economies', Thematic Research Paper for the 3rd High-Level Meeting on Cooperation for Child Rights in the Asia-Pacific Region, 7-9 November, 2016, Government of Malaysia and UNICEF, p. 19, [https://www.unicef.org/eapro/Preventing\\_Violence.pdf](https://www.unicef.org/eapro/Preventing_Violence.pdf), last accessed 29 November 2016.

25 Note: The scope of alternative care in the UN General Assembly 'Guidelines for the Alternative Care of Children' does not extend to care by adoptive parents from the moment the child concerned is effectively placed in their custody pursuant to a final adoption order. For the purposes of the Guidelines, the child is, at that moment, considered to be in parental care. The Guidelines are, however, applicable to pre-adoption or probationary placement of a child with the prospective adoptive parents, as far as they are compatible with requirements governing such placements as stipulated in other relevant international instruments: A/RES/64/142, 24 February 2010, [30], [http://www.unicef.org/protection/alternative\\_care\\_Guidelines-English.pdf](http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf), last accessed 23 November 2016.

**Table 3: Country-by-country summary of legislative and policy frameworks for alternative family based care**

	<b>Adoption</b>	<b>Kinship care / Foster Care</b>	<b>Legal guardianship</b>
BRN	<ul style="list-style-type: none"> <li>- Adoption of Children Act, Islamic Adoption of Children Act</li> <li>- Not yet a party to Hague Convention</li> </ul>	<ul style="list-style-type: none"> <li>- No information on kinship care</li> <li>- Temporary Foster Care Scheme</li> </ul>	<ul style="list-style-type: none"> <li>- Guardianship of Infants Act, Islamic Family Law (Amendment) Order</li> </ul>
CAM	<ul style="list-style-type: none"> <li>- Explanatory Note on Domestic Adoption clarifies Civil Code</li> <li>- Party to Hague Convention</li> </ul>	<ul style="list-style-type: none"> <li>- Policy on Alternative Care for Children, Prakas on Procedures to implement Policy on Alternative Care</li> <li>- Minimum standards for foster care under development</li> </ul>	<ul style="list-style-type: none"> <li>- Civil Code</li> </ul>
IDN	<ul style="list-style-type: none"> <li>- Law on Child Protection, Regulation on Child Adoption</li> <li>- Not yet a party to Hague Convention</li> </ul>	<ul style="list-style-type: none"> <li>• Kinship care practiced widely</li> <li>• Social Affairs Ministerial Decree on Parenting</li> </ul>	<ul style="list-style-type: none"> <li>- Social Affairs Ministerial Decree on Parenting</li> <li>- Based on Court ruling</li> </ul>
LAO	<ul style="list-style-type: none"> <li>- Family Law, Adoption Decree</li> <li>- Not yet a party to Hague Convention</li> </ul>	<ul style="list-style-type: none"> <li>• Kinship care practiced widely</li> <li>• No formal system</li> </ul>	<ul style="list-style-type: none"> <li>- Family Law – based on appointment made by village heads</li> </ul>
MYS	<ul style="list-style-type: none"> <li>- Laws and procedures vary depending on religion and geographical location</li> <li>- No provisions relating to intercountry adoptions</li> <li>- Not yet a party to Hague Convention</li> </ul>	<ul style="list-style-type: none"> <li>• Kinship care practiced widely but no formal system</li> <li>• Foster care applicable only to children who have been abandoned or whose parents cannot be located</li> <li>• Families may qualify for financial assistance</li> </ul>	<ul style="list-style-type: none"> <li>- Law and procedures for children of Muslim families</li> <li>- Child Act references court appointment of guardian</li> </ul>
MMR	<ul style="list-style-type: none"> <li>- Regulated by Buddhist law</li> <li>- Child Law provides adoption should be in interests of child</li> <li>- No legal framework for intercountry adoption</li> <li>- Not yet a party to Hague Convention</li> </ul>	<ul style="list-style-type: none"> <li>• Kinship care practiced widely but no formal system</li> <li>• Draft Child Law includes necessary legal framework for foster care and supported kinship care</li> </ul>	<ul style="list-style-type: none"> <li>- Guardians and Wards Act – Court required to take into consideration best interests of the child</li> </ul>
PHI	<ul style="list-style-type: none"> <li>- Domestic Adoption Act, Intercountry Adoption Act</li> <li>- Party to Hague Convention</li> </ul>	<ul style="list-style-type: none"> <li>• Family Code provides provisions for support to include kinship care</li> <li>• Foster Care Act seeks to regulate national foster care programme</li> <li>• Subsidy provided to support needs of foster child</li> </ul>	<ul style="list-style-type: none"> <li>• Family Code provides guidelines on guardianship</li> </ul>
SGP	<ul style="list-style-type: none"> <li>• Adoption Act</li> <li>• Not yet a party to the Hague Convention</li> </ul>	<ul style="list-style-type: none"> <li>• No information available</li> </ul>	<ul style="list-style-type: none"> <li>• No information available</li> </ul>
THA	<ul style="list-style-type: none"> <li>• Civil Code, Child Adoption Act</li> <li>• Party to the Hague Convention</li> </ul>	<ul style="list-style-type: none"> <li>• Child Protection Act, Regulations on child assistance in foster family</li> <li>• Kinship care included within foster care program</li> </ul>	<ul style="list-style-type: none"> <li>• Child Protection Act</li> </ul>
VNM	<ul style="list-style-type: none"> <li>• Law on Adoption, Sub-laws to guide implementation</li> <li>• Intercountry Adoption Department</li> <li>• Party to the Hague Convention</li> </ul>	<ul style="list-style-type: none"> <li>• Kinship and foster care referred to in new Child Law</li> <li>• Decree sets out guidance on foster carers and their entitlements</li> <li>• Further guidance and procedures on foster care to be developed pursuant to Child Law</li> </ul>	<ul style="list-style-type: none"> <li>• Civil Code</li> </ul>

In some countries, kinship bonds are strong and children are cared for by extended family if they are at risk in their own home or are without parental care. However, these arrangements remain informal with no public systems to support such placements. Ideally, there should be a specific policy on out-of-home care, with standards of services and regulations, including at least kinship care, foster care, institutional care, guardianship and adoption, where family-based care in its different forms is the priority and institutions are only considered as a temporary measure of last resort, and where possible, are organized in family-like units. There has been important progress towards this in recent years and some good emerging examples of legislative and policy frameworks. For example, **Viet Nam's** new Child Law, which came into force in 2017, specifies kinship, foster care and institutional care as forms of alternative care. Among other things, the Law provides that protection and care within a child's family or within family-based care should be prioritized and that institutional care should only be used as a temporary measure of last resort when it is in the best interests of the child. In **Lao PDR**, the Law on the Protection of the Rights and Interests of Children 2007 does not define the different types of alternative care but lists principles to be applied including institutionalization as a last resort. The Adoption Decree 2014 sets out a hierarchy of forms of alternative care, namely kinship care, foster care, domestic adoption, adoption by a foreigner, then institutional care. **Myanmar's** draft Child Law includes the necessary legal framework for alternatives to institutional care including formal foster care and supported kinship care.

In many countries, there is a lack of standards and guidelines to implement legislation and regulate alternative care. In its recent reports on a number of ASEAN Member States, the Committee on the Rights of the Child has recommended the development of clear guidelines to ensure that children's rights are respected throughout the process of placement and to set up mechanisms to ensure periodic review of the placement of children in care. This includes requiring that the child's views be taken into consideration in any decision made about alternative care and that those views are given due weight in accordance with child's age and maturity. To ensure quality of care, both in family-based and institutional care, the Committee has emphasized the need for channels, accessible to children, for reporting maltreatment and the allocation of adequate human, technical and financial resources to services to facilitate children's rehabilitation and social reintegration to the greatest extent possible.

The Committee has also recommended to a number of ASEAN Member States that mechanisms to monitor all adoptions are put in place in order to ensure children's rights are fully respected. Intercountry adoption should be limited to cases where the child cannot be placed in foster or adoptive family or cannot be cared for in any suitable manner within the jurisdiction. The Committee has recommended States to ratify The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. At present, four ASEAN Member States (**Cambodia, Thailand, the Philippines and Viet Nam**) are parties to The Hague Convention.

## Case study example

### **Cambodia: From institutions to family-based care**

In 2016, the Ministry of Social Affairs, Veterans and Youth Rehabilitation (MoSVY) began implementation of an Action Plan to Strengthen Child Care. It aims to safely return 30 per cent of children in residential care institutions to their families and communities by 2018. The purpose of the Action Plan is to improve child care by promoting family preservation, de-institutionalisation and reintegration of children, and alternatives to institutional care.

The Action Plan aims to reintegrate around 3,500 children in residential care institutions in the five priority provinces with the highest number of children in residential care. Key interventions include preventive and gate-keeping services which reach 8,000 children every year; family-strengthening programmes which strengthen alternative care models such as foster care; closure of orphanages; and reintegration of children through case management.

## 4. Preventing violence against children in cyberspace

**Action: Develop preventive measures against violence in cyberspace (e.g. bullying and sexual exploitation) and ensure that these measures are extended to all settings including homes, schools, communities, and the business sector. (National)**

**Indicator 4:**<sup>26</sup> Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).

**Baseline:** 9 (partly/ under development)

## Discussion

Internet and mobile penetration is growing at a fast rate in the region. More and more children are using the Internet and digital technologies in their daily lives and increasingly relying on them to learn, engage, participate, play, work and socialize. Research shows that children do not readily distinguish between the online and the offline but regard digital spaces as just another setting in which they carry out their lives.<sup>27</sup> While the growth of information and communications technologies is facilitating unprecedented opportunities for children to achieve their rights to learn, express themselves and participate meaningfully in communities, children may be vulnerable to online violence in ways that are often difficult for parents, caregivers, teachers and others to detect and respond to.<sup>28</sup> Cyberspace may be viewed as another setting in which violence against children occurs. Different forms of violence against children occur in cyberspace; some inflicted upon children who are users of technology (e.g. cyberbullying or sexual extortion), and others where the child may not be using the technology (e.g. where a perpetrator accesses or shares child abuse materials through websites, the Darknet or peer-to-peer networks).<sup>29</sup>

While this action under the RPA-EVAC relates to prevention, all levels of intervention can be preventive to some extent. Even when responding to specific incidents of violence against children, the aim is always to prevent further harm.<sup>30</sup> However, for the purposes of the baseline study and to avoid overlap with other actions (e.g. Action 2: Protection, response and support services and Action 3: Legal framework, prosecution and justice system), this section focuses on those measures that relate primarily to prevention. These are: (1) National policy or strategy relating to children's online protection; (2) Education programmes on digital citizenship and online safety including programmes for parents and carers, teachers, practitioners and faith representatives; and (3) Industry involvement to remove and block online child abuse content in accordance with relevant statutory provisions as well as efforts to innovate and contribute to community efforts to prevent violence in cyberspace. These components are drawn from the WeProtect Model National

26 The indicator for priority action 4 in the RPA-EVAC reads: "Number of AMS which developed preventative measures against violence in cyberspace". The indicator for the purposes of the baseline seeks to provide clarity on the types of preventive measures which should be tracked.

27 Third, A, et al. 'Children's Rights in the Digital Age: A Download from Children Around the World', Young and Well Cooperative Research Centre, 2014, [https://www.unicef.org/publications/files/Childrens\\_Rights\\_in\\_the\\_Digital\\_Age\\_A\\_Download\\_from\\_Children\\_Around\\_the\\_World\\_FINAL.pdf](https://www.unicef.org/publications/files/Childrens_Rights_in_the_Digital_Age_A_Download_from_Children_Around_the_World_FINAL.pdf), last accessed 25 November 2016 .

28 Fry, D, 'Preventing Violence against Children and how this contributes to building stronger economies', Thematic Research Paper for the 3rd High-Level Meeting on Cooperation for Child Rights in the Asia-Pacific Region, 7-9 November, 2016, Government of Malaysia and UNICEF, p. 20, [https://www.unicef.org/eapro/Preventing\\_Violence.pdf](https://www.unicef.org/eapro/Preventing_Violence.pdf), last accessed 29 November 2016.

29 For analysis of the phrase 'Violence through information and communication technologies' by the Committee on the Rights of the Child in the context of the scope of Article 19 of the Convention on the Rights of the Child, see: Committee on the Rights of the Child, 'General comment No. 13 (2011): The right of the child to freedom from all forms of violence', CRC/C/GC/13, 18 April 2011, [31].

30 Swales, DM and Meikle, A, 'Child protection systems: Theory and practice guidance' produced for UNICEF EAPRO, unpublished, January 2016, p. 70.



Response,<sup>31</sup> which builds on many years of work by experts and practitioners specifically to address child sexual abuse and exploitation (online and offline). Five AMS<sup>32</sup> are already members of the WeProtect Global Alliance and have committed to develop or strengthen their national response with reference to the Model National Response. As of December 2016, nine AMS are developing, and in some cases implementing, one or more preventive measures, though many of these are in early stages.

*National policy/strategy:* A number of countries have adopted or are in the process of developing dedicated national strategies to address violence against children in digital settings, or in other cases, children and their use of the Internet and digital technologies. For example, **Brunei Darussalam** and **Malaysia** have adopted national 'Child Online Protection' plans, which are in the process of implementation by multi-sectoral ministries and agencies. In other countries, online violence is expressly included in plans addressing violence against children. For example, in **Cambodia**, the draft inter-ministerial Violence Against Children Action Plan sets out specific measures to prevent violence in cyberspace. **Viet Nam's** new Child Law and corresponding Decree, effective 1 June 2017, has one article specifically addressing online violence. **Viet Nam** has also developed a National Programme on Child Online Protection (2017-2020), which will be submitted to the Prime Minister for approval in late 2016. The draft Programme aims to ensure that every child is protected from all forms of violence online and can enjoy the benefits of the Internet free from danger. In **Lao PDR**, the National Plan of Action on the Prevention and Elimination of Violence against Women and Violence against Children 2014-2020 includes the prevention of online abuse and sexual exploitation. In the **Philippines**, the Government has developed a dedicated National Response Plan to Prevent and Address Sexual Exploitation and Abuse of Children, expected to be approved in December 2016, which includes online abuse and exploitation. In **Thailand**, the National Child and Youth Development Committee has developed a new Strategy for the Promotion and Protection of Children and Youth using Online Media. This multi-sectoral strategy includes research and development of recommendations for systematic improvement of laws, policies, measures and mechanisms related to children's online safety and participation as well as public awareness and education.

**Table 4: Country-by-country summary of national strategies or plans to address violence against children in cyberspace**

	National strategy or policy to address violence against children in cyberspace
BRN	Child Online Protection National Strategy Framework, set up in March 2013
CAM	Draft inter-ministerial Violence Against Children Action Plan sets out measures to prevent violence in cyberspace, expected to be launched in early 2017
IDN	-
LAO	National Plan of Action on the Prevention and Elimination of Violence against Women and Violence against Children 2014-2020 includes the prevention of online abuse and sexual exploitation
MYS	Plan of Action on Child Online Protection, approved in February 2015
MMR	-
PHI	National Response Plan to Prevent and Address Sexual Exploitation and Abuse of Children, expected to be approved in December 2016, which includes online abuse and exploitation
SGP	-
THA	Strategy for the Promotion and Protection of Children and Youth using Online Media, approved 2016
VNM	National Programme on Child Online Protection (2017-2020), to be submitted to the Prime Minister for approval in late 2016

31 See: <http://www.weprotect.org>, last accessed 24 November 2016. Refer also UNICEF EAPRO, 'Child protection in the digital age: National responses to online child sexual abuse and exploitation in ASEAN Member States', 2016, which uses the framework of the WeProtect Model National Response to map AMS efforts to address online child sexual abuse and exploitation.

32 Cambodia, Indonesia, the Philippines, Thailand and Viet Nam.

*Education programmes:* Cybersafety school programmes are being implemented in **Brunei Darussalam** and **Malaysia**. Steps are underway in some countries, including **Brunei Darussalam, Malaysia** and the **Philippines**, to integrate the topic into the school curriculum. In **Malaysia**, for example, Cybersecurity Malaysia has been tasked under the Plan of Action on Child Online Protection to develop a digital citizenship and online safety curriculum for all school levels. In the **Philippines**, UNICEF has supported efforts to integrate cybersafety into school curriculums through a partnership with the Stairway Foundation and in conjunction with the Department of Education and the UK National Crime Agency's CEOP Command. The Department of Education has issued a memorandum encouraging the use of the Cybersafe lesson plans by all public schools nationwide. Education programmes for parents and carers, teachers and professionals that work with children are rare. Of note, the measures to prevent violence in cyberspace in **Cambodia's** draft inter-ministerial Violence Against Children Action Plan include the development and implementation of pre-service and in-service training to teachers and other key school staff that includes building children's online safety skills.

*Industry engagement:* Most countries have in place at least some frameworks and processes for industry to contribute towards the prevention of online violence against children. In the **Philippines**, ISPs must report child abuse materials found on their networks to law enforcement. In **Brunei Darussalam, Singapore** and **Malaysia**, for example, ISPs are bound by codes of conduct that require the removal of prohibited content that includes child abuse materials. In **Malaysia**, adherence to the code is voluntary unless ISPs are directed to comply. In **Viet Nam**, ISPs are required to supervise and eliminate prohibited content when it is found or at the request of competent authorities. In **Lao PDR**, the Government can issue orders to ISPs to block access and temporarily or permanently suspend connections. Blocking of child abuse materials in **Cambodia** appears to occur via informal channels between the Government and ISPs. Primarily through the Telenor group (Digi and DTAC in **Malaysia** and **Thailand**, respectively), there are examples of industry efforts to educate children and families about online safety.

## Case study examples

### **Brunei Darussalam: A National Strategy for Child Online Protection**

Brunei Darussalam established a Child Online Protection National Strategy Framework in March 2013, consisting of a sound research base and monitoring system, capacity building for raising awareness, strengthening existing legal measures, international cooperation, and working with relevant industries. There is a nationwide cybersafety school programme implemented by the Ministry of Education (MOE), Royal Brunei Police Force, the Authority for Info-communications Technology Industry of Brunei Darussalam, and BruCERT. The Ministry of Religious Affairs has also played a role in awareness raising through Friday sermons. The MOE is integrating cybersecurity awareness into the school curriculum, and the MOE's Digital Media and In-Service Centre has created rich, interactive e-content for different subject areas designed and developed using Bruneian stories and characters, which is disseminated through ICT devices deployed by the MOE to schools. The MOE also provides schools with a standardised filtering package and has developed a Bring-Your-Own-Device policy to maintain safe and secure online school environments.

In the Digital Citizenship Asia Pacific Survey 2016, Brunei Darussalam was the highest scoring country in the Asia Pacific region in terms of policy readiness in providing education environments where children's safe, effective and responsive use of ICT is actively encouraged and promoted.

### **Singapore: Inter-Ministry Cyber Wellness Steering Committee (ICSC)**

Singapore has established an Inter-Ministry Cyber Wellness Steering Committee (ICSC), chaired by the Ministry of Communications and Information and the Ministry of Education, with representation from eight other government ministries and agencies. The ICSC aims to develop and implement a national strategy to promote cyber wellness among youth and equip them through public education to react appropriately to harmful and inappropriate Internet content. In 2017 the ICSC seed-funded civil society projects for children and youth which promote healthy digital habits, such as balanced screen time, healthy cyber gaming, and device-free leisure activities; handling risky online relationships including with potential online predators or involving sexting; managing cyber bullying by building resilience and combating negativity on social media; and practising good cyber hygiene by understanding cyber risks and adopting cybersecurity measures.

Between 2009 and 2015, the ICSC funded more than 25 projects, reaching over 245,000 participants.



# ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

## 5. Child and gender sensitive reporting and complaint mechanism

**Action: Create and/or strengthen a child and gender sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances and enable such mechanism to facilitate effective and timely remedies. (National)**

**Indicator 5:**<sup>33</sup> Number of AMS providing child and gender sensitive reporting and complaint mechanisms for children and/or their representatives to file their VAC grievances (by type and by setting).

**Baseline:** 10 (partly)

## Discussion

For children's rights to protection from violence to have meaning, effective remedies must be available to address violations. As the special and dependent nature of children creates difficulties for them in pursuing remedies for breaches of their rights, the Committee on the Rights of the Child has emphasized that States need to give particular attention to ensure "*effective, child-sensitive procedures*" are available to children and their representatives.<sup>34</sup> This includes providing child-sensitive information, advice, advocacy, including support for self-advocacy, as well as access to independent complaints procedures and to the courts with necessary legal and other assistance.<sup>35</sup> The Committee on the Rights of the Child has strongly recommended that all States parties "*develop safe, well-publicized, confidential and accessible support mechanisms for children, their representatives and others to report violence against children, including through the use of 24-hour toll-free hotlines and other ICTs*".<sup>36</sup> This reflects one of the core recommendations of the UN Study on Violence against Children, which included the establishment of safe, well publicized, confidential and accessible mechanisms for children, including telephone helplines and the use of new technologies, through which children can report abuse, speak to a trained counsellor in confidence and ask for support and advice. The UN Study also underscored the need to make all children, including those in care and justice institutions, aware of the existence of complaint mechanisms.<sup>37</sup>

33 The indicator for priority action 5 in the RPA-EVAC reads: "*Number of AMS providing such services and number of services available by type and by setting*". The indicator for the purposes of the baseline adds the wording from the action so that the indicator can be read and understood in isolation.

34 Committee on the Rights of the Child, 'General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child', 27 November 2003, CRC/GC/2003/5, [24].

35 Ibid., [24].

36 Committee on the Rights of the Child, 'General comment No. 13 (2011): The right of the child to freedom from all forms of violence', CRC/C/GC/13, 18 April 2011, [49].

37 UN General Assembly, 'Report of the independent expert for the United Nations study on violence against children', A/61/299, 29 August 2006, [104], <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>, last accessed 23 November 2016.

In their 2012 joint report to the UN Human Rights Council on safe and child-sensitive counselling, complaint and reporting mechanisms, the UN Special Representative of the Secretary-General on violence against children and the Special Rapporteur on the sale of children, child prostitution and child pornography observed a lack of safe or trusted ways for children to report incidences of violence across many regions. Counselling, complaint and reporting services were frequently unavailable and, when they existed, they tended to lack the resources and skills to address children's concerns and promote children's healing and reintegration. Moreover, children lacked trust in the services and feared they would not be believed or worse still, they may endure further stigmatization, harassment, abandonment or reprisals. In most cases, children were unaware of the existence of such services and felt deeply uncertain as to whether and how impunity could be fought. The report identified a number of recommendations to guide the establishment and work of such mechanisms: they should be established by law, and with a well-defined mandate; guided by the best interests of the child and informed by children's experience and perspectives; and well-publicized and made accessible to all children, without discrimination of any kind. Further, they must guarantee children's safety, ensure confidentiality and provide prompt and speedy response and follow up.<sup>38</sup>

As of December 2016, all 10 AMS have one or more reporting and complaint mechanisms for children and/or their representatives to file their complaints about violence, although there is limited information about the extent to which these are child- and gender-sensitive. As there is no sharp conceptual distinction between complaints and reports, this report largely uses the term 'complaint'.<sup>39</sup> Importantly, the term 'complaint' implies that the body competent to receive it has legal powers to take appropriate action.<sup>40</sup>

*Mechanisms to receive case reports connected with the child protection authority:* In a number of countries, commune or village authorities are at the front-line of receiving reports of violence against children. For example, the commune police and Commune Committee for Women and Children in **Cambodia**, Child Protection Networks in **Lao PDR**, and the commune Child Protection Committees in **Viet Nam**. At present, however, there is limited data about the extent to which these authorities provide child-sensitive mechanisms for reporting. In other countries, such as the **Philippines** and **Singapore**, a number of national and local telephone 'hotlines' are promoted for the reporting of cases of violence against children. In the **Philippines**, for example, the number '911' was recently made the national emergency hotline and staff taking calls are to be trained by the Commission on Human Rights on the Philippines' Child Abuse and Neglect Case Management Protocol. The **Philippines** also has Women and Child Protection desk officers, which are mandated to be on duty 24/7, in all police precincts. These officers are trained to be able to be child- and gender-sensitive. In many countries, there are NGOs that can assist children to bring complaints to competent authorities. For example, eight ASEAN Member States have Child Helplines that specifically provide child-sensitive services, often 24/7 and also sometimes using digital and mobile technologies including SMS, web-based chat, and so on. In some cases, the Child Helpline is run by the social welfare ministries and mandated to receive complaints. In others, the Child Helpline could support children to bring complaints to the competent authorities. Although **Lao PDR** does not have a dedicated Child Helpline that is part of the Child Helpline International network, Peun Mit (Friends International) operates a hotline for

38 Joint report of the Special Representative of the Secretary-General on violence against children and the Special Rapporteur on the sale of children, child prostitution and child pornography, 'Safe and child-sensitive counselling, complaint and reporting mechanisms to address violence against children', 2012, [http://srg.violenceagainstchildren.org/sites/default/files/publications\\_final/web\\_safe\\_final.pdf](http://srg.violenceagainstchildren.org/sites/default/files/publications_final/web_safe_final.pdf), last accessed 24 November 2016.

39 Ibid., p. 11. In this 2012 report, the term 'reporting' was used to refer to communications on incidents of violence made to the competent authorities by someone, be it a child or an adult, other than the victim. However, as the RPA-EVAC priority action is focused on communications by the victim or her or his representative, this distinction will not be adopted for the present report.

40 Ibid., p. 11.

children who have experienced violence or who are at risk, and the Lao Women's Union operates a hotline for women and children that can be used for reporting violence against women and children. The Ministry of Public Security also has a hotline for reporting human trafficking. Victims of trafficking are referred to the Counseling and Protection Center for Women and Children who provide services for recovery, shelter, medical, legal, vocational training and reintegration of the child into the family and society. Hospital-based services, such as One Stop Crisis Centres in **Malaysia**, the **Philippines** and **Thailand**, can also provide assistance for children to file complaints.

**Table 5: Country-by-country summary of mandated mechanisms to receive reports of violence against children**

	<b>Mandated mechanisms to receive case reports</b>
BRN	<ul style="list-style-type: none"> <li>- Village leaders</li> <li>- Child Helpline</li> <li>- Emergency police hotline</li> </ul>
CAM	<ul style="list-style-type: none"> <li>- Commune police</li> <li>- Commune Committee for Women and Children</li> <li>- Child Helpline Cambodia (NGO run but TBC if mandated to receive reports)</li> </ul>
IDN	<ul style="list-style-type: none"> <li>- TESA 129</li> <li>- P2TP2A</li> </ul>
LAO	<ul style="list-style-type: none"> <li>- Child Protection Networks</li> <li>- Peuan Mit hotline</li> <li>- Lao Women's Union hotline</li> <li>- Ministry of Public Security hotline</li> </ul>
MYS	<ul style="list-style-type: none"> <li>- Childline Malaysia</li> <li>- Hospital-based Suspected Child Abuse and Neglect Teams and OSCC</li> </ul>
MMR	
PHI	<ul style="list-style-type: none"> <li>- Hotlines of Department of Child Welfare and Development; Child Health and Intervention and Protective Service; Anti-Child Abuse, Discrimination, Exploitation Division National Bureau of Investigation; Philippine National Police Operation Centre; Department of Justice Taskforce on Child Protection; Local Barangay Council for the Protection of Children</li> <li>- Women and Children Desk officer at police precincts</li> </ul>
SGP	<ul style="list-style-type: none"> <li>- Child Protection Service Hotline</li> <li>- National Family Service Centre Helpline</li> <li>- Ministry of Social and Family Development</li> <li>- Policy Division Headquarters</li> <li>- Neighbourhood Police Centres</li> </ul>
THA	<ul style="list-style-type: none"> <li>- 1300 Hotline-Social Assistance Centre of Ministry of Social Development and Human Security</li> <li>- SaiDek 1387 (Childline by The Childline Foundation Thailand)</li> </ul>
VNM	<ul style="list-style-type: none"> <li>- Child Helpline Viet Nam</li> <li>- Child Protection Committee</li> </ul>

*Internal bodies with responsibility:* Examples of reporting and complaints mechanisms *within* internal bodies that have responsibility, such as in police stations or detention facilities where a child is detained or within alternative care settings, are rare. In **Malaysia**, the Sexual Crime and Child Division (D11) of the Criminal Investigation Division has a public complaints mechanism whereby victims and their families can express their dissatisfaction at investigation and interviewing processes. In **Myanmar**, children in Department of Social Welfare institutions can make confidential complaints and place them in boxes which are then reviewed by institution directors. In the **Philippines**, Child Protection Committees within schools are tasked to develop internal referral and monitoring systems. In **Viet Nam**, children that are detained in drug rehabilitation centres can make complaints through their lawful representative to the leader of the centres. At present, no information is available about the implementation of these mechanisms or about

the extent to which they are child- and gender-sensitive. The lack of complaints mechanisms with justice and alternative care settings has been raised by the Committee on the Rights of the Child in a number of its reports on ASEAN Member States.

**Table 6: Country-by-country summary of complaints mechanisms within internal bodies**

	<b>Internal bodies with responsibility (e.g. police station, detention facility, residential institution)</b>
BRN	- Detention – Child may request to see warden or staff to make complaint
CAM	- Rapid response mechanism to VAC being developed including for cases in residential care
IDN	- Schools – Education Ministry Decree requires establishment of national and local task forces to receive reports
LAO	
MYS	- Police – Sexual Crime and Children Division has public complaints mechanism
MMR	- Residential care – boxes to receive confidential complaints reviewed by institution directors
PHI	- Schools – Child Protection Committees
SGP	
THA	
VNM	- Drug rehabilitation centres – Child may make a complaint through their lawful representative to centre leader

*External independent bodies:* **Malaysia, Myanmar, the Philippines and Thailand** have National Human Rights Institutions. Malaysia’s National Human Rights Commission (SUHAKAM) conducts visits to prisons, detention centres, police lock-ups and to centres and homes under the Department of Social Welfare to monitor the condition and situation of children and young people and to respond to complaints. The Department of Social Welfare has been lauded for its good cooperation in coordinating these visits, even though its institutions do not fall directly under SUHAKAM’s jurisdiction. The Committee on the Rights of the Child has urged a number of other ASEAN Member States to establish, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (‘Paris Principles’)<sup>41</sup>, an Ombudsman’s Office or other independent monitoring body provided with the necessary resources with a clear mandate to receive and investigate complaints from, or on behalf of, children about violations of their rights. In those countries with National Human Rights Institutions, the Committee has often drawn attention to the lack of financial, technical and human resources. In relation to judicial bodies, the procedural capacity of children to bring cases to the courts varies country-by-country. In some countries, legal proceedings may only be commenced by a representative on behalf of a child. Legal aid is not always available for children.

41 Principles relating to the Status of National Institutions (The Paris Principles), Adopted by General Assembly resolution 48/134 of 20 December 1993, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>, last accessed 18 January 2017.



**Table 7: Country-by-country summary of external independent bodies that can receive complaints**

	<b>External independent bodies (e.g. National Human Rights Institution, Ombudsman, courts)</b>
BRN	<ul style="list-style-type: none"> <li>- No National Human Rights Institution</li> <li>- Not clear if children have procedural capacity to initiate court proceedings</li> </ul>
CAM	<ul style="list-style-type: none"> <li>- No National Human Rights Institution</li> <li>- Children can bring cases in courts with assistance of legal representative</li> </ul>
IDN	<ul style="list-style-type: none"> <li>- Commission for the Protection of Children</li> <li>- Children can bring cases in courts with assistance of representative</li> </ul>
LAO	<ul style="list-style-type: none"> <li>- No National Human Rights Institution however, merged National Commission for Mothers and Children and National Commission for Advancement of Women monitors children's rights</li> <li>- Children can bring cases in courts with assistance of legal representative</li> </ul>
MYS	<ul style="list-style-type: none"> <li>- National Human Rights Commission (SUHAKAM)</li> <li>- All court actions on behalf of children must be commenced through a litigation representative</li> </ul>
MMR	<ul style="list-style-type: none"> <li>- Special desk for children's rights, National Human Rights Commission</li> <li>- Children can bring cases in courts with assistance of a 'next friend'</li> </ul>
PHI	<ul style="list-style-type: none"> <li>- Child Rights Center, Philippine Commission on Human Rights</li> <li>- Children can bring cases in courts to challenge violations of their rights</li> </ul>
SGP	<ul style="list-style-type: none"> <li>- No National Human Rights Institution</li> <li>- Children can bring cases in courts with assistance of 'litigation representative'</li> </ul>
THA	<ul style="list-style-type: none"> <li>- National Human Rights Commission</li> <li>- Children can bring cases in courts through their legal representative</li> </ul>
VNM	<ul style="list-style-type: none"> <li>- No National Human Rights Institution</li> <li>- Children can bring cases in courts through their lawful representative</li> </ul>

*Intentional bodies to reinforce and complement the national system:* **Thailand** is the only country in the region to have ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The Government has initial plans to map existing services which can provide domestic remedies as part of implementing its obligations under the Optional Protocol.

## Case study example

### **Thailand: Implementing an international complaints procedure for child rights violations**

Thailand was the first country in the world, and so far the only country in Asia, to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OP3) in 2014. This treaty helps children seek justice through the UN when their national legal system cannot provide a remedy for violations of their rights. Through ratifying the OP3 the Thai Government has given children in Thailand the right to file formal complaints with the UN Committee on the Rights of the Child when their rights have been breached, after exhausting all efforts to seek justice at a local level. If the Committee concludes that the child's rights have been violated, they will recommend that the Government takes action to provide a remedy. The Government of Thailand has initial plans to map existing services which can provide domestic remedies as part of implementing its obligations under the OP3. The National Human Rights Commission of Thailand took the lead on the implementation together with the Department of Children and Youth of the Ministry of Social Development and Human Security.

## 6. Protective and supportive services for children affected by violence

**Action: Improve protective and supportive services for children affected by violence including physical and psychosocial rehabilitation, counselling services in school and in community, appointment of guardian(s), legal assistance, shelter/housing, provision of life skills development, peer to peer and family supports. (National)**

**Indicator 6:**<sup>42</sup> Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).

**Baseline:** 10 (partly/ under development)

## Discussion

When violence against children is suspected or disclosed, immediate action is required. This is referred to as the ‘tertiary’ or ‘indicated’ level of interventions, which seek to reduce the long-term implications of violence and to prevent violence recurring. Child protection systems theory and practice views the tertiary level as consisting of two parts. First, the particular needs and circumstances of the individual children and their families must be addressed. This may include referral to specialists or services such as social protection providers or the direct provision of services, such as individual and family support and guidance, problem solving strategies, psychiatric assessments, therapeutic interventions, intensive parenting skills or care giving skills training, and substance abuse treatment programmes. One of the core recommendations of the UN Study on Violence against Children was that States should provide “*accessible, child-sensitive and universal health and social services, including pre-hospital and emergency care, legal assistance to children and, where appropriate, their families when violence is detected or disclosed.*”<sup>43</sup> The UN Study also emphasized that the health, criminal justice and social service systems should be designed to meet the special needs of children.

The second element of the tertiary level is the point at which government child protection officers are required by law to intervene in order to protect a child. At this level, interventions may include removal of the child and placement in alternative care, removal of the perpetrator, the issuance of a restraining order or behaviour bond. Actions such as the removal of a child from the family home or the home of the primary care giver or from a dangerous situation should only be undertaken by those with the authority or delegated authority to do so, and only as a last resort. In some countries, this legal duty is referred to as a ‘statutory’ duty, i.e. it is mandated or prescribed by law and enacted through the courts so as to ensure the rights of all parties are recognized and given interventions are compliant with the law. In the case of an emergency removal of a child, the processes required to inform the relevant court of such action, should take place within the required timescales (usually 24 hours).<sup>44</sup>

As of December 2016, protective and supportive services for children affected by violence are partly established, or under development, in all ASEAN Member States. All ASEAN Member States have a national agency responsible for child protection and in most countries, responsibility for service delivery is delegated to sub-national entities. For example, in **Indonesia**, the role of the Ministry of Social Affairs

42 The indicator for priority action 6 in the RPA-EVAC reads: “*Number of AMS providing protective services, number of services by type of VAC and by setting*”. The indicator for the purposes of the baseline includes ‘supportive services’ to better reflect the action. It is acknowledged that in some cases services may be both protective and supportive. Given many children face multiple forms of violence, rather than just one, disaggregation by type of VAC is optional. Disaggregation by setting is also optional given such specialised services may not be available. Ideally, the indicator would seek to measure ‘effective’ support to children exposed to violence.

43 UN General Assembly, ‘Report of the independent expert for the United Nations study on violence against children’, A/61/299, 29 August 2006, [102], <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>, last accessed 23 November 2016.

44 Except for the reference to the UN Study, these two paragraphs are based on Swales, DM and Meikle, A, ‘Child protection systems: Theory and practice guidance’ produced for UNICEF EAPRO, unpublished, January 2016, p. 71.

is mainly regulatory and responsibility for service delivery rests with local government. In **Lao PDR**, responsibility is delegated to Committees for the Protection and Assistance to Children under Law on the Protection of the Rights and Interests of Children. These Committees are still being established at central, provincial and district levels by the Ministry of Labour and Social Welfare, with support from UNICEF. In **Malaysia**, the Children’s Division of the Department of Social Welfare under the Ministry of Women, Family and Community Development is responsible for recommending appropriate services for children in need of protection. At state level, a Children’s Division implements central-level policy, and at district and sub-district levels, Child Protectors and Probation Offices intervene and monitor cases. **Singapore’s** Child Protective Services in the Ministry of Social and Family Development undertakes the statutory role in investigating and intervening in cases. In a number of countries, formal child protection services tend to be concentrated in the capital city or provinces with limited outreach or access to the community level. To address gaps in formal structures, in at least six AMS (**Cambodia, Indonesia, Lao PDR, Myanmar, Thailand and Viet Nam**), community-based child protection mechanisms at village and district levels have been established, with support from NGOs such as Plan and Save the Children, and UNICEF. In many countries, there are challenges in translating laws into practice with limitations in financial resources and human capacities. To provide specialized services for child victims of violence, there is a need for designated and mandated professionally trained officials. In at least seven AMS (**Cambodia, Indonesia, Lao PDR, Malaysia, Philippines, Thailand and Viet Nam**), the lack of skilled and qualified professionals persists as a major challenge.

**Table 8: Country-by-country summary of status of child protection workforce**

	<b>Designated and mandated professionally trained officials</b>
BRN	- Action Teams for the Protection of Children established under Children and Young Persons Order
CAM	- Partnership Program for the Protection of Children (3PC) covers current gaps in child protection system (Ministry of Social Affairs, Veterans and Youth Rehabilitation/ UNICEF/ Friends International) - Community-based child protection models (Save the Children, Plan) - Lack of skilled and qualified professionals
IDN	- No clear designation of authority in Law on Child Protection - Pilot of child protection system in some districts (Ministry of National Development Planning/ UNICEF) - Community-based child protection model (Plan) - Lack of skilled and qualified professionals
LAO	- Committees for the Protection and Assistance of Children being established at central, provincial and district levels (Ministry of Labour and Social Welfare/ UNICEF) - Community-level Child Protection Networks being established - Lack of skilled and qualified professionals
MYS	- Child Protectors and Probation Officers responsible for cases at district and sub-district levels - Child Protection Teams coordinate local services - Decisions presided over by court - Absence of a distinct professional social work sector
MMR	- Community-based child protection system (Department of Social Welfare/ UNICEF) - Social work case workers deployed at decentralized level for the first time in 2015
PHI	- Limited number and capacity of trained social workers
SGP	- Child Protection Service has statutory role in investigating and intervening - Currently developing training framework for social service professionals
THA	- Powers and responsibilities of ‘Competent official’ set out in Child Protection Act - Formal child protection services largely concentrated at provincial level and in capital – limited outreach or access to community level - Model for comprehensive child protection system piloted at sub-district level (Government/ UNICEF) - NGO presence differs by location - Number of child welfare professionals inadequate and unable to meet needs
VNM	- Collaborators and officers of commune level People’s Committees responsible for identifying children at risk - Community-based child protection systems (Ministry of Labour, Invalids and Social Affairs/ UNICEF) - Lack of skilled and qualified professionals

In a number of ASEAN Member States, the range of supportive and protective interventions available are set out in the child protection law. For example, in **Brunei Darussalam**'s Child and Young Persons Order, **Singapore**'s Children and Young Persons Act, **Thailand**'s Child Protection Act and **Viet Nam**'s new Child Law. In others countries, such as **Cambodia** and **Indonesia**, the range of protective and supportive interventions are set out in issue-based laws. In practice, this may mean that a holistic approach is not taken in considering the interventions and services that a child victim of violence should receive. Issue-based laws, such as those for trafficking or domestic violence, may not necessarily adequately address the care and protection needs of the child. In some countries, the mandated authority at local level to take decisions on a child's care and protection plan (including removal from a family) is clearly set out in law (e.g. the court), in others, there is no consistency or accountability in decision-making. Across the region, there are a lack of procedures and criteria for applying the interventions set out in the law.

In a few ASEAN Member States, the emergency response is well-developed. In **Malaysia**, for example, child victims of most serious forms of violence have access to medical care, psycho-social support, legal advice and child sensitive investigative procedures through the Child Protection Unit (Royal Malaysia Police) and comprehensive hospital-based services. In addition, the Child Care and Child Protection Unit (CCNCPU) was developed in cooperation between the Department of Social Welfare and UNICEF to develop the competency of Child Protection Officers (CPOs). As part of a pilot project in two districts between 2013 and 2015, four master trainers successfully completed professional practice in handling high risk cases of child abuse and neglect. A further 30 master trainers were trained between 2015 and 2017 and they handled 103 cases of high risk child abuse. It is anticipated that in 2017 a further 100 child protection officers will be trained by the 30 master trainers in their respective districts and states.

The hospital-based One Stop Crisis Centres in **Thailand** reportedly represents the most professional and qualified component of the national child protection system. **Indonesia** and the **Philippines** also provide multi-disciplinary hospital-based services for child victims of violence. Many countries provide emergency temporary shelter for child victims, however in some countries these are largely provided by NGOs. The lack of services and facilities out of main centres is a challenge. The systems to support formal placements and review of children in family-based out-of-home care is still under development in most countries.

**Table 9: Country-by-country summary of protective and supportive interventions**

	<b>Protective and supportive interventions</b>
BRN	<ul style="list-style-type: none"> <li>- Range of interventions set out in Child and Young Persons Order</li> <li>- Emergency shelter (Social Affairs Services Unit, Ministry of Culture, Youth and Sports)</li> <li>- Temporary Foster Care programme</li> </ul>
CAM	<ul style="list-style-type: none"> <li>- Range of interventions set out in issue-based laws</li> <li>- Services and shelters mainly in capital city and run by NGOs</li> <li>- Rapid response mechanism currently under development</li> <li>- CSOs and NGOs main providers of alternative care</li> </ul>
IDN	<ul style="list-style-type: none"> <li>- Range of interventions set out in issue-based laws</li> <li>- Hospital-based integrated service centres at provincial and district levels</li> <li>- Residential rehabilitation homes in some provinces</li> <li>- Pilot of integrated social welfare services for children and families in some districts (Ministry of Social Affairs/ UNICEF)</li> </ul>
LAO	<ul style="list-style-type: none"> <li>- Temporary shelters (Ministry of Labour and Social Welfare)</li> <li>- Counselling and Protection Centre for Women and Children (Lao Women's Union)</li> <li>- Safe space and drop-in centre (Peun Mit/ Ministry of Labour and Social Welfare)</li> <li>- Kinship care common but no formal systems for alternative family-based care</li> </ul>
MYS	<ul style="list-style-type: none"> <li>- Emergency response for victims well-developed – through Child Protection Unit (Royal Malaysia Police) and comprehensive hospital-based services, though some regions remain underserved</li> <li>- All out-of-home care orders are for a defined period specified by the court, however no requirement for review</li> </ul>

	<b>Protective and supportive interventions</b>
MMR	- Community-based child protection system provide some medical support, emergency support, counselling, financial support and basic needs
PHI	- Child Protection Units (multi-disciplinary) in all State hospitals - 24-hour crisis intervention units in all Department of Social Welfare and Development Field Offices - Residential care services maintained by Department of Social Welfare and Development - NGO services and facilities complement Government services
SGP	- Range of protective and supportive interventions set out in Children and Young Persons Act and Women's Charter - Community-based child protection specialist centres - Therapeutic group homes - Number of specialized programmes and services provided by Ministry of Social and Family Development
THA	- Range of protective and supportive interventions set out in Child Protection Act - Temporary shelter available in Children's Reception Homes – exist in Bangkok and each province (Department of Children and Youth) - Hospital-based One Stop Crisis Centres (multidisciplinary unit) – represents most professional and qualified component of child protection systems
VNM	- New Child Law articulates national framework for child protection including protective and supportive services for child victims - Foster care programme in pilot phase

## Case study examples

### **Singapore: improved protective and supportive services for child victims**

In 2012 and 2013 Singapore introduced new initiatives to improve protective and supportive services for child victims of violence. The Ministry of Social and Family Development (MSF) Child Protective Service (CPS) has introduced a kind of triage system in which community support and outreach is first considered for cases involving less serious child protection concerns. The system comprises of a base level of community-based services offered by community agencies to 'pre-incident' families experiencing high family stress, emotional, and economic stress. The second tier of services are delivered by Community-Based Child Protection Specialist Centres (CPSCs) and Family Violence Specialist Centres (FVSCs) in cases involving neglect, excessive or inappropriate discipline, or inadequate medical care. State intervention by the CPS and law enforcement agencies is reserved for cases involving serious injury, severe neglect, and sexual abuse.

Specialised programmes and services provided by MSF include separate recovery and empowerment services for child survivors of sexual abuse aged 6 to 12, and adolescents, as well as family therapy services. Specialised trauma focused therapy is also provided where appropriate.

## **Myanmar: Establishing a case management system**

In 2015, the Myanmar Department of Social Welfare (DSW) established a formal social work case management system, which was identified as one of the key pillars of the National Social Protection Strategy, and an integral part of the national response to child protection. The aim is for the DSW to provide case management services to all vulnerable groups in all 330 townships through the new case management system. The case managers play an important role as advocates on behalf of the children and families, thus creating trust between communities and the Government. The social work case management of DSW has also been linked to other sectors in humanitarian, justice, health and potentially education. This contributes to a strategic shift from an issue based to a holistic and integrated approach to strengthening the child protection system in the country.

As of February 2017, the social work case management system covers 46 townships across all 14 states/regions and Nay Pyi Taw council. DSW has recruited, trained and deployed a total of 102 social workers. Working together with local civil society and other departments, social work case managers handle referred cases involving families in need of social support and children or women who have experienced violence, abuse or exploitation. By December 2016, these trained social work case managers had responded to 1,757 children who had been referred for support. The majority of these cases involved sexual violence, physical violence and children in conflict with the law.



# ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

## 7. Laws in full conformity with applicable international human rights standards

**Action: Undertake a legislative review to ensure that legislation relevant to children's protection from violence, are in full conformity with applicable international human rights standards, including but not limited to the CRC and its optional Protocols. (National)**

**Indicator 7:** Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.

**Baseline:** 1

## Discussion

The implementation and enforcement of laws is essential to ending violence against children. Laws that prohibit behaviours such as violent punishment and sexual abuse show society that violent behaviour is wrong and can contribute towards transforming prevailing norms that tolerate it.<sup>45</sup> Laws also hold perpetrators accountable for their actions. The implementation and enforcement of laws is one of the seven strategies identified by the World Health Organization to help countries and communities intensify their focus on the prevention programmes and services with the greatest potential to reduce violence against children.<sup>46</sup> The Convention on the Rights of the Child requires States Parties to take all appropriate legislative, administrative, social, and educational measures to protect children from all forms of violence while in the care of parents, legal guardians, or any other person who has the care of the child. The Convention also contains particular obligations concerning the protection of children from cruel, inhuman or degrading treatment or punishment and capital punishment, as well as sexual abuse and exploitation. One of the core recommendations of the UN Study on Violence against Children was for States to prohibit all forms of violence against children, in all settings, including all corporal punishment, harmful traditional practices, such as early and forced marriages, female genital mutilation and so-called honour crimes, sexual violence, and torture and other cruel, inhuman or degrading treatment or punishment, as required by international treaties, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child.<sup>47</sup>

A review of the national legislation on violence against children vis-à-vis applicable international human

45 World Health Organisation, 'INSPIRE: seven strategies for ending violence against children', 2016, p. 31, [http://www.who.int/violence\\_injury\\_prevention/violence/inspire/en/](http://www.who.int/violence_injury_prevention/violence/inspire/en/), last accessed 21 November 2016.

46 World Health Organisation, 'INSPIRE: seven strategies for ending violence against children', 2016, [http://www.who.int/violence\\_injury\\_prevention/violence/inspire/en/](http://www.who.int/violence_injury_prevention/violence/inspire/en/), last accessed 21 November 2016.

47 UN General Assembly, 'Report of the independent expert for the United Nations study on violence against children', A/61/299, 29 August 2006, [98], <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>, last accessed 23 November 2016.



rights standards in ASEAN Member States was undertaken by UNICEF in 2015.<sup>48</sup> The purpose of that study was primarily to assist ASEAN Member States with a comprehensive review of their legislation by providing an analysis of laws in order to identify any gaps or weaknesses in protection afforded to children against all forms of violence. The report analyzed the national laws in each State in an aggregated manner so that common themes could be identified and highlighted across ASEAN Member States. It also provided findings and recommendations for law reform specific to each State relevant for each setting in which violence against children may occur (in the home, school, community and workplace). Readers are encouraged to review that report for a comprehensive analysis, which is beyond the scope of the present study.

As of December 2016, only **Viet Nam** has reportedly undertaken a review of national legislation on violence against children vis-à-vis applicable international human rights standards culminating in the approval of the Child Law 2016, which came into force on 1 June 2017. Among other things, the new Child Law clearly articulates a national framework for child protection for the first time, including authorizing State interventions to prevent and respond to violence against children. However, the Child Law defines a child as a Vietnamese citizen under 16 years of age (not 18 years of age) inconsistent with previous recommendations from the Committee on the Rights of the Child. In 2014, the **Cambodian** Government through the Cambodian National Council for Children, conducted a review of the child protection legal framework and made a number of recommendations to comply with international standards including the adoption of a comprehensive child protection law. While not the status of law, the Cambodian National Council for Children is currently finalizing a Child Protection Code of Conduct which will apply to all government ministries and institutions. The signing of the new Law on Justice for Children in Cambodia in 2016 was particularly significant. Another important development was the adoption of the Explanatory Note on Domestic Adoption in October 2016.

There have been a number of other significant legislative developments across the region during 2016 that impact children's protection from violence. For example, in **Indonesia**, a new regulation was adopted to amend the Law on Child Protection, increasing the maximum sentence upon conviction for sexual offenses against children but controversially introducing a penalty of chemical castration. A draft Law on Anti Sexual Violence was submitted to Parliament for deliberation and the possibility of a new regulation on the Prevention of Child Marriage has been discussed. In **Lao PDR**, the Law on Anti-Trafficking in Persons came into force and a new Penal Code has been submitted to the National Assembly for consideration. **Malaysia** amended its Child Act 2001 providing harsher penalties for offenders and abolishing the punishment of whipping sentenced by court upon child offenders. Malaysia also passed the Sexual Offences Against Children Bill in 2017, bringing its laws closer into alignment with the UN CRC and the OPSC. A Taskforce on Sex Crimes was also formed under the Prime Minister's office working on legislative reform to more comprehensively criminalize child sex offences. In **Myanmar**, a revised Child Law is currently under review at the Union Attorney General. Myanmar is also currently drafting a Violence against Women Law and revising its Anti-Trafficking in Persons Law. In **Thailand**, the Prevention and Remedial Measures for Adolescent Pregnancy Bill was approved, promoting access to sexual health services among adolescents, which may prevent the situation of pregnant girls being taken out of school and reduce the risk of illegal and unsafe abortions. The Act on Juvenile and Family Court and Procedure 2010 is being amended to clarify and further promote the use of diversion. The draft Act on Child Protection and Child Protection Procedure, scheduled to be finalized in 2017, will replace the Child Protection Act 2003. An amendment to raise the minimum age of criminal responsibility is currently in the process of consultation, as is an amendment to raise the minimum age of marriage to 18 years.

There remain a number of areas where reform is required in order to bring the laws of ASEAN Member States in full conformity with applicable international human rights standards. The relevant recommendations of the Committee on the Rights of the Child to each ASEAN Member State are summarized in Table 10 below. These recommendations are elaborated with citations in the country studies (annexes).

48 See: UNICEF EAPRO, 'Legal protection from violence: Analysis of domestic laws related to violence against children in ASEAN Member States', 2015.

**Table 10: Country-by-country summary of Committee on the Rights of the Child recommendations relating to legislative measures to address violence against children**

	<b>Legislative measures recommended in most recent concluding observations</b>
BRN	<ul style="list-style-type: none"> <li>- Explicitly prohibit corporal punishment in all settings</li> <li>- Strengthen implementation of labour laws</li> <li>- Raise minimum age of criminal responsibility to internationally acceptable standards</li> <li>- Raise minimum age of marriage for all girls and boys to 18 years (as previously recommended)</li> <li>- Prohibit and criminalize female genital mutilation/cutting in all its forms</li> <li>- Prevent and combat child marriage</li> <li>- Repeal discriminatory provisions affecting children in new Syariah Penal Code</li> <li>- Abolish sentence of whipping/flogging for boys</li> </ul>
CAM	<ul style="list-style-type: none"> <li>- Explicitly prohibit corporal punishment in all settings</li> <li>- Strengthen national legislation prohibiting child labour</li> <li>- Bring trafficking legislation in full compliance with Optional Protocol</li> <li>- Ensure protection provided for all child victims and witnesses of crimes</li> </ul>
IDN	<ul style="list-style-type: none"> <li>- Explicitly prohibit corporal punishment in all settings</li> <li>- Criminalize forced labour and regular work of children between 16 and 18 years of age</li> <li>- Raise minimum age of criminal responsibility to at least 14 years of age</li> <li>- Ensure child trafficking in all its forms is comprehensively defined and criminalized</li> <li>- Ensure children subject to sexual exploitation treated as victims not subject to criminal sanctions</li> <li>- Review age limits to ensure that a child under the age of 18 is not considered an adult</li> <li>- Raise minimum age of marriage for girls to 18 years</li> <li>- Fully prohibit female genital mutilation/cutting in all its forms</li> <li>- Prevent and combat early or forced marriage</li> <li>- Ensure children in street situations are not treated as criminals</li> </ul>
LAO	<ul style="list-style-type: none"> <li>- Explicitly prohibit corporal punishment in all settings</li> <li>- Ensure children not employed in situations that could be detrimental to their health, development or well-being and increase years of compulsory education to correspond to minimum age for employment</li> <li>- Revise criminal legislation to bring into full compliance with Optional Protocol</li> <li>- Explicitly prohibit organized 'child sex tourism'</li> <li>- Ensure protection provided for all child victims and witnesses of crimes</li> </ul>
MYS	<ul style="list-style-type: none"> <li>- Prohibit all forms of corporal punishment in the home and schools</li> <li>- Ensure acceptable conditions of permissible work for children are clearly and strictly detailed and national labour provisions fully comply with international labour standards and CRC</li> <li>- Raise the minimum age of criminal responsibility to at least 12 years of age and continue to increase</li> <li>- Undertake comprehensive review of national legal framework to ensure full compatibility with CRC</li> <li>- Ensure deprivation of liberty in full conformity with the CRC</li> <li>- Adopt specific obligations of ISPs in relation to 'child pornography' on the Internet</li> </ul>
MMR	<ul style="list-style-type: none"> <li>- Abolish and explicitly prohibit corporal punishment in all settings</li> <li>- Increase minimum age of employment of children to 16 years</li> <li>- Raise minimum age of criminal responsibility to an internationally acceptable level, and in no case below 12 years of age</li> <li>- Define any person under 18 years of age as a child</li> <li>- Establish minimum legal age for marriage for girls and boys at 18 years (as previously recommended)</li> <li>- Undertake comprehensive review of domestic legislation, codified and customary laws, to ensure full compatibility with CRC</li> <li>- Protect children from commercial and sexual exploitation</li> </ul>
PHI	<ul style="list-style-type: none"> <li>- Explicitly prohibit corporal punishment in all settings</li> <li>- Prohibit child labour in accordance with international standards</li> <li>- Bring criminal code in full compliance with Optional Protocol, in particular define and prohibit all cases of sale of children, child prostitution and child pornography</li> <li>- Harmonize legislation fully with provisions and principles of CRC</li> <li>- Enact necessary laws on child protection</li> <li>- Raise minimum age of sexual consent (as previously recommended)</li> <li>- Ensure children born out of wedlock have right to equal treatment</li> </ul>

	<b>Legislative measures recommended in most recent concluding observations</b>
SGP	<ul style="list-style-type: none"> <li>- Explicitly prohibit corporal punishment in all settings, including caning</li> <li>- Prohibit corporal punishment and solitary confinement in all detention institutions for juvenile offenders</li> <li>- Raise minimum age of employment with view to harmonizing with age of compulsory schooling (15 years)</li> <li>- Raise minimum age of criminal responsibility to an internationally acceptable level</li> <li>- Prevent children who are victims of trafficking from being treated as offenders</li> <li>- Bring legislation into conformity with ILO Convention No. 182 to enhance protection of children against sexual exploitation</li> <li>- Harmonize definition of child in national laws including extending special protection under the Children and Young Persons Act to children between 16 and 18 years of age</li> <li>- Abolish life sentence of children under 18</li> </ul>
THA	<ul style="list-style-type: none"> <li>- Explicitly prohibit corporal punishment in the home and alternative care settings (as previously recommended)</li> <li>- Prohibit involvement of children in informal sectors</li> <li>- Raise minimum age of criminal responsibility to an internationally acceptable age and in no circumstances, below 12 years of age</li> <li>- Harmonize domestic legislation with Optional Protocol, in particular provide a clear definition and prohibit all offences</li> <li>- Raise minimum age of marriage to 18 years and maintain it in all circumstances, in particular where children have been sexually abused</li> <li>- Ensure video recordings of testimonies by child victims or witnesses of offences under Optional Protocol are always accepted as evidence</li> </ul>
VNM	<ul style="list-style-type: none"> <li>- Explicitly prohibit corporal punishment in all settings</li> <li>- Harmonize national laws and regulations with ILO Convention No. 138 concerning Minimum Age for Admission to Employment and providing that children are allowed to be employed in 'light work' only from 13 years</li> <li>- Prevent and end practice of forced child labour in drug detention centres</li> <li>- Harmonize national legislation with Optional Protocol to explicitly criminalize all acts (as previously recommended)</li> <li>- Raise definition of a child up to the age of 18</li> <li>- Conclude adoption of all draft laws that attach importance to principle of best interests of the child</li> <li>- Include all forms of child abuse in domestic legislation</li> <li>- Expedite revision of relevant criminal and administrative laws to ensure full compliance with the CRC including to include all children under the age of 18 in the juvenile justice system</li> </ul>

Common across all 10 ASEAN Member States is the recommendation to explicitly prohibit corporal punishment in all its forms in all settings. The Government of the **Philippines**<sup>49</sup> and **Thailand**<sup>50</sup> have expressed a commitment to prohibition of all corporal punishment of children through unequivocally accepting recommendations to prohibit made during the Universal Periodic Review. Table 11 below summarizes the legal status of corporal punishment of children – and progress towards achieving prohibition – in all settings as of July 2016.

49 Government accepted UPR recommendation to prohibit in the home and other settings (2012); bill which would prohibit under discussion (2016).

50 Government accepted UPR recommendations to prohibit in all settings (2012).

**Table 11: Country-by-country summary of legal status of corporal punishment of children in all settings<sup>51</sup>**

	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as a sentence for crime
BRN	No	No	Some <sup>52</sup>	No	No	No
CAM	No	No	No	Yes	Yes	Yes
IDN	No	No <sup>53</sup>	No	No	Yes	Some <sup>54</sup>
LAO	No	No	Some <sup>55</sup>	Yes	Yes	Yes
MYS	No	No	No	No	No	Some <sup>56</sup>
MMR	No	No	No	No <sup>57</sup>	No	Yes <sup>58</sup>
PHI	No	Yes	Yes	Yes	Yes	Yes
SGP	No	No	Some <sup>59</sup>	Yes	Yes	Yes
THA	No	No	No	Yes	Yes	Yes
VNM	No	No	No	Yes	Yes	Yes

The other recommendation common to all 10 ASEAN Member States is to strengthen national legislation relating to child labour to ensure compliance with international labour standards and the Convention on the Rights of the Child. For **Lao PDR** and **Singapore**, this includes raising the minimum age of employment to harmonize it with the age of compulsory schooling. For **Indonesia**, it includes criminalizing forced labour and regulating the work for children between 16 and 18 years of age. Likewise, **Malaysia** is recommended to ensure acceptable conditions of permissible work for children are clearly and strictly detailed. The next most commonly occurring recommendations, applying to six ASEAN Member States, relate to increasing the minimum age of criminal responsibility to internationally acceptable standards (**Brunei Darussalam, Indonesia, Malaysia, Myanmar, Singapore** and **Thailand**) and to ensure compliance with the Optional Protocol on the sale of children, child prostitution and child pornography, and in the case of Singapore the ILO Convention No. 182, particularly to ensure all the relevant offences are criminalized (**Cambodia, Lao PDR, the Philippines, Singapore, Thailand** and **Viet Nam**). The recommendation to strengthen protection of child victims of violence, especially sexual violence, is made to five ASEAN Member States (**Cambodia, Indonesia, Lao PDR, Singapore, and Thailand**). For **Cambodia** and **Lao PDR**, this includes ensuring protection is provided for all child victims and witnesses of crime. For **Indonesia** and **Singapore**, this includes ensuring child victims are not treated as offenders. For **Thailand**, this includes ensuring video recordings of testimonies of child victims or witnesses are always accepted as evidence. The recommendation to review age limits and harmonize the definition of a child as any person under the age of 18 is made to four ASEAN Member States (**Indonesia, Myanmar, Singapore, and Viet Nam**). Raising the minimum age of marriage for girls (and in the case of **Brunei Darussalam** and **Myanmar**, expressly also boys) to 18 years of age is made to four ASEAN Member States (**Brunei Darussalam, Indonesia, Myanmar, and Thailand**). Importantly, the Committee on the Rights of the Child has explained that legislative measures do not only refer to legislation itself, but also the budget, and implementing and

51 Global Initiative to End All Corporal Punishment of Children, 'Progress towards prohibiting all corporal punishment in East Asia and the Pacific', July 2016, <http://www.endcorporalpunishment.org/progress/legality-tables/>, last accessed 22 December 2016.

52 Prohibited in childcare centres.

53 National Standards of Care for Child Welfare Institutions state corporal punishment should not be used but no prohibition in law.

54 Lawful under Shari'a law.

55 Unlawful in early childhood education settings.

56 New Child Act abolishes penalty of whipping (but not prohibited under Islamic law).

57 Government directive advises against corporal punishment but no prohibition in law.

58 But some legislation still to be repealed.

59 Prohibited in childcare centres.

enforcing measures; “They comprise national, provincial and municipal laws and all relevant regulations, which define frameworks, systems, mechanisms and the roles and responsibilities of concerned agencies and competent officers”.<sup>60</sup>

## Case study example

### Malaysia: Sexual Offences Bill 2017

The Sexual Offences against Children Bill was passed in Malaysia in 2017. In August 2016, the Prime Minister of Malaysia set up a Taskforce to strengthen protection for children from a wide range of sexual offences, in response partly to a youth led media/digital campaign (Predator in My Phone) which was successful in raising awareness about cyber-sexual grooming. The Taskforce which was chaired by the de facto law Minister, comprised of various government agencies, civil society organisations and UNICEF. The new Bill covers a wide range of sexual crimes including grooming, contact and non-contact sexual offences, child pornography and child prostitution. The passing of the Bill is a positive step towards the protection of children from sexual crimes and brings Malaysia closer into alignment with existing international legal frameworks such as the UN Convention on the Rights of the Child its Optional Protocol on the sale of children, child prostitution and child pornography. Additionally, in 2017 the government established a special court to hear cases involving sexual crimes against children which is aimed at fast-tracking cases as well as hearing proceedings, and ensuring only senior judges with the requisite expertise preside over such cases. The court is equipped with infrastructure such as a waiting room for child witnesses; live video link; child witness screens and disability friendly facilities.

## 8. Diversion and alternative measures

**Action: Reduce the recourse to judicial proceedings and deprivation of liberty through diversion and other alternative measures, and in addition, protect children from all forms of violence through development of laws, policies, capacities and quality alternatives to judicial proceedings and deprivation of liberty.**

**Indicator 8:**<sup>61</sup> Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures<sup>62</sup> to judicial proceedings and detention.

**Baseline:** 10 (partly/ under development)

60 Committee on the Rights of the Child, ‘General comment No. 13 (2011): The right of the child to freedom from all forms of violence’, CRC/C/GC/13, 18 April 2011, [40].

61 The indicator for priority action 8 in the RPA-EVAC reads: “Number of AMS which implement diversion programmes and/or other alternative measures to judicial proceedings and detention”. Given many countries are still in the stage of developing law and policy, the proposed indicator for the purposes of the baseline also captures this stage so that progress can be tracked.

62 There are six categories of alternative measures based on international juvenile justice standards promoted by the Convention on the Rights of the Child and the Committee on the Rights of the Child, General Comment No. 10 - Children’s Rights in Juvenile Justice (2007), namely: (1) Unconditional diversion/police warning; (2) Diversion from formal judicial proceedings; (3) Alternatives to pre-trial detention; (4) Measures to minimize time spend in pre-trial detention; (5) Alternatives to post-trial detention; and (6) Measures to minimize time spend in post-trial detention.

## Discussion

Children in justice institutions or in the custody of police are especially vulnerable to violence. Similar to girls and boys in care institutions, violence against this group of children can stem from overcrowding, poor conditions and a lack of resources invested in their care. However, widely held discrimination against children regarded as ‘anti-social’ or ‘criminal’ can result in more physically and psychologically punitive violence against these children than that of other groups or in other environments. Housing children with adults or older children can also lead to physical and sexual victimisation by other older children and adult inmates. Children with disabilities are frequently at higher risk of violence. Children in detention are also at higher risk of self-mutilation and suicidal behaviour due to violence, neglect or poor living conditions. Some countries still permit corporal punishment, and capital punishment, as a court sentence against children.<sup>63</sup>

As noted, the UN Study on Violence against Children explained that a variety of responses are required in order to prevent and respond to violence against children in institutions and that a two-pronged approach was necessary: reducing the main factors that lead to children being placed in institutions; and providing alternatives to the institutions themselves.<sup>64</sup> Having observed that the majority of children in the custody of police, or in detention should not be there, the UN Study recommended States reduce the numbers of children entering justice systems by decriminalizing ‘status offences’ (offences that are only a crime when committed by children, for example, truancy, running away from home, or being ‘beyond parental control’), survival behaviours (such as begging, sexual exploitation, scavenging, loitering or vagrancy) and victimization by trafficking or criminal exploitation. The UN Study also recommended that States establish comprehensive, child-centred, restorative juvenile justice systems that reflect international standards. Detention should be reserved for child offenders who are assessed as posing a real danger to others, and significant resources should be invested in alternative arrangements, as well as community-based rehabilitation and reintegration programmes.<sup>65</sup>

In this region, many alternative measures for children in conflict with the law in the region are at a pilot stage and/or implemented only at a few locations at the local level, often looking at models from outside the region and more developed countries. The Committee on the Rights of the Child has emphasized the need to put in place mechanisms for diversion and/or alternatives to pre-trial and post-trial detention for children in conflict with the law in many of its recent reports related to ASEAN Member States. Over the last two years, at least four ASEAN Member States have introduced new legislation or amended existing legislation enabling a substantial shift in States’ approach to children in conflict with the law. For example, in 2014 **Indonesia’s** Law No. 11 Year 2012 on Juvenile Criminal System came into force. The use of diversion has reportedly increased from seven per cent to more than 50 per cent since its enactment.<sup>66</sup> In **Cambodia**, the new Law on Justice for Children was adopted in July 2016, after a process that started more than 14 years ago. The new Law will come into force in early 2017 and among other things, requires diversion and restorative justice and establishes specialized police and judges for children in conflict with the law. In **Lao PDR**, the Law on Juvenile Criminal Procedure, adopted in 2014, stipulates that detention and deprivation of liberty of child offenders should be used as a measure of last resort. The draft Child Mediation Decree also stipulates that detention should be used as a last resort. Instead of detention, mediation may be used for civil or criminal acts involving children where the maximum punishment would be no more than three years. Warnings, apologies, mediation, compensation and community service are measures that can be applied under mediation.<sup>67</sup> In **Viet Nam**, the revised Penal Code, expected to be approved by the

63 This paragraph is based on Chapter 5 of Paulo Sérgio Pinheiro, ‘World report on violence against children’, UN Secretary-General’s Study on Violence against Children, 2006, <https://www.unicef.org/violencestudy/reports.html>, last accessed 23 November 2016.

64 Paulo Sérgio Pinheiro, ‘World report on violence against children’, UN Secretary-General’s Study on Violence against Children, 2006, <https://www.unicef.org/violencestudy/reports.html>, last accessed 23 November 2016.

65 UN General Assembly, ‘Report of the independent expert for the United Nations study on violence against children’, A/61/299, 29 August 2006, [112], <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>, last accessed 23 November 2016.

66 Data from UNICEF Indonesia.

67 Lao PDR State Party Report on the Implementation of the Convention on the Rights of the Child, 7 March 2017.

National Assembly in May 2017, will introduce new diversion measures, broaden alternatives to detention, limit criminal records for juvenile offenders to facilitate better integration and introduce parole as a new mechanism for early release. In **Malaysia**, a Taskforce on Diversion has been established by the Ministry of Women, Family and Community Development to advise on the development of a diversion model for Malaysia and its implementation.

In order to support relevant national and local authorities, juvenile justice professionals, social welfare professionals, informal justice providers, practitioners, CSOs and NGOs in their efforts to apply diversion and other alternative measures and to harmonize their practices with international juvenile justice standards, UNICEF EAPRO commissioned a regional review of alternative measures for children in conflict with the law in 2016, '*Diversion not Detention*'.<sup>68</sup> That study assessed promising and good practices as well as enablers and barriers for using diversion and other alternative measures for girls and boys in conflict with the law in line with international standards on juvenile justice. Readers are encouraged to review that report for a comprehensive analysis, which is beyond the scope of the present study. Key information has been extracted from that report to provide a baseline for Indicator 8 and the same continuum of alternative measures has been used for analysis. The continuum is divided into six categories of alternative measures based on international juvenile justice standards promoted by the Convention on the Rights of the Child and the Committee on the Rights of the Child, General Comment No. 10 - Children's Rights in Juvenile Justice (2007), namely: (1) Unconditional diversion/police warning; (2) Diversion from formal judicial proceedings; (3) Alternatives to pre-trial detention; (4) Measures to minimize time spent in pre-trial detention; (5) Alternatives to post-trial detention; and (6) Measures to minimize time spent in post-trial detention. The ideal situation is that alternative measures of each of the six categories are regulated by national law and implemented nationwide and on a structural basis in actual practice. Ideally, also restorative justice approaches with regard to diversion and alternatives to post-trial detention are incorporated in national laws and applied in actual practice. Importantly, the continuum of alternative measures incorporates only community-based and family-based options and no measures that imply deprivation of liberty, for example in a remand home, reformatory, prison, closed psychiatric hospital, closed drug treatment facility, etc., and also no residential measures, like placement in an open or semi-open/semi-closed care institution, re-education institution or treatment institution or diagnostic centre.<sup>69</sup> As of December 2016, each ASEAN Member States has some applicable legislation and varying actual practice in relation to the six alternative measures. See Tables 12 and 13 below.

*Unconditional diversion/ police warning:* Police and sometimes also prosecutors and judges give children in conflict with the law a formal warning/caution without any further conditions for the child to comply with. In at least four ASEAN Member States (**Cambodia, Indonesia, Lao PDR and Viet Nam**), there is legislation that provides for unconditional diversion/ police warning. However, it occurs in practice in all countries except the **Philippines**. The scale of actual practice is unknown in **Indonesia, Lao PDR, Malaysia, Singapore and Thailand**. It is reportedly often used in **Viet Nam and Brunei Darussalam** and rarely used in **Cambodia and Myanmar**.

*Diversion from formal judicial proceedings:* Diverting children in conflict with the law away from formal judicial proceedings means that they are dealt with by non-judicial bodies and referred to appropriate community or other social services. Seven ASEAN Member States provide for diversion in their national legislation. The child-specific juvenile justice laws in **Indonesia, Philippines and Thailand** provide for diversion at the three levels of the juvenile justice process, i.e. police, prosecution and court level). **Thailand** is currently amending the Act on Juvenile and Family Court and Procedure 2010 to clarify and further promote the use of diversion. **Lao PDR** provides for diversion with a restorative justice approach at the police and prosecution level. **Cambodia's** new Law on Justice for Children 2016, coming into force

68 UNICEF EAPRO, 'Diversion Not Detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific', 2017. Available at: [https://www.unicef.org/eapro/Diversion\\_Not\\_Detention\\_-\\_Alternative\\_Measures\\_for\\_Children\\_in\\_Conflict\\_with\\_the\\_Law\\_in\\_East\\_Asia\\_and\\_Pacific.pdf](https://www.unicef.org/eapro/Diversion_Not_Detention_-_Alternative_Measures_for_Children_in_Conflict_with_the_Law_in_East_Asia_and_Pacific.pdf). Of the ASEAN Member States, Brunei Darussalam and Singapore are not included in the study.

69 UNICEF EAPRO, 'Diversion Not Detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific', 2017. Available at: [https://www.unicef.org/eapro/Diversion\\_Not\\_Detention\\_-\\_Alternative\\_Measures\\_for\\_Children\\_in\\_Conflict\\_with\\_the\\_Law\\_in\\_East\\_Asia\\_and\\_Pacific.pdf](https://www.unicef.org/eapro/Diversion_Not_Detention_-_Alternative_Measures_for_Children_in_Conflict_with_the_Law_in_East_Asia_and_Pacific.pdf). pp. 35-36.

in early 2017, will provide for diversion at the prosecution level and court level. In **Malaysia** and **Viet Nam**, diversion is regulated under general laws. While there is no legislative framework for diversion in **Singapore**, there are a number of relevant programmes in place to enable diversion of children in conflict with the law. Diversion is reportedly often used in **Indonesia** and **Thailand** and rarely used in **Cambodia**, **Philippines** and **Viet Nam**.

*Alternatives to pre-trial detention:* Alternatives to pre-trial detention apply at the pre-charge, pre-trial and trial stages to children who are being formally processed through the criminal justice system. They provide family-based and community-based options for the supervision of children pending their trial rather than detaining them in police cells, pre-trial detention centres or remand homes. In contrast to diversion, alternatives to pre-trial detention do not require the child's consent. Alternatives to pre-trial detention may be conditional or unconditional. Except for **Brunei Darussalam** and **Singapore** where no information is yet available, alternatives to pre-trial detention are provided for in the law of all other ASEAN Member States. Except for **Malaysia** and **Thailand** where it is reportedly used often in practice, the scale of practice is unknown or rarely used in practice in other ASEAN Member States.

**Table 12: Country-by-country summary of alternative measures (categories 1 to 3)**

	<b>1. Unconditional diversion/ police warning</b>	<b>2. Diversion from formal judicial proceedings</b>	<b>3. Alternatives to pre-trial detention</b>
BRU	- Used often in practice	- Status in law unknown - Discretion to divert from formal trial rests with Public Prosecutor	- Used often in less serious cases
CAM	- Included in child-specific law - Rarely used in practice	- Child-specific law provides for diversion at prosecution and court stages - Rarely used in practice	- Included in general law - Rarely used in practice
IND	- Included in child-specific law - Scale of practice unknown	- Child-specific law provides for diversion at police, prosecution and court stages - Often used in practice	- Included in child-specific law - Scale of practice unknown
LAO	- Included in child-specific law - Scale of practice unknown	- Child-specific law provides for diversion at police and prosecution stages - Scale of practice unknown	- Included in child-specific law - Rarely used in practice
MYS	- Not included in law - Used in practice but scale unknown	- General law provides for diversion at prosecution stage - Scale of practice unknown	- Included in child-specific law - Used often in practice
MMR	- Not included in law - Rarely used in practice	- Not included in law - Scale of practice unknown	- Included in child-specific law - Rarely used in practice
PHI	- Not included in law - Not used in practice	- Child-specific law provides for diversion at police, prosecution and court stages - Rarely used in practice	- Included in child-specific law - Scale of practice unknown
SIN	- Can be used in practice - Scale unknown	- Several relevant programmes in place	No information
THA	- Not included in law - Used in practice but scale unknown	- Child-specific law provides for diversion at police, prosecution and court stages - Often used in practice	- Included in child-specific law - Often used in practice
VIE	- Included in law - Used often in practice	- General law provides for diversion at police, prosecution and court stages - Rarely used in practice	- Included in general law - Rarely used in practice



*Measures to minimize time in pre-trial detention:* If detention at the pre-charge, pre-trial and trial stages is unavoidable, the time children spend in detention should be limited to the shortest appropriate period of time. Five ASEAN Member States (**Indonesia, Lao PDR, Philippines, Thailand** and **Viet Nam**) incorporate provisions on release from pre-trial detention in their general laws. In practice, there is reportedly regular review of children's pre-trial detention in four ASEAN Member States (**Indonesia, Lao PDR, Philippines, and Thailand**) and release from pre-trial detention only occurs often in two ASEAN Member States (**Indonesia and Lao PDR**).

*Alternatives to post-trial detention:* Alternatives to post-trial detention, also called 'non-custodial sentences' or 'alternative sentences', provide family-based and community-based options for the reintegration, rehabilitation and supervision of children rather than sentencing them to staying in any form of detention centre or closed care, treatment or re-education institution. Global examples include: conditional discharge without conviction, judicial reprimand, fine, probation order, attendance order, supervision or guidance order, day reporting centre, community service or work order, counselling or therapeutic treatment order, compensation or restitution order, curfew order, conditional suspended sentence, electronic tagging, and so on. Except for **Singapore** where no information is yet available, alternatives to post-trial detention are provided for in the law of all other ASEAN Member States. The scale of practice is unknown in a number of countries but it is reportedly often used in **Malaysia, Myanmar, Thailand** and **Viet Nam** (only in the administrative system, not the criminal system) and rarely used in **Cambodia** and **Lao PDR**.

*Measures to minimize time in post-trial detention:* If detention at the post-trial stage is unavoidable, the time children spend in detention should be limited to the shortest appropriate period of time, for example through giving credit to time spent in pre-trial/trial detention, combined detention-sentence and probation, early (conditional) release from post-trial detention, and so on. Except for **Brunei Darussalam** and **Singapore** where no information is yet available, early (conditional) release is provided for in the law of all other ASEAN Member States. However, given that there is no regular review of post-trial detention in at least three ASEAN Member States, it is possible that children may stay in post-trial detention for the entire term of their sentence. Despite this, early (conditional) release reportedly occurs often in at least four ASEAN Member States (**Lao PDR, Myanmar, Thailand** and **Viet Nam**). At least five ASEAN Member States (**Indonesia, Malaysia, Myanmar, Thailand** and **Viet Nam**) conduct monitoring of children who are (conditionally) released from post-trial detention.

**Table 13: Country-by-country summary of alternative measures (categories 4 to 6)**

	<b>4. Measures to minimize time in pre-trial detention</b>	<b>5. Alternatives to post-trial detention</b>	<b>6. Measures to minimize time in post-trial detention</b>
BRU	No information	- Included in child-specific law	- Monitoring of children that are released
CAM	- No regular review of pre-trial detention - No release from pre-trial detention in practice	- Included in general law - Rarely used in practice	- Child-specific law provides for early (conditional) release - No regular review of post-trial detention - Early (conditional) release occurs very rarely in practice - No monitoring of children from post-trial detention
IND	- Included in child-specific law - Regular review of pre-trial detention by parole/corrections office - Release from pre-trial detention often occurs	- Included in child-specific law - Scale of practice unknown	- Child-specific law provides for early (conditional) release - No regular review of post-trial detention - Scale of early (conditional) release unknown - Monitoring of children (conditionally) released

LAO	<ul style="list-style-type: none"> <li>- Included in child-specific law</li> <li>- Regular review of pre-trial detention by prosecutor</li> <li>- Release from pre-trial detention often occurs</li> </ul>	<ul style="list-style-type: none"> <li>- Included in child-specific law</li> <li>- Rarely used in practice</li> </ul>	<ul style="list-style-type: none"> <li>- Child-specific law provides for early (conditional) release</li> <li>- No regular review of post-trial detention</li> <li>- Early (conditional) release occurs often in practice</li> <li>- No monitoring of children from post-trial detention</li> </ul>
MYS	<ul style="list-style-type: none"> <li>- Not included in law</li> <li>- No regular review of pre-trial detention</li> <li>- Release from pre-trial detention rarely occurs in practice</li> </ul>	<ul style="list-style-type: none"> <li>- Included in child-specific law</li> <li>- Often used in practice</li> </ul>	<ul style="list-style-type: none"> <li>- Child-specific law provides for early (conditional) release</li> <li>- Early (conditional) release rarely occurs in practice</li> <li>- Monitoring of children (conditionally) released</li> </ul>
MMR	<ul style="list-style-type: none"> <li>- Not included in law</li> <li>- No regular review of pre-trial detention</li> <li>- Release from pre-trial detention rarely occurs in practice</li> </ul>	<ul style="list-style-type: none"> <li>- Included in child-specific law</li> <li>- Often used in practice</li> </ul>	<ul style="list-style-type: none"> <li>- Child-specific law provides for early (conditional) release</li> <li>- Regular review of post-trial detention if child is deprived of liberty in training schools for lesser offence. Review does not apply to children imprisoned for more serious offences</li> <li>- Early (conditional) release occurs often in practice</li> <li>- Monitoring of children (conditionally) released</li> </ul>
PHI	<ul style="list-style-type: none"> <li>- Included in child-specific law</li> <li>- Scale of practice unknown</li> </ul>	<ul style="list-style-type: none"> <li>- Included in child-specific law</li> <li>- Scale of practice unknown</li> </ul>	<ul style="list-style-type: none"> <li>- Included in child-specific law</li> <li>- No information on regular review</li> <li>- No information on scale of early (conditional) release</li> <li>- No information about whether there is monitoring of children released</li> </ul>
SIN	No information	<ul style="list-style-type: none"> <li>- Included in child-specific law</li> </ul>	No information
THA	<ul style="list-style-type: none"> <li>- Included in child-specific law</li> <li>- Regular review of pre-trial detention by Juvenile Observation and Protection Centre</li> <li>- Release from pre-trial detention rarely occurs in practice</li> </ul>	<ul style="list-style-type: none"> <li>- Included in child-specific law</li> <li>- Often used in practice</li> </ul>	<ul style="list-style-type: none"> <li>- Child-specific law provides for early (conditional) release</li> <li>- Early (conditional) release occurs often</li> <li>- Monitoring of children released</li> </ul>
VIE	<ul style="list-style-type: none"> <li>- Included in general law</li> <li>- No regular review of pre-trial detention</li> <li>- Scale of release from pre-trial detention unknown</li> </ul>	<ul style="list-style-type: none"> <li>- Included in general law</li> <li>- Rarely used for criminal system but often used for administrative system</li> </ul>	<ul style="list-style-type: none"> <li>- General law provides for early (conditional) release</li> <li>- Regular review of post-trial detention</li> <li>- Early (conditional) release often occurs</li> <li>- Monitoring of children released</li> <li>- Minor offences by children are dealt with under administrative law and do not carry a custodial sentence</li> </ul>

## Case study examples

### **Indonesia: Positive impacts of the 2014 Juvenile Justice Law**

Indonesia enacted a new Juvenile Justice Law in August 2014, which brings Indonesian law into line with international best practice in justice for children. With support from UNICEF the Government of Indonesia has taken action to ensure implementation of the provisions of the law at national and sub-national levels and to promote the Juvenile Justice Law's main principle which is to divert children in conflict with the law away from the formal criminal justice system.

Since the adoption of the Juvenile Justice Law, more than half of cases involving children in conflict with the law were diverted from the formal criminal justice system; enabling children to benefit from special assistance and care rather than detention. From January to December 2016, the number of children in prisons has reduced to less than 3,000. Prior to the implementation of the law, more than 5,000 children were in prisons annually. Continuing support at sub-national level is addressing gaps including strengthening the capacity of children, family and community members to prevent children being in conflict with the law, to support diversion and restorative justice programmes, and to support rehabilitation and reintegration of children.

### **Viet Nam: first specialised children's court in the country**

In 2015 the Government of Viet Nam made significant amendments to the Penal Code which are due to come into force in 2017. The amendments substantially shift the national criminal approach to children in conflict with the law by introducing new diversion measures, broadening alternatives to detention, limiting criminal records for juvenile offenders to facilitate better reintegration and introducing parole as a new mechanism for early release of juvenile offenders. Children in conflict with the law are dealt with through the administrative system for petty offences in which the penalty is generally a warning or referral to community-based education, while the criminal system which results in a criminal record and may lead to incarceration is reserved for more serious offences. Under the administrative system, sentenced children are permitted to stay with their families, and are given obligations related to study, labour and rehabilitation which are supervised by local officials. The president of a local People's Committee is required under administrative law to hold a meeting with local officials and the child's family, and to identify a local organization which will carry out the required education and report on progress of the child to the People's Committee on a monthly basis. At the end of the sentence the People's Committee issues a certificate.

In relation to criminal cases involving children, the first Family and Juvenile Court at provincial level was established in April 2016 in Ho Chi Minh City, which is the first specialized court for children in the country, and which provides an alternative to the adult criminal justice system. The Law on Court Organization 2014 provides that the Family and Juvenile Court shall be established at the levels of the district, province and High Court. The Supreme Court plans to expand the court to all provinces of the country.



# ACTION 4: CAPACITY BUILDING

## 9. Advocacy materials to generate awareness and support ending violence against children

**Action: Develop advocacy materials for various audiences (e.g., parliamentarians, helpline personnel, emergency responders, humanitarian actors, community leaders, leaders of faith-based organisations, people in business, relevant public employees, prosecutors, law enforcers and, media staff and civil society organisations) to generate awareness and support EVAC. (National)**

**Indicator 9:**<sup>70</sup> Number of AMS that develop and disseminate advocacy materials for various audiences to generate awareness and support to EVAC (by content and medium, i.e. handbook, online training, etc.).

**Baseline:** 5 (partly/ under development)

## Discussion

The process of changing attitudes, traditions, customs and practices that condone and promote violence against children must take place at all levels of society. One of the core recommendations of the UN Study on Violence against Children was to enhance the capacity of all who work with and for children. The UN Study recommended initial and in-service training which imparts knowledge and respect for children's rights should be provided, as well as investment in systematic education and training programmes both for professionals and non-professionals who work with or for children and families to prevent, detect and respond to violence against children. Codes of conduct and clear standards of practice, incorporating the prohibition and rejection of all forms of violence, should be formulated and implemented.<sup>71</sup>

The Committee on the Rights of the Child has similarly recommended that part of States parties' obligations to implement article 19 of the Convention on the Rights of the Child includes, professionals and Government should be provided initial and in-service general and role-specific training (including inter-sectoral where necessary) on a child rights approach to article 19 and its application in practice. This applies to all professionals and non-professionals working with, and for, children (including teachers at all levels of the educational system, social workers, medical doctors, nurses and other health professionals, psychologists, lawyers, judges, police, probation and prison officers, journalists, community workers, residential caregivers, civil servants and public officials, asylum officers and traditional and religious leaders). States parties should also develop officially recognized certification schemes in association

<sup>70</sup> The indicator for priority action 9 in the RPA-EVAC reads: "*Number of advocacy materials developed*". The indicator for the purposes of the baseline measures the number of AMS that have developed and disseminated advocacy materials, in order to focus in on the type (and quality) of the materials and emphasise the importance of a dissemination strategy for the materials, as well as to align with the other indicators which all measure the "*Number of AMS...*".

<sup>71</sup> UN General Assembly, 'Report of the independent expert for the United Nations study on violence against children', A/61/299, 29 August 2006, [101], <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>, last accessed 23 November 2016.

with educational and training institutions and professional societies in order to regulate and acknowledge such training. And, States should ensure that the Convention is part of the educational curriculum of all professionals expected to work with and for children.<sup>72</sup>

As of December 2016, five ASEAN Member States (**Cambodia, Indonesia, Lao PDR, Thailand and Viet Nam**) have developed, or are the process of developing, advocacy materials for various audiences to generate awareness and support to end violence against children. In most countries, detailed information about the content of materials and dissemination is not yet available. In a number of countries, advocacy materials reported overlap with the materials created for the general public and captured under Indicator 2. For example, **Indonesia's** 'Three Ends' and '*Bersama Lindungi Anak*' campaigns, led by the Ministry of Women Empowerment and Child Protection, includes the development of advocacy materials. **Lao PDR's** #ENDviolence campaign targets the general public including policy makers. In **Cambodia** and the **Philippines**, the development of communications campaigns, which include advocacy materials, are under development. Cambodia is in the process of developing a C4D and communication for behaviour change campaign strategy to prevent violence against children and unnecessary family separation. This will include advocacy materials for different audiences. The Philippines plans to develop a national campaign anchored on the results of the National Baseline Study on Violence against Children.

Advocacy materials also include those curricula and reference material developed for different audiences. During 2016, in **Thailand**, for example, the Ministry of Social Development and Human Security developed curriculum and reading materials on positive discipline for parents. The Ministry of Public Health developed communication materials on positive parenting. The Royal Thai Police developed training for trainer curriculum on child protection for police trainers and instructors. The Office of the Attorney-General developed a reference manual on child protection. The Ministry of Justice has plans for 2017 to develop advocacy materials to promote the elimination of violence in justice settings. In **Viet Nam**, the Ministry of Labour, Invalids and Social Affairs completed the Study on the Drivers of Violence Affecting Children. The report has been used for advocacy for policy and programming. The Ministry of Labour, Invalids and Social Affairs also completed a legal review, literature review, and capacity gap assessment on online child abuse and exploitation, which were used to develop an advocacy note to end online child sexual abuse and exploitation.

## Case study example

### Lao PDR: Violence against children communication initiatives

In June 2015 the Government of Lao PDR and UNICEF renewed their commitment to #ENDViolence against children in Lao PDR. The National Commission for Mothers and Children (NMC) under the Prime Minister's Office, and the Ministry of Information, Culture and Tourism, with the support of UNICEF, developed and disseminated information, education and communication materials as part of the national campaign to end violence against children. The communication materials were all approved by the Deputy Prime Minister, and included billboards and posters, TV and radio spots, t-shirts, tote bags, and stickers. In an innovative plan to spread and strengthen #ENDViolence messaging, NMC and UNICEF invited a number of popular celebrities to engage people through social media, using Lao PDR's rapidly developing online connectivity to amplify UNICEF's reach and engage young people in the campaign.

72 Committee on the Rights of the Child, 'General comment No. 13 (2011): The right of the child to freedom from all forms of violence', CRC/C/GC/13, 18 April 2011, [45].



# ACTION 5: RESEARCH AND DATA COLLECTION

## 10. National systems for data collection, analysis and sharing

**Action: Develop and strengthen national system for disaggregated data collection, analysis, sharing and dissemination on VAC using international indicators and research protocols including survey and administrative data, to be used for policy, formulation, planning and programme development on EVAC. Ensure that the data is regularly updated and analysed. (National)**

**Indicators:**<sup>73</sup>

**10.A** Number of AMS using survey data in national policy documents on VAC.

**Baseline:** 5

**10.B** Number of AMS with reliable and consistent national system for consolidation of data on VAC.

**Baseline:** 5 (partly/ under development)

**10.C** Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.

**Baseline:** 4 (partly)

## Discussion

It is essential to know about violence – where it occurs, in what forms, and which age groups, genders and communities of children are most affected – to effectively plan and design intervention strategies. Likewise, in order to monitor progress and end violence, measurement of numerical and time-bound targets must be set.<sup>74</sup> One of the core recommendations of the UN Study on Violence against Children – followed up in several of the Committee on the Rights of the Child’s recent reports to AMS – was to develop and implement systematic national data collection and research. Specifically, the UN Study recommended that States improve data collection and information systems in order to identify vulnerable subgroups, inform policy and programming at all levels, and track progress towards the goal of preventing violence against children. The UN Study also recommended States use national indicators based on internationally agreed standards, and ensure that data is compiled, analyzed and disseminated to monitor progress over time. Where not currently in place, the UN Study recommended States create and maintain birth, death and marriage data registries with full national coverage. It also recommended that States create and maintain data on children without parental care and children in the criminal justice system. Data should

<sup>73</sup> The indicator for priority action 10 in the RPA-EVAC reads: “*Number of countries with disaggregated data on VAC*”. The indicators for the purposes of the baseline seek to capture all aspects of the action and are adapted from Domain 4 (Statistics and information) in UNICEF EAPRO, ‘Measuring and monitoring child protection systems: Proposed regional core indicators for East Asia and the Pacific’, 2012, pp. 45-48.

<sup>74</sup> UNICEF, ‘Ending violence against children: Six strategies for action’, September 2014, p. 12.



be disaggregated by sex, age, urban/rural, household and family characteristics, education and ethnicity. Finally, States should develop a national research agenda on violence against children across settings where violence occurs, including through interview studies with children and parents, with particular attention to vulnerable groups of girls and boys.<sup>75</sup> The Committee on the Rights of the Child has reiterated these recommendations and stated that States should establish a comprehensive and reliable national data collection system in order to ensure systematic monitoring and evaluation of systems (impact analyses), services, programmes and outcomes based on indicators aligned with universal standards, and adjusted for and guided by locally established goals and objectives.<sup>76</sup> These recommendations are echoed in reports on a number of ASEAN Member States and the Committee on the Rights of the Child has specifically asked States to provide information concerning their implementation of the overarching recommendations from the UN Study on Violence against Children in their next report.

As of December 2016, five ASEAN Member States (**Cambodia, Indonesia, the Philippines, Thailand and Viet Nam**) are using survey data, at least to some extent, in national policy documents on violence against children. Five ASEAN Member States (**Cambodia, Malaysia, the Philippines, Thailand and Viet Nam**) are developing or strengthening a system for consolidating data on violence against children. Five ASEAN Member States (**Cambodia, Lao PDR, the Philippines, Thailand and Viet Nam**) can disaggregate data on VAC, at least by gender.

**Table 14: Country-by-country progress for Indicator 10**

	BRN	CAM	IDN	LAO	MYS	MMR	PHI	SGP	THA	VNM
A. Using survey data in national policy documents on VAC	○	●	●	●	●	○	●	○	●	●
B. Reliable and consistent national system for consolidation of data on VAC	○	●	○	○	●	○	●	○	●	●
C. Data on VAC disaggregated such as by age, ethnicity, gender and disability status	○	●	○	●	○	○	●	○	●	●

Key ○ Information not available  
 ○ Not yet  
 ● Partly/ Under development  
 ● Implementation underway

There is evidence that the national prevalence studies on violence against children, carried out in **Cambodia, Indonesia, Lao PDR** and the **Philippines**, are being – or will be – used for the development of national policy. For example, in **Cambodia**, the data from the 2013 survey has been used for the Ministry of Education, Youth and Sports' Child Protection Policy, the Core Commitments of 13 Ministries Members of Steering Committee on Violence against Children, the Positive Parenting Strategy, and the Violence against Children Action Plan (expected to be launched in early 2017). Likewise, **Indonesia's** Strategy to Prevent Violence in Childhood (2016–2020) was informed by evidence including the 2013 Violence against Children Survey data. The **Philippines** launched its National Baseline Study on Violence against Children in December 2016 and the Government plans to finalize its national plan of action based on the data. Likewise, in mid-2016, **Lao PDR** released the preliminary findings of its first Violence against Children Survey carried out in late 2014. The preliminary report noted the Government's intention to use

<sup>75</sup> UN General Assembly, 'Report of the independent expert for the United Nations study on violence against children', A/61/299, 29 August 2006, [107], <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>, last accessed 23 November 2016.

<sup>76</sup> Committee on the Rights of the Child, 'General comment No. 13 (2011): The right of the child to freedom from all forms of violence', CRC/C/GC/13, 18 April 2011, [42].

the findings to inform violence prevention, early intervention and response, and to implement the National Plan of Action on the Prevention and Elimination of Violence against Women and Violence against Children (2014-2020). **Viet Nam** has used data from other important surveys including the Multiple Indicator Cluster Surveys, Viet Nam Child Labour Survey 2012, Young Lives research initiative, and Study on the Drivers of Violence Affecting Children, among others, to inform the development of the Child Law 2016, the National Programme on Child Protection (2016-2020), National Programme on the Prevention of Child Labour (2016-2020) and draft National Programme on Child Online Protection (2017-2020). **Thailand** has used data from many agencies to present the national situation of violence against children for the development of the Child Protection Strategy (2017-2021).

Reliable and consistent national systems for consolidation of data on violence against children are still under development in the region. The ACWC report, 'Assembling the future: Child protection system in AMS, a baseline study', identified a clear need for a better information management systems noting many reports were incomplete, scattered, neglected, and even physically damaged due to the lack of clear and adequate centralized databases.<sup>77</sup> In **Cambodia**, for example, different ministries collect different data on violence against children, for example, through the commune database, Cambodian National Police database and the Education Management Information System. The National Institute of Statistics and the Ministry of Social Affairs, Veterans and Youth Rehabilitation have agreed to work together to develop a centralized Child Protection Information System and a concept note has been drafted. In **Thailand**, there is also work underway to develop an online database to consolidate available information on violence against children from various agencies, including the Ministry of Interior, Ministry of Public Health, Ministry of Education, Ministry of Social Development and Human Security and the Ministry of Justice. This is being undertaken by Mahidol University on behalf of the Secretariat of the National Child Protection Committee. In the **Philippines**, the Committee on the Rights of the Child has welcomed the Council for the Welfare of Children's 'Subaybay Bata Monitoring System' linked to the major national government agencies. In **Viet Nam**, the Child Protection Bureau has set up an electronic system to collect data at community to central level. However, it is still faced with the challenge of ensuring accuracy and quality of data. Only a few provinces have child protection village collaborators whose role includes data collection. As such, data on violence against children is largely derived from police records and incomplete.

Data on violence against children in **Cambodia** and **Thailand** is currently disaggregated by age and gender, but not on ethnicity and disability status. In **Viet Nam**, administrative data on violence is disaggregated by types of violence, age, gender and province, but not by ethnicity and disability status. The Committee on the Rights of the Child has stressed the importance of disaggregation in order to facilitate analysis on the situation of all children.

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77 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 429.

## Case study example

### **Cambodia, Lao PDR, and Philippines VAC survey data used to develop NPAs on VAC**

Cambodia's Violence against Children Survey (2013) data has been used in national policy documents on violence against children, including the Child Protection Policy in schools which was recently adopted by the Ministry of Education, Youth and Sport as part of a collaboration with the Cambodia National Council for Children and Plan International. The 2013 survey data was also used as the basis for a set of Core Commitments made by the Cambodian Government, with specific commitments including in relation to data collection on VAC from each of thirteen Ministries which are members of a Steering Committee on Violence Against Children. These core commitments will form the basis of a costed national multi-sectoral action plan to prevent and respond to violence against children in Cambodia.

In late 2014, Lao PDR conducted its first national Violence against Children Survey. The survey was conducted by the Ministry of Planning and Investment, through the Lao Statistics Bureau, and the National Commission for Mothers and Children, in collaboration with the Ministry of Labour and Social Welfare and the Lao Women's Union, with support from UNICEF and the Centers for Disease Control and Prevention. The preliminary report released in mid-2016 noted the Government's intention to use the findings to inform violence prevention, early intervention and response, and to implement the National Plan of Action on the Prevention and Elimination of Violence against Women and Violence against Children (2014-2020).<sup>78</sup>

In December 2016 the Philippines launched the results of its first ever National Baseline Study on Violence against Children and the Government has finalised its Philippine Plan of Action to end Violence against Children: 2017-2022 (PPAEVAC) based on the survey. The PPAEVAC systematically translates the findings of the 2015 National Baseline Study on Violence against Children into action. It serves as the Philippines' collective response both to specific NBS-VAC recommendations and to the Systematic Literature Review of the Drivers of Violence Affecting Children undertaken by the Child Protection Network (CPN) and UNICEF on the same year. The Council for the Welfare of Children will use the study results to drive policy reforms and improve child protection mechanisms, and to enable stronger cooperation between government and NGO partners as program

<sup>78</sup> Lao Statistics Bureau, National Commission for Mothers and Children, and UNICEF, 'Violence against children survey in Lao PDR: Preliminary report', p. i, [https://www.unicef.org/laos/VAC\\_preliminary\\_report\\_ENG\\_FINAL\\_-\\_30\\_May\\_2016.pdf](https://www.unicef.org/laos/VAC_preliminary_report_ENG_FINAL_-_30_May_2016.pdf), last accessed 1 December 2016.



# ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

## 11. National plans of action to eliminate all forms of violence against children

**Action:** Develop and/or strengthen national plan of actions to eliminate all forms of VAC with participation of all relevant stakeholders, including children, at all stages of the process and ensure coordinating mechanism for its implementation. (National)

**Indicator 11:**<sup>79</sup> Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.

**Baseline:** 1 (implementation underway); 2 (partly – no child participation); 2 (under development); 5 (not yet started)

## Discussion

One of the core recommendations from the 2006 UN Study on Violence against Children was for States to develop a multifaceted and systematic framework to respond to violence against children that is integrated into national planning processes. The UN Study recommended the formulation of a national strategy, policy or plan of action with “*realistic and time-bound targets, coordinated by an agency with the capacity to involve multiple sectors in a broad-based implementation strategy*”.<sup>80</sup> In recognition of the challenges in the implementation, monitoring, evaluation and follow up of national plans of action, the Committee on the Rights of the Child has recommended States adopt a more feasible and flexible ‘coordinating framework on violence against children’ for all child rights-based measures to protect children from violence in all its forms

79 The indicator for priority action 11 in the RPA-EVAC reads: “*Number of AMS with national plans of action on EVAC developed/ strengthened with participation of all relevant stakeholders including children at all stages of the process with a coordinating mechanism for implementation*”. Taking note of the guidance of the Committee on the Rights of the Child in its ‘General comment No. 13 (2011): The right of the child to freedom from all forms of violence’ the indicator for the purposes of the baseline includes the option for a coordinating framework on VAC which can be used in place of national plans of action where these do not yet exist or where they are proving unwieldy.

80 UN General Assembly, ‘Report of the independent expert for the United Nations study on violence against children’, A/61/299, 29 August 2006, [96], <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>, last accessed 23 November 2016.

and to support a protective environment. This can be used in place of national plans of action where these do not yet exist or where they are proving unwieldy. Where national plans of action are being effectively implemented already, the coordinating framework can complement those efforts, stimulate discussion and generate new ideas and resources to improve their functioning.<sup>81</sup>

Such a coordinating framework can provide a common frame of reference and a mechanism for communication among Government ministries and also for State and civil society actors at all levels.<sup>82</sup> Given the different starting points for different countries and the highly challenging nature of protecting children from violence, the Committee on the Rights of the Child has emphasized that there is no single model for such coordinating framework – some countries invest in a discrete system of protecting children while others prefer to integrate protection issues into mainstream systems of implementing children’s rights.<sup>83</sup> In any case, national planning should be a transparent and inclusive process, with full disclosure to the general public and assurance of the involvement of Government, NGOs, research and professional practice experts, parents and children. The Committee has advised that the national coordinating framework should be fully costed and financed, including human and technical resources, and presented, if possible, within the national child budget.<sup>84</sup>

As of December 2016, three ASEAN Member States (**Indonesia, Lao PDR and Thailand**) have a national plan of action to address violence against children, with plans of action under development in **Cambodia** and the **Philippines**. **Indonesia’s** plan was developed with participation of stakeholders, including inputs from children, and mechanisms to enable stakeholder participation in its implementation are being developed.

**Table 15: Country-by-country status of national plans of action or national coordination framework**

	<b>Status of national plan of action or national coordination framework</b>
BRN	-
CAM	<i>Final stages of development:</i> Inter-ministerial Violence against Children Action Plan, expected to be launched in early 2017
IDN	<i>Launched:</i> Strategy to Prevent Violence in Childhood (2016-2020) Coordinating board for implementation being established
LAO	<i>Launched:</i> National Plan on the Protection and Elimination of Violence against Women and Children (2014-2020)
MYS	<i>Under development:</i> In the process of stocktaking existing policies and programmes in order to review and redevelop a National Policy on Children. The new policy is targeted to be developed in 2018 and will combine several existing policies relating to children into one comprehensive document.
MMR	-
PHI	<i>Under development:</i> National Action Plan to address violence against children, expected to be finalized in early 2017
SGP	-
THA	<i>Launched:</i> Policies and Strategies for the Prevention and Responses to Violence against Children and Youth (2015-2021)
VNM	-

81 Committee on the Rights of the Child, ‘General comment No. 13 (2011): The right of the child to freedom from all forms of violence’, CRC/C/GC/13, 18 April 2011, [68].

82 Ibid., [69].

83 Ibid., [70], [71].

84 Ibid., [71].

In January 2016, **Indonesia's** Ministry of Coordination launched the Strategy to Prevent Violence in Childhood (2016-2020). The Strategy was developed with inputs from multiple line ministries and focus groups with local government at subnational levels. Civil society partners were also active in the design and have formed an informal network to consolidate inputs to the Government proposing support for future implementation of the Strategy. Indonesia's Strategy reflects inputs of thousands of children consulted through the U-report online platform, as well as focus group discussions and various social media outreach activities supported by youth networks. **Lao PDR** has a National Plan on the Protection and Elimination of Violence against Women and Children (2014-2020), developed with participation of relevant stakeholders, although there was no mechanism for children's participation. **Thailand's** Policies and Strategies for the Prevention and Responses to Violence against Children and Youth (2015-2021) is intended to serve as a master plan for agencies concerned, both at national and local levels.

**Cambodia's** Ministry of Women's Affairs is currently finalizing the inter-ministerial Violence against Children Action Plan, which should be launched in early 2017. Adolescent and youth representatives from 16 NGOs and CSOs have regularly participated in the development of the Plan. It is reportedly a comprehensive action plan with a clear monitoring and evaluation framework. The **Philippines** recently launched its first national prevalence survey of violence against children. The Council for the Welfare of Children is currently developing a National Plan of Action in response, to be finalized in early 2017.

While **Brunei Darussalam, Malaysia, Myanmar, Singapore** and **Viet Nam** have not yet started the development of a national coordinating framework or national plan of action to end violence against children, there are some related policies and action plans in place. For example, **Malaysia's** National Child Policy and Action Plan (2009-2015), National Child Protection Policy and Action Plan (2009-2015) and Child Online Protection Action Plan 2015, and **Viet Nam's** National Action Plan for Children (2012-2020) and National Programme on Child Protection (2016-2020).

**Malaysia's** Ministry of Women, Family and Community Development is currently in the process of stocktaking existing policies and programmes in order to review and redevelop a National Policy on Children. The new policy is targeted to be developed in 2018 and will combine several existing policies relating to children into one comprehensive document. The policy is also proposed to be accompanied by a detailed Plan of Action on Children. MWFCD has carried out preliminary consultations with UNICEF on this project. The framework of the new policy is proposed to be based on the four pillars of the Convention on the Rights of the Child (CRC).<sup>85</sup>

85 The four pillars of the CRC are: (i) survival, health and development; (ii) education; (iii) protection; and (iv) participation and responsible citizenship

# Case study example

## Indonesia: Process of developing national strategy to end VAC

The Government of Indonesia has included ending violence against children as one of the priorities in the National Medium Term Development Plan (RPJMN) 2015-2019 and aims to decrease prevalence of violence by 2019. To support this goal the Government of Indonesia adopted the National Strategy on the Elimination of Violence against Children 2016 – 2020 in January 2016. The strategy is evidence base and was developed with inputs from multiple stakeholders including from thousands of children consulted across the country.

The strategy underscores efforts to provide a system of protection from various acts of violence and other maltreatment by optimizing efforts of prevention, response, and rehabilitation of children, women, and marginal groups. It is guided by six strategies and a two-step implementation plan for national level dissemination and prioritization, and sub-national level with identification of 'pathfinder' provinces and districts that can lead the way in solutions to ending violence. Implementation of the National Strategy is also guided and aligned with Indonesia's commitment to implement the ASEAN Regional Plan of Action on the Elimination of Violence against Children. In addition children and young people are actively engaged in the dissemination of the national strategies, and in its monitoring and evaluation.

## 12. Coordination mechanism for disasters and conflict situation

**Action: Create or incorporate a coordination mechanism into existing structures to prevent and respond to VAC in disasters and conflict situations. (National)**

**Indicator 12:**<sup>86</sup> Number of AMS that include VAC in emergency-response programming.

**Baseline:** Full information not available

## Discussion

Children in emergencies are extremely vulnerable to violence. A consequence of social and armed conflicts, natural disasters and other complex and chronic emergencies is that social systems collapse, children become separated from their caregivers and caregiving and safe environments are damaged or even destroyed.<sup>87</sup> The Committee on the Rights of the Child has explained that the situation of children in emergencies is one element to be mainstreamed into national coordinating frameworks on violence against children – across the measures (legislative, administrative, social and educational) and stages of intervention (from prevention through to recovery and reintegration).<sup>88</sup>

86 The indicator for priority action 12 in the RPA-EVAC reads: "Number of AMS with coordination mechanisms at national and local levels that prevent and respond to VAC in disasters and conflict situations". Action 11 above already captures national coordination mechanisms for VAC. These pre-existing mechanisms will support and/or lead VAC prevention and response during disasters and conflict situations. As such, for the purposes of the baseline, the indicator will measure whether VAC is included in emergency response programming.

87 Committee on the Rights of the Child, 'General comment No. 13 (2011): The right of the child to freedom from all forms of violence', CRC/C/GC/13, 18 April 2011, [72].

88 Ibid., [72].



During times of emergency, a national child protection system will need to be adaptable, able to refine its function and form to meet new challenges. In practice, this requires that the social welfare or child protection workforce is trained to respond to emergency contexts and is able to find solutions based upon their experience within the national system. There are a range of child protection concerns that are associated with emergencies and violence against children is one of those concerns. Girls and boys are at increased risk of sexual violence including rape, incest, molestation, trafficking and early or forced marriage – particularly when populations are displaced. There is also evidence that indicates that levels of violence, including against children, increases during times of elevated stress within households and communities – particularly in emergencies.<sup>89</sup>

As of December 2016, it was not clear how many ASEAN Member States included violence against children as part of emergency-response programming. In **Cambodia**, the Child Protection in Emergency Contingency Plan of the Ministry of Social Affairs, Veterans and Youth Rehabilitation was adopted in 2013 and is updated annually. In **Indonesia**, the Ministry of Social Affairs has been leading the National Cluster on Protection and Displacement over the last two years, which includes a sub-cluster on child protection. Raising awareness and responding to violence against children is included in the response, which often focuses on psychosocial interventions. Indonesia has a Child Protection Rapid Response Team, a national mechanism under the Ministry of Social Affairs, which can be deployed at onset of any disaster and includes rotation of specialists across country that have regular access to skills building activities. In **Lao PDR**, violence against children is included in the Protection Cluster Response Plan, which aims to ensure that the most vulnerable groups affected by the disaster are protected from violence, abuse, and exploitation (and extended trauma) and the risks of UXO. The Child Protection Emergency Cluster is co-chaired by the Department of Disaster Management and Climate Change and UNICEF.

Although there is no dedicated policy relating to VAC in disaster/ conflict situations, **Malaysia** has emphasized the capacity building of officers at the district level to handle child protection cases effectively, including in disaster/ conflict situations. Pursuant to the Child Act 2001 (as amended in 2016), two operational teams were established under the National Council for Children: the Child Protection Team; and the Child Welfare Team. These are both multi-disciplinary teams focused on prevention and protection of children in need of care and protection; and on children in conflict with the law respectively. In addition, the Child Care and Protection Unit (CCNPU) project was developed in cooperation between the Department of Social Welfare and UNICEF focusing on best practices in handling high risk child abuse and neglect cases using professional and structured case management.

The **Philippines** has enacted landmark legislation to protect the rights of children affected by disasters and other emergencies. The Children's Emergency Relief and Protection Act mandates the Department of Social Welfare and Development to establish a comprehensive emergency programme to enhance the provision of humanitarian and protection assistance. The Philippines also has a National Strategic Plan for Child Protection in Emergencies (2014-2016). Child protection is not yet reflected clearly in **Viet Nam's** emergency preparedness and response plans. To date, very limited social services have been available to support children during and after emergencies, due to the lack of a rapid response team or deployable child protection specialists at the local level.

89 This paragraph is based on Swales, DM and Meikle, A, 'Child protection systems: Theory and practice guidance' produced for UNICEF EAPRO, unpublished, January 2016, pp. 74-5.

## Case study example

### **Philippines: National strategic plan for child protection in emergencies**

In May 2016, the Philippines enacted the Children's Emergency Relief and Protection Act – landmark legislation to protect the rights of children affected by disasters and other emergencies. The Act mandates the Department of Social Welfare and Development to establish a Comprehensive Emergency Program for Children (CEPC) to enhance the provision of life-saving humanitarian and protection assistance to vulnerable children in emergencies particularly orphaned, separated, and unaccompanied children, children with disabilities, and children in shelters. The Act calls for the establishment of child friendly spaces, transitory care for children, civil documentation and training of emergency responders on child protection. The Philippines also has a National Strategic Plan for Child Protection in Emergencies (2014-2016). This 2017, the Philippine Government has initiated the development of CEPC, which shall be used as the basis for handling disasters and other emergency situations to protect children, pregnant and lactating mothers, and support their immediate recovery. The CEPC shall be implemented immediately after the declaration of a national or local state of calamity or occurrence of any other emergency situation, and serves as the guiding document to implement the salient features of the law and its corresponding implementing rules and regulations.



# ANNEXES

## COUNTRY SUMMARY: BRUNEI DARUSSALAM

### ACTION 1: PREVENTION

1. Non-violent approach to nurture, care, for the development of children in all settings

**Indicator 1.B.** Number of AMS that contextualise the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.

**Baseline status:** Unknown

2. Awareness raising and behaviour change communications on all forms of violence against children

**Indicator 2.** Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.

**Baseline status:** Partly/ Under development

Brunei Darussalam conducts awareness campaigns and parenting skills programmes to educate the public and parents on alternative forms of discipline.<sup>90</sup> In 2016, the Committee on the Rights urged Brunei Darussalam to: “Introduce sustained public education, awareness-raising and social mobilization programmes, involving children,

90 Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 Brunei Darussalam, A/HRC/WG.6/19/BRN/1, 30 January 2014, [42].

families, communities and religious leaders, on the harmful physical and psychological effects of corporal punishment with a view to changing the general attitude towards that practice, and promote positive, non-violent and participatory forms of child-rearing and discipline as an alternative to corporal punishment.”<sup>91</sup>

### 3. Deinstitutionalization of children and strengthening alternative family care services

**Indicator 3.** Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).

**Baseline status:** Partly/ Under development

Brunei Darussalam has a legislative framework in place for adoption and guardianship. There was no information about kinship care in Brunei Darussalam. The Government implements a Temporary Foster Care Scheme, which is aimed at giving the children who are in need of protection and care, a placement with a family institution where the children will receive love, guidance, and attention. There are reportedly proper guidelines in place to ensure the eligibility of the temporary foster parents.<sup>92</sup>

**Table 16: Summary of legal/policy frameworks for alternative family care in Brunei Darussalam**

<b>Adoption</b>	<ul style="list-style-type: none"> <li>- Adoption of Children Act (2010)</li> <li>- Islamic Adoption of Children Act (2010)</li> <li>- Not yet a contracting State to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption</li> </ul>
<b>Kinship care</b>	- No information
<b>Foster care</b>	- Temporary Foster Care Scheme
<b>Legal guardianship</b>	<ul style="list-style-type: none"> <li>- Guardianship of Infants Act (2000) (does not apply if any of the parties professes the Islamic religion)</li> <li>- Islamic Family Law (Amendment) Order 2010</li> </ul>

In 2016, the Committee on the Rights of the Child noted its concern about the lack of information on the implementation of the Temporary Foster Care Scheme, as well as about the lack of an independent complaint mechanism for children in care.<sup>93</sup> The Committee recommended that Brunei Darussalam support and facilitate family-based care for children wherever possible, with a view to reducing the institutionalization of children; ensure the periodic review of the placement of children in foster care and institutions, and monitor the quality of care including by providing channels, accessible to children, for reporting, monitoring and remedying child maltreatment; ensure that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services, in order to facilitate the rehabilitation and social reintegration of children to the greatest extent possible.<sup>94</sup>

91 Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Brunei Darussalam, CRC/C/BRN/CO/2-3, 24 February 2016, [40](c).

92 Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 Brunei Darussalam, A/HRC/WG.6/19/BRN/1, 30 January 2014, [39]

93 Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Brunei Darussalam, CRC/C/BRN/CO/2-3, 24 February 2016, [47].

94 Ibid., [48].

## 4. Preventing violence against children in cyberspace

**Indicator 4.** *Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).*

**Baseline status:** *Partly/ Under development*

Brunei Darussalam established a Child Online Protection National Strategy Framework in March 2013, consisting of a sound research base and monitoring system; capacity building for raising awareness; strengthening existing legal measures; international cooperation; and working with relevant industries. In compliance with the International Telecommunication Union (ITU) Child Online Protection (COP) global initiative, the Framework will address the practical and effective measures for tackling children online based on the five pillars of the ITU COP, namely: Legal Measures; Technical and Procedural Measures; Organisational Structures; Capacity Building; and International Cooperation.<sup>95</sup> No information was available about its implementation.

There are nationwide cybersafety school programme implemented by Ministry of Education, Royal Brunei Police Force, the Authority for Info-communications Technology Industry of Brunei Darussalam and BruCERT. The Ministry of Religious Affairs has also played a role in awareness-raising through Friday sermons. The Ministry of Education is integrating cybersecurity awareness into the school curriculum.<sup>96</sup> No information was available about the scope, extent or impact of these programmes.

There are frameworks and processes in place for industry to contribute towards preventing online violence. All service providers licensed under the Broadcasting (Class License) Notification 2001 are bound by the Internet Code of Practice Notification 2001 and must “*use their best efforts*” to ensure Internet content does not offend “*good taste or decency*” (section 2). Specific reference is made to contents that “*are pornographic or otherwise obscene*”, “*propagate permissive or promiscuous behaviour*”, “*depict or propagate gross exploitation of violence, nudity, sex or horror*” or “*depict or propagate sexual perversions*” such as “*paedophilia*” (section 2(c)). Service providers must take down content if informed by the Minister responsible for broadcasting matters that it is contrary to an applicable Code of Practice, against the public interest or offends against good taste or decency pursuant to the Broadcasting (Class License) Notification 2001 (section 14). Section 9 of the Electronic Transactions Act 2001 (Chapter 196) governs data collection, but it is unclear if these provisions apply to the online child sexual abuse offenses in the Penal Code. Under the Broadcasting (Class License) Notification 2001, service providers must assist and cooperate (including by providing any data) in the investigation into any breach of its licence or any alleged violation of any law (section 8). No information was available about the implementation of these regulations.

95 Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 Brunei Darussalam, A/HRC/WG.6/19/BRN/1, 30 January 2014, [107].

96 [http://www.aiti.gov.bn/news/allnews/Pages/Handover-ceremony-of-Child-Online-Protection-\(COP\)-framework.aspx](http://www.aiti.gov.bn/news/allnews/Pages/Handover-ceremony-of-Child-Online-Protection-(COP)-framework.aspx), last accessed 19 September 2016

## ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

### 5. Child and gender sensitive reporting and complaint mechanism

**Indicator 5.** *Number of AMS providing child- and gender- sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances (by type and by setting).*

**Baseline status:** *Partly/ Under development*

Child Helpline, trained school counsellors, health personnel, emergency police line (993) and village leaders can receive reports of violence against children.<sup>97</sup> No information was available about the extent to which these services are child- and gender-sensitive. Within the correctional system, the Youthful Offenders (Places of Detention) Rules provides that a child may request to see the warden or other member of staff to make a complaint.<sup>98</sup> No information was available about the extent to which this is child- and gender-sensitive. There is no National Human Rights Institution. It is not clear if children have procedural capacity to initiate court proceedings.<sup>99</sup> Brunei Darussalam is not yet a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

### 6. Protective and supportive services for children affected by violence

**Indicator 6.** *Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).*

**Baseline status:** *Partly/ Under development*

The Children's Division of the Department of Community Development, under the Ministry of Culture, Youth and Sports, is the lead agency for child protection. Its functions include to provide protection facilities for children; avenues of complaints accessible for children; and rehabilitation services including counselling for children and related family members.<sup>100</sup> The Children's Division operates as the Secretariat for the Action Teams for the Protection of Children established under the Children and Young Persons Order 2006. The Action Team are mandated to coordinate locally-based services to families, children and young persons in cases where children or young persons are or are suspected of being in need of protection (Children and Young Persons Act, section 13).

The Children and Young Persons Order 2006 specifies protective and supportive interventions that may be used, namely: protective custody while awaiting court appearance (section 56); court order to place a guardian on a behaviour bond, to place the child in the custody of a 'fit person', under the supervision of

97 Committee on the Rights of the Child, 'Combined second and third periodic reports of States parties due in 2008, Brunei Darussalam', CRC/C/BRN/2-3, 13 July 2015, [121]-[126].

98 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 64.

99 White & Case LLP, 'Access to Justice for Children: Brunei Darussalam,' January 2015, p. 3, [https://www.crin.org/sites/default/files/brunei\\_access\\_to\\_justice.pdf](https://www.crin.org/sites/default/files/brunei_access_to_justice.pdf).

100 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 66.

a protector, in a place of safety, or in custody of a foster-parent (section 57);<sup>101</sup> and court order for a child or young person and his guardian to undergo such counseling, psychotherapy or other assessment and treatment or to partake in such other activity as necessary (section 59).

The Women and Children Abuse Investigation Unit (Royal Brunei Darussalam Police Force) works closely with the Medical Social Workers and the Social Affairs Services Unit (under the Ministry of Culture, Youth and Sports). The Social Affairs Services Unit is the responsible agency to provide shelter for victims. The shelter home provides child victims of violence counselling services, skills training, Islamic teachings and an educational facility. The Government also reportedly has programmes such as counselling and family conferencing that can help victims of violence.<sup>102</sup> The Women and Girls Protection Act gives the power to the Minister to provide such land as shall be necessary and erect thereon suitable buildings as a place of safety (section 13) and GN 231/89 gazetted 'Taman Norhidayah' as a place of safety for the purposes of the Act and the Women and Girls Protection (Place of Safety) Rules 2001.<sup>103</sup> No information was available about the implementation of protective and supportive interventions.

## ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

### 7. Laws in full conformity with applicable international human rights standards

**Indicator 7.** Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.

**Baseline status:** Not yet started

Recent legislative developments in Brunei Darussalam have implications for the country's compliance with international human rights standards. In its most recent Concluding observations in 2016, the Committee on the Rights of the Child expressed deep concern about Brunei Darussalam's restrictive interpretation of Sharia law and about the adverse impact on children's rights in particular, of the recently adopted the Syariah Penal Code Order 2013, which, under its second and third phases of implementation, will impose capital punishment, hand-cutting and whipping of children for several crimes. Among other things, the Committee urged Brunei Darussalam to: review without delay the new Syariah Penal Code Order 2013, with a view to repealing its direct and indirect discriminatory provisions affecting children; compile information on best practices of States parties with similar legal systems and cultural and religious backgrounds, where more progressive interpretations of Islamic law have been codified in legislative reforms; and undertake law reform to eliminate all discrimination against children.<sup>104</sup> The Committee also recommended a number of other relevant legislative measures including to:

- Review and amend legislation to set the minimum age for marriage to 18 for both boys and girls, regardless of their ethnic and/or religious group.<sup>105</sup>

101 See Indicator 3 above regarding services to support out-of-home care.

102 Human Rights Resource Centre, 'Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A Baseline Study', 2012 p. 189, <http://hrrca.org/violence-exploitation-and-abuse-and-discrimination-migration-affecting-women-and-children-asean/>, last accessed 18 October 2016.

103 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 72.

104 Committee on the Rights of the Child, 'Concluding observations on the combined second and third periodic reports of Brunei Darussalam', CRC/C/BRN/CO/2-3, 24 February 2016, [9]-[10].

105 Ibid., [24].



- Explicitly prohibit corporal punishment in all settings.<sup>106</sup>
- Fully adopt legislation to fully prohibit and criminalize the practice of female genital mutilation, including female circumcision and cutting, in all its forms.<sup>107</sup>
- Take effective measures to prevent and combat the practice of child marriage, including all necessary legislative measures.<sup>108</sup>
- Strengthen the implementation of labour laws by establishing labour inspections, including in the informal sector, and ensuring that anyone violating legislation on child labour is held accountable.<sup>109</sup>
- Raise without delay the minimum age of criminal responsibility to an internationally acceptable standard.<sup>110</sup>
- Abolish the sentence of whipping/flogging for boys.<sup>111</sup>

## 8. Diversion and alternative measures

**Indicator 8.** *Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.*

**Baseline status:** *Partly/ Under development*

The Children and Young Persons Act is the key legislation addressing children in conflict with the law. The Act seeks to maximize diversion from the court system, proactively address offending behaviour and engender family and public support in the management of children in conflict with the law. Diversion is reportedly a common practice for police. At the court stage, discretion to divert from formal proceedings rests with the Public Prosecutor. There appears to be no specific guidelines or criteria to apply. Where the offence is not serious, bail is reportedly frequently granted. The Criminal Procedure Code provides that the court may, instead of fining or imprisoning a child, deal with the juvenile as provided by the Children and Young Persons Act and the Offenders (Probation and Community Service) Order respectively. The Children and Young Persons Act includes a number of alternatives to detention including discharging the case (conditionally or unconditionally), bond, community service order, or probation. Within juvenile detention centres, an Advisory Committee advises on the release of children. The release will be followed by probation period under supervision of a welfare officer.<sup>112</sup>

106 Ibid., [40].

107 Ibid., [42].

108 Ibid., [44].

109 Ibid., [66].

110 Ibid., [70].

111 Ibid., [70].

112 This paragraph is based on Raoul Wallenberg Institute of Human Rights and Humanitarian Law, 'A measure of last resort? The current status of juvenile justice in ASEAN Member States', 2015, <http://rwi.lu.se/app/uploads/2015/04/Juvenile-Justice-Report.pdf>, last accessed 8 November 2016.

**Table 17: Summary of alternative measures for children in conflict with the law in Brunei Darussalam**

Category of alternative measures based on international juvenile justice standards	Status in law	Status of practice
1. Unconditional diversion/police warning	- No information available	- Used often in practice
2. Diversion from formal judicial proceedings	- No information available	- Discretion to divert from formal trial rests with the Public Prosecutor - No information on scale of practice
3. Alternatives to pre-trial detention	- No information available	- Used often in less serious cases
4. Measures to minimize time spend in pre-trial detention	- No information available	- No information available
5. Alternatives to post-trial detention	- Included in general and child-specific law	- No information available
6. Measures to minimize time spend in post-trial detention	- No information available	- Monitoring of children that are released

## ACTION 4: CAPACITY BUILDING

### 9. Advocacy materials to generate awareness and support ending violence against children

**Indicator 9.** Number and type of advocacy materials developed by each AMS for various audiences to generate awareness and support EVAC.

**Baseline status:** Unknown

## ACTION 5: RESEARCH AND DATA COLLECTION

### 10. National systems for data collection, analysis and sharing

**Indicator 10.A.** Number of AMS using survey data in national policy documents on VAC.

**Baseline status:** Not yet started

**Indicator 10.B.** Number of AMS with reliable and consistent national system for consolidation of data on VAC.

**Baseline status:** Not yet started

**Indicator 10.C.** Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.

**Baseline status:** Not yet started

The Committee on the Rights of the Child has noted its concern about the inadequate data collection on violence against children and specifically the lack of segregated data on the sexual abuse of and violence against children. The Committee has recommended that Brunei Darussalam “*collect disaggregated data about the sexual abuse of and violence against children, including the number of complaints, reports to the police, investigations, prosecutions, sentences and sanctions.*”<sup>113</sup> The Committee has also raised concerns about the “*lack of coordination and collaboration among government agencies in data collection and the inadequate technical capabilities for data collection, analysis and reporting*” and has urged Brunei Darussalam to expeditiously improve its data collection system. The Committee has advised that the data should cover all areas of the Convention on the Rights of the Child and should be disaggregated by, inter alia, age, sex, disability, geographic location, ethnic origin and socioeconomic background in order to facilitate analysis of the situation of all children, particularly those in situations of vulnerability. The Committee has further recommended that the data and indicators be shared among the ministries concerned and used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention.<sup>114</sup>

## ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

### 11. National plans of action to eliminate all forms of violence against children

**Indicator 11.** *Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.*

**Baseline status:** *Not yet started*

### 12. Coordination mechanism for disasters and conflict situation

**Indicator 12.** *Number of AMS that include VAC in emergency-response programming.*

**Baseline status:** *Unknown*

<sup>113</sup> Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Brunei Darussalam, CRC/C/BRN/CO/2-3, 24 February 2016, [37]-[38].

<sup>114</sup> Ibid., [15]-[16].

# COUNTRY SUMMARY: CAMBODIA

## ACTION 1: PREVENTION

1. Non-violent approach to nurture, care, for the development of children in all settings

**Indicator 1.B.** Number of AMS that contextualise the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.

**Baseline status:** Unknown

There are policy initiatives underway to promote a non-violent approach to children, including through the development of a Government inter-ministerial Violence Against Children Action Plan. The Ministry of Women's Affairs is also developing a Positive Parenting Strategic Plan linked to national policy frameworks including the National Strategic Development Plan (2014-2018), National Action Plan on ECCD (2014-2018), Implementation Plan for Decentralization, Neary Rattanak IV, 5-year Strategic Plan (2014-2018) for Gender Equality and the Empowerment of Women. The Positive Parenting Strategic Plan and toolkits are being developed and finalised by the Ministry of Women's Affairs, with technical partners Social Services of Cambodia, Improving Cambodia's Society through Skillful Parenting, Save the Children and UNICEF, and research and monitoring and evaluation by the Royal University of Phnom Penh. Tools will be rolled out in 2017. Through the Positive Parenting Strategy and Toolkits, children will receive increased access to appropriate and timely parenting support with the aim of preventing and reducing violence and risk factors contributing to violence against children and family separation. The roll-out of the toolkits will also involve building the capacity of social workers, community volunteers and local authorities who will further support parents and caregivers in communities. In 2016, Positive Discipline in School Training Toolkits were approved by the Minister of Ministry of Education and training reached over 170 schools, 1,608 teachers and 256 school directors in three selected provinces. Positive Discipline in schools will be rolled out to at least 800 schools by end of 2018. Also in 2016, the Child Protection Policy in schools was adopted by the Minister of the Ministry of Education, Youth and Sport.

2. Awareness raising and behaviour change communications on all forms of violence against children

**Indicator 2.** Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.

**Baseline status:** Partly/ Under development

A C4D and behavioural change campaign strategy is being developed for rolling out in 2017. The comprehensive multi-sectorial behavioural change campaign aims to reduce violence against children and family separation addressing social and cultural norms that legitimize violence against children as

well as family separation. The roll-out of the Positive Parenting Strategy (described above) aims to raise awareness of parents and care-givers on the non-violence approach and to provide access to support needed for the care and nurturing of their children. As noted above, the Positive Discipline in School Training Toolkits were utilized in over 170 schools reaching 1,608 teachers and 256 school directors. The plan is to reach at least 800 schools by 2018. As part of the 16 Days of Activism campaign, peer educators worked with primary and lower-secondary school students raising awareness about violence against children, reaching over 140,000 adolescents and youths. Also in 2016, the Ministry of Cult and Religion mobilized CSOs and faith leaders to work together to end violence against children through interfaith dialogues and celebration of the Day of Prayer and Action for Children. The subject 'Buddhist's response to violence against children' is to be officially incorporated within the Buddhist Education programme, with the curriculum being finalized by the technical working group of the Ministry of Cult and Religion and the Buddhist graduate programme division by the end of 2016. A booklet, titled 'Novice Sokha', which aims to enhance the capacities of Cambodian monks to contribute to the prevention of violence against children, is being printed. These efforts go towards addressing concerns raised by the Committee on the Rights of the Child and recommendations that Cambodia "*Introduce public education, awareness-raising and social mobilization campaigns on the harmful effects of corporal punishment with a view to changing the general attitude towards this practice and promote positive, non-violent, participatory forms of child-rearing and education as an alternative to corporal punishment*"<sup>115</sup> and "*Coordinate nationwide awareness-raising programmes, including campaigns about the problem of domestic violence, with a view to changing public attitudes and traditions that inhibit victims, particularly women and girls, from reporting.*"<sup>116</sup>

### 3. Deinstitutionalization of children and strengthening alternative family care services

**Indicator 3.** *Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).*

**Baseline status:** *Partly/ Under development*

In 2015, the Royal Government of Cambodia issued a sub-decree on the Management of Residential Care Facilities. The sub-decree assigned the Ministry of Social Affairs, Veterans and Youth Rehabilitation as a lead ministry to monitor all residential care institutions. The Ministry subsequently issued a Statement of Commitment to fully implement the sub-decree, with the aim of reducing the number of children in institutions by 30 per cent by 2018. A National Plan of Action on Reintegration of Children from Residential Care Institutions was signed by the Minister of Social Affairs, Veterans and Youth Rehabilitation and two out of five provincial operational plans were approved by Provincial Governors. To implement the Sub-Decree, the Ministry issued a notification to all residential care institutions to apply for registration. In 2016, the Ministry also conducted a mapping of residential care institutions throughout the country and found over 406 residential care institutions and over 16,000 children living in those institutions. In addition, over 9,608 children (49 per cent girls) were reported to be living in the other types of 233 residential care facilities (transit centres, boarding schools, group homes and pagoda-based care). Due to the lack of budget allocation for implementing alternative care services within the Government, CSOs are the main providers of alternative care services in Cambodia.<sup>117</sup> As of November 2016, over 90 per cent of total 406 institutions were registered. The inspection of institutions is conducted twice a year by the Ministry of Social Affairs and a new innovation was recently introduced and is being rolling out, through the use of technology (tablet) to do the inspection.

115 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Cambodia', CRC/C/KHM/CO/2-3, 3 August 2011, [41](d).

116 Ibid., [50](d).

117 Ibid., p. 25.

There have been recent improvements to strengthen the legal and policy frameworks for alternative family-based care in Cambodia. While the Civil Code provided for adoption, it did not provide detailed procedures on the recruitment and assessment of prospective adoptive families, and care support for families in the process. Legal provisions mean that foster families who would hope to adopt children found it difficult to do so.<sup>118</sup> An ‘Explanatory Note on Domestic Adoption’ was adopted on 19 October 2016 to clarify the process for implementing domestic adoptions based on provisions made in the existing Civil Code.<sup>119</sup> Kinship care and foster care are referred to within the 2006 Policy on Alternative Care for Children and 2011 Prakas on Procedures to implement the Policy on Alternative Care for Children. However, there are no minimum standards guiding the implementation of foster care programmes. 3PC is supporting the Cambodia Foster Care Committee, chaired by the Ministry of Social Affairs, Veterans and Youth Rehabilitation and the Foster Care Network, chaired by Friends International, to develop minimum standards for foster care. These are still in development. Legal guardianship is provided for under the Civil Code.

**Table 18: Summary of legal/policy frameworks for alternative family care in Cambodia**

<b>Adoption</b>	<ul style="list-style-type: none"> <li>- Civil Code stipulates the eligibility, rights and obligations of prospective adoptive parents and children, as well as those of the children’s biological parents</li> <li>- Prakas on the Procedures to Implement the Policy on Alternative Care for Children offers partial provisions</li> <li>- ‘Explanatory Note on Domestic Adoption’ clarifies process for implementing domestic adoptions</li> <li>- Cambodia is a contracting State to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption</li> </ul>
<b>Kinship care</b>	<ul style="list-style-type: none"> <li>- Referred to within 2006 Policy on Alternative Care for Children and 2011 Prakas on Procedures to implement the Policy on Alternative Care for Children</li> </ul>
<b>Foster care</b>	<ul style="list-style-type: none"> <li>- Referred to within 2006 Policy on Alternative Care for Children and 2011 Prakas on Procedures to implement the Policy on Alternative Care for Children</li> <li>- Minimum standards for foster care under development</li> </ul>
<b>Legal guardianship</b>	<ul style="list-style-type: none"> <li>- Civil Code</li> </ul>

Cambodia’s recent efforts go some way towards addressing previous concerns raised by the Committee on the Rights of the Child, including its concerns that: residential care continues to be considered the best option; one-third of institutionalized children still have one of their parents; residential care facilities remain inappropriately registered and monitored; and insufficient budgetary allocations and the lack of well-trained child-care workers hinder the effective implementation of the Cambodia’s policies and guidelines.<sup>120</sup> The Committee has previously urged Cambodia to: undertake effective measures to promote, through counselling and community-based programmes, the family as the best environment for the child and empower parents to take care of their children in order to avoid placement in institutions; develop comprehensive admission criteria and strategies to reduce the number of children living in institutions, including through policies to strengthen and support families, and ensure that placement of children in institutions is only used as a last resort; implement mechanisms to reintegrate institutionalized children into their families; and recruit additional child-care workers and ensure that they are adequately trained and remunerated to monitor family-type alternative care measures.<sup>121</sup> More recently, in 2015, the Committee urged Cambodia to: intensify the conduct of monitoring visits and inspections of all alternative care

118 Emerging Markets Consulting, ‘Promoting family-based care in Cambodia: Evaluation of childcare reform projects’, United States Agency for International Development (USAID), November 2015, p. 22, [http://pdf.usaid.gov/pdf\\_docs/PA00KWHZ.pdf](http://pdf.usaid.gov/pdf_docs/PA00KWHZ.pdf), last accessed 12 October 2016.

119 [http://www.unicef.org/cambodia/12681\\_25852.html](http://www.unicef.org/cambodia/12681_25852.html), last accessed 28 October 2016.

120 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Cambodia’, CRC/C/KHM/CO/2-3, 3 August 2011, [45].

121 Ibid., [46].

institutions to uphold the minimum standards for alternative care; strengthen the legislative and regulatory framework by swiftly adopting pending sub-decrees on the management of alternative care institutions; and ensure the continued enforcement of the compulsory registration of all alternative care institutions.<sup>122</sup> In relation to adoption, the Committee has noted its concern that the regulations for implementing the Law on Inter-Country Adoption have not yet been adopted, that illegal international adoptions still reportedly take place with the involvement of staff from State-run institutions, and no proper investigation is conducted into such allegations.<sup>123</sup> In 2011, the Committee urged Cambodia to adopt without delay the Prakas to implement the Law on Inter-Country Adoption, to ensure strict transparency and follow-up controls with regard to international adoptions, and to prosecute those involved in illegal adoptions and the sale of children for adoption purposes.<sup>124</sup> In 2015, the Committee recommended that Cambodia ensure that all cases of adoption are in full conformity with its obligations under the Optional Protocol and the Hague Convention by adopting the pending implementing decrees to the Law on Intercountry Adoption, by developing and implementing a programme to prevent illegal adoptions, and by regulating the licensing and monitoring of agencies including the fees they charge for their various services.<sup>125</sup>

#### 4. Preventing violence against children in cyberspace

**Indicator 4.** *Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).*

**Baseline status:** *Partly/ Under development*

In July 2016, the Cambodian National Council for Children conducted first-ever national roundtable discussion on ‘Tackling Online Sexual Exploitation and Abuse of Children’ which outlined the immediate and long term actions to prevent and respond to online child abuse and exploitation. The Cambodian National Council for Children continues to lead this initiative along with other relevant government institutions including the Ministry of Interior and National Police, and NGO partners.

The Government inter-ministerial Violence Against Children Action Plan sets out comprehensive measures to address all forms of violence including violence against children in cyberspace. A number of specific measures to prevent violence in cyberspace are set out in the current draft including: the development and implementation of pre-service and in-service training to teachers and other key school staff that includes building children’s online safety skills; development and coordination of online and mobile hotline mechanisms for identification and reporting online child abuse and exploitation; and the strengthening of the legislative framework to enable local removal and blocking of child abuse and exploitation content.

At present, removal and blocking of online child abuse materials appears to occur via informal communications between government officials and service providers.<sup>126</sup> There do not appear to be any guidelines for industry to preserve (content-based or non-content-based) data or to provide such material to law enforcement. A 2012 joint Ministry of Interior and Ministry of Posts and Telecommunication circular ordered Internet cafes to set up surveillance cameras and store footage, and phone shops and telecommunications operators to register subscribers’ national ID cards or international passport and visas.

<sup>122</sup> Committee on the Rights of the Child, ‘Concluding observations on the report submitted by Cambodia under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography’, CRC/C/OPSC/KHM/CO/1, 26 February 2015, [19].

<sup>123</sup> Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Cambodia’, CRC/C/KHM/CO/2-3, 3 August 2011, [47].

<sup>124</sup> Ibid., [48].

<sup>125</sup> Committee on the Rights of the Child, ‘Concluding observations on the report submitted by Cambodia under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography’, CRC/C/OPSC/KHM/CO/1, 26 February 2015, [17].

<sup>126</sup> Kingdom of Cambodia, ‘Global Alliance against Child Sexual Abuse Online, Commitments’; Freedom House, ‘Freedom on the Net 2014, Cambodia’, <https://freedomhouse.org/report/freedom-net/2014/cambodia>, last accessed 14 October 2015.

# ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

## 5. Child and gender sensitive reporting and complaint mechanism

**Indicator 5.** Number of AMS providing child- and gender- sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances (by type and by setting).

**Baseline status:** Partly/ Under development

Commune authorities including the commune police and Commune Committee for Women and Children are frontlines for the response to cases of violence against children including the prevention of family separation. NGO Child Helpline Cambodia provides free 24-hour phone counselling, information, referral, and follow-up services for children and young people. A rapid response mechanism to violence against children is being developed including for cases of violence in residential care institutions, reflecting a 2015 recommendation from the Committee on the Rights of the Child for Cambodia to establish confidential and safe reporting procedures for children in residential care.<sup>127</sup> The Committee has also urged Cambodia to “set up an independent child-sensitive mechanism to receive complaints against law enforcement officers and to provide victims with redress as already recommended by the Committee against Torture (CAT/C/KHM/CO/2, para. 20)”.<sup>128</sup>

At present, there is no National Human Rights Institution and limited progress towards establishing one.<sup>129</sup> Children may only bring cases to the courts with the assistance of a legal representative. Minors do not have the capacity to litigate independently without a legal representative. Minors in criminal proceedings may be represented by parents/guardians, or an ‘orphanage centre’ or provincial Department of Social Affairs, Veterans and Youth Rehabilitation if she or he has no guardian or parent.<sup>130</sup> There remains a need to improve the treatment of child victims and witnesses within the justice system.<sup>131</sup> Cambodia is not yet a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## 6. Protective and supportive services for children affected by violence

**Indicator 6.** Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).

**Baseline status:** Partly/ Under development

<sup>127</sup> Committee on the Rights of the Child, ‘Concluding observations on the report submitted by Cambodia under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography’, CRC/C/OPSC/KHM/CO/1, 26 February 2015, [19].

<sup>128</sup> Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Cambodia’, CRC/C/KHM/CO/2-3, 3 August 2011, [39].

<sup>129</sup> Ibid., [14].

<sup>130</sup> White & Case LLP, ‘Access to Justice for Children: Cambodia,’ September 2015, p. 3, [https://www.crin.org/sites/default/files/cambodia\\_access\\_to\\_justice\\_-\\_updated\\_sep\\_2015\\_0.pdf](https://www.crin.org/sites/default/files/cambodia_access_to_justice_-_updated_sep_2015_0.pdf), last accessed 12 October 2015.

<sup>131</sup> Reimer, JK, ‘A system just for children: Voices of child victims and witnesses about their experiences in the Cambodian Criminal Justice System’, Hagar and UNICEF Cambodia, 2014, [http://www.unicef.org/cambodia/A-System-Just-for-Children\\_FINAL\\_Jan-2015.pdf](http://www.unicef.org/cambodia/A-System-Just-for-Children_FINAL_Jan-2015.pdf), last accessed 12 October 2016.



The Ministry of Social Affairs, Veterans and Youth Rehabilitation has primary responsibility to protect children from any form of violence. Child protection functions are delegated to sub-national and commune levels. In the absence of social workers at the commune level and without guidelines and regulations, most child protection cases are reported to village chiefs and focal points of the Commune Committees for Women and Children.<sup>132</sup> The Ministry of Social Affairs, Veterans and Youth Rehabilitation's Strategic Plan (2014-2018) includes one priority programme to address the child protection system.<sup>133</sup> There are plans to establish a Child Protection Office within the Ministry's Child Welfare Department with key functions to respond to cases of violence against children. To cover the gaps in the current child protection system, the Partnership Program for the Protection of Children (3PC) is an innovative model of partnership and coordination between the Ministry, UNICEF and Friends International. 3PC coordinates the child protection response through 10 NGO implementing partners, six NGO technical partners, and 40 local community-based organizations.<sup>134</sup>

Protective and supportive measures for child victims of violence can be found primarily within issue-specific laws and policies on domestic violence or human trafficking. For example, the Law on Prevention of Domestic Violence and Protection of Victims 2015 (DV Law) establishes the responsibility of local authorities to intervene in cases of domestic violence and provides for protection orders to be issued by the courts to protect the victim from any further violence. The DV Law was reviewed by UNICEF, NGO-CEDAW, GADNet, Save the Children and UN Women, to ensure compliance with international standards, and recommendations were made for its amendment. As of June 2017 the DV Law amendments are in their preliminary stage and await government approval. The Guideline on 'Forms and Procedures for Identification of Victims of Human Trafficking for Appropriate Services Providers', developed and adopted by National Committee for Counter Trafficking in Persons in 2015,<sup>135</sup> sets out a procedure for victim identification and referrals to services including health, legal, rehabilitation, vocational training, employment and education. The Guideline also seeks to improve the quality of service including through child- and gender-sensitive interviews.<sup>136</sup> The 'National Guidelines for Managing Violence Against Women and Children' in the Health System, developed and launched by the Ministry of Health in 2014, are designed to support health managers and health care providers in health centers and referral hospitals in their efforts to prevent and respond to violence against women and children. The Guidelines have been disseminated at national and sub-national levels and clinical handbook on health care for children subjected to physical or sexual violence. At present, there is no legal framework specifying the variety of supportive and protective interventions that may be used and procedures and criteria for applying those interventions. Nor is there is no articulation of the authority, procedures, criteria and guiding principles for child protection interventions generally.<sup>137</sup> A rapid response mechanism to cases of violence against children is currently being developed, which include cases of violence in residential care institutions. Relevantly, in August 2016, a Guide for Practitioners working with children victims and witness was developed and launched.

The Committee on the Rights of the Child has previously expressed concern about the lack of a child protection system and recommended Cambodia "*Set up a child protection system with clear responsibilities assigned to specific local authorities, including a system for reporting child abuse, dealing with such reports and the development of supportive and other measures to prevent further violence*".<sup>138</sup> While the child protection system remains fragmented and under-resourced, there is some progress as noted above. More recently, the Committee on the Rights of the Child expressed has concern that "*Ineffective coordination*

132 ECPAT International, Plan International, Save the Children, UNICEF and World Vision, 'National Child Protection Systems in the East Asia and Pacific Region: A review and analysis of mappings and assessments', 2014, p. 21.

133 <http://www.mosvy.gov.kh/public/admin/public/upload/files/News%202014/SP%202014-2018/MoSVY-Strategic%20Plan%202014-2018-English%20Version.pdf>, last accessed 18 October 2016.

134 <http://3pc-cambodia.org>, last accessed 18 October 2016.

135 [http://un-act.org/wp-content/uploads/2016/08/ID\\_Guidelines\\_Cambodia.pdf](http://un-act.org/wp-content/uploads/2016/08/ID_Guidelines_Cambodia.pdf), last accessed 18 October 2016.

136 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 82.

137 ECPAT International, Plan International, Save the Children, UNICEF and World Vision, 'National Child Protection Systems in the East Asia and Pacific Region: A review and analysis of mappings and assessments', 2014, p. 21.

138 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Cambodia,' CRC/C/KHM/CO/2-3, 3 August 2011, [49]-[50].

*mechanisms between police, court officials and government agencies to adequately protect child victims” [of offences under the Optional Protocol] and recommended increased information-sharing and cooperation mechanisms.<sup>139</sup> Within the criminal justice system, the Committee on the Rights of the Child observed that child victims are “not sufficiently provided with free legal aid and with the support of child psychologists and social workers” and recommended that Cambodia provide “child victims with free or subsidized legal aid and with the support of child psychologists and social workers”.<sup>140</sup>*

In relation to child victims of sexual violence, the Committee on the Rights of the Child observed in 2011 that psychosocial rehabilitation services and shelters were mainly concentrated in the capital and run mainly by NGOs. The Committee urged Cambodia to establish shelters for these children and provide them with rehabilitation, recovery and social reintegration services.<sup>141</sup> Likewise, in 2015, the Committee raised concerns that recovery services for child victims of sexual violence were limited to victims of trafficking and services were particularly limited at commune level, “owing to a lack of resources and insufficient number of adequately trained staff and officials”. The Committee also regretted the absence of State-run rehabilitation and reintegration programmes and insufficient involvement and support from the police and the Ministry of Social Affairs, Veterans and Youth to those programmes run by NGOs and UN agencies. The Committee recommended that Cambodia take all necessary measures to ensure that child victims are provided with appropriate assistance, including for their physical and psychological recovery and full social reintegration, in particular at the commune level. The Committee called for Cambodia to increase the availability of State-run social services and strengthen the capacity of Government agencies to support and coordinate assistance to child victims. The Committee also recommended Cambodia ensure the participation of children in the development of policies and programmes for their recovery and reintegration.<sup>142</sup>

## ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

### 7. Laws in full conformity with applicable international human rights standards

**Indicator 7.** Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.

**Baseline status:** Not yet started

Important legislative developments during 2016 included the signing of the new Law on Justice for Children, following a process that started more than 14 years ago in 2002, and the adoption of an Explanatory Note on Domestic Adoption in October 2016.

In 2014, the Cambodian Government, through the Cambodian National Council for Children, conducted a review of the legal child protection framework and made a number of recommendations on the amendment of existing legislation and the introduction of child protection laws, policies and regulation.<sup>143</sup> In 2011,

<sup>139</sup> Committee on the Rights of the Child, ‘Concluding Observations on the Report Submitted by Cambodia Under Article 12, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography,’ CRC/C/OPSC/KHM/CO/1, 26 February 2015, [26]-[27].

<sup>140</sup> Ibid., [28].

<sup>141</sup> Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Cambodia,’ CRC/C/KHM/CO/2-3, 3 August 2011, [71]-[72].

<sup>142</sup> Committee on the Rights of the Child, ‘Concluding Observations on the Report Submitted by Cambodia Under Article 12, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography,’ CRC/C/OPSC/KHM/CO/1, 26 February 2015, [30]-[31].

<sup>143</sup> ASEAN Commission on Women and Children, ‘Assembling the future: Child protection system in ASEAN Member States, a baseline study’, 2016, p. 80.

the Committee on the Rights of the Child noted “*the indication given during the interactive dialogue that the State party is developing a comprehensive child-protection law*”.<sup>144</sup> While not the status of a law, the Cambodian National Council for Children is currently finalizing a Child Protection Code of Conduct which will apply to all government ministries and institutions.

In its most recent Concluding observations on Cambodia’s report under the Convention on the Rights of the Child, and the Optional Protocol on the sale of children, child prostitution and child pornography, the Committee on the Rights of the Child has recommended a number of priority areas for law reform that relate to violence against children including to:

- Enact legislation to explicitly prohibit corporal punishment of children in all settings, including within the family.<sup>145</sup>
- Strengthening national legislation prohibiting child labour.<sup>146</sup>
- Ensure, through adequate legal provisions and regulations, that all children victims and/or witnesses of crimes, e.g. abuse, domestic violence, sexual and economic exploitation, abduction and trafficking, are provided with the protection required by the Convention and that the State party take fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex).<sup>147</sup>
- Revise the Law on the Suppression of Human Trafficking and Sexual Exploitation to bring it into full compliance with articles 2 and 3 of the Optional Protocol, by properly defining and criminalizing all forms of sale of children and child pornography.<sup>148</sup>

## 8. Diversion and alternative measures

**Indicator 8.** *Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.*

**Baseline status:** *Partly/ Under development*

The Criminal Code, Criminal Procedure Code and Law on Prisons include provisions on alternative measures for children in conflict with the law. Cambodia’s new Law on Justice for Children, adopted in July 2016 and coming into force in early 2017, requires diversion and restorative justice and establishes specialised police and judges for children in conflict with the law. A three-year implementation plan will be developed in 2017.

144 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Cambodia’, CRC/C/KHM/CO/2-3, 3 August 2011, [8].

145 Ibid., [41].

146 Ibid., [68].

147 Ibid., [78].

148 Committee on the Rights of the Child, ‘Concluding observations on the report submitted by Cambodia under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography’, CRC/C/OPSC/KHM/CO/1, 26 February 2015, [21].

**Table 19: Summary of alternative measures for children in conflict with the law in Cambodia<sup>149</sup>**

Category of alternative measures based on international juvenile justice standards	Status in law	Status of practice
1. Unconditional diversion/police warning	- Included in new child-specific law	- Reportedly rarely used
2. Diversion from formal judicial proceedings	- New child-specific law provides for diversion at prosecution and court stages	- Reportedly rarely used
3. Alternatives to pre-trial detention	- Included in general law	- Reportedly rarely used
4. Measures to minimize time spend in pre-trial detention	- No information available	- Reportedly no regular review of children's pre-trial detention and no release of children from pre-trial detention in practice
5. Alternatives to post-trial detention	- Included in general law	- Reportedly rarely used
6. Measures to minimize time spend in post-trial detention	- Child-specific law provides for early (conditional) release	- Reportedly no regular review of children's post-trial detention and early (conditional) release occurs very rarely in practice. There is no monitoring of children released from post-trial detention.

## ACTION 4: CAPACITY BUILDING

### 9. Advocacy materials to generate awareness and support ending violence against children

**Indicator 9.** Number and type of advocacy materials developed by each AMS for various audiences to generate awareness and support EVAC.

**Baseline status:** Partly/ Under development

The development of a C4D and communication for behaviour change campaign strategy to prevent violence against children and unnecessary family separation is in the process of development and includes information, education and communication materials for different audiences.

<sup>149</sup> UNICEF EAPRO, 'Final regional report: Study on diversion and other alternative measures for children in conflict with the law in East Asian and Pacific Island countries', 15 September 2016, unpublished.

# ACTION 5: RESEARCH AND DATA COLLECTION

## 10. National systems for data collection, analysis and sharing

**Indicator 10.A.** *Number of AMS using survey data in national policy documents on VAC.*

**Baseline status:** *Implementation underway*

**Indicator 10.B.** *Number of AMS with reliable and consistent national system for consolidation of data on VAC.*

**Baseline status:** *Partly/ Under development*

**Indicator 10.C.** *Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.*

**Baseline status:** *Partly/ Under development*

There is evidence of Cambodia's Violence against Children Survey (2013) data being used in national policy documents on violence against children including the Child Protection Policy in schools which was recently adopted by the Ministry of Education, Youth and Sport, the Core Commitment of 13 Ministries Members of Steering Committee on Violence against Children, the Violence against Children Action Plan (not yet finalized), and the Positive Parenting Strategy.

There is not yet a reliable and consistent national system for consolidation of data on violence against children. At present, different ministries collect different data on violence against children, for example, through the Commune database, the Cambodian National Police database, and the Education Management Information System. The National Institute of Statistics and the Ministry of Social Affairs, Veterans and Youth Rehabilitation have agreed to work together to develop a centralized Child Protection Information System and a concept note has been drafted. The Committee on the Rights of the Child has previously commended Cambodia “*for the significant efforts made to develop databases, notably on child victims of trafficking and children in alternative care settings*” however has noted with concern that “*insufficient data have been collected in some areas covered by the Convention, particularly on children with disabilities*” and “*data collection mechanisms remain fragmented*”.<sup>150</sup>

Data on violence against children in Cambodia is currently disaggregated by age and gender but not on ethnicity and disability status. One of the Committee's recommendations is for Cambodia to disaggregate data “*by age, sex, geographic location, ethnicity and socio-economic background to facilitate the analysis on the situation of all children*”.<sup>151</sup> The Committee has also recommended that Cambodia provide information about implementation of the recommendations of the UN Study on Violence against Children including the consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children.<sup>152</sup> It has also recommended Cambodia “*Collect reliable data on domestic violence, including sexual abuse of children and undertake studies on the root causes and scope of the problem of violence against children.*”<sup>153</sup>

<sup>150</sup> Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Cambodia’, CRC/C/KHM/CO/2-3, 3 August 2011, [18].

<sup>151</sup> Ibid., [19].

<sup>152</sup> Ibid., [42].

<sup>153</sup> Ibid., [49].

# ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

## 11. National plans of action to eliminate all forms of violence against children

**Indicator 11.** *Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.*

**Baseline status:** *Partly/ Under development*

The Ministry of Women's Affairs is currently finalizing the inter-ministerial Violence against Children Action Plan, which should be launched in early 2017. Adolescent and youth representatives from 16 NGOs and CSOs have regularly participated in the development of the Plan. It is reportedly a comprehensive action plan with clear monitoring and evaluation framework. Addressing violence against children is also included in the Strategic Framework and National Action Plan and Provincial Operational Plans of the Ministry of Social Affairs, Veterans and Youth Rehabilitation. The Ministry of Women Affairs' National Action Plan to Prevent Violence Against Women includes violence against girls. The National Plan for Child Development by the Cambodian National Council for Children also address violence against children.

## 12. Coordination mechanism for disasters and conflict situation

**Indicator 12.** *Number of AMS that include VAC in emergency-response programming.*

**Baseline status:** *Partly/ Under development*

The Child Protection in Emergency Contingency Plan of the Ministry of Social Affairs, Veterans and Youth Rehabilitation was adopted in 2013 and is updated annually.

# COUNTRY SUMMARY: INDONESIA

## ACTION 1: PREVENTION

### 1. Non-violent approach to nurture, care, for the development of children in all settings

**Indicator 1.B.** *Number of AMS that contextualise the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.*

**Baseline status:** *Unknown*

There are policy initiatives being drafted and underway to promote a non-violent approach to children, including the National Strategy on the Elimination of Violence against Children (2016-2020), which focuses on six key components including 'Parenting interventions that support safe and loving relationships between caregivers and children to prevent violence.' The Ministry of Women Empowerment and Child Protection is currently drafting an Act on Parenting, as well as a National Plan of Actions to End Child Marriage. The Minister of Education adopted Decree No. 82 Year 2015 on Prevention and Response to Violence in Education Settings and is currently drafting a Ministerial Decree on Family Education.

There are multiple initiatives lead by different ministries and organisations. For example, the Ministry of Women Empowerment and Child Protection has developed parenting modules based on the Convention on the Rights of the Child and delivered training of trainers during 2016. The Ministry has also established Family Learning Centres at district and city-level with two professional staff to deliver parenting modules focusing on the prevention of violence. Of note, one of the 31 indicators of the 'Child Friendly District/City' initiative led by the Ministry relates to parenting. The Ministry of Women Empowerment and Child Protection is also responsible for the community-based integrated child protection programme at village level, which currently targets 136 villages in 34 provinces, and developed and launched the 'Three ends' program focusing on ending violence against women and children through community-based interventions. The Ministry is currently developing a prevention model to end child marriage by cooperating with subnational and government agencies and local religious and community leaders. In 2015, a new Directorate of Family Education was established under the Ministry of Education and Culture. The new Directorate is responsible for developing programmes to strengthen the partnership between families, schools and the community to achieve education objectives. The Directorate of Junior High School, with support from UNICEF, is developing a model on peer-violence prevention in junior high schools. The Ministry of Social Affairs and the National Population and Family Planning Board also have relevant parenting initiatives, as do the Ministry of Health (through the 'Kelas Ibu' mothers' class). Community-based child protection programmes are also supported by Plan Indonesia and Childfund. Parenting initiatives are also delivered by World Vision, 'Father's Care' and the Indonesia Association of Child Friendly Companies.<sup>2</sup> Awareness raising and behaviour change communications on all forms of violence against children

**Indicator 2.** Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.

**Baseline status:** Partly/ Under development

There are a range of behaviour change initiatives taking place in locations across Indonesia. The Ministry of Women Empowerment and Child Protection has developed a campaign, *Bersama Lindungi Anak* (Together with Protect Children), that aims to sensitive people about child protection issues and encourage them to take action through community-based programmes. Another campaign, *Pelindung Anak* (Protector of Children), uses a digital platform where young people can sign up and join, according to their location. The website is currently under review and UNICEF awaiting confirmation about which government counterpart will lead the continuing campaign. The Youth Network on Violence Against Children, a youth-led network consisting of five youth organizations and supported by UNICEF, has successfully conducted youth workshops on ending violence against children in Aceh, Semarang and Makassar. Similar peer-to-peer initiatives are planned for 2017. Churches in East Nusa Tenggara have been mobilized to deliver key messages to prevent violence against children. In 2016, the Pastoral Centre Maumere Bishopric conducted community discussions reaching almost 500 children and adults.

### 3. Deinstitutionalization of children and strengthening alternative family care services

**Indicator 3.** Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).

**Baseline status:** Partly/ Under development

Since 2005, Indonesia has been moving from a child welfare system that was based primarily on residential care towards a system that is centered on family based care.<sup>154</sup> In 2011, the Ministerial Decree on Standard of Alternative Care in Institution was adopted, which supports children to live with their families or in a family environment while institutional care is regarded as the last resort. Most recently, the Social Affairs Ministerial Decree No. 21 of 2013 on Parenting reaffirms that institutionalization should be a temporary measure of last resort until permanent family-based care is obtained. While the Law on Child Protection set out alternative care options including ‘fostering’ by an institution, guardianship, and adoption, it did not stipulate any inter-relation or hierarchy between different forms. These have been defined and developed in more detail through the Ministry of Social Affairs Decrees and Guidelines.

154 Statement by Mr. Makmur Sunusi at the occasion of the Launch of Moving Forward: Implementing the Guidelines for Alternative Care of Children, Labouisse Hall at UNICEF Headquarters New York, April 11, 2013 at 3PM, [www.crin.org/en/docs/Talking\\_Points\\_for\\_Pak\\_Makmur\\_Sunusi%20\(2\).docx](http://www.crin.org/en/docs/Talking_Points_for_Pak_Makmur_Sunusi%20(2).docx), last accessed 5 October 2016.



**Table 20: Summary of legal/policy frameworks for alternative family care in Indonesia**

<b>Adoption</b>	<ul style="list-style-type: none"> <li>- Law on Child Protection (No. 23 of 2002 amended by No. 35 of 2014) and Government Regulation Number 54 Year 2007 on Child Adoption</li> <li>- Adoption by foreign nationals is only allowed as a last resort pursuant to Regulation Number 54</li> <li>- Not yet a contracting State to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption</li> </ul>
<b>Kinship care</b>	<ul style="list-style-type: none"> <li>- Social Affairs Ministerial Decree No. 21 of 2013 on Parenting – defines kinship care as caring done by birth parents of other family members until the third degree</li> </ul>
<b>Foster care</b>	<ul style="list-style-type: none"> <li>- Social Affairs Ministerial Decree No. 21 of 2013 regulates that institutions should be the last resort and should be temporary until permanent family-based care is obtained</li> </ul>
<b>Legal guardianship</b>	<ul style="list-style-type: none"> <li>- Social Affairs Ministerial Decree No. 21 of 2013 provides that an individual or institution may be appointed to serve as a guardian of a child</li> <li>- Appointment of legal guardianship is based on a court ruling</li> </ul>

The paradigm shift to promote rights-based and family-based care has translated into several programs including in poverty reduction and child protection initiatives. This follows the Presidential Instruction Number 1/2010 on the Acceleration of The Implementation of National Development Priorities for 2010 and the Presidential Instruction Number 3 /2010 on Equitable Development. The Conditional Social Cash *Program Keluarga Harapan* was initiated in 2007. It provides cash transfers to extremely poor households with pregnant or lactating mothers, toddlers, infants and school-aged children. In 2009, the Child Welfare Program *Kesejahteraan Sosial Anak* was introduced to provide as secondary and tertiary level child protection intervention. It combines cash assistance and social services to assist children at risk or in crisis.<sup>155</sup> Through these schemes the Ministry has begun to redirect its funding from support to the children within the institutions to supporting these children within their families<sup>156</sup>

While there have been significant developments, in 2014, the Committee on the Rights of the Child noted its concern about poor families who may still be unable to meet their children's basic needs and who find themselves obliged to give up the care of their children; the small number of family-based placements of children and the continued widespread use of institutionalization; the very limited requirements for obtaining a licence to run an alternative-care institution; the lack of compliance by most institutions with the standards introduced in the National Standard for Child Care; the absence of compliance monitoring; frequent incidences of violence within institutions; and children living in institutions lacking the possibility to meet their families; and the lack of an adequate system of disaggregated data collection on children living in institutions.<sup>157</sup> The Committee also welcomed Indonesia's adoption of the National Plan of Action on Disabilities 2013–2022, but noted its serious concern about many children with disabilities who are hidden or placed in institutions because of social stigma or the economic cost of raising them.<sup>158</sup> The Committee recommended that Indonesia further strengthen support to biological families and provide community-based assistance to families for child-rearing, including by trained social workers; provide family-type care wherever possible for children who cannot stay with their families, with a view to reducing the institutionalization of children; reinforce the requirements for obtaining a licence to run an alternative-care institution; ensure periodic review of the placement of children in institutions, and monitor the quality of care therein, including by providing accessible channels for monitoring and remedying maltreatment of children, and ensure that children are given the possibility to meet with their families; and establish a centralized data collection system on children living in institutions, disaggregated by age, sex and economic background.<sup>159</sup>

155 Ministry of Social Affairs Indonesia and UNICEF Indonesia, 'Rapid assessment of the Child Social Welfare Program (PKSA)', January 2015, p. 14.

156 Statement by Mr. Makmur Sunusi at the occasion of the Launch of Moving Forward: Implementing the Guidelines for Alternative Care of Children, Labouisse Hall at UNICEF Headquarters New York, April 11, 2013 at 3PM, [www.crin.org/en/docs/Talking\\_Points\\_for\\_Pak\\_Makmur\\_Sunusi%20\(2\).docx](http://www.crin.org/en/docs/Talking_Points_for_Pak_Makmur_Sunusi%20(2).docx), last accessed 5 October 2016.

157 Committee on the Rights of the Child, 'Concluding observations on the combined third and fourth periodic reports of Indonesia', CRC /C/IDN/CO/3-4, 10 July 2014, [43].

158 Ibid., [45].

159 Ibid., [44].

## 4. Preventing violence against children in cyberspace

**Indicator 4.** Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).

**Baseline status:** Partly/ Under development

There are emerging initiatives underway to implement preventive measures against violence against children in cyberspace. The Ministry of Communication and Information has developed and disseminated 'i-cakap' (*Internet Cerdas, Kreatif dan Produktif* or Smart, Creative and Productive Internet) Guidelines. There is limited information about frameworks and processes in place for industry to contribute towards preventing online violence. The Law concerning Pornography obligates the Government to take precautions against the production, distribution, and use of pornography, and authorizes the Government to terminate, block and monitor any network that produces and disseminates pornography (articles 17-19). The Law concerning Electronic Information and Technology, and Regulation No. 82 of 2012 concerning Electronic System and Transaction Operation govern data retention. Both provide that electronic system operators shall redisplay electronic information and/or electronic documents in accordance with the retention period set out in the regulation (which has not yet been introduced). The Law concerning Pornography requires the owner of the data, the data storage or the electronic service provider to provide data to investigators as requested.

## ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

### 5. Child and gender sensitive reporting and complaint mechanism

**Indicator 5.** Number of AMS providing child- and gender- sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances (by type and by setting).

**Baseline status:** Partly/ Under development

The national child helpline *Telepon Sahabat Anak 129* (TESA 129), operated by the sub-directorate for child protection under the Ministry of Social Affairs. TeSA 129 aims at providing child protection services to victims of abuse and neglect as well as to serve as a mechanism for child-friendly complaints.<sup>160</sup> The Committee on the Rights of the Child has observed that the helpline has insufficient human, technical and financial resources to raise awareness of the service to children across the country and/or to provide 24-hour access and satisfactory follow-up.<sup>161</sup> An online complaint mechanism is also provided through the 'Integrated Services Unit for the Empowerment of Women and Children' (P2TP2A) as provided by

<sup>160</sup> Government of Indonesia, 'Consideration of Reports Submitted by States Parties under Article 44 of the Convention: Second Periodic Reports of States Parties due in 1997 – Indonesia', CRC/C/65/Add.23, 2002, cited in Human Rights Resource Centre, 'Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A Baseline Study', 2012 p. 331, <http://hrca.org/violence-exploitation-and-abuse-and-discrimination-migration-affecting-women-and-children-asean/>, last accessed 18 October 2016.

<sup>161</sup> Committee on the Rights of the Child, 'Concluding Observations on the Combined Third and Fourth Periodic Reports of Indonesia', CRC/C/IDN/CO/3-4, 10 July 2014, [39]-[40].

the Ministry of Women's Empowerment 'Regulation No. 1 of 2010 on Integrated Service System'.<sup>162</sup> Victims can report incidents through an online form on the website. A number of organisations that can offer advice or assist in bringing complaints forward to a competent authority including the Integrated Crisis Centre, Protection House and Trauma Centre, Social Protection House for Children, Women Crisis Centre, Legal Aid Centre, and others.<sup>163</sup> While there do not currently appear to be any internal bodies for reporting, the Decree of Education Ministry No. 8 Year 2015 requires the establishment of national and local task forces to receive reports on violence in education settings.

In respect of external independent bodies, children may only bring cases in domestic courts with the assistance of a representative. With respect to civil claims, the Civil Code provides that a person under 21 who has never been married is not capable of carrying out legal actions on their own behalf, and must be represented by a legal representative to bring a civil claim before a court. Under the Criminal Code, a child under 16 must be represented by their parents or legal guardian in order to submit a criminal complaint. In the absence of parents or a legal guardian, or if the violation is by the parents or legal guardian, the complaint may be filed by the child's other legal guardians (e.g., a board acting as supervisory trustee (*wali pengawas*) or supervisory of guardianship (*pengampu pengawas*) or blood relatives.<sup>164</sup> Notwithstanding, access to formal justice system is limited, particularly for girls.<sup>165</sup> The costs of the formal justice system are often prohibitive and girls are referred to alternative dispute-resolution mechanisms such as religious courts, which frequently discriminate against them and eventually exclude them from the decision-making process.<sup>166</sup> While it is possible for children to file complaints to the Commission for the Protection of Children (KPAI), the Commission lacks the explicit authority to investigate complaints.<sup>167</sup> A 2009 needs assessment found that the KPAI currently lacks the staff, systems, and structures necessary to effectively carry out its core mandate as a watchdog or oversight body, and that its independence is to some extent compromised by the fact that its secretariat and budget are controlled by the Ministry of Women's Empowerment.<sup>168</sup> The Committee on the Rights of the Child has previously recommended that Indonesia "ensure accessible, confidential and child-friendly reporting channels; and facilitate child victims' access to justice".<sup>169</sup> Indonesia is not yet a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## 6. Protective and supportive services for children affected by violence

**Indicator 6.** *Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).*

**Baseline status:** *Partly/ Under development*

<sup>162</sup> Human Rights Resource Centre, 'Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A Baseline Study', 2012 p. 331, <http://hrrca.org/violence-exploitation-and-abuse-and-discrimination-migration-affecting-women-and-children-asean/>, last accessed 18 October 2016.

<sup>163</sup> Ibid., p. 332.

<sup>164</sup> White & Case LLP, 'Access to Justice for Children: Indonesia', November 2013, pp. 3-4, [https://www.crin.org/sites/default/files/Indonesia\\_Access\\_to\\_justice\\_0.pdf](https://www.crin.org/sites/default/files/Indonesia_Access_to_justice_0.pdf), last accessed 12 October 2016.

<sup>165</sup> Committee on the Rights of the Child, 'Concluding Observations on the Combined Third and Fourth Periodic Reports of Indonesia', CRC/C/IDN/CO/3-4, 10 July 2014, [31].

<sup>166</sup> Ibid., [37].

<sup>167</sup> Ibid., [17]-[18].

<sup>168</sup> 'KPAI Needs Assessment', 2009 cited in Child Frontiers, 'Child and family welfare services in Indonesia: An assessment of the system for prevention and response to abuse, violence and exploitation against children', Ministry of Social Affairs and UNICEF Indonesia, 2009, p. 44.

<sup>169</sup> Committee on the Rights of the Child, 'Concluding observations on the combined third and fourth periodic reports of Indonesia', CRC/C/IDN/CO/3-4, 10 July 2014, [31]-[32].

Responsibility for child protection is split across a number of Directorates and Sub-Directorates within the Ministry of Social Affairs (*Kementerian Sosial* – ‘KEMENSOS’).<sup>170</sup> Indonesia’s National Mid-term Development Plan 2015 – 2019 includes objectives to strengthen the child protection system. KEMENSOS role in social welfare service delivery is mainly regulatory; the central government retains responsibility for developing policy and ensuring that minimum standards are met, while local government has responsibility for actual service delivery. Indonesia’s 33 provincial and 465 district/city governments also have broad authority to develop their own laws and regulations to give effect to national laws at the local level.<sup>171</sup> The Law on Child Protection outlines in general terms the measures for supporting children in need of special protection. However, there is no clear designation of authority to make decisions regarding protective services and only limited guidelines and criteria for making decisions about what interventions are necessary to protect a child. Instead, authority for reporting, risk assessment, intervention planning, decision-making and case management has been delegated to any individual, community organization, NGO or childcare institution that is engaged in providing child welfare services. In practice, this means that a variety of government, NGO and community- based organization representatives take responsibility for intervening in child protection cases, with no clear mechanisms to ensure consistency and accountability in decision-making.<sup>172</sup> Significant coordination issues from National to Provincial to District and Sub-District levels in terms of service delivery have been observed.<sup>173</sup> The concept of statutory protective services has not been incorporated into Indonesia’s child protection law, and therefore limited distinction is made between voluntary endeavours of families and communities and mandatory State interventions to protect children.<sup>174</sup>

The special protection measures to be afforded to children are often initially based on the ‘type’ of maltreatment the child has actually experienced and dealt with under the specific law governs that particular form of maltreatment. For example, the Law on Child Protection provides in very general terms the special protection to be afforded to specific categories of children (articles 64, 69 and 71). The Law on the Eradication of Trafficking in Persons provides that social welfare authorities at the central and regional levels must provide victims of trafficking, including children, with social rehabilitation, return assistance, and social reintegration. Detailed guidance with respect to the mechanisms and procedures for providing integrated services for victims of trafficking is provided under the Government Regulation 9/2008 on procedures and mechanisms for the provision of integrated services to witnesses and/or victims of human trafficking, as well as the Standard Operating Procedures for the provision of integrated services for victims through integrated service centres at the provincial and district/municipal levels. The Law on Domestic Violence provides that all victims of household violence, including children, are entitled to temporary shelter and police protection, health care, counselling, accompaniment during all legal proceedings, and assistance in relocating to a safe house or alternative dwelling. An application can also be made for a protection instruction from the Court to place conditions on the perpetrator’s movements, access to a joint dwelling, and ability to contact the victim. The Law on Social Welfare states that any person experiencing social dysfunction (defined in the accompanying Elucidation to include: victims of violence, trafficked victims, children who are neglected, and children with special needs) is entitled to social rehabilitation services. This may involve “*the application of persuasive, motivational, or coercive approaches in the family, community or social welfare institutions.*” Social rehabilitation services include: psychosocial motivation and diagnosis; treatment and care; vocational and entrepreneurship training; mental/spiritual guidance; physical training; social and psychosocial counselling; accessibility services; social assistance; re-socialization services; follow-up services; and/or referral services (article 7).<sup>175</sup>

170 School of Human Services and Social Work, Griffith University, ‘Building an effective child protection and social welfare system in Indonesia: Developing the role of social work, Report of scoping visit (July-August 2012)’, October 2012, p. 19.

171 Child Frontiers, ‘Child and family welfare services in Indonesia: An assessment of the system for prevention and response to abuse, violence and exploitation against children’, Ministry of Social Affairs and UNICEF Indonesia, 2009, p. 23, 40.

172 ECPAT International, Plan International, Save the Children, UNICEF and World Vision, ‘National Child Protection Systems in the East Asia and Pacific Region: A review and analysis of mappings and assessments’, 2014, p. 28.

173 School of Human Services and Social Work, Griffith University, ‘Building an effective child protection and social welfare system in Indonesia: Developing the role of social work, Report of scoping visit (July-August 2012)’, October 2012, p. 19.

174 Child Frontiers, ‘Child and family welfare services in Indonesia: An assessment of the system for prevention and response to abuse, violence and exploitation against children’, Ministry of Social Affairs and UNICEF Indonesia, 2009, p. 23.

175 *Ibid.*, p. 27.

Tertiary responses have focused primarily on the development of integrated medico-legal service for responding to reported cases and in the development of specialised residential rehabilitation homes in some provinces (*Rumah Perlindungan Sosial Anak – RPSA*). Through the establishment of specialised police units and hospital-based integrated service centres (PPTs), child victims of the most serious forms of violence now have access to medical care, psycho-social support, legal advice, and child-sensitive investigative procedures. However, as a hospital-based, crisis intervention model, PPTs generally address only the most serious cases of violence and exploitation; predominantly sexual abuse and physical violence causing injuries warranting medical attention.<sup>176</sup> The RPSA are managed by KEMENSOS and operate both as emergency shelters, as well as longer-term protection and rehabilitation homes where child victims can stay for up to six months or longer if necessary. The RSPAs provide specialist care, as well as recovery and reintegration services to child victims of violence, after which they are either returned to their families or sent to a government or NGO childcare institution. They generally have at least one professional social worker on staff and reportedly provide individualized care and counselling to help promote children's recovery and rehabilitation. However, given their limited number and geographical coverage, children are often transferred long distances to the nearest RPSA, making family reunification and reintegration more difficult. Due to limited staff and resources, capacity of the RPSA's for outreach, family strengthening, and reintegration support is limited and they generally rely upon local NGOs, where available.<sup>177</sup> Both PPTs and the RPSA lack the staff or capacity to case manage or assess the family environment before a child is returned home, or to ensure that children receive appropriate care and protection after they leave the centre.<sup>178</sup> While new services such as PPTs and RPSA provide temporary sanctuary and care, it has been observed that they should be considered as elements in a wider continuum of tertiary services, rather than a comprehensive solution.<sup>179</sup> Through the mandate of the Act on Elimination of Domestic Violence No. 23/2004, Integrated Service Centres and Empowerment for Women and Children (P2TP2A) have also been established at provincial and district levels. The function of P2TP2A is to promote the prevention of violence against women and children, service the victim from initial contact, judicial protection, health rehabilitation, repatriation and social reintegration as well as to develop the network among stakeholders and act as a referral system. P2TP2A works with the PPT at the hospital and the police department in prevention programmes.<sup>180</sup>

While tertiary interventions exist at local level, they are limited and not supported by competent workers. Government officials working at sub district, village and community levels are not yet so familiar with the issues.<sup>181</sup> At the district level, UNICEF has implemented a pilot project for the development of a child protection system in Tulungagung District, East Java Province. In cooperation with the Ministry of National Development Planning, they will replicate the child protection system in other districts in Indonesia. The child protection system is similar to Integrated Service Centre for Woman and Child Protection which has been established in some districts/cities in Indonesia.<sup>182</sup> KEMENSOS is also piloting *Pusat Layanan Sosial Anak Integratif* (integrated social welfare services for children and families) in five districts in three provinces with support from UNICEF. At the village level, Plan Indonesia has developed a child protection model called Village Committee for Child Protection (*Komite Perlindungan Anak Desa*). The Village Committee has been established in some villages to develop an integrated child protection system at village level.<sup>183</sup> It has been recommended that referral networks alone will not be sufficient to address children's protection needs, as services currently available are primarily focused on short-term medico-legal interventions, institutional care, and economic empowerment. There is an urgent need for KEMENSOS/Dinas Sosial to begin to

176 Ibid., p. 15.

177 Ibid., p. 64-5.

178 Ibid., p. 65.

179 Child Frontiers, 'Child and family welfare services in Indonesia: An assessment of the system for prevention and response to abuse, violence and exploitation against children', Ministry of Social Affairs and UNICEF Indonesia, 2009, p. 15.

180 Ministry of Women, Family and Community Development [Malaysia], 'Good practices: Eliminating violence against women and children', ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, 2013, p. 15, <http://asean.org/wp-content/uploads/images/Community/ASCC/ACWC/Good%20Practices%20-EVAWC%20Publication.pdf>, last accessed 19 October 2016.

181 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 93.

182 Ibid., p. 101.

183 Ibid., p. 101.

develop more specialized child protection services such as intensive parenting skills programmes, individual and family counselling, parenting support groups, temporary respite care, therapeutic interventions for drug and alcohol abusers, structured family supervision, and kinship and foster care arrangements.<sup>184</sup>

## ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

### 7. Laws in full conformity with applicable international human rights standards

**Indicator 7.** Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.

**Baseline status:** Not yet started

Some relevant legislative developments during 2016 include a new regulation (PERPPU No.1/2016) to amend the Law on Child Protection, which has subsequently been approved by the Parliament to be adopted as law in November 2017. The regulation increases the maximum sentence upon conviction for sexual offenses against children and includes a controversial penalty of chemical castration. A draft Law on Anti Sexual Violence has been submitted to Parliament for deliberation, which will expand the definition of sexual violence. There has also been discussion to implement a regulation (PERPPU) on the Prevention of Child Marriage, which will increase the age of marriage to 18 for girls and eradicate marriage dispensation (exemption) for any marriage involving children under 18 years. This would address a recommendation from the Committee on the Rights of the Child in 2014 for Indonesia to amend legislation and raise the marriage age for girls to 18 years (as previously recommended, CRC/C/15/Add.223, para. 27).<sup>185</sup> Other recommendations from the Committee in 2014 included for Indonesia to:

- Amend legislation to prohibit corporal punishment everywhere, including in the family, schools and childcare settings.<sup>186</sup>
- Review the age limits set in different legislation in order to ensure that they conform to the principles and provisions of the Convention and under no circumstances lead to a child under the age of 18 being considered as an adult.<sup>187</sup>
- Amend legislation to ensure that all children subject to any form of sexual exploitation are always treated as victims and are not subject to criminal sanctions.<sup>188</sup>
- Adopt legislation to fully prohibit female genital mutilation in all its forms.<sup>189</sup>
- Prevent and combat the practice of early or forced marriage, including all necessary legislative measures.<sup>190</sup>
- Amend legislation to criminalize forced labour and regulate the work of children between 16 and 18 years of age.<sup>191</sup>

184 Child Frontiers, 'Child and Family Welfare Services in Indonesia, An Assessment of the System for the Prevention and Response to Abuse, Violence and Exploitation against Children', 2009, p. 70.

185 Committee on the Rights of the Child, 'Concluding Observations on the Combined Third and Fourth Periodic Reports of Indonesia', CRC/C/IDN/CO/3-4, 10 July 2014, [10].

186 Ibid., [8].

187 Ibid., [10].

188 Ibid., [32].

189 Ibid., [34].

190 Ibid., [36].

191 Ibid., [72].

- Amend all legislation that treats children in street situations as criminals and take all necessary measures to protect them from violence, in particular law enforcement violence.<sup>192</sup>
- Amend legislation to ensure that child trafficking in all its forms is comprehensively defined and criminalized.<sup>193</sup>
- Raise the minimum age of criminal responsibility to at least 14 years of age.<sup>194</sup>

## 8. Diversion and alternative measures

**Indicator 8.** Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.

**Baseline status:** Partly/ Under development

The entry into force in 2014 of Law No. 11 Year 2012 on Juvenile Criminal System (Juvenile Justice Law) has significantly increased the use of diversion and alternative measures in Indonesia. The Juvenile Justice Law increased the age of criminal responsibility and thereby reduced the number of children in prison. The use of diversion has reportedly increased from seven per cent to more than fifty per cent since its enactment.<sup>195</sup> The Law includes provisions on diversion, alternatives to pre-trial detention, post-trial detention and restorative juvenile justice.

**Table 21: Summary of alternative measures for children in conflict with the law in Indonesia<sup>196</sup>**

Category of alternative measures based on international juvenile justice standards	Status in law	Status of practice
1. Unconditional diversion/ police warning	- Included in child-specific law	- Unknown
2. Diversion from formal judicial proceedings	- Child-specific law provides for diversion at police, prosecution and court stages	- Reportedly often used
3. Alternatives to pre-trial detention	- Included in child-specific law	- Scale of practice unknown
4. Measures to minimize time spend in pre-trial detention	- Included in child-specific law	- Reportedly regular review of children's pre-trial detention by parole/corrections officer and release from pre-trial detention often occurs
5. Alternatives to post-trial detention	- Included in child-specific law	- Scale of practice unknown
6. Measures to minimize time spend in post-trial detention	- Child-specific law provides for early (conditional) release	- No regular review of children's post-trial detention - Scale of early (conditional) release from post-trial detention is unknown - Monitoring of children (conditionally) released

192 Ibid., [74].

193 Ibid., [76].

194 Ibid., [78].

195 Data from UNICEF Indonesia.

196 UNICEF EAPRO, 'Final regional report: Study on diversion and other alternative measures for children in conflict with the law in East Asian and Pacific Island countries', 15 September 2016, unpublished.

## ACTION 4: CAPACITY BUILDING

### 9. Advocacy materials to generate awareness and support ending violence against children

**Indicator 9.** *Number and type of advocacy materials developed by each AMS for various audiences to generate awareness and support EVAC.*

**Baseline status:** *Partly/ Under development*

The development of advocacy materials is part of the *Bersama Lindungi Anak* and ‘Three Ends’ campaigns led by the Ministry of Women Empowerment and Child Protection.

## ACTION 5: RESEARCH AND DATA COLLECTION

### 10. National systems for data collection, analysis and sharing

**Indicator 10.A.** *Number of AMS using survey data in national policy documents on VAC.*

**Baseline status:** *Partly/ Under development*

**Indicator 10.B.** *Number of AMS with reliable and consistent national system for consolidation of data on VAC.*

**Baseline status:** *Not yet started*

**Indicator 10.C.** *Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.*

**Baseline status:** *Not yet started*

In January 2016, the Ministry of Coordination launched Indonesia’s Strategy to Prevent Violence in Childhood (2016-2020). This strategy is based on a comprehensive literature review of the evidence on violence against children in Indonesia including the 2013 Violence Against Children Survey. A ‘lessons learned’ analysis of the experience of conducting the first Violence Against Children Survey in 2013 is being finalized. This study will provide important recommendations for a second prevalence survey in 2018 by the Government of Indonesia, which has already been included in government planning and budgeting.<sup>197</sup> Other relevant surveys are currently underway. Data collection for Indonesia’s first Violence against Women Survey (‘Survey on Life and Health Experiences of Women’) commenced in 2016 together with UN Women and UNFPA. The Global School-based Health Study, which includes questions on violence in school, has been finalized together with WHO and results are to be published later in 2016.

<sup>197</sup> <http://www.end-violence.org/indonesia.html>, last accessed 20 December 2016.



# ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

## 11. National plans of action to eliminate all forms of violence against children

**Indicator 11.** *Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.*

**Baseline status:** *Implementation underway*

Indonesia's Strategy to Prevent Violence in Childhood (2016-2020) was developed based on a review of data, inputs from multiple line ministries (justice, welfare, police, religious affairs, among others) and focus groups with local government at sub national levels. Civil society partners were also active in the design and have formed an informal network to consolidate inputs to the Government proposing support for implementation of the Strategy. The Strategy also reflects the inputs of thousands of children consulted through online platforms (U-report), focus group discussions and various social media outreach activities supported by youth networks. The Strategy was designed to support Indonesia's progress to achieve Target 16.2 of the SDGs, and references new international guidelines on preventing violence against children issued in 2016. The Strategy aims to accelerate action to end violence against children in five areas: (1) Abolishing all forms of violence against children in all settings in the law; (2) Changing social norms and cultural practices that accept, justify or ignore violence against children; (3) Supporting parenting practices between caregivers and children; (4) Increasing children and adolescents' life skills to prevent violence and increase universal access to secondary education; (5) Strengthening services for victims so that they are free and accessible; (6) Improving the evidence on the situation of violence against children as well as what works to prevent it.

Indonesia has been identified as a 'Pathfinder' country by the Global Partnership and Fund to End Violence Against Children.<sup>198</sup> As a Pathfinder country, Indonesia needs to initiate a number of steps to fully implement the Strategy with the first priority to finalize a roadmap on implementing the National Strategy. The roadmap is expected to include: the establishment of a Board to coordinate the implementation of the National Strategy; ensuring that all relevant national ministries and agencies are aware and align the programmes to the National Strategy with sufficient funding; ensuring that provincial and district government are aware of the national strategy and adopt priorities for sub-national programmes; and identify key indicators for monitoring and evaluation of the implementation of the strategy.<sup>199</sup>

## 12. Coordination mechanism for disasters and conflict situation

**Indicator 12.** *Number of AMS that include VAC in emergency-response programming.*

**Baseline status:** *Partly/ Under development*

The Ministry of Social Affairs' Child Protection Rapid Response Team is a national mechanism, previously supported by UNICEF, which can be deployed at onset of any disaster and includes rotation of specialists across country that have regular access to skills building activities. Over the last two years, the Ministry of Social Affairs has also been leading the National Cluster on Protection and Displacement, which include sub-cluster on child protection. Raising awareness and responding to violence is included in the response which often focus on psychosocial interventions.

198 <http://www.end-violence.org/countries.html>, last accessed 20 December 2016.

199 <http://www.end-violence.org/indonesia.html>, last accessed 20 December 2016.

# COUNTRY SUMMARY: LAO PDR

## ACTION 1: PREVENTION

1. Non-violent approach to nurture, care, for the development of children in all settings

**Indicator 1.B.** Number of AMS that contextualise the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.

**Baseline status:** Not yet started

The Guidelines are currently being used to inform the development of a multi-sectoral response to the national Violence against Children Survey. They will also be used to help guide the mid-term review of the National Plan of Action on the Prevention of Violence against Women and Violence against Children 2014-2020, as well as the development of the second National Plan of Action. This includes priority actions on developing and implementing a parenting education package with key messages on Integrated Early Childhood Development, nutrition and child protection concerns, including violence against children, and implementing community-based outreach activities through Child Protection Networks to increase parents' and caregivers' knowledge about child development, educate them about the impact of violence against children, and promote positive parent-child interactions, including the use of non-violent forms of child discipline.

There are emerging initiatives underway to promote a non-violent approach to children, including through implementation of the new Law on Preventing and Combatting Violence against Women and Children (promulgated in January 2015) prohibiting violence against children in all settings, and the National Plan of Action on the Prevention and Elimination of Violence against Women and children (2014-2020).

2. Awareness raising and behaviour change communications on all forms of violence against children

**Indicator 2.** Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.

**Baseline status:** Implementation underway

The #ENDviolence communication campaign was launched in Lao PDR on 31 May 2015 at a national event in Vientiane Capital that was organized by the National Commission for Mothers and Children with UNICEF support. The launch coincided with International Children's Day (1 June). The campaign, which utilizes a range of media including billboards, posters, TV, radio spots and social media, aims to raise awareness on all forms of violence against children in Lao PDR. Two follow up events were conducted at the provincial level. UNICEF is continuing to disseminate #ENDviolence messages through digital channels, namely

through selected children's advocates in popular social media. The communication activities intend to set the stage for a broader and longer-term social mobilization and behavior change initiative to reduce violence against children and its acceptability, which will address the key findings of the national study on violence against children. This effort supports the National Commission for Mothers and Children's implementation plans for the National Plan of Action on the Prevention and Elimination of Violence against Women and Children (2014-2020).

### 3. Deinstitutionalization of children and strengthening alternative family care services

**Indicator 3.** Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).

**Baseline status:** Partly/ Under development

Institutionalization of children remains relatively low in Lao PDR.<sup>200</sup> Kinship bonds remain strong and they can provide a source of protection for children and a means for children to be removed to a place of safety if they are at risk in their own homes.<sup>201</sup> At present, there is limited information about alternative care options available,<sup>202</sup> and an absence of systems to support either informal or formal care placements. The Law on the Protection of the Rights and Interests of Children 2007 does not define the different types of alternative care, but lists principles to be applied including institutionalization as a last resort (article 42). Likewise, the Adoption Decree 2014 sets out a hierarchy of forms of alternative care, namely kinship care, foster care, domestic adoption, adoption by a foreigner then institutional care (article 9).

**Table 22: Summary of legal/policy frameworks for alternative family care in Lao PDR**

<b>Adoption</b>	<ul style="list-style-type: none"> <li>- Family Law, 1990, revised 2008 (articles 37-42) – domestic adoption and contemplates adoption by foreigners</li> <li>- Adoption Decree, 2014</li> <li>- Not yet a contracting State to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption</li> </ul>
<b>Kinship care</b>	<ul style="list-style-type: none"> <li>- No formal system</li> </ul>
<b>Foster care</b>	<ul style="list-style-type: none"> <li>- No formal system</li> </ul>
<b>Legal guardianship</b>	<ul style="list-style-type: none"> <li>- Family Law, 1990, revised 2008 (articles 43-44) – village heads must appoint guardians for abandoned children or incompetent individuals from among their close relatives or from other individuals</li> </ul>

With support from UNICEF, the Ministry of Labour and Social Welfare is currently conducting an assessment of children without parental care, with the report expected in late 2017. This assessment will give a clearer picture and understanding about the situation in order to plan a suitable response and will inform the development of Alternative Care Guidelines for children without parental care. The Committee on the Rights

200 Child Frontiers, 'Analysis of the social welfare system in Lao PDR: A study focused on child and family welfare services for the prevention and response to abuse, violence, and exploitation against children', Ministry of Labour and Social Welfare and UNICEF Lao PDR, July 2009, pp. 34, <http://laocs-kis.org/wp-content/uploads/2015/03/7.-Social-Welfare-Analysis-UNICEF-Lao-PDR-2009.pdf>, last accessed 12 October 2016.

201 Ibid., pp. 41.

202 Mónica Ruiz-Casares and Saithong Phommavong, 'Determinants and Consequences of Children Living Outside of Parental Care in Lao People's Democratic Republic: Views and Experiences of Adults and Young People in Family and Residential Care', *Global Social Welfare*, June 2016, Volume 3, Issue 2, pp 125–135 [http://link.springer.com/article/10.1007/s40609-016-0053-5#Fn2\\_source](http://link.springer.com/article/10.1007/s40609-016-0053-5#Fn2_source), last accessed 5 September 2016.

of the Child has encouraged Lao PDR to develop clear guidelines to ensure that children's rights were respected throughout the process of placement in alternative care, with priority to be given to family-type and community-based measures; and to set up a mechanism to ensure periodic review of the placement of children in care centres, family-type care and alternative forms of care.<sup>203</sup> Based on the results of the rapid assessment of children without parental care, the Ministry of Labour and Social Welfare will lead the development of Alternative Care Guidelines for children without parental care.

In 2011 and 2015, the Committee also urged Lao PDR to put in place a mechanism to monitor all adoptions in order to ensure that the rights of the children who are adopted are fully respected and to consider ratifying the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.<sup>204</sup> In 2012, the Government of Lao PDR suspended all inter-country adoptions while regulations and procedures were established. In line with the Adoption Decree, the Ministry of Justice has established 'Adoption Committees' at central, provincial and district levels, and has developed an Adoption Training Manual, which provides a step-by-step guide on the adoption process under the Adoption Decree. Several challenges remain, however, including a low level of awareness about the new Adoption Decree both within Lao PDR and internationally, as well as the lack of temporary care services, which are not readily available in Lao PDR, despite the fact that the Adoption Decree calls for the provision of temporary care when required.

#### 4. Preventing violence against children in cyberspace

**Indicator 4.** *Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).*

**Baseline status:** *Partly/ Under development*

There are emerging initiatives underway to implement preventive measures against violence against children in cyberspace. Cybersafety is reportedly taught in schools where 'Internet centres' have been established. In late 2014, Lao PDR issued Decree No. 327 on Internet-Based Information Control/Management, which prohibits disseminating certain content on the Internet and makes ISPs responsible for restricting users' access and suspending connections, temporarily or permanently, for violation of the Decree (article 12). Website managers are deemed responsible for content and information on their sites and must not disseminate prohibited content (article 14). There is reportedly a lack of capacity to monitor the Internet and to block access to websites in Lao PDR. Decree No. 327 includes ISPs responsibility to "collaborate and provide information to concerned organizations" (article 12), which may include the transmission of content to law enforcement, but the procedure is not elaborated. The National Defence Sector's responsibilities include to "collect, inspect, and analyse information on the Internet that threatens national stability, the nation's secrets, and the peace of the society" (article 20). Article 40 of the draft Law on Prevention and Combating Cyber Crime prohibits service providers from deleting computer traffic data and user data before 90 days. It also prohibits the disclosure of consumer data without authorization.

203 Committee on the Rights of the Child, 'Consideration of reports submitted by State parties under article 44 of the Convention, Concluding Observations: Lao People's Democratic Republic', CRC/C/LAO/CO/2, 8 April 2011, [43],[44].

204 Committee on the Rights of the Child, 'Consideration of reports submitted by State parties under article 44 of the Convention, Concluding Observations: Lao People's Democratic Republic', CRC/C/LAO/CO/2, 8 April 2011, [45]; Committee on the Rights of the Child, 'Concluding observations on the report submitted by the Lao People's Democratic Republic under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography', CRC/C/OPSC/LAO/CO/1, 3 July 2015, [24].

## ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

### 5. Child and gender sensitive reporting and complaint mechanism

**Indicator 5.** *Number of AMS providing child- and gender- sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances (by type and by setting).*

**Baseline status:** *Partly/ Under development*

In collaboration with the Ministry of Labour and Social Welfare, Peuan Mit (Friends International) operates a three-digit toll-free 24-hour hotline for children and young people who have experienced violence or who are at-risk. The Lao Women's Union hotline, toll-free and open during business hours, can be used for reporting suspected cases of domestic violence and trafficking in women and children. The Ministry of Public Security has a hotline for reporting cases of trafficking. At village, district and provincial levels, Child Protection Networks have been trained to respond to cases of violence against children, however do not yet have any child-sensitive reporting mechanism. These currently exist in 496 villages in 35 districts and 8 provinces, with plans to expand to 800 villages by 2020. The Lao Women's Union Counselling and Protection Centres for Women and Children can assist children who have experienced violence to file grievances with relevant authorities. There do not appear to be complaints mechanisms within alternative care or justice systems. Lao PDR does not currently have a National Human Rights Commission or Ombudsman. Instead, monitoring is conducted by the Ministry of Justice and by the State agencies in their individual areas of responsibility. The National Commission for Mothers and Children and the National Commission for Advancement of Women were merged in late 2016 as a new Commission responsible for monitoring, coordinating, and promoting the implementation and realization of the rights of women and children. Children are not permitted to bring cases to the courts by themselves, but the case may be brought through legal representatives of the children – parents or a guardian. A child under 18 years of age without a guardian may be represented by a public prosecutor.<sup>205</sup> The Committee on the Rights of the Child has recommended that Lao PDR establish, in accordance with the Paris Principles,<sup>206</sup> an Ombudsman's Office or other independent monitoring body provided with necessary resources, with a clear mandate to receive and investigate complaints from, or on behalf of, children about violations of their rights.<sup>207</sup> The Committee has also encouraged Lao PDR to ensure that children are not denied their rights to reparation or to bring a court complaint.<sup>208</sup> Lao PDR is not yet a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

205 White & Case LLP, 'Access to Justice for Children: Lao People's Democratic Republic', June 2015, pp. 2-3, [https://www.crin.org/sites/default/files/laos\\_access\\_to\\_justice.pdf](https://www.crin.org/sites/default/files/laos_access_to_justice.pdf), last accessed 12 October 2016.

206 Principles relating to the Status of National Institutions (The Paris Principles), Adopted by General Assembly resolution 48/134 of 20 December 1993, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>, last accessed 18 January 2017.

207 Committee on the Rights of the Child, 'Consideration of reports submitted by State parties under article 44 of the Convention, Concluding Observations: Lao People's Democratic Republic', CRC/C/LAO/CO/2, 8 April 2011, [15].

208 Committee on the Rights of the Child, 'Consideration of reports submitted by State parties under article 44 of the Convention, Concluding Observations: Lao People's Democratic Republic', CRC/C/LAO/CO/2, 8 April 2011, [30]-[31].

## 6. Protective and supportive services for children affected by violence

**Indicator 6.** Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).

**Baseline status:** Partly/ Under development

The Ministry of Labour and Social Welfare is responsible to develop policies to prevent and respond to violence against children, develop regulations and instructions on protection and assistance to children and to establish a Committee for Protection and Assistance to Children pursuant to the Law on the Protection of the Rights and Interests of Children. Under the Law, responsibility for child protection services is largely delegated to the Committee for the Protection and Assistance to Children, which has the duty to receive and respond to individual cases, provide assistance to children at-risk and in need of protection and their families, to monitor and inspect the care and protection provided to children by various institutions and to collect statistics on children in need of special protection.<sup>209</sup> UNICEF is supporting the Ministry of Labour and Social Welfare to establish Committees for the Protection and Assistance of Children at the central, provincial and district levels, as well as Child Protection Networks at the community level.

The challenge in Lao PDR is to translate laws and policies into practice with limitations in financial resources and human capacities. There are currently a lack of skilled and qualified professionals and referral mechanisms at all levels to provide psycho-social support services. There are also limited shelters and health services for child victims of violence. The Committee on the Rights of the Child has expressed concern about the lack of sufficient rehabilitation and reintegration measures for child victims.<sup>210</sup> The Ministry of Labour and Social Welfare has established temporary shelters for victims of violence and trafficking, and the Lao Women's Union runs a Counseling and Protection Centre for Women and Children for victims of trafficking, sexual abuse and domestic violence. The Lao Women's Union has also established a counselling program and in 2015, this program covered 52 villages in 57 districts in 11 provinces. The extent to which specialized services are available for child victims of violence is unclear. Peun Mit (in collaboration with the Ministry of Labour and Social Welfare) offers a safe space and drop in centre for children living on the streets, providing them access to both emergency medical services and longer-term opportunities through non-formal education, life-skills and vocational training. A 2009 assessment of the child and family welfare services in Lao PDR observed a need for a more comprehensive continuum of primary, secondary and tertiary services, which also includes more formal protective interventions including emergency provision by way of accessible medical care and temporary shelter. For more serious cases, interventions should include compulsory measures (such as supervision and court orders for the temporary removal of the perpetrator or child from the home to ensure the child's protection.<sup>211</sup>

209 Child Frontiers, 'Analysis of the social welfare system in Lao PDR: A study focused on child and family welfare services for the prevention and response to abuse, violence, and exploitation against children', Ministry of Labour and Social Welfare and UNICEF Lao PDR, July 2009, pp. 12-3, <http://laocs-kis.org/wp-content/uploads/2015/03/7.-Social-Welfare-Analysis-UNICEF-Lao-PDR-2009.pdf>, last accessed 12 October 2016.

210 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding Observations: Lao People's Democratic Republic', CRC/C/LAO/CO/2, 8 April 2011, [47]-[48].

211 Child Frontiers, 'Analysis of the social welfare system in Lao PDR: A study focused on child and family welfare services for the prevention and response to abuse, violence, and exploitation against children', Ministry of Labour and Social Welfare and UNICEF Lao PDR, July 2009, pp. 41, 44, <http://laocs-kis.org/wp-content/uploads/2015/03/7.-Social-Welfare-Analysis-UNICEF-Lao-PDR-2009.pdf>, last accessed 12 October 2016

## ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

### 7. Laws in full conformity with applicable international human rights standards

**Indicator 7.** Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.

**Baseline status:** Not yet started

In 2016, the Law on Anti-Trafficking in Persons came into force. A new Penal Code is to be submitted to the National Assembly for consideration in November 2016. The Committee on the Rights of the Child recommended a number of priority areas for law reform in relation to violence against children including for Lao PDR to:

- Explicitly prohibit by law all forms of corporal punishment of children in all settings, including in the family, schools, and alternative childcare.<sup>212</sup>
- Take all appropriate legislative and other measures to ensure that children are not employed in situations that could be detrimental to their health, development or well-being and to increase the number of years of compulsory education so that the end of compulsory education corresponds to the minimum age for employment.<sup>213</sup>
- Ensure, through adequate legislation, that all child victims, e.g. child victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking, and witnesses of such crimes are provided with the protection required by the Convention and that the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005) are taken into account.<sup>214</sup>
- Explicitly prohibit organized ‘child sex tourism’ in the national legislation.<sup>215</sup>
- Continue to revise the Criminal Code and other relevant legislation and bring it into full compliance with articles 2 and 3 of the Optional Protocol.<sup>216</sup>
- Adopt comprehensive legislation in order to consider, in all cases, the crimes under the Optional Protocol as crimes that are subject to extradition and consider withdrawing the reservation on article 5 (2) of the Optional Protocol.<sup>217</sup>

212 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding Observations: Lao People’s Democratic Republic’, CRC/C/LAO/CO/2, 8 April 2011, [39]-[40].

213 Ibid., [64].

214 Ibid., [73].

215 Committee on the Rights of the Child, ‘Concluding observations on the report submitted by the Lao People’s Democratic Republic under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography’, CRC/C/OPSC/LAO/CO/1, 3 July 2015, [28].

216 Ibid., [30].

217 Ibid., [34].

## 8. Diversion and alternative measures

**Indicator 8.** Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.

**Baseline status:** Partly/ Under development

The Law on the Protection of the Rights and Interests of Children, Law on Juvenile Criminal Procedures and draft Child Mediation Agreement incorporate provisions on juvenile justice, diversion, alternatives to pre-trial and post-trial detention and restorative juvenile justice.

Lao PDR has finalized a ‘Comprehensive analysis of the justice system as it relates to children in contact with the law’, endorsed by the Juvenile Justice Coordination Committee. Among other things, the research found that cases of children in conflict with the law are often diverted from the formal justice system if solutions can be reached at the village or police level. Mediation, resolved with compensation, is the most common outcome. One relevant recommendation was to develop pre- and post-trial diversion options to reduce the use of detention and ensure that deprivation of liberty is used only as a measure of last resort. Plans are underway to pilot community-based pre-trial and post-trial diversion options for children in conflict with the law as alternatives to deprivation of liberty in Vientiane Capital. This will help to reduce the use of protective custody and long periods of pre-trial detention and ensure that deprivation of liberty is only used as a measure of last resort and for the shortest possible period of time.

**Table 23: Summary of alternative measures for children in conflict with the law in Lao PDR<sup>218</sup>**

Category of alternative measures based on international juvenile justice standards	Status in law	Status of practice
1. Unconditional diversion/police warning	- Included in child-specific law	- Scale unknown
2. Diversion from formal judicial proceedings	- Child-specific law provides for diversion at police and prosecution stages	- Scale unknown
3. Alternatives to pre-trial detention	- Included in child-specific law	- Reportedly rarely used
4. Measures to minimize time spent in pre-trial detention	- Included in child-specific law	- Reportedly regular review of children’s pre-trial detention by the prosecutor - Release from pre-trial detention often occurs
5. Alternatives to post-trial detention	- Included in child-specific law	- Reportedly rarely used
6. Measures to minimize time spent in post-trial detention	- Child-specific law provides for early (conditional) release	- No regular review of children’s post-trial detention - Early (conditional) release reportedly occurs often - Children that are released are not monitored

<sup>218</sup> UNICEF EAPRO, ‘Final regional report: Study on diversion and other alternative measures for children in conflict with the law in East Asian and Pacific Island countries’, 15 September 2016, unpublished.



## ACTION 4: CAPACITY BUILDING

### 9. Advocacy materials to generate awareness and support ending violence against children

**Indicator 9.** *Number and type of advocacy materials developed by each AMS for various audiences to generate awareness and support EVAC.*

**Baseline status:** *Partly/ Under development*

The #ENDviolence campaign, noted above under Indicator 2, targets the general public including policy makers. The materials include billboards, posters, TV, radio spots, a song, and social media and aim to generate awareness and support to end violence against children. A comprehensive factsheet on violence against children was also developed by the National Commission for Mothers and Children and UNICEF. The factsheet was widely distributed among Government stakeholders at the national and local level to help build awareness about violence against children.

## ACTION 5: RESEARCH AND DATA COLLECTION

### 10. National systems for data collection, analysis and sharing

**Indicator 10.A.** *Number of AMS using survey data in national policy documents on VAC.*

**Baseline status:** *Partly/ Under development*

**Indicator 10.B.** *Number of AMS with reliable and consistent national system for consolidation of data on VAC.*

**Baseline status:** *Not yet started*

**Indicator 10.C.** *Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.*

**Baseline status:** *Partly/ Under development*

The Committee on the Rights of the Child has observed that Lao PDR is making progress in establishing data collection systems on children's rights but data is generally not available, and when data is available, it is often unreliable and not disaggregated by age and gender.<sup>219</sup> The Committee has recommended that Lao PDR continue to develop and strengthen its mechanisms for data collection through the establishment of a national central database on children.<sup>220</sup> The Committee has also requested that Lao PDR provide information concerning its implementation of the overarching recommendations from the UN Study on Violence against Children including the consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children.<sup>221</sup>

219 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding Observations: Lao People's Democratic Republic', CRC/C/LAO/CO/2, 8 April 2011, [18].

220 Ibid., [19].

221 Ibid., [40].

In response to these recommendations, in late 2014, Lao PDR conducted its first national Violence against Children Survey. The survey was conducted by the Ministry of Planning and Investment, through the Lao Statistics Bureau, and the National Commission for Mothers and Children, in collaboration with the Ministry of Labour and Social Welfare and the Lao Women's Union, with support from UNICEF and the United States Centers for Disease Control and Prevention. The preliminary report released in mid-2016 noted the Government's intention to use the findings to inform violence prevention, early intervention and response, and to implement the National Plan of Action on the Prevention and Elimination of Violence against Women and Violence against Children (2014-2020).<sup>222</sup> When the full survey report is available, the Government plans to develop a multi-sectoral response to the survey findings, highlighting key priority actions for tackling violence against children over the coming years.

## ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

### 11. National plans of action to eliminate all forms of violence against children

**Indicator 11.** *Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.*

**Baseline status:** *Partly/ Under development*

Lao PDR has a National Action Plan on the Prevention and Elimination of Violence Against Women and Violence against Children (2014–2020). The National Action Plan was developed with participation of stakeholders, however it did not include a mechanism for child participation.

### 12. Coordination mechanism for disasters and conflict situation

**Indicator 12.** *Number of AMS that include VAC in emergency-response programming.*

**Baseline status:** *Partly/ Under development*

In Lao PDR, violence against children is included in the Protection Cluster Response Plan, which aims to ensure that the most vulnerable groups affected by the disaster are protected from violence, abuse, and exploitation (and extended trauma) and the risks of UXO. The Child Protection Emergency Cluster is co-chaired by the Department of Disaster Management and Climate Change and UNICEF.

<sup>222</sup> Lao Statistics Bureau, National Commission for Mothers and Children, and UNICEF, 'Violence against children survey in Lao PDR: Preliminary report', p. i, [https://www.unicef.org/laos/VAC\\_preliminary\\_report\\_ENG\\_FINAL\\_-\\_30\\_May\\_2016.pdf](https://www.unicef.org/laos/VAC_preliminary_report_ENG_FINAL_-_30_May_2016.pdf), last accessed 1 December 2016.

# COUNTRY SUMMARY: MALAYSIA

## ACTION 1: PREVENTION

### 1. Non-violent approach to nurture, care, for the development of children in all settings

**Indicator 1.B.** *Number of AMS that contextualise the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.*

**Baseline status:** *Unknown*

There are emerging initiatives underway to promote a non-violent approach to children, including in judicial settings where the whipping of boys as a judicial sentence has been abolished. The National Population and Family Development Board, with UNICEF support, will review its parenting modules to strengthen positive discipline in the home setting.

Although the 'ASEAN Guidelines for A Non-Violent Approach To Nurture, Care And Development Of Children In All Settings' has not been promoted as a document on its own, the spirit of the Guidelines has been incorporated into existing legislation and policy. Most notably, the Child Act 2001 (Amendment 2016) introduces the concept of family based care to provide a more loving environment for children in institutions. Similar to the commonly used term 'deinstitutionalisation', this approach is to instill the concept of 'Family First'. It gives priority by law that when a child is in need of protection, care and rehabilitation, including children in conflict with the law, the option of placement should start with family or at least in a family setting whilst considering placing them in a welfare institution as the last option.

Similarly, also reflecting the spirit of the ASEAN Guidelines, Malaysia has developed initiatives to ensure the rightful treatment of children within the justice system as follows.

- i. Guidelines for handling cases of sexual offences against children (In final stages of development, targeted to be published 2017).
- ii. Special courts for sexual offences against children with improved procedure and handling of child victims/ witnesses.
- iii. Abolishment of whipping of children by court Under section 91 (a) of the current Child Act 2001, a new amendment provides that child offenders will receive a Community Service Order (CSO) that will serve as a form of a correctional approach for these children instead of whipping.
- iv. The Government of Malaysia is now in the final stages of introducing a Diversion Model for children in conflict with the law. The Diversion programme will focus on counselling, rehabilitation and community service modules which will be monitored by the Department of Social Welfare (DSW).

## 2. Awareness raising and behaviour change communications on all forms of violence against children

**Indicator 2.** Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.

**Baseline status:** Partly/ Under development

The *Kanak-kanak Sahabat Bijak* 'Safe and Protect' campaign is a collaboration among the police, the Education Department, National Population and Family Development Board, Health Department, Fire and Rescue Department, Road Safety Department, National Anti-Drug Agency (*Agensi Antidadah Kebangsaan*) and several other government agencies and corporate bodies to raise awareness on the various forms of violence against children.<sup>223</sup> Other examples of relevant campaigns include the 'Young Change Makers 2016' which included workshops in 23 schools and reached over 3,000 students explore how their choices and actions could end violence such as bullying and other issues relevant to young people, such as saving water and homelessness. A 'Predator in my phone' campaign by R.AGE has raised awareness of online grooming of children and advocated for legislative change. Another campaign 'Us vs cyberbullying' reached over 3,000 children and their parents through awareness games delivered by the Malaysian Communications and Multimedia Commission, Royal Malaysian Police, CyberSecurity Malaysia, UNICEF and NGOs *Generasi Gemilang*, *Protect and Save the Children* and *Women: Girls*. There remains a need for systematic programmes on parenting skills and targeted communication for attitudinal and behaviour change.<sup>224</sup> The Committee on the Rights of the Child has urged Malaysia to "*Continue to sensitize and educate parents, guardians and professionals working with and for children by carrying out public education campaigns about the harmful impact of violent forms of "discipline" and promote positive, non-violent, participatory methods of child-rearing.*"<sup>225</sup>

## 3. Deinstitutionalization of children and strengthening alternative family care services

**Indicator 3.** Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).

**Baseline status:** Partly/ Under development

Unlike some other countries in the region, Malaysia does not have a history of institutionalization of children. Programmes established in recent years have emphasized the importance of caring for children in foster homes and small group homes.<sup>226</sup> The Child Act 2001 provides the following alternative care arrangements: placement in the custody of a 'fit and proper person', applicable to children in need of protection and child victims of exploitation through prostitution (section 30); foster care, applicable only to children who have been abandoned or whose parents cannot be located (section 30); adoption, applicable to children who

223 <http://www.theborneopost.com/2015/08/18/state-level-kids-safety-campaign-launched/>, last accessed 21 September 2016.

224 Child Frontiers, 'Child Protection System in Malaysia: An Analysis of the System for Prevention and Response to Abuse, Violence and Exploitation against Children', Ministry of Women, Family and Community Development and UNICEF Malaysia, 2013, p. 54, [http://www.unicef.org/malaysia/Unicef\\_Child\\_protection\\_Oct\\_13\\_R7\\_\(1\).pdf](http://www.unicef.org/malaysia/Unicef_Child_protection_Oct_13_R7_(1).pdf), last accessed 7 October 2016.

225 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Malaysia', CRC/C/MYS/CO/1, 25 June 2007, [58](d).

226 Child Frontiers, 'Child Protection System in Malaysia: An Analysis of the System for Prevention and Response to Abuse, Violence and Exploitation against Children', Ministry of Women, Family and Community Development and UNICEF Malaysia, 2013, p. 14, [http://www.unicef.org/malaysia/Unicef\\_Child\\_protection\\_Oct\\_13\\_R7\\_\(1\).pdf](http://www.unicef.org/malaysia/Unicef_Child_protection_Oct_13_R7_(1).pdf), last accessed 7 October 2016.

have been subject to a foster care order and whose parent or guardian have not claimed the child or made an appearance before the order expires (section 30); placement in a place of safety, for children in need of care and protection; and detention in a place of refuge, for children who have been trafficked or exploited through prostitution.<sup>227</sup> In accordance with international standards, the removal of a child from parental care requires an order from the Court. Amendments to the Child Act in 2015 require that the Court take “*into consideration that it is desirable to place a child in a family based care.*” However, the Act does not stipulate principles or criteria for decision-making. There is no specific criteria or procedures for the recruitment and selection of foster parents and no detailed regulations on fostering. All out-of-home care orders are for a defined period of time specified by the Court, however there is no requirement for regular, periodic review of placements, or for measures to be taken to promote family reunification.<sup>228</sup> The Child Act also includes provisions to regulate and monitor children who are informally taken into the care of someone other than their biological parents, including an individual or non-governmental institution (sections 35-37). Families who take care of related children may qualify for financial assistance.<sup>229</sup>

The existing laws and procedures relating to adoption vary depending on the child’s religion and geographical location. The Adoption Act 1952 is only applicable to Peninsular Malaysia and does not apply to Muslim children or prospective Muslim adoptive parents. Whereas, The Adoption Registration Act 1952 is applicable to all Muslims and Non-Muslims residing in Peninsular Malaysia. Even though there are various Acts and Ordinance governing the adoption process in Malaysia, nonetheless the differences are minor and does not in any way hinder prospective adoptions. The Committee on the Rights of the Child has expressed concern that adoption laws and proceedings are different for Muslim and non-Muslim children, as well as from state to state and has recommended that Malaysia review the legislative framework for domestic adoption and introduce a uniform national adoption law to regulate the adoption of non-Muslim children in Malaysia.<sup>230</sup>

**Table 24: Summary of legal/policy frameworks for alternative family care in Malaysia**

<b>Adoption</b>	<ul style="list-style-type: none"> <li>- Adoption Act 1952 – only applicable to Peninsular Malaysia and does not apply to Muslim children or prospective Muslim adoptive parents. A child may only be adopted after she or he has been living with the prospective adoptive parents for at least three months.</li> <li>- Islamic Family Law (Federal Territory) Act 1984 states that, where a man has accepted a child who is not his child as a member of his family, he is duty bound to maintain the child.</li> <li>- Registration of Adoption Act 1952 applies to both Muslims and non-Muslims in Peninsular Malaysia – adoption facilitated through registration with the Registration Department (not courts).</li> <li>- West Malaysia – no specific Syariah legislation on adoption</li> <li>- Sarawak – Adoption Ordinance of Sarawak 1958 – applies to both Muslims and non-Muslims</li> <li>- Sabah – Adoption Ordinance of Sabah (No. 23) 1960 for non-Muslims, Syariah Courts Enactment (No. 6) 2004 for Muslims</li> <li>- Federal Territory of Labuan – Adoption Ordinance of Sabah 1960 (No.23)</li> <li>- Inter-country adoption – no specific provisions relating to inter-country adoptions, but Adoption Act states that an adoption order must not be made in favour of any applicant who is not ordinarily resident in Peninsular Malaysia (section 4(3))</li> <li>- Not yet a contracting State to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption</li> </ul>
<b>Kinship care</b>	<ul style="list-style-type: none"> <li>- Practised widely, but mainly informal and not regulated</li> <li>- Families who take care of related children may qualify for financial assistance</li> </ul>

227 Ibid., p. 29.

228 Ibid., p. 29.

229 UNICEF EAPRO, ‘Alternative care for children without primary caregivers in Tsunami-Affected countries’, 2006, [http://www.unicef.org/eapro/Alternative\\_care\\_for\\_children.pdf](http://www.unicef.org/eapro/Alternative_care_for_children.pdf), p. 26.

230 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Malaysia, CRC/C/MYS/CO/1, 25 June 2007, [56].

<b>Foster care</b>	<ul style="list-style-type: none"> <li>- Child Act – Court for Children may order that an abandoned child be placed in the care, custody and control of a foster parent found to be suitable by the Director-General of the Department of Social Welfare for two years or until the child is 18, whichever is the shorter period</li> <li>- No detailed regulations on fostering</li> <li>- Foster families may adopt a foster child if, after two years, the child’s biological parents have not claimed him or her and a social welfare officer has not been able to locate them</li> <li>- Financial incentives provided to foster families</li> </ul>
<b>Legal guardianship</b>	<ul style="list-style-type: none"> <li>- Islamic Family Law (Federal Territories) Act 1984 (Article 303) contains requirements and procedures on guardianship (hadanah, or custody of children) for children of Muslim families, including the succession of guardians to be appointed by a court</li> <li>- Child Act also refers to the court appointment of a guardian, but the Department of Social Welfare does not appear to administer a legal guardianship programme<sup>231</sup></li> </ul>

In the absence of guidelines for making best interest determinations and requirements that children’s views to be taken into consideration in decision-making, placement of children can be problematic in practice, especially as these tend to be made on a long-term basis and without formal review. It has been suggested that interim care alternatives to institutions, such as temporary shelter or fostering, would provide an opportunity for welfare workers from a range of agencies to work to make the home environment safe, or to find alternative longer-term care solutions.<sup>232</sup>

#### 4. Preventing violence against children in cyberspace

**Indicator 4.** *Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).*

**Baseline status:** *Implementation underway*

The Ministry of Women, Family and Community Development with the engagement of various other relevant ministries, agencies and government departments, developed a Plan of Action on Child Online Protection, approved in February 2015. The Plan of Action has main objectives and 20 strategies based on four aspects: advocacy, prevention, intervention and support services. The Ministry of Education launched a CyberSAFE program in 2009 in collaboration with CyberSecurity, an agency of the Ministry of Science, Technology and Innovation. In 2011, the mobile service provider Digi joined the initiative as part of a wider educational and research effort to assess the effects of Internet access and use among Malaysian school children. There are also school-based ICT programmes, although online safety is not central to the curricula.<sup>233</sup> As part of the Plan of Action on Child Online Protection, CyberSecurity Malaysia is currently developing a digital citizenship and online safety curriculum for all school levels. The Malaysian Communications and Multimedia Commission also runs a Click Wisely campaign for the general public.

There are frameworks and processes in place for industry to contribute towards preventing online violence. The Malaysian Communications and Multimedia Content Code provides guidelines and procedures to be observed by all service providers, through self-regulation, in respect to offensive or indecent content prohibited under section 211 of the Communications and Multimedia Act 1998. ‘Child pornography’ is expressly included within the category of prohibited obscene content (Part 2 of the Code). Adherence

231 UNICEF EAPRO, ‘Alternative care for children without primary caregivers in Tsunami-Affected countries’, p. 25.

232 Child Frontiers, ‘Child Protection System in Malaysia: An Analysis of the System for Prevention and Response to Abuse, Violence and Exploitation against Children’, Ministry of Women, Family and Community Development and UNICEF Malaysia, 2013, p. 14, [http://www.unicef.org/malaysia/Unicef\\_Child\\_protection\\_Oct\\_13\\_R7\\_\(1\).pdf](http://www.unicef.org/malaysia/Unicef_Child_protection_Oct_13_R7_(1).pdf), last accessed 7 October 2016.

233 UNICEF Malaysia, ‘Exploring the digital landscape in Malaysia: Access and use of digital technologies by children and adolescents’, p. 51.

by ISPs to the Code is voluntary, unless ISPs are directed to comply pursuant to section 99 of the Communications and Multimedia Act 1998 and Part 1 of the Code. The Communications and Multimedia Act 1998 specifies that the Minister charged with the responsibility for communications and multimedia may make rules to provide for record-keeping and retaining records (section 268). However, rules that specify the data retention period have yet to be published. In collaboration with INTERPOL and the Royal Malaysian Police, Digi introduced a proprietary blocking and rerouting system in 2013 to prevent the spread of child abuse materials. In 2015, Telenor, Digi and UNICEF Malaysia published an online safety guide for parents and have ongoing events to raise awareness amongst children and parents on online safety.

## ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

### 5. Child and gender sensitive reporting and complaint mechanism

**Indicator 5.** *Number of AMS providing child- and gender- sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances (by type and by setting).*

**Baseline status:** *Partly/ Under development*

Childline Malaysia 15999 can receive reports of violence and is housed within the Department of Social Welfare. Interagency collaboration between Suspected Child Abuse and Neglect Teams within hospitals and Child Protectors has reportedly made reporting easier and less traumatic for children.<sup>234</sup> The Sexual Crime and Children Division (D11) of the Criminal Investigation Division has its own public complaints mechanism whereby victims and their families are able to express their dissatisfaction at investigation and interviewing processes.<sup>235</sup> There is currently no body for monitoring the implementation of children's welfare services that can receive individual complaints from children within the care system.<sup>236</sup> Malaysia's National Human Rights Commission (SUHAKAM) is responsible for the independent monitoring and assessment of child protection practices and services. SUHAKAM conducts visits to prisons, detention centres and police lock-ups to monitor conditions and the situation of young persons in custody.<sup>237</sup> SUHAKAM also makes visits to centres and homes under the Department of Social Welfare (*Jabatan Kebajikan Masyarakat* – JKM), Ministry of Women, Family and Community Development, in response to complaints. Although JKM institutions do not fall directly under the jurisdiction of SUHAKAM, the Commission carries out visits on an ad-hoc basis on an average of two to three times a year to ensure conformity with requirements, even if no complaints are received. JKM has been lauded for good cooperation with SUHAKAM in coordinating these visits.<sup>238</sup> Following its 2010 mission to Malaysia, the Working Group on Arbitrary Detention recommended that the Government strengthen the status, powers and functions of SUHAKAM in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights

234 Child Rights Coalition Malaysia, 'Status Report on Children's Rights in Malaysia', December 2012, p. 13.

235 Child Frontiers, 'Child Protection System in Malaysia: An Analysis of the System for Prevention and Response to Abuse, Violence and Exploitation against Children', Ministry of Women, Family and Community Development and UNICEF Malaysia, 2013, p. 49, [http://www.unicef.org/malaysia/Unicef\\_Child\\_protection\\_Oct\\_13\\_R7\\_\(1\).pdf](http://www.unicef.org/malaysia/Unicef_Child_protection_Oct_13_R7_(1).pdf), last accessed 7 October 2016.

236 Child Frontiers, 'Child Protection System in Malaysia: An Analysis of the System for Prevention and Response to Abuse, Violence and Exploitation against Children', Ministry of Women, Family and Community Development and UNICEF Malaysia, 2013, p. 53, [http://www.unicef.org/malaysia/Unicef\\_Child\\_protection\\_Oct\\_13\\_R7\\_\(1\).pdf](http://www.unicef.org/malaysia/Unicef_Child_protection_Oct_13_R7_(1).pdf), last accessed 7 October 2016.

237 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 175.

238 Child Frontiers, 'Child Protection System in Malaysia: An Analysis of the System for Prevention and Response to Abuse, Violence and Exploitation against Children', Ministry of Women, Family and Community Development and UNICEF Malaysia, 2013, p. 51, [http://www.unicef.org/malaysia/Unicef\\_Child\\_protection\\_Oct\\_13\\_R7\\_\(1\).pdf](http://www.unicef.org/malaysia/Unicef_Child_protection_Oct_13_R7_(1).pdf), last accessed 7 October 2016.

(Paris Principles)<sup>239</sup>. The Working Group also called upon Malaysia to take all measures necessary to ensure that SUHAKAM maintains its 'A-status' and to facilitate the access of SUHAKAM and NGOs to immigration detention facilities, police lock-ups and prisons to monitor conditions and provide additional services in partnership with the Government.<sup>240</sup> In relation to courts, a child cannot bring a claim by themselves in court. All actions on behalf of children must be commenced through a litigation representative.<sup>241</sup> Malaysia is not yet a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## 6. Protective and supportive services for children affected by violence

**Indicator 6.** *Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).*

**Baseline status:** *Partly/ Under development*

Malaysia has a number of key professional and statutory based services for children, largely as a result of duties created under the Child Act 2001. At central level, the Children's Division of the Department of Social Welfare under the Ministry of Women, Family and Community Development is responsible for recommending appropriate services for children in need of protection. At state level, a State Social Welfare Department is assigned to administer social wellbeing of at-risk children and a Children's Division implements central level policy. There is at least one 'Child Protector' in each Children's Division. At district and sub-district levels, Child Protectors and Probation Officers are tasked to intervene, prevent, oversee and monitor cases. Child Protection Teams coordinate local services. There are formal procedures for case management of child victims of violence from the stage where social inquiries are made for a suspected case, medical examination for abused child, taking the child into temporary custody, up until the child is sent to rehabilitative centres or institutions. Decisions about whether a child is in need of care and protection, and what interventions are required, are made by the Court. Courts for children preside over both civil and criminal cases in a closed courtroom. The court for children is presided over by a magistrate, supported in a decision-making capacity by Court Advisors. An administrative policy imposed by the Chief Registrar's Office states that new and young officers are not to be posted as magistrates, in order to address concerns that many magistrates are inexperienced and untrained in either social work (especially 'best-interest determination') or in children's law (specifically the Child Act). Under the Child Act, Protectors must bring a child in need of care and protection to the court within 24-hours of the time the child is taken into temporary custody. The magistrate will usually direct that the child be taken to an interim place of safety or placed into the care of a 'fit and proper' person until a formal investigation can be conducted and a report presented to the court. At the second formal hearing, the magistrate and two court advisors will agree on a course of action based upon article 30 of the Act.<sup>242</sup> In 2015, a pilot to enhance the professional service response in the identification and management of high risk child abuse and neglect cases continued in Petaling and Kuala Langat districts and the Government agreed to replicate good practices and lessons learned. The practice is being replicated in 15 other districts and the Department of Social Welfare has committed budget in 2017 to continue with replication.

239 Principles relating to the Status of National Institutions (The Paris Principles), Adopted by General Assembly resolution 48/134 of 20 December 1993, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>, last accessed 18 January 2017.

240 Human Rights Council, 'Report of the Working Group on Arbitrary Detention, Addendum, Mission to Malaysia,' A/HRC/16/47/Add.2, 8 February 2011, [126]-[128].

241 White & Case LLP, 'Access to Justice for Children: Malaysia', May 2015, p. 2, [https://www.crin.org/sites/default/files/malaysia\\_access\\_to\\_justice.pdf](https://www.crin.org/sites/default/files/malaysia_access_to_justice.pdf), last accessed 12 October 2016.

242 This paragraph is based on information from: ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, pp. 153-155, 159; and Child Frontiers, 'Child Protection System in Malaysia: An Analysis of the System for Prevention and Response to Abuse, Violence and Exploitation against Children', Ministry of Women, Family and Community Development and UNICEF Malaysia, 2013, p. 89, [http://www.unicef.org/malaysia/Unicef\\_Child\\_protection\\_Oct\\_13\\_R7\\_\(1\).pdf](http://www.unicef.org/malaysia/Unicef_Child_protection_Oct_13_R7_(1).pdf), last accessed 7 October 2016.



The emergency response for child victims in Malaysia is reportedly one of the most sophisticated in the region.<sup>243</sup> Child victims of the most serious forms of violence have access to medical care, psycho-social support, legal advice, and child sensitive investigative procedures through the establishment of the Child Protection Unit (of the Royal Malaysian Police) and comprehensive hospital-based services.<sup>244</sup> Hospital-based services include the One-Stop Crisis Centre (OSCC), set up as part of the Accident and Emergency Department of hospitals, are usually coordinated by a medical officer or an official of the Department.<sup>245</sup> The SCAN (Suspected Child Abuse and Neglect) Team is a mechanism within hospitals comprised of a multi-disciplinary group of professionals from various medical fields. They work with or may include representatives from the Department of Social Welfare, the police and other Government agencies.<sup>246</sup> Both the OSCC and SCAN teams operate on a 24-hour basis. For child (and adult) victims of trafficking, the Council on Anti-Trafficking in Persons and Anti-Smuggling of Migrants, the Immigration Department of Malaysia and the National Strategic Office collaborate to provide shelters (or detention centres).<sup>247</sup>

A professional welfare sector, as envisaged in the Child Act, is dependent upon a skilled workforce of social workers and welfare officers. Currently, the absence of a distinct professional sector is apparent.<sup>248</sup> Many Child Protectors state themselves they are under-skilled to confidently work with families and children at risk, especially when it comes to case assessment and management.<sup>249</sup> Likewise, police (apart from D11 officers) have not received specific training to recognize the symptoms of abuse nor have they criteria for making a rapid assessment of risk to a child. Police have considerable powers to remove an alleged perpetrator from the home, however tend to prefer to remove the child instead.<sup>250</sup> Guidelines have yet to be developed for magistrates to make best-interest determinations and there is no provision requiring the child's views to be sought and taken into consideration in the decision-making. Magistrates reportedly do not always feel confident about the information provided by the Child Protectors and fear their decisions are not made on a solid evidential basis. Child Protectors and magistrates admit to erring on the side of caution when making their decisions, recommending institutionalization as the 'first resort' rather than the 'last resort'.<sup>251</sup>

It has been suggested that written guidelines to specify the roles and responsibilities of all OSCC and SCAN Team personnel in accordance with the Child Act are developed, especially to clarify 'grey areas'.<sup>252</sup> The OSCC and SCAN Team services are usually based in urban areas and the more remote communities in East Malaysia would not be able to access these services.<sup>253</sup> Likewise, remote areas (most notably in East Malaysia) remain greatly underserved in terms of the number of trained D11 personnel available to conduct specialized investigations.<sup>254</sup> The SCAN Teams and OSCC remain hospital-based but there exists a network of community-based clinics. Primary healthcare providers, nurses and clinic staff should receive accredited and standardized in-service training on the symptoms of abuse so that their mandate could be formally brought within the child protection system.<sup>255</sup> Current services, as established under the Child Act, focus efforts on emergency intervention when a child has already been abused rather than considering the

243 Child Frontiers, 'Child Protection System in Malaysia: An Analysis of the System for Prevention and Response to Abuse, Violence and Exploitation against Children', Ministry of Women, Family and Community Development and UNICEF Malaysia, 2013, p. 72, [http://www.unicef.org/malaysia/Unicef\\_Child\\_protection\\_Oct\\_13\\_R7\\_\(1\).pdf](http://www.unicef.org/malaysia/Unicef_Child_protection_Oct_13_R7_(1).pdf), last accessed 7 October 2016.

244 Ibid., p. 108.

245 Ibid., p. 68.

246 Ibid., p. 69.

247 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 165.

248 Child Frontiers, 'Child Protection System in Malaysia: An Analysis of the System for Prevention and Response to Abuse, Violence and Exploitation against Children', Ministry of Women, Family and Community Development and UNICEF Malaysia, 2013, p. 103, [http://www.unicef.org/malaysia/Unicef\\_Child\\_protection\\_Oct\\_13\\_R7\\_\(1\).pdf](http://www.unicef.org/malaysia/Unicef_Child_protection_Oct_13_R7_(1).pdf), last accessed 7 October 2016.

249 Ibid., p. 103.

250 Ibid., p. 84.

251 Ibid., p. 91.

252 Ibid., p. 87.

253 Ibid., p. 73.

254 Ibid., p. 88.

255 Ibid., p. 73.

long-term care needs of a child and other children in the household.<sup>256</sup> Concern has been noted that many children are placed in homes for three years on an initial protection order, yet little concrete work with the family is undertaken during the interim period – there is limited capacity and resources to provide follow-up after the initial response.<sup>257</sup> Another pressing concern is the differential classification and treatment of child victims of sexual exploitation (compared to child victims of sexual abuse), who have been subjected to temporary detention by the police as well as lengthy periods of deprivation of liberty in places of refuge.<sup>258</sup>

## ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

### 7. Laws in full conformity with applicable international human rights standards

**Indicator 7.** Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.

**Baseline status:** Not yet started

A number of important legislative developments relating to violence against children took place in 2016. In April, Malaysia amended the Child Act 2001 through the Child (Amendment) Act 2016. The Act provides harsher penalties for offenders and abolishes the punishment of whipping that could be sentenced on children. A Taskforce on Sex Crimes was formed under Prime Minister's office and is working on legislative reform to more comprehensively criminalise child sex offences. A draft legislation (hudud bill) was proposed to Parliament in May on incorporating Islamic law into the Penal Code, which has support from the current Prime Minister. The implications of this draft legislation on the protection of children from violence are not yet known. The legislation on labour may be amended in light of the Trans-Pacific Partnership, which may affect employment pertaining to children.

The Committee on the Rights of the Child has previously recommended that Malaysia undertake a comprehensive review of its national legal framework in order to ensure its full compatibility with the Convention on the Rights of the Child.<sup>259</sup> The Committee has highlighted a number of priority areas for law reform that relate to violence against children including to:

- Prohibit by law all forms of corporal punishment in the home.<sup>260</sup>
- Prohibit by law all forms of corporal punishment in schools.<sup>261</sup>
- Amend the Children and Young Persons (Employment) Act 1966 (Act 350) and other relevant laws and regulations to ensure that acceptable conditions of permissible work, including light work and work as a domestic servant, are clearly and strictly detailed and that the national labour provisions fully comply with international labour standards as well as with the definition of the child as provided by the Convention.<sup>262</sup>

256 Ibid., p. 66.

257 Ibid., p. 90.

258 Ibid., pp. 29, 37.

259 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Malaysia, CRC/C/MYS/CO/1, 25 June 2007, [16].

260 Ibid., [58].

261 Ibid., [78].

262 Ibid., [92].

- Adopt specific legislation on the obligations of Internet service providers in relation to ‘child pornography’ on the Internet.<sup>263</sup>
- Urgently raise the minimum age of criminal responsibility at least to the age of 12 and continue to increase it to a higher age level.<sup>264</sup>
- Amend the existing laws, including the Child Act 2001 (Act 611), in order to ensure that the deprivation of liberty is in full conformity with articles 37 and 40, paragraph 1, of the Convention and take the necessary measures, for example suspended sentencing and early release, to ensure that deprivation of liberty is limited to the shortest time possible.<sup>265</sup>

## 8. Diversion and alternative measures

**Indicator 8.** *Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.*

**Baseline status:** *Partly/ Under development*

The Constitution, the Penal Code, the Criminal Procedure Code and the Child Act all contain provisions related to juvenile justice. The Committee on the Rights of the Child has recommended that Malaysia, among other things, amend existing laws to ensure that the deprivation of liberty is in full conformity with the Convention and take the necessary measures, for example suspended sentencing and early release, to ensure that deprivation of liberty is limited to the shortest time possible.<sup>266</sup>

While there is no provision for unconditional warning in the law, it is used in practice though the scale is unknown. Diversion from formal judicial proceedings is provided in the Constitution and Criminal Procedure Code. The Government has discussed diversion of children from the criminal justice system but a specific policy is yet to be adopted.<sup>267</sup> A Taskforce on Diversion has been established by Ministry of Women, Family and Community Development to advise on development of a diversion model for Malaysia and its implementation.

The Child Act and Criminal Procedure Code allow children to be released to parents and relative on bond and bail as alternatives to pre-trial detention. This is reportedly used often on a nationwide scale. The Child Act also provides alternatives to post-trial detention including reprimand, good behaviour bond, custody order, probation, fine and compensation of costs. A restorative justice approach is only envisaged in the Child Act in the form of community service. Early conditional release is provided under the Child Act, though reportedly hardly used.<sup>268</sup>

263 Ibid., [102].

264 Ibid., [104].

265 Ibid., [104].

266 Ibid., [104].

267 Human Rights Council, ‘Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, Malaysia’, A/HRC/WG.6/17/MYS/2, 9 August 2013, [22].

268 This paragraph is based on UNICEF EAPRO, ‘Final regional report: Study on diversion and other alternative measures for children in conflict with the law in East Asian and Pacific Island countries’, 15 September 2016, unpublished.

**Table 25: Summary of alternative measures for children in conflict with the law in Malaysia**

Category of alternative measures based on international juvenile justice standards	Status in law	Status of practice
1. Unconditional diversion/police warning	- Not included in law	- Used in practice but scale unknown
2. Diversion from formal judicial proceedings	- General law provides for diversion at prosecution stage	- Scale of practice unknown
3. Alternatives to pre-trial detention	- Included in child specific law	- Reportedly used often
4. Measures to minimize time spend in pre-trial detention	- Not included in law	- No regular review of children's pre-trial detention. Release from pre-trial detention rarely occurs
5. Alternatives to post-trial detention	- Included in child specific law	- Reportedly used often
6. Measures to minimize time spend in post-trial detention	- Child-specific law provides for early (conditional) release	- No regular review of children's post-trial detention - Early (conditional) release rarely occurs - Monitoring of children that are (conditionally) released from post-trial detention

## ACTION 4: CAPACITY BUILDING

### 9. Advocacy materials to generate awareness and support ending violence against children

**Indicator 9.** Number and type of advocacy materials developed by each AMS for various audiences to generate awareness and support EVAC.

**Baseline status:** Unknown

Under the patronage of the Prime Minister's Office, a National Seminar on Sexual Offences Against Children: STOP IT!! was organized in March 2017. Subsequently, similar seminars were organised in various states. Malaysia proposes to replicate this seminar at the ASEAN level to encourage conversation on the matter. More recently in October 2017, the National Council of Women's Organisations Malaysia (NCWO) in collaboration with CyberSecurity Malaysia has also organized the "Keep Our Women and Children #Cybersafe" programme to educate women, parents and children on how to minimise the 'digital dangers' resulting from cybercrime, cyberbullying, social media and internet addiction.

# ACTION 5: RESEARCH AND DATA COLLECTION

## 10. National systems for data collection, analysis and sharing

**Indicator 10.A.** Number of AMS using survey data in national policy documents on VAC.

**Baseline status:** Unknown

**Indicator 10.B.** Number of AMS with reliable and consistent national system for consolidation of data on VAC.

**Baseline status:** Partly/ Under development

**Indicator 10.C.** Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.

**Baseline status:** Not yet started

The Department of Social Welfare is the lead agency that collects data on children.<sup>269</sup> Malaysia's MWFCDC has launched the National Information System for Social Issues (MaNIS) which will function as a centralised data collection hub or big database for various social problems and issues in the country. The implementation of MaNIS will focus on the development of portals for public and internal use, as well as the mapping of institutions and services offered by the ministry to the public and its target groups.

The MaNIS system is intended to be a comprehensive information management system that will collect, control, analyse and report on data relating to the Ministry's target groups (women, children, destitute, disaster victims, families and NGOs). MaNIS will also become the platform for centralized data collection for use in social policy development. The system was developed in 2016 and officially launched in November 2017.

The Committee on the Rights of the Child has previously expressed concern about the lack of a national data collection system in respect of all areas covered by the Convention, which limits Malaysia's capacity to adopt adequate policies and programmes, especially for underserved groups of children and underserved geographical areas (for example, poverty studies on Orang Asli and indigenous populations in Sabah and Sarawak).<sup>270</sup> The Committee has also observed there is insufficient data on, non-Malaysian children living in Malaysia, violence against children, child victims of trafficking for exploitative purposes, sexual exploitation of children, and working children.<sup>271</sup> The Committee has recommended that Malaysia strengthen its mechanisms for data collection by establishing a national central database on children and developing indicators consistent with the Convention to ensure that data are collected on all areas covered by the Convention and that they are disaggregated, by age, sex, urban and rural area and by groups of children in need of special protection as noted above.<sup>272</sup> Collected data should be used to facilitate the formulation of policies and programmes to implement the Convention on the Rights of the Child.<sup>273</sup>

269 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 168.

270 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Malaysia', CRC/C/MYS/CO/1, 25 June 2007, [25].

271 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Malaysia', CRC/C/MYS/CO/1, 25 June 2007, [25].

272 Ibid., [26].

273 Ibid., [26].

# ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

## 11. National plans of action to eliminate all forms of violence against children

**Indicator 11.** Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.

**Baseline status:** Not yet started

Although Malaysia has not yet started the development of a national coordination framework or national plan of action, it has a National Child Policy and Action Plan (2009-2015), National Child Protection Policy and Action Plan (2009-2015), and Child Online Protection Action Plan 2015.

## 12. Coordination mechanism for disasters and conflict situation

**Indicator 12.** Number of AMS that include VAC in emergency-response programming.

**Baseline status:** Unknown

Although there is no dedicated policy relating to VAC in disaster/ conflict situations, **Malaysia** has emphasized the capacity building of officers at the district level to handle child protection cases effectively, including in disaster/ conflict situations. Pursuant to the Child Act 2001 (as amended in 2016), two operational teams were established under the National Council for Children: the Child Protection Team; and the Child Welfare Team. These are both multi-disciplinary teams focused on prevention and protection of children in need of care and protection; and on children in conflict with the law respectively. In addition, the Child Care and Protection Unit (CCNPU) project was developed in cooperation between the Department of Social Welfare and UNICEF focusing on best practices in handling high risk child abuse and neglect cases using professional and structured case management.

In 2015, government and non-government partners participated in a UNICEF-facilitated child protection in emergencies training.

# COUNTRY SUMMARY: MYANMAR

## ACTION 1: PREVENTION

1. Non-violent approach to nurture, care, for the development of children in all settings

**Indicator 1.B.** Number of AMS that contextualise the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.

**Baseline status:** Unknown

2. Awareness raising and behaviour change communications on all forms of violence against children

**Indicator 2.** Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.

**Baseline status:** Unknown

3. Deinstitutionalization of children and strengthening alternative family care services

**Indicator 3.** Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).

**Baseline status:** Partly/ Under development

Although most children without primary caregivers live with extended families, there is no data on the extent and situation of these children.<sup>274</sup> Kinship care is practiced widely however is largely informal and not regulated. The necessary legal framework for alternatives to institutional care including formal foster care and supported kinship care has been included in the draft Child Law, currently under consideration. Adoption is presently regulated by different sources of law (i.e. codified and customary laws). Three forms of adoption are recognized under Buddhist law: 1) Kittima is full adoption with inheritance; 2) apatittha is

274 UNICEF EAPRO, 'Alternative care for children without primary caregivers in Tsunami-Affected countries', 2006, [http://www.unicef.org/eapro/Alternative\\_care\\_for\\_children.pdf](http://www.unicef.org/eapro/Alternative_care_for_children.pdf), p. 26; Calder, Jane, and Van Sloten, Bep, Kinship Care Myanmar Handbook, Save the Children, 2013, <https://myanmar.savethechildren.net/sites/myanmar.savethechildren.net/files/library/Kinship%20Care%20Handbook%20Myanmar%20FINAL.pdf>, last accessed 7 October 2016.

adoption by compassion, and the adopted child is sometimes entitled to inheritance; and 3) chatta-batta is a foundling who is not given inheritance rights. A kittima child is as entitled to inheritance as a biological child, but is not regarded as being on an equal footing with a biological child.<sup>275</sup> The Committee on the Rights of the Child has noted its concern about the different sources of law that regulate adoption. The Committee has said that this may undermine Myanmar's efforts to ensure that relevant provisions conform fully to the principles and provisions of the Convention on the Rights of the Child. The Committee has noted particularly concern about the lack of application of the Child Law provisions on adoption and the different forms of customary adoption under the 1939 Registration of Kittima Adoptions Act, which only applies to Myanmar Buddhists, and about the absence of a thorough agreed monitoring system of adoptions. The Committee has reiterated its previous recommendation (CRC/C/15/Add. 237, para. 47) that Myanmar undertake a review of its system of adoption with a view to ensuring that existing legislation on adoption complies with the Convention on the Rights of the Child. The Committee has further recommended that Myanmar set up a monitoring mechanism to ensure that adoption procedures are in accordance with the Convention and are rigorously monitored, and that records are kept, and that Myanmar ratify the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.<sup>276</sup>

**Table 26: Summary of legal/policy frameworks for alternative family care in Myanmar**

<b>Adoption</b>	<ul style="list-style-type: none"> <li>- Customary Law/Registration of Kittima Adoptions Act 1941</li> <li>- Child Law – article 17 provides that adoption should be in the interests of the child.</li> <li>- Intercountry adoption not expressly prohibited but no legal framework to enable intercountry adoption</li> <li>- Not yet a contracting State to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption</li> </ul>
<b>Kinship care</b>	<ul style="list-style-type: none"> <li>- Kinship care practised widely, but not regulated</li> <li>- Draft Child Law includes necessary legal framework for supported kinship care</li> </ul>
<b>Foster care</b>	<ul style="list-style-type: none"> <li>- Draft Child Law includes necessary legal framework for foster care</li> </ul>
<b>Legal guardianship</b>	<ul style="list-style-type: none"> <li>- Guardians and Wards Act – a court may be petitioned for guardianship of a minor who has not come of age and for a child of divorced parents</li> <li>- Court determines guardianship and is obliged to take into account the best interests of the child<sup>277</sup></li> </ul>

There have been some initiatives on deinstitutionalization in Myanmar including the 'Prevention of Family Separation' awareness raising project – an inter-agency initiative led by the Department of Social Welfare and UNICEF, with support from the Core Committee which includes the Department of Social Welfare, Terres des Hommes Lausanne, The Code, Myanmar Motion Picture Organisation, Ratana Metta, Myanmar Professional Social Workers Association, and Myanmar Tourism Federation.<sup>278</sup> There have also been efforts to improve quality of care in residential care, such as the development in 2007 of the 'Minimum Standards of Care and Protection of Children in Residential Care' by the Department of Social Welfare with UNICEF and partners, which was completed in 2009. Though approved by Department of Social Welfare, the standards have reportedly not yet been issued as a directive or disseminated widely. The Minimum Standards cover different areas important to provide the best possible care to children in residential care facilities.<sup>279</sup> The Committee on the Rights of the Child has expressed its concern about the increase in the number of children in residential care facilities; the lack of regulation of private and

275 UNICEF EAPRO, 'Alternative care for children without primary caregivers in Tsunami-Affected countries', 2006, [http://www.unicef.org/eapro/Alternative\\_care\\_for\\_children.pdf](http://www.unicef.org/eapro/Alternative_care_for_children.pdf), p. 25.

276 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Myanmar', CRC/C/MMR/CO/3-4, 14 March 2012, [57], [58].

277 UNICEF EAPRO, 'Alternative care for children without primary caregivers in Tsunami-Affected countries', 2006, [http://www.unicef.org/eapro/Alternative\\_care\\_for\\_children.pdf](http://www.unicef.org/eapro/Alternative_care_for_children.pdf), p. 26 citing Myanmar, Government of. 1995. 'Initial reports of States parties due in 1993: Myanmar'. CRC/C/8/Add.9. UNCRC. 18 September 1995.

278 [http://www.unicef.org/myanmar/media\\_22568.html](http://www.unicef.org/myanmar/media_22568.html), last accessed 7 October 2016.

279 Myanmar Department of Social Welfare and UNICEF Myanmar, 'The Situation of Children in Residential Care Facilities in Myanmar', 2011, p. 9, [http://www.unicef.org/myanmar/Residential\\_Care\\_Survey\\_Report\\_english.pdf](http://www.unicef.org/myanmar/Residential_Care_Survey_Report_english.pdf), last accessed 7 October 2016.



religious organizations that run residential institutions for children; and reports of physical abuse of children in residential institutions. The Committee has recommended that Myanmar develop a strategy for the deinstitutionalization of children with a clear time frame and budget, which includes the reintegration of children with their families, as far as possible, while taking into account the best interests and the views of the child; ensure that all residential institutions for children are registered and officially authorized to exert as alternative care institutions; develop clear guidelines to ensure that children's rights are respected throughout the entire process of placement in alternative care, with priority given to family-type and community-based measures; ensure systematic periodic review of the quality of care and regular training, including in children's rights, of its relevant professionals; and establish mechanisms for receiving complaints, investigations and prosecutions for child abuse in alternative care settings and ensure that victims of abuse have access to complaints procedures, counselling, medical care and other recovery assistance as appropriate.<sup>280</sup>

#### 4. Preventing violence against children in cyberspace

**Indicator 4.** *Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).*

**Baseline status:** *Partly/ Under development*

There are reportedly emerging efforts to address violence against children in cyberspace.<sup>281</sup> No further information available.

## ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

#### 5. Child and gender sensitive reporting and complaint mechanism

**Indicator 5.** *Number of AMS providing child- and gender- sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances (by type and by setting).*

**Baseline status:** *Partly/ Under development*

There is a confidential complaints mechanism for children in Department of Social Welfare institutions through boxes for children to make anonymous complaints, which are reviewed by institution directors. This is one of the standards of the Minimum Standards of Care and Protection of Children in Residential Care Facilities in Myanmar developed and published in 2009 by the Department of Social Welfare and UNICEF.<sup>282</sup>

There are presently no complaint mechanisms for children held in detention, who are reportedly often victims of physical and sexual abuse.<sup>283</sup>

280 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Myanmar', CRC/C/MMR/CO/3-4, 14 March 2012, [55],[56].

281 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 152.

282 Ibid., p. 198.

283 Ibid., p. 206.

The Myanmar National Human Rights Commission, formed in 2011, established a special desk for children's rights in late 2015.<sup>284</sup> However the Committee on the Rights of the Child has noted that the Commission does not have adequate financial resources to ensure its independence and efficiency.<sup>285</sup> The Child Law grants children the ability to bring a complaint with respect to his or her rights under the law before the relevant Government department or court. However, Myanmar's Code of Civil Procedure requires that every suit by a minor be instituted in his or her name by a 'next friend' of the minor. A next friend can be any adult who is of 'sound mind', and does not have an interest adverse to that of the minor.<sup>286</sup>

Myanmar is not yet a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## 6. Protective and supportive services for children affected by violence

**Indicator 6.** *Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).*

**Baseline status:** *Partly/ Under development*

The Ministry of Social Welfare, Relief and Resettlement has the lead responsibility to provide for children primarily through the Department of Social Welfare. Together with UNICEF, the Department of Social Welfare has implemented a community-based child protection system which supported services, including responding to statutory cases, referral services, medical support, emergency support, counselling, financial support and basic needs.<sup>287</sup> In 2015, full-time social work case workers were deployed into the Department of Social Welfare at decentralized level for the first time ever. Overall, child protection services in Myanmar are hampered by underfunding, lack of staff as well as of trained staff, weak coordination between different social sectors, as well as poor integration of protection within the key social sectors and the lack of basic quantitative and qualitative information on common protection problems, which in turn hinder effective programme development.<sup>288</sup> Government hospitals are not adequately financed to provide free medical services to every patient but use funds raised by themselves to provide food and treatment to poor patients. Not all hospitals have adequate facilities.<sup>289</sup> The Committee on the Rights of the Child has raised and reiterated its concerns about the "lack of appropriate measures, mechanisms and resources to prevent and combat domestic violence, including physical and sexual abuse and the neglect of children" and "limited access to services for abused children."<sup>290</sup> The Committee has recommended that Myanmar "Ensure that victims of sexual abuse and exploitation are not criminalized and have access to appropriate recovery and reintegration programmes and services."<sup>291</sup>

284 Ibid., p. 199.

285 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding Observations and Recommendations: Myanmar', CRC/C/MMR/CO/3-4, 14 March 2012, [15].

286 White & Case LLP, 'Access to Justice for Children: Myanmar (Burma)', October 2015, p. 2, [https://www.crin.org/sites/default/files/myanmar\\_access\\_to\\_justice-updatedoct2015.pdf](https://www.crin.org/sites/default/files/myanmar_access_to_justice-updatedoct2015.pdf), last accessed 12 October 2016.

287 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 192-3.

288 Ministry of National Planning and Economic Development and UNICEF Myanmar, 'Situation analysis of children in Myanmar', July 2012, p. 300, [http://www.uncief.org/eapro/Myanmar\\_Situation\\_Analysis.pdf](http://www.uncief.org/eapro/Myanmar_Situation_Analysis.pdf), last accessed 31 October 2016.

289 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 192.

290 Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Myanmar, CRC/C/MMR/CO/3-4, 14 March 2012, [59].

291 Ibid., [90].

## ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

### 7. Laws in full conformity with applicable international human rights standards

**Indicator 7.** *Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.*

**Baseline status:** *Not yet started*

Myanmar's draft of the revised Child Law 1993 is currently under review at the Union Attorney General's Office and will pass onto the Cabinet and Parliament if approved. The Law includes chapters on violence against children, adoption, alternative care and diversion in compliance with the Convention on the Rights of the Child. Myanmar is also drafting a Violence Against Women Law and revising the Anti-Trafficking in Persons Law. The Committee on the Rights of the Child has previously urged Myanmar to "*promptly amend the 1993 Child Law and ensure that it incorporates all principles and provisions of the Convention and to undertake a comprehensive review of domestic legislation, namely codified and customary laws, in order to ensure that it is brought into compliance with the Convention*".<sup>292</sup> The Committee also recommended a number of priority areas for law reform that relate to violence against children including to:

- Review its legislation to define the child as any person below 18 years of age and establish the minimum legal age for marriage for boys and girls at 18 years, reiterating its previous recommendation (CRC/C/15/Add.237, para. 26).<sup>293</sup>
- Withdraw provisions of the Child Law and the Penal Code authorizing corporal punishment and prohibit unequivocally by law and without any further delay corporal punishment in all settings, including the family, penal institutions, and alternative care settings.<sup>294</sup>
- Amend legal provisions to increase the minimum age for the employment of children to 16 years.<sup>295</sup>
- Amend the Child Law to protect children from commercial and sexual exploitation.<sup>296</sup>
- Amend the Child law to bring it in conformity with the Convention, in particular by raising the legal age of criminal responsibility to an internationally acceptable level, and in no case below the age of 12 years.<sup>297</sup>

### 8. Diversion and alternative measures

**Indicator 8.** *Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.*

**Baseline status:** *Partly/ Under development*

<sup>292</sup> Ibid., [10].

<sup>293</sup> Ibid., [34].

<sup>294</sup> Ibid., [54], [60].

<sup>295</sup> Ibid., [86].

<sup>296</sup> Ibid., [90].

<sup>297</sup> Ibid., [94].

Myanmar's Child Law and Rules related to the Child Law are currently under review. Suggested amendments include, among other things, raising the minimum age of criminal responsibility and incorporating the principle of detention as a last resort, diversion, alternatives to post-trial detention and a stronger imperative for legal aid. The Committee on the Rights of the Child has noted its concern about the low age of criminal responsibility at 7 years, and among other things urged Myanmar to “ensure that pre-trial detention is used only for serious crimes and that alternative measures are used for other crimes.”<sup>298</sup>

The current Child Law includes the four guiding principles of the Convention on the Rights of the Child and a specific section on ‘probation’ however it has no provisions on diversion and limited reference to restorative justice. The Child Law provides bond plus conditions as an alternative to pre-trial detention. However, this is reportedly rarely used. The Child Law includes some alternatives to post-trial detention including admonition, fine, custody of parents on bond and probation, which are reportedly used often. There are also measures to minimize time in post-trial detention included in the Child Law, such as release to parents with or without bond, although these are reportedly not often used and not systematically.<sup>299</sup>

**Table 27: Summary of alternative measures for children in conflict with the law in Myanmar**

Category of alternative measures based on international juvenile justice standards	Status in law	Status of practice
1. Unconditional diversion/police warning	- Not included in law	- Reportedly rarely used
2. Diversion from formal judicial proceedings	- Not included in national law but included in draft Child Law (though not specifying at what stage it will be applied)	- Scale of practice unknown
3. Alternatives to pre-trial detention	- Included in child-specific law	- Reportedly rarely used
4. Measures to minimize time spend in pre-trial detention	- Not included in law	- No regular review of children's pre-trial detention - Release from pre-trial detention reportedly rarely occurs
5. Alternatives to post-trial detention	- Included in child-specific law	- Reportedly used often
6. Measures to minimize time spend in post-trial detention	- Child-specific law provides for early (conditional) release	- Reportedly regular review of children's post-trial detention if the child is deprived of their liberty in training schools for lesser offences - Review mechanism does not apply to children who are imprisoned for more serious offences - Early (conditional) release reportedly occurs often - Monitoring of children released

298 Ibid., [93]-[94].

299 This paragraph is based on UNICEF EAPRO, ‘Final regional report: Study on diversion and other alternative measures for children in conflict with the law in East Asian and Pacific Island countries’, 15 September 2016, unpublished.

## ACTION 4: CAPACITY BUILDING

### 9. Advocacy materials to generate awareness and support ending violence against children

**Indicator 9.** *Number and type of advocacy materials developed by each AMS for various audiences to generate awareness and support EVAC.*

**Baseline status:** *Unknown*

## ACTION 5: RESEARCH AND DATA COLLECTION

### 10. National systems for data collection, analysis and sharing

**Indicator 10.A.** *Number of AMS using survey data in national policy documents on VAC.*

**Baseline status:** *Not yet started*

**Indicator 10.B.** *Number of AMS with reliable and consistent national system for consolidation of data on VAC.*

**Baseline status:** *Not yet started*

**Indicator 10.C.** *Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.*

**Baseline status:** *Not yet started*

The Committee on the Rights of the Child has acknowledged some initiatives by Myanmar to improve interdepartmental information systems and progress made in collecting national level data on the socioeconomic, health and education status of children, however has expressed concern “*at the lack of methodological coherence in the undertaking of data collection and the absence of disaggregated data on areas covered by the Convention*”<sup>300</sup> and the lack of data on child abuse and neglect.<sup>301</sup> The Committee has encouraged Myanmar to set up a comprehensive data collection system, with the support of its partners, and to analyse the data collected as a basis for assessing progress and informing the design of policies and programmes to implement the Convention on the Rights of the Child.<sup>302</sup> The Committee has advised that the data should be disaggregated by age, sex, geographic location, ethnicity and socio-economic background and recommended the prioritizing of capacity development of institutions at the national and subnational levels to be able to design, conduct, analyse and use evidence to monitor, evaluate and influence policies and programmes.<sup>303</sup>

300 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Myanmar’, CRC/C/MMR/CO/3-4, 14 March 2012, [23].

301 Ibid., [59].

302 Ibid., [24].

303 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Myanmar’, CRC/C/MMR/CO/3-4, 14 March 2012, [24].

# ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

## 11. National plans of action to eliminate all forms of violence against children

**Indicator 11.** *Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.*

**Baseline status:** *Not yet started*

## 12. Coordination mechanism for disasters and conflict situation

**Indicator 12.** *Number of AMS that include VAC in emergency-response programming.*

**Baseline status:** *Unknown*

# COUNTRY SUMMARY: THE PHILIPPINES

## ACTION 1: PREVENTION

1. Non-violent approach to nurture, care, for the development of children in all settings

**Indicator 1.B.** *Number of AMS that contextualise the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.*

**Baseline status:** *Unknown*

There are initiatives underway to promote a non-violent approach to children in the Philippines, including through a pilot 'Parenting for Lifelong Health' initiative by UNICEF and the Department of Social Welfare and Development. This initiative is a five-phased approach to build capacity in using evidenced-based approaches to engaging parents to reduce the risk to violence against children and improve child well-being. UNICEF is also working with the Department of Social Welfare and Development and Australia's Department of Foreign Affairs and Trade to support an evaluation of the Department of Social Welfare and Development's good parenting programme. The Department of Social Welfare and Development also has an initiative on positive discipline with house parents of child caring institutions and social workers. The Department of Education has introduced a Child Protection Policy which sets out the standards and procedures for addressing all forms of violence against children in schools.

2. Awareness raising and behaviour change communications on all forms of violence against children

**Indicator 2.** *Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.*

**Baseline status:** *Under development*

The Government of the Philippines has noted this area is a gap and challenge and planned for specific campaigns to raise community awareness on the effects of violence against children, to advocate for change in harmful social and cultural norms, and to promote gender equity and equality, non-discrimination, the fostering of positive, non-violence relationships with children, and the breaking of the culture of silence on violence in all settings.<sup>304</sup> The Council for the Welfare of Children is currently developing a National Plan of Action to address violence against children, which will include a national advocacy plan, to be finalized in early 2017.

304 ASEAN RPA-EVAC, p. 34.

### 3. Deinstitutionalization of children and strengthening alternative family care services

**Indicator 3.** Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).

**Baseline status:** Partly/ Under development

The Philippines legal framework provides for alternative family care services. There is legislation regulating domestic and intercountry adoption and the Philippines is party to the Hague Convention. The Foster Care Act of 2012 sought to systematize and enhance the national foster care programme, including through the provision of a subsidy to support the needs of the foster child. The Philippines is developing alternative family care arrangements such as foster care, adoption, and group homes, among others. Ongoing initiatives on alternative care by the Department of Social Welfare and Development and the local government social welfare services are complemented by programs of Licensed Foster Care agencies such as NORFIL Foundation, Kaisahang Buhay Foundation (KBF), Parenting Foundation, CRIBS (Creating Responsive Infants by Sharing) and Gentle Hand Inc., among others. The Adoptive Families Foundation of the Philippines, a group of licensed Foster Families serves as an advocacy group on foster care.<sup>305</sup>

**Table 28: Summary of legal/policy frameworks for alternative family care in the Philippines**

<b>Adoption</b>	<ul style="list-style-type: none"> <li>- Domestic Adoption Act of 1998 (Republic Act 8552)</li> <li>- Inter-Country Adoption Act of 1995 (Republic Act 8043) which amended articles 183 up to 193 of the Family Code (E.O 209)</li> <li>- Contracting State to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption</li> </ul>
<b>Kinship care</b>	<ul style="list-style-type: none"> <li>- Family Code (Title VIII: Support) provides provisions for support to include kinship care</li> </ul>
<b>Foster care</b>	<ul style="list-style-type: none"> <li>- Foster Care Act of 2012</li> <li>- Memorandum Circular No. 2013-10 issued by Department of Interior and Local Government directing all DILG Regional Directors to disseminate the Implementing Rules and Regulations to ensure awareness and responsiveness of local government officials in the promotion of the Foster Care Program in the respective jurisdiction and to provide technical assistance, upon request and support, where necessary, and as may be appropriate</li> <li>- Subsidy to support the needs of the foster child provided through Department of Social Welfare and Development</li> </ul>
<b>Legal guardianship</b>	<ul style="list-style-type: none"> <li>- Title IX (Parental authority) of the Family Code provides guidelines on legal guardianship in case of death, separation or incapacity of the biological parents.</li> <li>- The Supreme Court issued A.M No. 03-02-05-SC on May 1, 2003 which provides the Rule on Guardianship of Minors and amended Rules 92-97 inclusive of the Rules of Court on guardianship of minors</li> </ul>

The Committee on the Rights of the Child has previously noted its concern at the high number of children in institutional care, at reported cases of physical and emotional abuse of those children, as well as at the lack of quality standards of care and monitoring for alternative care.<sup>306</sup> The Committee has also noted its concern at the prevalence of the sale of children for purposes of illegal adoption and tampering of the civil registry

305 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 247.

306 Committee on the Rights of the Child, 'Consideration of reports submitted by the States parties under article 44 of the Convention, Concluding observations: The Philippines', CRC/C/PHL/CO/3-4, 22 October 2009, [47].



by individuals to make it appear that a child is their biological offspring or so called ‘birth simulation’. The Committee has reiterated its previous recommendations and called on the Philippines to make every effort to ensure that all adoptions fully comply with the principles and provisions of the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, the Convention on the Rights of the Child as well as with other relevant international standards. The Committee has further recommended that the Philippines take all necessary measures to prevent and effectively combat ‘simulated births’, including through awareness-raising campaigns on this practice, promoting legal adoption and prosecuting perpetrators of ‘simulation of birth’.<sup>307</sup>

#### 4. Preventing violence against children in cyberspace

**Indicator 4.** *Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).*

**Baseline status:** *Partly/ Under development*

The Inter-Agency Council Against Child Pornography (IACACP) is the body primarily tasked to coordinate, monitor and oversee the implementation of the Anti-Child Pornography Act of 2009. In partnership with UNICEF and The Asia Foundation, IACACP and the Department of Justice have drafted a National Response Plan to Prevent and Address Sexual Exploitation and Abuse of Children including online. The National Response Plan provides an update on the situation of online child sexual abuse and exploitation in the country and details the key result areas, core strategies, and planned outcomes that will guide child online protection work within a three-year planning horizon. The plan covers the five key result areas of the IACACP strategic plan: advocacy and prevention; protection, recovery and reintegration; law enforcement and prosecution; research, monitoring and management information systems; and partnership and networking. In September 2016, the Department of Information Communication and Technology organized the ITU-ASEAN Workshop on Child Online Protection which reinforced the action plans stated in the draft National Response Plan and provided additional recommendations including, the implementation of the automated blocking; mapping out of existing hotlines; institutionalization of Safer Internet day; and the operationalization of the convergence among others. The National Response Plan is scheduled to be presented for approval on the next IACACP Council meeting in December 2016.

There are examples of public awareness campaigns and education programmes about violence against children in cyberspace including those by the Department of Justice Office of Cybercrime, IACACP and the Philippine National Police Anti-Cybercrime Group. UNICEF has supported efforts to integrate cybersafety into school curriculums with lesson plans for teachers through a partnership with the Stairway Foundation and in conjunction with the Department of Education and the UK National Crime Agency’s CEOP Command (formerly the Child Exploitation and Online Protection Centre). The Department of Education has issued a memorandum encouraging the use of the Cybersafe Lesson Plans by all public schools in the country. UNICEF has also partnered with the Ateneo Human Rights Center in conducting a ChildTALK programme on child-friendly cyberspace, targeting children aged 12-17 years.

There are frameworks and processes in place for industry to contribute towards preventing online violence, however there are calls from both Government and industry for clarity on processes, roles and responsibilities. Under the Anti-Child Pornography Act, services provider must notify law enforcement within seven days Upon discovery that their servers or facilities are being used to commit offences related to ‘child pornography’ (section 9). ISPs are also obligated to install software designed to filter and block child abuse materials. Mall owners/operators, owners or lessors of other business establishments, including photo developers, information technology professionals, credit card companies, banks and Internet content

<sup>307</sup> Committee on the Rights of the Child, ‘Concluding Observation on the initial report of the Philippines, submitted under article 12 of the Optional Protocol on the sale of children, child prostitution and child pornography, adopted by the Committee at the sixty-second session (14 January-1 February 2013)’, CRC/C/OPSC/PHL/CO/1, 31 January 2013, [23]-[24].

hosts, all have mandatory reporting obligations (sections 10, 11). The local government unit of the city or municipality where an Internet café or kiosk is located has the authority to monitor and regulate the establishments to prevent violations of the Act (section 12). The National Telecommunication Commission's Memorandum Circular No. 01-01-2014 provides guidelines for ISPs to install filtering software to block access to or the transmission of 'child pornography'. Subsequently, NTC issued Memorandum Circular No. 0307 2015, an addendum on the guidelines for ISPs in the implementation of RA 9775, in which NTC established the guidelines and standards criteria for the selection and installation of technology software, program or software that will block, access or filter websites carrying child pornography materials. ISPs must preserve evidence for use in criminal proceedings and give details of users who access or attempt to access websites containing 'child pornography' following a request from the police (Anti-Child Pornography Act, section 9). The integrity of traffic data and subscriber information must be retained and preserved by ISPs for a minimum period of six months (Rules and Regulations Implementing Republic Act No. 10175, Cybercrime Prevention Act, section 12). Content data must also be kept for a minimum of six months on receipt of an order from law enforcement. In certain cases, an order for a one-time extension for another six months may be granted.

UNICEF has a Memorandum of Understanding with Globe Telecom and Ateneo Human Rights Center to strengthen efforts to address online child sexual abuse and exploitation. One of the objectives of the MOU is the delivery of training to 35 members of Globe Telecom, one of the largest ISPs, on the Children's Rights and Business Principles, with the aim of developing a relevant code of conduct to guide the ISP on child online protection.

## ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

### 5. Child and gender sensitive reporting and complaint mechanism

**Indicator 5.** *Number of AMS providing child- and gender- sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances (by type and by setting).*

**Baseline status:** *Partly/ Under development*

The Department of Child Welfare and Development, the Child Health and Intervention and Protective Service, Anti-Child Abuse, Discrimination, Exploitation Division National Bureau of Investigation, the Philippine National Police Operation Centre, the Department of Justice Taskforce on Child Protection and the Local Barangay Council for the Protection of Children all operate hotlines that are promoted for the reporting of child abuse in the Philippines.<sup>308</sup> There is no information about the extent to which these hotlines are child- and gender-sensitive. The number '911' was recently made the national emergency hotline. Staff taking the calls are to be trained by the Commission on Human Rights on the Philippines' Child Abuse and Neglect Case Management Protocol. Bantay Bata 163, the child helpline operated by a private foundation, is available for children to call, contact online, or contact via text message for assistance and may be able to assist children make complaints to competent authorities. All police precincts are mandated to have a Women and Children Protection Desk officer on duty 24/7. The Women and Children Protection Desk officers are intensively trained to be able to be sensitive in receiving reports and conducting investigation of reported cases in a child- and gender-sensitive way. Within hospitals, Women and Child Protection Units are open to walk-ins and reports with Women and Child Protection Desk police and social workers on duty 24/7. Within schools, Child Protection Committees are tasked to develop internal referral and monitoring systems.

308 <https://www.doj.gov.ph/child-protection-program.html>, last accessed 18 October 2016.

The Philippine Commission on Human Rights is the independent body created by the Philippine Constitution to investigate all forms of human rights violations and monitor the government's compliance with international treaty obligations on human rights. Through its Child Rights Center, the Commission investigates human rights violations against children, initiates legal action, and monitors and reports on all violations of the Convention on the Rights of the Child involving civil rights and freedoms, and special protection. The Child Rights Center has been mainstreamed within the Commission with all its 15 regional offices having a child rights unit and a focal person for children.<sup>309</sup> However, operationalization has been limited due to budgetary and resource constraints. Under the Civil Procedure Rules and the Criminal Procedure Rules, as well as pursuant to the Child Protection Act, children and their representatives are entitled to bring cases in Philippine courts to challenge violations of their rights.<sup>310</sup> Child victims reportedly have access to free legal services including information about their rights, and the procedure for filing complaints, claims for compensation and other legal remedies available to them in a child-friendly language.<sup>311</sup> The Philippines is not yet a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## 6. Protective and supportive services for children affected by violence

**Indicator 6.** *Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).*

**Baseline status:** *Partly/ Under development*

The Philippines' child protection system is operationalized through a multi-level approach – from barangay to city, municipal, provincial, regional, and national level – coordinated by the Council for the Welfare of Children and its Regional Committees for the Welfare of Children.<sup>312</sup> The Department of Health mandated the establishment of Women and Children Protection Units in all Government hospitals. These units are composed of a multi-disciplinary team of trained physicians, social workers, mental health professionals, and police providing comprehensive medical and psychosocial services to women and children victims of violence.<sup>313</sup> There are 24-hour crisis intervention units in all Department of Social Welfare and Development Field Offices, which have served as mechanisms for detecting, monitoring and rescuing children who experience violence.<sup>314</sup> The Department of Social Welfare and Development has maintained 30 centers in 20 cities and eight provinces, which provide residential care services for child victims of violence, 11 Reception and Study Centers for children, 13 homes for girls, 10 Regional Rehabilitation Centers for Youth, two Lingap Centers, and the Ahon Bata saLansangan Center and NayonngKabataan. The Standards and Accreditation Bureau and Field Offices of Department of Social Welfare and Development provide technical assistance and monitor the quality of programs and services offered by these centers. Treatment, recovery, and rehabilitation services are provided through multidisciplinary teams composed of social workers, psychologists, house-parents, and vocational instructors. NGOs have established facilities and programs

309 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 258.

310 White & Case LLP, 'Access to Justice for Children: Philippines', September 2015, pp. 2-3, [https://www.crin.org/sites/default/files/philippines\\_access\\_to\\_justice\\_-\\_updated\\_sep\\_2015.pdf](https://www.crin.org/sites/default/files/philippines_access_to_justice_-_updated_sep_2015.pdf), last accessed 12 October 2016.

311 Republic of the Philippines, 'Philippine Country Report', Regional Conference on Online Child Protection: Towards an Integrated Systems Approach, Putrajaya, Malaysia, 24-25 March 2015, p. 5.

312 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 234.

313 Ibid., p. 236.

314 Ibid., p. 246.

for recovery, healing, and reintegration complementing those services provided by Government.<sup>315</sup> The Department of Social Welfare and Development has also established assistance programs to parents, including the Parent Effectiveness Seminars, Empowerment and Re-Affirmation of Paternal Abilities Training, and livelihood assistance.<sup>316</sup>

There remain a limited number and capacity of trained social workers, and the Committee on the Rights of the Child has noted with concern that “*child-specific services for recovery and reintegration, including specialized medical, psychosocial and psychological care, legal services, emergency shelters and trained professionals remain largely inadequate*” and “*their expansion is severely constrained due to budget limitations.*” The Committee has also noted further concerns about the lack of clear referral procedures and standards for the care and protection of child victims of sexual violence including the provision of psychosocial support, case assessment based on the ‘best interests’ determination and follow-up. The Committee on the Rights of the Child has recommended that the Philippines allocate adequate human, financial and technical resources, to increase access to child-centred services for child victims of sexual violence, including clear referral procedures and access to psychosocial care and support until they reach full recovery and adopt clear measures to guide the rescue, repatriation, rehabilitation and reintegration of child victims, including clear procedures for special assistance and repatriation for foreign child victims based on the ‘best interests’ determination and follow-up.<sup>317</sup> The Committee has also recommended the Philippines: conduct timely and adequate investigations of all cases of violence against children using child-friendly procedures to bring the perpetrators to justice; provide support services to children in legal proceedings to ensure that children are not victimized in such proceedings and strengthen the existing witness protection program to protect child witnesses from intimidation; ensure the provision of family support services for abusive parents with a view to preventing violence; and ensure that child victims of violence have access to adequate counselling and multidisciplinary assistance with recovery and reintegration.<sup>318</sup> The Committee has drawn particular attention to the need for services for children living on the streets affected by violence and recommended that the Philippines provide adequate recovery and social reintegration services and promote reunification with their families, when feasible.”<sup>319</sup>

## ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

### 7. Laws in full conformity with applicable international human rights standards

**Indicator 7.** *Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.*

**Baseline status:** *Not yet started*

315 Ibid., p. 248.

316 Ibid., p. 246.

317 Committee on the Rights of the Child, ‘Concluding Observation on the initial report of the Philippines, submitted under article 12 of the Optional Protocol on the sale of children, child prostitution and child pornography, adopted by the Committee at its sixty-second session, CRC/C/OPSC/PHL/CO/1, 26 June 2013, [39]-[40].

318 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: The Philippines’, CRC/C/PHL/CO/3-4 22 October 2009, [52].

319 Ibid., [74]-[75].

The Committee on the Rights of the Child has recommended that the Philippines take all necessary measures to ensure the full and effective implementation of its domestic laws to better protect children's rights and to harmonize its legislation fully with the provisions and principles of the Convention on the Rights of the Child.<sup>320</sup> The Committee has highlighted a number of priority areas for law reform relating to violence against children including to:

- Enact the necessary laws on child protection, including Bills Nos. 681 and 3049 and raise the minimum age of sexual consent, reiterating its previous recommendation (CRC/C/PHL/CO/3-4, para. 10, 2009).<sup>321</sup>
- Revise the Criminal Code and bring it into full compliance with articles 2-3 of the Optional Protocol, in particular, define and prohibit all cases of sale of children, child prostitution and child pornography in accordance with the Protocol.<sup>322</sup>
- Revise legislation, so as to ensure children born out of wedlock the right to equal treatment, notably by abolishing their classification as 'illegitimate' children and by recognizing their equal rights, including to inheritance.<sup>323</sup>
- Enact the Anti-Corporal Punishment Bill to explicitly prohibit by law corporal punishment in all settings, including in the home, schools, alternative childcare, places of work and places of detention.<sup>324</sup>
- Strengthen national legislation prohibiting child labour in accordance with international standards.<sup>325</sup>

## 8. Diversion and alternative measures

**Indicator 8.** *Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.*

**Baseline status:** *Partly/ Under development*

The Republic Act 9344 Juvenile Justice and Welfare Act established a comprehensive juvenile justice and welfare system in the Philippines and the Juvenile Justice and Welfare Council. Republic Act 9344, Republic Act 10630 which amended some provisions of Republic Act 9344, the Revised Implementing Rules and Regulations of RA 10630 and the Supreme Court Revised Rule on Children in Conflict with the Law make up the legislative framework for diversion and other alternative measures. In 2009, the Committee on the Rights of the Child raised concern about the slow pace of implementation of the Juvenile Justice and Welfare Act and the limited use of diversion and alleged widespread practice of pre-trial detention.<sup>326</sup> Among other things, the Committee recommended that the Philippines expand "the use of alternative measures to deprivation of liberty, such as diversion, probation and counselling and community services; and take all necessary measures to ensure that children are held in detention only as a last resort and for the shortest possible period of time".<sup>327</sup>

320 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: The Philippines', CRC/C/PHL/CO/3-4, 22 October 2009, [12].

321 Committee on the Rights of the Child, 'Concluding observations on the initial report of the Philippines, submitted under article 12 of the Optional Protocol on the sale of children, child prostitution and child pornography, adopted by the Committee at its sixty-second session (14 January–1 February 2013)', CRC/C/OPSC/PHL/CO/1, 26 June 2013, [10].

322 Ibid., [28].

323 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: The Philippines', CRC/C/PHL/CO/3-4, 22 October 2009, [30].

324 Ibid., [43].

325 Ibid., [73].

326 Ibid., [80].

327 Ibid., [81].

There is no legal provision for unconditional diversion and it is reportedly not used in practice. Diversion from formal judicial proceedings at police, prosecution and court levels is regulated by the Juvenile Justice and Welfare Act and other child-specific laws, which promote diversion with a restorative justice approach. The Juvenile Justice and Welfare Act includes release “on recognizance to their parents and other suitable person” or “release on bail” as alternatives to pre-trial detention. Measures to minimize time in pre-trial detention include the same as well as close supervision, intensive care, or placement in family, education setting or home. The Revised Rule on Children in Conflict with the Law sets out the procedures for alternatives to post-trial detention including suspended sentence plus care, guidance, supervision, drug alcohol treatment, group counselling and probation. The same measures are available to minimize time in post-trial detention <sup>328</sup>

**Table 29: Summary of alternative measures for children in conflict with the law in the Philippines**

Category of alternative measures based on international juvenile justice standards	Status in law	Status of practice
1. Unconditional diversion/police warning	- Not included in law	- Not used in practice
2. Diversion from formal judicial proceedings	- Child-specific law provides for diversion at police, prosecution and court stages	- Reportedly rarely used
3. Alternatives to pre-trial detention	- Included in child-specific law	- Scale of practice unknown
4. Measures to minimize time spend in pre-trial detention	- Included in child-specific law	- Scale of practice unknown
5. Alternatives to post-trial detention	- Included in child-specific law	- Scale of practice unknown
6. Measures to minimize time spend in post-trial detention	- Included in child-specific law	- No information was available on whether there is regular review of children’s post-trial detention, about the scale of early (conditional) release, or about whether children (conditionally) released are monitored

## ACTION 4: CAPACITY BUILDING

### 9. Advocacy materials to generate awareness and support ending violence against children

**Indicator 9.** Number and type of advocacy materials developed by each AMS for various audiences to generate awareness and support EVAC.

**Baseline status:** Not yet started

<sup>328</sup> The information in this paragraph is based on UNICEF EAPRO, ‘Final regional report: Study on diversion and other alternative measures for children in conflict with the law in East Asian and Pacific Island countries’, 15 September 2016, unpublished.

The Government plans to develop a national campaign anchored on the results of the National Baseline Study on Violence against Children and the national plan of action on advocacy. This will be developed in 2017.

## ACTION 5: RESEARCH AND DATA COLLECTION

### 10. National systems for data collection, analysis and sharing

**Indicator 10.A.** *Number of AMS using survey data in national policy documents on VAC.*

**Baseline status:** *Partly/ Under development*

**Indicator 10.B.** *Number of AMS with reliable and consistent national system for consolidation of data on VAC.*

**Baseline status:** *Partly/ Under development*

**Indicator 10.C.** *Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.*

**Baseline status:** *Partly/ Under development*

In December 2016, the Philippines launched the results of its first-ever National Baseline Study on Violence against Children and the Government plans to finalise its national plan of action based on the survey.

Numerous agencies and councils have a role and responsibility in data collection on child protection however there is a lack of coordination and accountability for collecting and analyzing data. The Committee on the Rights of the Child has acknowledged the Philippines' efforts to improve its data collection system and has especially welcomed the Council for the Welfare of Children's 'Subaybay Bata Monitoring System' linked to the major national government agencies, the development of 143 indicators for the seven major clusters of child rights, as well as the publication of Annual State of the Filipino Children Reports.<sup>329</sup> However, the Committee has repeated its concern at the lack of disaggregated data by region, gender and age and at the insufficient data on children in need of special protection, specifically children living in extreme poverty, abused and neglected children, children in conflict with the law and children belonging to minorities and indigenous groups.<sup>330</sup>

The Committee has recommended that the Philippines further expand its existing data collection system and ensure that the data is disaggregated by region, gender and age and includes information on children in need of special protection.<sup>331</sup> With reference to the UN Study on Violence against Children, the Committee has recommended that the Philippines develop and implement systematic national data collection and research.<sup>332</sup>

329 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: The Philippines', CRC/C/PHL/CO/3-4, 22 October 2009, [23].

330 Ibid., [23].

331 Ibid., [24].

332 Ibid., [44].

# ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

## 11. National plans of action to eliminate all forms of violence against children

**Indicator 11.** *Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.*

**Baseline status:** *Partly/ Under development*

Following the launch of the National Baseline Study on Violence against Children, the Council for the Welfare of Children is developing a National Plan of Action in response. This is expected to be finalized in early 2017. Relevant existing plans include the Philippines National Strategic Framework for Plan Development for Children 'Child 21' (2005-2025) includes National Plans of Action for Children. The Comprehensive Programme on Child Protection is a companion document to the National Plan of Action for Children.

## 12. Coordination mechanism for disasters and conflict situation

**Indicator 12.** *Number of AMS that include VAC in emergency-response programming.*

**Baseline status:** *Partly/ Under development*

In May 2016, the Philippines enacted the Children's Emergency Relief and Protection Act – landmark legislation to protect the rights of children affected by disasters and other emergencies. The Act mandates the Department of Social Welfare and Development to establish a comprehensive emergency programme to enhance the provision of life-saving humanitarian and protection assistance to vulnerable children in emergencies particularly separated children, children with disabilities, and children in shelters. The Act calls for the establishment of child friendly spaces, transitory care for children, civil documentation and training of emergency responders on child protection. The Philippines also has a National Strategic Plan for Child Protection in Emergencies (2014-2016).



# COUNTRY SUMMARY: SINGAPORE

## ACTION 1: PREVENTION

1. Non-violent approach to nurture, care, for the development of children in all settings

**Indicator 1.B.** Number of AMS that contextualise the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.

**Baseline status:** Unknown

2. Awareness raising and behaviour change communications on all forms of violence against children

**Indicator 2.** Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.

**Baseline status:** Partly/ Under development

The Ministry of Social and Family Development works closely with other agencies to raise awareness on child abuse such as through the National Family Violence Networking System. This includes mass media campaigns and community road shows on family violence.

3. Deinstitutionalization of children and strengthening alternative family care services

**Indicator 3.** Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).

**Baseline status:** Partly/ Under development

Singapore has noted the limited diversity and capacity of care options and services for vulnerable children, who are placed either in family-based care or residential care. In 2014, the Ministry of Social and Family Development (MSF) announced the need to grow the capacity of family-based care to allow more vulnerable children in care to be placed in families where possible. Family-based care is important as children are better able to create bonds with a consistent caregiver in families. Such bonds are crucial for the development of the child's social, emotional and mental well-being. From 2014-2017, the capacity

of fostering has grown through (i) increased efforts to recruit foster parents and (ii) the setup of Fostering Agencies (FA) to further grow foster care in the community. FAs provide support for foster parents and foster children to enable the children to thrive while in foster care and also broaden the outreach and recruitment efforts of foster families. In 2016, there were 420 foster families and 430 foster children participating in the scheme.<sup>333</sup> In relation to adoption, the Committee on the Rights of the Child noted that the adoption legislation lacks many safeguards for the rights of the child, in accordance with international standards. The Committee also noted its concerned about cases of adoption without sufficient protection guarantees, including judicial authorization and central oversight authority, and the reported cases of sale of children for the purpose of adoption. The Committee has recommended that Singapore maintain a registry of all adopted children; establish a central authority to ensure protection of the rights of children involved in the adoption process; and ratify, without delay, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption.<sup>334</sup>

**Table 30: Summary of legal/policy frameworks for alternative family care in Singapore**

<b>Adoption</b>	- Adoption Act - Not yet a contracting State to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption
<b>Kinship care</b>	No information available
<b>Foster care</b>	- Foster care scheme in place
<b>Legal guardianship</b>	No information available

#### 4. Preventing violence against children in cyberspace

**Indicator 4.** Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).

**Baseline status:** Partly/ Under development

Singapore has a Cyber Wellness Programme that aims to help Internet users understand and practice positive behaviour online, and to take responsibility for users' well-being and protection in cyberspace. In 2012, Singapore established the Media Literacy Council, which oversees and leads public education and initiatives to promote media literacy and a positive environment in cyberspace. The Ministry of Education has a cyberwellness curriculum for students and provides schools with the necessary resources and programme support, including an online resource portal for teachers, students and parents; professional development programmes for teacher coordinators, and incentives. Since 2009, a Cyber Wellness Student Ambassador Programme was launched to complement cyberwellness education efforts. It adopts a peer-to-peer approach to communicate cyberwellness messages among students. The Media Development Authority of Singapore, a statutory regulator, conducts talks and public workshops, targeting parents and caregivers, and has set up a portal to share tips and resources.<sup>335</sup>

333 Ministry of Social and Family Development, "Strengthening family based care for vulnerable children", 8 March 2017. Available at: <https://www.msf.gov.sg/media-room/Pages/Strengthening-family-based-care-for-vulnerable-children.aspx>

334 Committee on the Rights of the Child, 'Consideration of Reports submitted by States Parties under Article 44 of the Convention Concluding Observations: Singapore', CRC/C/SGP/CO/2-3, 4 May 2011, [48]-[49].

335 This information is drawn from UNESCO Bangkok, 'Fostering Digital Citizenship through Safe and Responsible Use of ICT, A review of current status in Asia and the Pacific as of December 2014', 2015, pp. 22-4.

There are frameworks and processes in place for industry to contribute towards preventing online violence. The Media Development Authority administers the Internet Code of Practice<sup>31</sup> and the Broadcasting Notification (Class License) under the Broadcasting Act (Chapter 28). Under paragraph 16 of the Schedule (Conditions of Class Licence) of the Broadcasting Notification (Class License) and the Internet Code of Practice, licensees are required to deny access to prohibited material when notified or directed by the Media Development Authority. The Internet Code of Practice sets out the factors that should be taken into account in considering what is prohibited material, which include “*whether the material depicts a person who is, or appears to be, under 16 years of age, in sexual activity, in a sexually provocative manner or in any other offensive manner*” (para 4(2)(d)). The Media Development Authority also requires ISPs to block access to 100 sites, which include sites on child sexual abuse, as a statement of the community’s stand on harmful and undesirable content on the Internet. Mobile operators M1, SingTel Mobile and StarHub Mobile jointly developed a Voluntary Code for Self-regulation of Mobile Content in Singapore in 2006. The Code seeks to address concerns that children’s exposure to harmful content would increase with the introduction and growth of 3G (now 4G) services. This Code establishes a common framework for the mobile operators in their development and marketing of mobile content. Prohibited content includes content that “*depicts a person who is, or appears to be, under 16 years of age in sexual activity, in a sexually provocative manner or in any other offensive manner*” (section 1.2).

## ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

### 5. Child and gender sensitive reporting and complaint mechanism

**Indicator 5.** *Number of AMS providing child- and gender- sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances (by type and by setting).*

**Baseline status:** *Partly/ Under development*

Singapore has a Child Protective Service Hotline and ComCare Call Hotline. Anyone affected by family violence or who knows of someone experiencing family violence can contact the community-based Child Protection Specialist Centres and Family Violence Specialist Centres. Children can also speak to NGOs such as Tinkle Friend Counselling Service, Touch Youth hotline, and the Samaritans of Singapore hotlines – all of which are reportedly publicized in schools and communities.<sup>336</sup> Children may also file complaints (via email or phone) with relevant government agencies, such as the Ministry of Social and Family Development or Policy Division Headquarters and Neighbourhood Police Centres.<sup>337</sup> No information is available about the extent to which these mechanisms are child- and gender-sensitive.

There is currently no National Human Rights Institution. Children through their representatives can bring civil cases, initiate judicial review proceedings to challenge violations of their constitutional rights and administrative actions, as well as commence private prosecution. In general, a child under the age of majority is not deemed to have legal competence and can only start court proceedings with a ‘litigation representative’. The litigation representative can be a legal guardian, who is usually either a parent or next of kin, or any other person the court may appoint. Further, the litigation representative must have no interest

<sup>336</sup> ‘United Nations Study on Violence against Children, Response to questionnaire received from the Government of the Republic of Singapore’, undated, pp. 12-13, <http://www.ohchr.org/Documents/HRBodies/CRC/StudyViolenceChildren/Responses/Singapore.pdf>, last accessed 4 November 2015.

<sup>337</sup> ‘United Nations Study on Violence against Children, Response to questionnaire received from the Government of the Republic of Singapore’, undated, pp. 12-13, <http://www.ohchr.org/Documents/HRBodies/CRC/StudyViolenceChildren/Responses/Singapore.pdf>, last accessed 4 November 2015.

in the cause or matter in question adverse to the child.<sup>338</sup> Legal aid may also be available to children or persons acting on their behalf if they meet the eligibility requirements.<sup>339</sup> Singapore is not yet a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## 6. Protective and supportive services for children affected by violence

**Indicator 6.** *Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).*

**Baseline status:** *Partly/ Under development*

The Ministry of Social and Family Development is the lead agency for protecting children and young persons from violence in Singapore. The Ministry of Social and Family Development works closely with other government and non-government agencies to form the child protection system.<sup>340</sup> The Child Protective Service (CPS) in the Ministry of Social and Family Development undertakes the statutory role in investigating and intervening into cases of children and young people who have been harmed or who are at high risk of future harm. The majority of the cases CPS handles involve intra-familial abuse.<sup>341</sup> While CPS undertakes a social investigation into the safety and protection of children and young people, the Singapore Police Force conducts a concurrent criminal investigation into any offence against the child. CPS reports there is close collaboration between both agencies in investigating an allegation of child abuse and to keep children safe.<sup>342</sup> The immediate focus of the CPS intervention is to ensure the immediate and longer term safety of the child through safety planning, comprehensive investigations, holistic assessments and implementation of intervention plans. CPS works with the family and relevant agencies to ensure that a safe, caring and conducive home environment is provided for the child. Supportive services are provided to the family to improve their capacity to meet the child's needs. The intervention will include identifying protective caregivers and significant persons in the child's care environment, and equipping them with the skills and knowledge to help keep the child safe.<sup>343</sup> CPS provides ongoing intervention for some cases with safety concerns after the investigation period. Specialised services in the form of psychological support or counselling by in-house professionals may also be provided in addition to services by community partners.<sup>344</sup>

The Children and Young Persons Act provides that where the Director, a protector or a police officer is satisfied on reasonable grounds that a child or young person is in the need of care or protection, the Director, protector or police officer may without warrant and with such assistance and by such force as is necessary, remove the child or young person and place him or her to a place of temporary care and protection or under the care of a fit person, and as necessary, may present the child or young person for an assessment or for any medical or other treatment. The Director or protector also has power to order persons to be restricted from contact or access to the child or young person if it is not in the best interests

338 White & Case LLP, 'Access to Justice for Children: Singapore', July 2014, pp. 2-3, [https://www.crin.org/sites/default/files/singapore\\_access\\_to\\_justice\\_0.pdf](https://www.crin.org/sites/default/files/singapore_access_to_justice_0.pdf), last accessed 12 October 2016.

339 'United Nations Study on Violence against Children, Response to questionnaire received from the Government of the Republic of Singapore', undated, pp. 12-13, <http://www.ohchr.org/Documents/HRBodies/CRC/StudyViolenceChildren/Responses/Singapore.pdf>, last accessed 4 November 2015.

340 <https://app.msf.gov.sg/Policies/Strong-and-Stable-Families/Nurturing-Protecting-the-Young/Child-Protection-Welfare/Policy-on-Protection-Welfare-of-Children>, last accessed 1 November 2016.

341 The definition of abuse in section 5 of Children and Young Persons Act refers only to abuse of children within a family or care setting, i.e. by "a person who has the custody, charge or care of a child or young person."

342 <https://app.msf.gov.sg/Policies/Strong-and-Stable-Families/Nurturing-Protecting-the-Young/Child-Protection-Welfare/Policy-on-Protection-Welfare-of-Children>, last accessed 1 November 2016.

343 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 288.

344 Ibid., p. 291.

of the child or young persons (sections 9 and 9A). The Women's Charter provides that women and girls may be detained in places of safety in certain circumstances, such as when they are victims of specified sexual offences and criminal proceedings are pending, or when they have been ill-treated and are in need of protection (sections 155 and 160). Women and girls may also ask to be received into places of safety if they satisfy authorities that they are in urgent need of refuge (section 163).

In 2012 and 2013, Singapore implemented new initiatives to improve services to protect child victims of violence. These included the development of community-based Child Protection Specialist Centres to manage moderate-risk cases, the establishment of Therapeutic Group Homes for children recovering from serious and chronic abuse or neglect, care-giving disruptions, or whose behaviour required a targeted programme.<sup>345</sup> Singapore is currently developing training framework for social service professionals to build competencies in the use of Structured Decision Making tools which support decision making to better detect and manage child abuse early. SDM's tools include the Sector Specific Screening Guide (SSSG), a first-of-its-kind for any child welfare system globally, and the Child Abuse Reporting Guide (CARG). SSSG helps frontline professionals in schools and hospitals know when to escalate cases for specialised intervention. CARG assists sector partners to identify child protection concerns and decide whether to report the case to CPS or take another course of action. Specialised programmes and services provided by MSF include, for child victims: Recovery for Kids - systematic group programme for children aged 6 to 12 years who have experienced sexual abuse; Recovery and Empowerment for Survivors of Sexual Abuse - specialized group programme for adolescents with history of sexual abuse; Trauma-Focused Cognitive Behavioural Therapy - intensive, evidence-based trauma intervention appropriate for child victims aged 3 to 18 years and their non-offending parents/caregivers; Dyadic Developmental Psychotherapy - attachment-focused treatment approach for children and adolescents with symptoms of emotional disorders. For non-perpetrator carers: Positive Parenting Programme (Triple P); Carer's Recovery and Support Programme - for parents/carers of children/adolescents who have experienced sexual abuse. For perpetrators: Positive Psychotherapy Group - for intra-familial adult perpetrators of sexual abuse and adolescent sex offenders, group or individual setting. For families: Combined Parent-Child Cognitive Behavioural Therapy - address the needs of children aged 3-17 and parents who are at-risk or engaged in child physical abuse or experiencing high levels of parenting stress; Family group conference - supports families to work out concrete plan to ensure child remains safe; Solution focused agreements with families - three-party meeting between family, the Ministry of Social and Family Development Child Protection Officer and Ministry of Social and Family Development Counsellor who is facilitator to (re)establish common goals and bring about positive and accelerated child protection outcomes.<sup>346</sup>

## ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

### 7. Laws in full conformity with applicable international human rights standards

**Indicator 7.** Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.

**Baseline status:** Not yet started

<sup>345</sup> Human Rights Council, 'National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Singapore, A/HRC/WG.6/24/SGP/1, 28 October 2015, [63].

<sup>346</sup> ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 294-297.

The Committee on the Rights of the Child has recommended a number of priority areas for law reform relating to violence against children including for Singapore to:

- Harmonize the definition of the child in the national laws, in line with the Convention and extend the Children and Young Persons Act to cover all persons under the age of 18.<sup>347</sup>
- Prohibit unequivocally by law, without any further delay, all forms of corporal punishment, including caning, in all settings.<sup>348</sup>
- Raise the minimum age of employment with a view to harmonizing it with the age of compulsory schooling (15 years) provided for under the Compulsory Education Act.<sup>349</sup>
- Bring legislation into conformity with article 3(b) of ILO Convention No. 182 on the Worst Forms of Child Labour to enhance the protection of children against commercial sexual exploitation.<sup>350</sup>
- Take all necessary legislative measures to prevent children who are victims of trafficking from being treated as offenders, in particular, ensuring that they are not detained, that they are provided with appropriate rehabilitative care, that they are reunited with their families, and that they are permitted to remain in the territory of the State party sufficiently long to be an active party in a judicial process against their traffickers.<sup>351</sup>
- Urgently raise the minimum age of criminal responsibility to an internationally acceptable level.<sup>352</sup>
- Revise legislation to prohibit the use of corporal punishment and solitary confinement in all detention institutions for juvenile offenders.<sup>353</sup>
- Abolish the sentence of life imprisonment of children under the age of 18.<sup>354</sup>
- Extend the special protection provided for under the Children and Young Persons Act to children between 16 and 18 years of age.<sup>355</sup>

## 8. Diversion and alternative measures

**Indicator 8.** *Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.*

**Baseline status:** *Partly/ Under development*

The Children and Youth Persons Act (CYPA) is the key legislation governing the administration of juvenile justice in Singapore. Amendments made in 2001 widened the options for rehabilitating children in conflict with the law. At present, there is no legislative framework for diversion. However, in practice, the police have alternatives at their disposal including releasing the child with a warning, releasing the child with a referral to a social service agency for assistance or counselling, or, on the advice of the Attorney-General, asking the child to participate in the Guidance Programme – a six-month diversionary programme. There are also

347 Committee on the Rights of the Child, 'Consideration of Reports submitted by States Parties under Article 44 of the Convention, Concluding Observations: Singapore', CRC/C/SGP/CO/2-3, 4 May 2011, [28].

348 Ibid., [40], [41].

349 Ibid., [63].

350 Ibid., [65].

351 Ibid., [67].

352 Ibid., [69].

353 Ibid., [69].

354 Ibid., [69].

355 Ibid., [69].

a range of other programmes available to support pre-trial diversion, despite the lack of a legal framework. Singapore's Youth Court adopted restorative justice as its guiding philosophy towards juvenile offenders in 1997. On alternatives to post-trial detention, the CYPA allows a judge to discharge a youth offender or charge her or him with a fine or bond. Where applicable, community-based rehabilitation orders, some of which do not include detention such as Community Service Orders and Probation with Community Service Orders.<sup>356</sup> The CYPA was amended again in 2011 to prohibit broadcasting or publishing information that identifies a CYP who is being investigated, taken into custody, or who is subject of a court order under the CYPA.

**Table 31: Summary of alternative measures for children in conflict with the law in Singapore**

Category of alternative measures based on international juvenile justice standards	Status in law	Status of practice
1. Unconditional diversion/police warning	No information available	No information on scale of practice
2. Diversion from formal judicial proceedings	Not provided in law	No information on scale of practice but several relevant programmes in place
3. Alternatives to pre-trial detention	No information available	No information available
4. Measures to minimize time spend in pre-trial detention	No information available	No information available
5. Alternatives to post-trial detention	Included in child-specific law	No information available
6. Measures to minimize time spend in post-trial detention	No information available	No information available

## ACTION 4: CAPACITY BUILDING

### 9. Advocacy materials to generate awareness and support ending violence against children

**Indicator 9.** Number and type of advocacy materials developed by each AMS for various audiences to generate awareness and support EVAC.

**Baseline status:** Unknown

<sup>356</sup> The information in this paragraph is based on Raoul Wallenberg Institute of Human Rights and Humanitarian Law, 'A measure of last resort? The current status of juvenile justice in ASEAN Member States', 2015, <http://rwi.lu.se/app/uploads/2015/04/Juvenile-Justice-Report.pdf>, last accessed 8 November 2016.

# ACTION 5: RESEARCH AND DATA COLLECTION

## 10. National systems for data collection, analysis and sharing

**Indicator 10.A.** Number of AMS using survey data in national policy documents on VAC.

**Baseline status:** Not yet started

**Indicator 10.B.** Number of AMS with reliable and consistent national system for consolidation of data on VAC.

**Baseline status:** Not yet started

**Indicator 10.C.** Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.

**Baseline status:** Not yet started

The Committee on the Rights of the Child has acknowledged the extensive statistical data provided by Singapore but has expressed concern about the insufficient data on violence against children, child victims of trafficking, and sexual exploitation of children, among other things.<sup>357</sup> The Committee has recommended that Singapore strengthen its mechanisms for data collection by establishing a national central database on children, and developing indicators consistent with the Convention on the Rights of the Child to ensure that data is collected on all areas covered by the Convention, particularly on violence, trafficking, and sexual exploitation of children.<sup>358</sup> This data should be disaggregated by age (persons under 18 years), sex, ethnic and socioeconomic background, and by groups of children in need of special protection, among other things.<sup>359</sup> The Committee has also recommended that Singapore provide information concerning the implementation of the recommendations of the UN Violence against Children Study including about the consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children.<sup>360</sup>

# ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

## 11. National plans of action to eliminate all forms of violence against children

**Indicator 11.** Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.

**Baseline status:** Not yet started

357 Committee on the Rights of the Child, 'Consideration of Reports submitted by States Parties under Article 44 of the Convention, Concluding Observations: Singapore', CRC/C/SGP/CO/2-3, 4 May 2011, [16].

358 Committee on the Rights of the Child, 'Consideration of Reports submitted by States Parties under Article 44 of the Convention, Concluding Observations: Singapore', CRC/C/SGP/CO/2-3, 4 May 2011, [17].

359 Ibid., [17].

360 Ibid., [41].



## 12. Coordination mechanism for disasters and conflict situation

**Indicator 12.** *Number of AMS that include VAC in emergency-response programming.*

**Baseline status:** *Unknown*

# COUNTRY SUMMARY: THAILAND

## ACTION 1: PREVENTION

### 1. Non-violent approach to nurture, care, for the development of children in all settings

**Indicator 1.B.** Number of AMS that contextualise the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.

**Baseline status:** Partly/ Under development

The Department of Children and Youth, Ministry of Social Development and Human Security has developed and contextualized the ASEAN Guidelines for a Non-Violence Approach in Nurture, Care and Development of Children in all Settings into a Thai version. The Thai Guidelines were acknowledged and approved by the cabinet on July 12, 2016 through several consultations with participation of relevant agencies, children and youth representatives and experts. A quick version of the Thai Guidelines has been produced and disseminated to the public to promote a non-violence approach under the theme “ZERO Tolerance, ZERO Violence”.

There are emerging initiatives underway to promote a non-violent approach to children, including the adoption of a Child Protection Policy in State child welfare institutions in 2015. By the end of 2016, 22 out of 30 institutions will have implemented this policy. The Ministry of Education is currently drafting a Child Protection Policy to be used in all education settings, including primary and secondary schools, universities, vocational schools, private schools and non-formal education. During 2016, the Department of Children and Youth, in collaboration with UNICEF and the Rajanukul Institute, convened training for staff from all Government residential facilities for children to provide practitioners with awareness and skills in positive discipline. The Department of Health has incorporated positive parenting into its curriculum for ‘parenting education’ which takes place at the community level. With support from UNICEF, the Ministry of Justice Department of Juvenile Observation and Protection is piloting in the Surathani Juvenile Training Centre a review of its regulations and protocols to end violence against children with the aim of shifting attitudes and building capacity of staff that work in the Centre.

### 2. Awareness raising and behaviour change communications on all forms of violence against children

**Indicator 2.** Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.

**Baseline status:** Partly/ Under development

In 2015, the Ministry of Social Development and Human Security and UNICEF launched a major campaign to end violence against children. Aimed at parents, caretakers, teachers and the general public, the #ENDviolence campaign raised awareness that corporal punishment is a form of violence which can have serious, life-long consequences for a child's emotional, psychological and physical well-being. A post-campaign assessment showed significant increases in respondents' knowledge on forms of violence against children. However, attitudes towards corporal punishment as a necessary method for child-rearing remain widespread.

In 2016, UNICEF has worked with the Department of Health, Ministry of Public Health, to integrate non-violent child-rearing into hospital based parenting education program in selected areas, and provide support to early childhood development centres to support parents of children aged up to five years old in the community. The Committee on the Rights of the Child has recommended that Thailand introduce “*sustained public education and awareness-raising and social mobilization programmes involving children, families and communities on the harmful effects of corporal punishment with a view to changing attitudes and promoting alternative, positive and non-violent forms of child-rearing and discipline.*”<sup>361</sup>

### 3. Deinstitutionalization of children and strengthening alternative family care services

**Indicator 3.** Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).

**Baseline status:** Partly/ Under development

The Child Protection Act sets out alternative care options for a child in need of protection including: care by an ‘appropriate’ person who is willing to look after the child (for a period not exceeding one month); adoption; care by an ‘appropriate foster family’ or nursery willing to take the child into care; care at a Children’s Reception Home (for a period not exceeding three months before a longer-term plan is to be identified); care at a welfare centre; or sent to a development and rehabilitation centre, or Buddhist temple or other place of other religion (section 33).<sup>362</sup> Another option under section 33 is to support the guardians to take better care of the child in their home environment. The Committee on the Rights of the Child has acknowledged as positive that Thailand gives priority to domestic adoption over inter-country adoption and has established regulations with regard to inter-country adoptions.<sup>363</sup> It has also noted its appreciation that Thailand had allocated a budget to support 3000 foster families per year and was drafting a National Strategy on Temporary Family-based Care.<sup>364</sup> Each year, approximately 5,000 foster families are supervised through regular visits by social workers from the Department of Social Welfare. Most foster families are related to the children, though some foster families are selected and subsidized by the Department to meet the needs of unrelated children.<sup>365</sup>

361 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Thailand’, CRC/C/THA/CO/3-4, 17 February 2012, [48](b).

362 <http://www.coj.go.th/en/pdf/ChildProtectAct.pdf>, last accessed 10 October 2016.

363 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Thailand’, CRC/C/THA/CO/3-4, 17 February 2012, [53].

364 Ibid., [51].

365 UNICEF EAPRO, ‘Alternative care for children without primary caregivers in Tsunami-Affected countries’, 2006, [http://www.unicef.org/eapro/Alternative\\_care\\_for\\_children.pdf](http://www.unicef.org/eapro/Alternative_care_for_children.pdf), p. 25-6.

**Table 32: Summary of legal/policy frameworks for alternative family care in Thailand<sup>366</sup>**

<b>Adoption</b>	<ul style="list-style-type: none"> <li>- Chapter 4, Civil and Commercial Code, Books 1-1v; Child Adoption Act (No. 3) B.E. 2553 – adoption processes in place for family selection and matching according to the best interests of a child, parental rights of the biological parents of an adopted child are terminated upon adoption<sup>366</sup></li> <li>- Inter-country adoption allowed in accordance with the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption</li> <li>- Thailand is a contracting State to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption</li> </ul>
<b>Kinship care</b>	- Included within foster-care programme
<b>Foster care</b>	- Child Protection Act and Regulations of Department of Public Welfare on child assistance in foster family 2001
<b>Legal guardianship</b>	- Guardianship incorporated into Child Protection Act

In practice, there is reportedly an overreliance on institutional care and options that temporarily or permanently separate children from their families.<sup>367</sup> The Committee on the Rights of the Child has expressed its concern about the reported overreliance on institutional care for children deprived of family environment and the lack of monitoring and oversight of such institutions.<sup>368</sup> The Committee on the Rights of Persons with Disabilities has noted particular concern about the institutionalization of girls and boys with disabilities and the insufficiency of community-based support services to implement independent living.<sup>369</sup> Of further concern to the Committee on the Rights of the Child is the lack of regulations governing institutions and the foster care system, including kinship care, as well as the lack of permanency planning for children once they enter alternative care settings.<sup>370</sup> The Committee on the Rights of the Child has reiterated a number of recommendations relating to alternative care including that Thailand undertake a comprehensive study to assess the situation of children placed in institutions; set clear standards for existing institutions and the foster care system, including rules for the involvement of children and their parents in decision-making processes and ensure periodic review of the placement of children; complete and operationalize the National Strategy on Temporary Family-based Care ensuring the best interests of the child; ensure that all alternative care institutions and programmes are well monitored, including by independent complaint monitoring mechanisms and NGOs; pursue all necessary measures to allow children placed in institutions to return to their families whenever possible and use the placement of children in institutions as a measure of last resort; and take proactive measures for family strengthening and preservation to prevent widespread institutionalization of children.<sup>371</sup>

366 UNICEF EAPRO, 'Alternative care for children without primary caregivers in Tsunami-Affected countries', 2006, [http://www.unicef.org/eapro/Alternative\\_care\\_for\\_children.pdf](http://www.unicef.org/eapro/Alternative_care_for_children.pdf), p. 25.

367 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Thailand', CRC/C/THA/CO/3-4, 17 February 2012, [51]; Universalis and Child Frontiers, 'Evaluation of the UNICEF Child Protection Monitoring and Response System in Thailand, Volume III – Child Protection System Context Final Report', Ministry of Social Development and Human Security [Thailand] and UNICEF Thailand, p. 43, [http://www.unicef.org/evaldatabase/files/Thai\\_UNICEF\\_CPMRS\\_-\\_Volume\\_III\\_-\\_CP\\_System\\_Context\\_-\\_final\\_-\\_May\\_2013.pdf](http://www.unicef.org/evaldatabase/files/Thai_UNICEF_CPMRS_-_Volume_III_-_CP_System_Context_-_final_-_May_2013.pdf), last accessed 10 October 2016.

368 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Thailand', CRC/C/THA/CO/3-4, 17 February 2012, [51].

369 Committee on the Rights of Persons with Disabilities, 'Concluding observations on the initial report of Thailand', CRPD/C/THA/CO/1, 12 May 2016, [39].

370 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Thailand', CRC/C/THA/CO/3-4, 17 February 2012, [51].

371 Ibid., [52].

## 4. Preventing violence against children in cyberspace

**Indicator 4.** *Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).*

**Baseline status:** *Partly/ Under development*

In late 2016, the National Child and Youth Development Committee approved, in principle, a new Strategy for the Promotion and Protection of Children and Youths using Online Media. The multi-sectoral strategy includes research and development of recommendations for systematic improvement of laws, policies, measures and mechanisms related to children's online safety and participation as well as public awareness and education. At present, there are some examples of awareness-raising and educative programmes on cybersafety, including the 'Cyber Care Project' – a project implemented by Ministry of Information and Communication Technology that works with children, parents and teachers to reduce harmful online content.<sup>372</sup>

There are frameworks and processes in place for industry to contribute towards preventing online violence. The Computer Crime Act authorizes 'competent officials' to request court orders to block content that 'might be contradictory to the peace and concord or good morals of the people' (section 20). The Computer Crime Act creates an obligation for ISPs to keep content and data concerning the users of websites stored for at least 90 days as to facilitate investigation and prosecution (section 26). ISPs may receive a fine if they fail to do so. ISPs are also liable for the same penalty as the person committing an offence under the Act if they intentionally support or consent to an offence (section 15). Amendments to the Computer Crime Act are currently being considered. DTAC is one industry player leading efforts to prevent online violence against children. In 2014, DTAC launched the Safe Internet initiative, aiming to provide children with the tools and awareness necessary to safely navigate the online world. In 2015, activities included the Digital Citizen Talk show and Thai Digital Citizen Hub.<sup>373</sup>

## ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

### 5. Child and gender sensitive reporting and complaint mechanism

**Indicator 5.** *Number of AMS providing child- and gender- sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances (by type and by setting).*

**Baseline status:** *Partly/ Under development*

The '1300 One Stop Crisis Centre' operated by the Ministry of Social Development and Human Security is a free, 24-hour telephone line established to provide services to populations experiencing social problems, including children. No data is available about the extent to which this hotline is child- and gender-sensitive. There are mandatory reporting obligations under the Child Protection Act (section 29) for any physician, nurse, psychologist or public health official admitting a child for treatment or teacher, instructor or employer having the duty to take care of a child who is his or her student or employee.

372 Royal Thai Government commitments, [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/global-alliance-against-child-abuse/docs/commitments/ga\\_commitment\\_-\\_thailand\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/global-alliance-against-child-abuse/docs/commitments/ga_commitment_-_thailand_en.pdf), last accessed 28 September 2015.

373 <http://www.telenor.com/media/articles/2015/thai-youth-will-be-safe-internet-leaders-says-dtac/>, last accessed 8 December 2015.

One Stop Crisis Centres, hospital-based services for children and women in crisis, located within district and provincial hospitals can provide children assistance to file complaints. NGO Childline Foundation Thailand, operates a nationwide, free, 24-hour telephone helpline ‘SaiDek 1387’ which can provide assistance. The NGO Centre for the Protection of Children’s Rights specializes in case work for children that have been abused, neglected, and exploited.

Children can file criminal or civil cases in court through their representatives. Children and their representatives can also lodge complaints with the National Human Rights Commission. In its national report for the 2016 Universal Periodic Review, Thailand noted that the Government has allocated budget deemed as sufficient for the Commission to cover its administrative cost as well as carry out its mandates effectively and with its autonomy. It noted there is also room for the Commission to request for use of Government’s central fund for contingency activities.<sup>374</sup> The Committee on the Rights of the Child has previously observed that the Commission is hampered by inadequate human, technical and financial resources and a lack of regional offices.<sup>375</sup>

Thailand was the first country to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The Government has initial plans to map existing services which can provide domestic remedies as part of implementing its obligations under the Optional Protocol.

## 6. Protective and supportive services for children affected by violence

**Indicator 6.** *Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).*

**Baseline status:** *Partly/ Under development*

The National Child Protection Committee and Provincial Child Protection Committee are the main mechanisms for child protection pursuant to the Child Protection Act BE 2456 (2003).<sup>376</sup> The Act gives the ‘Competent Official’ a number of powers and responsibilities to protect a child that has experienced violence, including: entering premises to search for a child and explore the circumstances of a child; questioning the child; issuing a summons to the guardians to give statements on the child’s living conditions and welfare; returning a child to the guardians with a warning about the treatment of the child; and preparing a report for the placement of a child in a residential facility (section 30). For a child in need of protection, there is an emphasis on rapid response, whereby a Competent Official has powers to enter premises for the purpose of separating the child from the dangerous environment and sending a child to a place of safety for up to seven days, extendable if necessary up to 30 days (sections 41 and 42). Based on the child’s circumstances, the Competent Official has several options to provide assistance (outlined above under Indicator 3 and under section 33 of the Act) or to return the child to their guardian or a relative on a bond that certain supervisory conditions are fulfilled to safeguard the child. If these arrangements are not followed or fail, the Competent Official may rescind the agreement and in any case, may request to the Provincial Governor or Permanent Secretary to appoint a ‘safety protector’ for the child for a maximum of two years (sections 44 and 48), whose role is to essentially guide the child and offer advice, monitoring and

374 Human Rights Council, ‘National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Thailand’, A/HRC/WG.6/25/THA/1, 12 February 2016, [23].

375 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding Observations and Recommendations: Thailand,’ CRC/C/THA/CO/3-4, 17 February 2012, [17], [18].

376 ASEAN Commission on Women and Children, ‘Assembling the future: Child protection system in ASEAN Member States, a baseline study’, 2016, pp. 324-325.

report progress to the authorities. In 2016, a Revised Manual of Child Protection Protocols and Procedures for Protection and Responding to children at risk of abuse, neglect, violence, and exploitation was approved by the National Child Protection Committee to provide a clear set of procedures for those mandated with responsibilities, particularly Competent Officials under the Child Protection Act.<sup>377</sup>

The majority of formal child protection services tend to be concentrated at provincial level and located in the capital, with limited outreach or access to community level. The presence of NGOs differs by location and acts to supplement and support government structures in many districts across the country.<sup>378</sup> At provincial level, key services for child victims of violence include Children's Reception Homes (also referred to as 'Emergency Homes for Children and Families'). These exist in Bangkok and each of the 76 provinces – operated by the Department of Children and Youth of the Ministry of Social Development and Human Security. They provide temporary shelter for children who are unable to remain with their family as per the Child Protection Act. They are also meant to serve as coordination and information centres for women and child victims of violence. The Department of Children and Youth also operate institutions for children, with 30 centres in total providing education and occupational training to children including those in need of protection. There are also hospital-based One Stop Crisis Centres, established and operated by the Ministry of Public Health, and mandated under the Child Protection Act and the Protection of Domestic Violence Act. The One Stop Crisis Centres are designed as a multidisciplinary unit provide comprehensive services for women and children victims of violence, coordinating with the Royal Thai Police, courts, Office of the Attorney-General, NGOs, emergency shelters and the Ministry of Social Development and Human Security. These were first established in provincial level hospitals and later expanded to district level in over 896 hospitals.<sup>379</sup> Although quality of services and staff capacity vary by location, the One Stop Crisis Centres generally represent the most professional qualified component of the child protection system. In 2008, Multidisciplinary Teams were formally established at provincial level, under Provincial Child Protection Committee, with the objective of ensuring effective linkages between services. Members include staff from Provincial Social Development and Human Security officials, provincial police, education office, Children's Reception Home, public health office, Competent Officials and the public prosecutor for children. In practice, the formal Multidisciplinary Teams rarely meet and coordination for service provision reportedly depends largely on personal relationships.

At the local level, while the Child Protection Act specifies the management of local administration office as a Competent Official (article 24), no agency has assumed primary accountability for the provision of formal services for child victims of violence. The Royal Thai Government, in collaboration with UNICEF and other partners, has developed a model for a comprehensive child protection system at sub-district (Tambon) level. The demonstration project aims to support community members to identify children at risk and in need of protection and to identify and plan for ways to protect children with support from relevant agencies at the local and provincial level. The system has been piloted in 10 provinces (40 sub-districts) during 2015-2016, as a follow up phase from first pilot of Child Protection Monitoring and Response System commencing in 2006. At the end of 2016, the overall commitment and capacities at the sub-national levels of 40 demonstration sub-districts are encouraging. Forty Multi-Disciplinary Teams were established at sub-district level, coordination structures and protocols were in place, and records to track individual cases identified and referred by the committees or working groups at the sub-district level were available. A total of 1,415 child protection cases were identified during two years of implementation, compared to 244 cases reported in the previous year.

377 Universalis and Child Frontiers, 'Evaluation of the UNICEF Child Protection Monitoring and Response System in Thailand, Volume III – Child Protection System Context Final Report', Ministry of Social Development and Human Security [Thailand] and UNICEF Thailand, p. 14, [http://www.unicef.org/evaldatabase/files/Thai\\_UNICEF\\_CPMRS\\_-\\_Volume\\_III\\_-\\_CP\\_System\\_Context\\_-\\_final\\_-\\_May\\_2013.pdf](http://www.unicef.org/evaldatabase/files/Thai_UNICEF_CPMRS_-_Volume_III_-_CP_System_Context_-_final_-_May_2013.pdf), last accessed 10 October 2016.

378 Universalis and Child Frontiers, 'Evaluation of the UNICEF Child Protection Monitoring and Response System in Thailand, Volume III – Child Protection System Context Final Report', Ministry of Social Development and Human Security [Thailand] and UNICEF Thailand, p. 19, [http://www.unicef.org/evaldatabase/files/Thai\\_UNICEF\\_CPMRS\\_-\\_Volume\\_III\\_-\\_CP\\_System\\_Context\\_-\\_final\\_-\\_May\\_2013.pdf](http://www.unicef.org/evaldatabase/files/Thai_UNICEF_CPMRS_-_Volume_III_-_CP_System_Context_-_final_-_May_2013.pdf), last accessed 10 October 2016.

379 Ministry of Public Health data as of November 2015.

At present, the number of child welfare professionals is inadequate and unable to effectively meet needs. Government capacity for social welfare service delivery including child protection services is limited. The Department of Children and Youth has only three social workers based in each provincial level shelters. Many staff employed in Children's Reception Homes have not received specialized clinical training required to work effectively with vulnerable families and children. Staff shortages mean that follow up only occurs in the most serious cases. Likewise, hospital-based One Stop Crisis Centres have limited capacity for follow up or provision of care or support beyond immediate physical needs due to human resources constraints. A number of persons are designated as Competent Officials under the Child Protection Act but in reality, a number of the nominated officials do not take action and have other primary responsibilities.<sup>380</sup> There is a lack of emphasis on the need for the provision of services, apart from emergency shelters. The overreliance on alternative care may indicate an absence of other reliable responses.<sup>381</sup> There remains a need to establish a linkage between the social welfare and justice systems in order to strengthen the child protection system. The Committee on the Rights of the Child has noted continued work is required to develop mechanisms and procedures for the early identification of child victims of sexual abuse and exploitation<sup>382</sup> and the need to reduce the duration of investigations and proceedings in criminal cases, and ensure appropriate protection for child victims and witnesses.<sup>383</sup> Following her mission to Thailand in 2011, the Special Rapporteur on trafficking recommended that the Government should make available alternative care arrangements for child victims of trafficking, such as staying with foster parent, instead of shelters.<sup>384</sup> The Joint Submission of the CRC Coalition Thailand to the Universal Periodic Review in 2016 raised concerns that child victims of prostitution are not exempted from penalties under the law. It also noted that a judge has power under the Anti-Trafficking Act to order a child victim of trafficking to be confined in a Protection and Occupational Development Centre for her or his 'rehabilitation' for a period of up to two years, which discourages child victims from reporting and has led to many child victims running away during the criminal process.<sup>385</sup>

## ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

### 7. Laws in full conformity with applicable international human rights standards

**Indicator 7.** Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.

**Baseline status:** Not yet started

380 Universalis and Child Frontiers, 'Evaluation of the UNICEF Child Protection Monitoring and Response System in Thailand, Volume III – Child Protection System Context Final Report', Ministry of Social Development and Human Security [Thailand] and UNICEF Thailand, pp. 29-31, [http://www.unicef.org/evaldatabase/files/Thai\\_UNICEF\\_CPMRS\\_-\\_Volume\\_III\\_-\\_CP\\_System\\_Context\\_-\\_final\\_-\\_May\\_2013.pdf](http://www.unicef.org/evaldatabase/files/Thai_UNICEF_CPMRS_-_Volume_III_-_CP_System_Context_-_final_-_May_2013.pdf), last accessed 10 October 2016.

381 Ibid., p. 43.

382 Committee on the Rights of the Child, 'Concluding Observations and Recommendations on Reports Submitted Under Article 12 of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography: Thailand,' CRC/C/OPSC/THA/CO/1, 21 February 2012, [32], [33].

383 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding Observations and Recommendations: Thailand,' CRC/C/THA/CO/3-4, 17 February 2012, [76], [77], [81].

384 Human Rights Council, 'Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, Addendum, Mission to Thailand', A/HRC/20/18/Add.2, 2 May 2012, [77].

385 Human Rights Council, 'Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, Thailand', A/HRC/WG.6/25/THA/3, 23 February 2016, [25].



Some important legislative developments are currently underway related to violence against children, which impact on Thailand's compliance with international standards. In February 2016, the Thai National Legislative Assembly approved the Prevention and Remedial Measures for Adolescent Pregnancy Bill, which promotes access to sexual health services among adolescents. This may prevent the situation of pregnant girls being taken out of school and reduce the risk of illegal and unsafe abortions. The Act on Juvenile and Family Court and Procedure 2010 is currently being amended to clarify and further promote the use of diversion. The draft Act on Child Protection and Child Protection Procedure, scheduled to be finalised in 2017, will replace the Child Protection Act 2003 when completed. The Committee on the Rights of the Child has urged Thailand to continue to revise its laws to ensure conformity with the Convention<sup>386</sup> and recommended a number of priority areas for law reform including to:

- Consider raising the minimum age of marriage to 18 years and maintain it under all circumstances, in particular in cases where children have been sexually abused.<sup>387</sup> A draft amendment is currently in the process of public consultation.
- Prohibit explicitly by law corporal punishment of children in the home and alternative care settings, including for disciplinary purposes, reiterating previous concerns and concluding observations (CRC/C/THA/CO/2, paras. 40 and 41).<sup>388</sup>
- Amend legislation to prohibit involvement of children in informal sectors with particular attention to vulnerable groups of children such as foreign children and children in street situations.<sup>389</sup>
- Raise the minimum age of criminal responsibility to an internationally acceptable age and in no circumstances below the age of 12 years.<sup>390</sup> An amendment to this effect is currently in the process of public consultation.
- Make efforts to harmonize domestic legislation with the Optional Protocol, in particular, provide a clear definition and prohibit all offences under the Optional Protocol by law according to articles 2 and 3 of the Optional Protocol.<sup>391</sup>
- Strengthen laws to ensure that video recordings of testimonies by child victims or witnesses of offences under the Optional Protocol are always accepted as evidence.<sup>392</sup>

## 8. Diversion and alternative measures

**Indicator 8.** *Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.*

**Baseline status:** *Partly/ Under development*

Thailand was one of key political driving forces, together with the Government of Austria, behind the adoption of the UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice. The Model Strategies were developed by

386 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Thailand', CRC/C/THA/CO/3-4, 17 February 2012, [12].

387 Ibid., [32].

388 Ibid., [48].

389 Ibid., [75].

390 Ibid., [80].

391 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Concluding observations: Thailand', CRC/C/OPSC/THA/CO/1, 21 February 2012, [10].

392 Ibid., [32].

an intergovernmental expert group convened by the UNODC and hosted by the Government of Thailand and Her Royal Highness Princess Bajrakitiyabha Mahidol in Bangkok in February 2014. The Model Strategies were approved and co-sponsored by 44 Member States and adopted by the UN General Assembly in December 2014. The Office of Judiciary has established a Committee to oversee the implementation of Model Strategies in Thailand, which includes strategies to limit the involvement of children in the justice system and promote greater use of diversion mechanisms, restorative justice programmes and non-coercive education and treatment programmes.

Thailand has established juvenile and family courts throughout the country with the enactment of the Juvenile and Family Court Act of 2010. This Act includes provisions on diversion, alternatives to pre-trial detention and restorative juvenile justice and is currently being amended to clarify and further promote the use of diversion. An amendment to raise the minimum age of criminal responsibility to 12 years is also currently under discussion. While unconditional diversion is not set out in the law, police warning is reportedly often used in practice. Diversion from judicial proceedings at the police, prosecution and court stages is included in the Act and likewise, often used across the country. This can include the preparation of a rehabilitation plan, which are developed through a restorative justice approach such as family community group conferencing and prepared by the Director of the Juvenile Observation Centre. Alternatives to pre-trial detention set out in the Act include release on bail to parents, guardians, others and institutions. If a child is deprived of their liberty during the pre-trial stage, their detention is reportedly regularly reviewed by the Juvenile Observation and Protection Centre and they can be released to await their trial in the community. Alternatives to post-trial detention are regulated by the Act and applied nationwide. Probation and suspended sentence are the only alternatives. If a child is sentenced to deprivation of liberty in a 'Training Centre', their detention is reportedly regularly reviewed by the Juvenile and Family Court. Early release is systematically applied and allows the child to serve their remaining term in the community under certain conditions. Released children are monitored by probation officers. Another measure applied is giving credit to time spent in pre-trial detention.<sup>393</sup>

**Table 33: Summary of alternative measures for children in conflict with the law in Thailand**

Category of alternative measures based on international juvenile justice standards	Status in law	Status of practice
1. Unconditional diversion/police warning	- Not included in law	- Used in practice, but scale unknown
2. Diversion from formal judicial proceedings	- Child-specific law provides for diversion at police, prosecution and court stages	- Reportedly often used
3. Alternatives to pre-trial detention	- Included in child-specific law	- Reportedly often used
4. Measures to minimize time spend in pre-trial detention	- Included in child-specific law	- Regular review of children's pre-trial detention by the Juvenile Observation and Protection Centre - Release from pre-trial detention reportedly rarely occurs in practice
5. Alternatives to post-trial detention	- Included in child-specific law	- Reportedly often used
6. Measures to minimize time spend in post-trial detention	- Child-specific law provides for early (conditional) release	- Reportedly regular review of children's post-trial detention by the court - Early (conditional) release occurs often - Monitoring of children released from post-trial detention

393 The information in this paragraph is based on UNICEF EAPRO, 'Final regional report: Study on diversion and other alternative measures for children in conflict with the law in East Asian and Pacific Island countries', 15 September 2016, unpublished.

## ACTION 4: CAPACITY BUILDING

### 9. Advocacy materials to generate awareness and support ending violence against children

**Indicator 9.** *Number and type of advocacy materials developed by each AMS for various audiences to generate awareness and support EVAC.*

**Baseline status:** *Partly/ Under development*

During 2016, the Royal Thai Government has developed a number of advocacy materials for various audiences. For example, the Department of Children and Youth, Ministry of Social Development and Human Security worked with Rajanukul Institute to develop curriculum and reading materials on positive discipline, which will be used to raise awareness of parents in the community through provincial shelters for children and families in each province. The Department of Health, Ministry of Public Health worked with National Health Foundation and UNICEF to develop communication materials on positive parenting that will be used to raise awareness of parents in the community through parenting schools and early childhood development centres. The Department of Women Affairs and Family Development, Ministry of Social Development and Human Security, developed parenting curriculum through its Family Development Center at sub-district level. The Police Education Bureau under the Royal Thai Police developed training for trainer curriculum on child protection for police trainers and instructors. The curriculum raises awareness on children's rights and particularly rights to protection for children in the justice system. The Office of the Attorney General, with support from UNICEF, developed a reference manual on child protection and 3,700 copies of the manual were distributed to public prosecutors nationwide. The Department of Juvenile Observation and Protection, Ministry of Justice, has plans for 2017 to develop advocacy materials to promote eliminating violence in juvenile justice institutions. NGO Save the Children is implementing positive discipline initiatives in communities.

## ACTION 5: RESEARCH AND DATA COLLECTION

### 10. National systems for data collection, analysis and sharing

**Indicator 10.A.** *Number of AMS using survey data in national policy documents on VAC.*

**Baseline status:** *Partly/ Under development*

**Indicator 10.B.** *Number of AMS with reliable and consistent national system for consolidation of data on VAC.*

**Baseline status:** *Partly/ Under development*

**Indicator 10.C.** *Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.*

**Baseline status:** *Partly/ Under development*

Thailand has used data from many agencies to present the national situation of violence against children for the development of the Child Protection Strategy (2017-2021). In 2015, the Secretariat of the National Child Protection Committee contracted Mahidol University to develop an online database to consolidate available

information on violence against children from various agencies, including the Ministry of Interior, Ministry of Public Health, Ministry of Education, Ministry of Social Development and Human Security and the Ministry of Justice. Currently, the most comprehensive data on violence against children comes from the data of the hospital-based One Stop Crisis Centres. This can be disaggregated by age and gender, but there remains a need for enhancing the quality of data. The Committee on the Rights of the Child has recommended that Thailand provide information on the status of implementation of the recommendations of the UN Study on Violence against Children including the consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence and ill-treatment against children.<sup>394</sup>

In relation to data collection on children generally, the Committee has acknowledged Thailand's establishment of the National Information Centre and the National Statistical Office, which maintains data in some areas of children's rights and a database on children with disabilities. However, the Committee has expressed concern that there is no effective system of data collection covering all areas of the Convention which would allow for assessment, analysis and evaluation of the data and information on laws, policies, plans and programmes for children.<sup>395</sup> The Committee has urged Thailand to “*build the capacity of and establish a comprehensive data-collection system capable of analyzing and evaluating data on progress achieved in the realization of child rights and providing a basis for designing policies and programmes to implement the Convention*”.<sup>396</sup> The Committee has advised the data should be disaggregated by age, sex, geographic location, ethnicity and socio-economic background of all children.<sup>397</sup>

## ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

### 11. National plans of action to eliminate all forms of violence against children

**Indicator 11.** *Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.*

**Baseline status:** *Partly/ Under development*

The National Children and Youth Development Plan (2012–2016) incorporates recommendations from the Committee on the Rights of the Child and includes ‘children in need of special protection’ as one of its four main areas.<sup>398</sup> The Policies and Strategies for the Prevention and Responses to Violence against Children and Youth (2015–2021) is intended to serve as a master plan for agencies concerned, both at national and local levels.<sup>399</sup> The National Child Protection Strategy (2017-2021) was developed and approved by National Child Protection Committee and will serve as a roadmap for building the child protection system in Thailand.

394 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Thailand’, CRC/C/THA/CO/3-4, 17 February 2012, [48].

395 Ibid., [23].

396 Ibid., [24].

397 Ibid., [24].

398 Human Rights Council, ‘National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Thailand’, A/HRC/WG.6/25/THA/1, 12 February 2016, [68].

399 Human Rights Council, ‘National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Thailand’, A/HRC/WG.6/25/THA/1, 12 February 2016, [74].

An MOU between the court and 47 agencies, including UNODC and UNICEF, has been signed to engage partnership and collaboration among stakeholders to protect children in the justice system (which may include violence against children in the justice system). Implementation of this partnership remains a challenge.

## 12. Coordination mechanism for disasters and conflict situation

**Indicator 12.** *Number of AMS that include VAC in emergency-response programming.*

**Baseline status:** *Unknown*

In 2012, the Committee on the Rights of the Child recommended that Thailand take immediate measures to ensure that the situation in the southern border provinces has no adverse effects directly and indirectly on children including by providing as a matter of priority psychosocial support and services to children affected by the armed violence and expediting the adoption of the Plan of Action on the Protection and Development of Children and Youth in the Southern Border Provinces.<sup>400</sup>

400 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Thailand', CRC/C/THA/CO/3-4, 17 February 2012, [85].

# COUNTRY SUMMARY: VIET NAM

## ACTION 1: PREVENTION

1. Non-violent approach to nurture, care, for the development of children in all settings

**Indicator 1.B.** *Number of AMS that contextualise the ASEAN Guidelines for application and implementation at national and local levels, and provide free and easy-to-access information to parents, caregivers, and communities to improve their skills and understanding.*

**Baseline status:** *Partly/ Under development*

The Ministry of Education and Training has adopted the ASEAN Guidelines in the development and implementation of Five-Year Plan on Child Protection in Schools (2016-2020). The Ministry of Labour, Invalids and Social Affairs is using the Guidelines to inform the development of a Plan of Action on Ending Violence against Children in Homes (2017-2020).

A number of policy initiatives promote a non-violent approach to children in Viet Nam including the National Programme on Child Protection (2016-2020), which promotes child protection system building including prevention of violence against children in home, school, and justice settings. The National Action Plan on Domestic Violence Prevention and Control, up to 2020, aims to prevent and respond to domestic violence through communication activities, service delivery and law enforcement. The National Programme on the Promotion of Child Participation (2016-2020) promotes children's participation and through its implementation has included consultations with children on development of initiatives to end violence against children. The Five-Year Plan on Child Protection in Schools (2016-2020) aims to promote non-violence and a child-friendly learning environment.

Relevant programs delivered by NGOs include Plan International's parenting education programme based on a training manual to promote positive education for parents. The model has been piloted in Plan-supported project sites. The Center for Studies and Applied Sciences in Gender, Family, Women and Adolescents has provided counselling on the prevention of domestic violence. A national life skills education programme for students in school provides opportunities for students to practice a number of skills to protect themselves from risks and harm. Content for secondary school students can include reproductive health and sexual abuse prevention, emotion/ anger management, conflict resolution, values and respecting others, team work, and effective communications, although there remain challenges in the quality of life-skills education. At present, the Ministry of Education and Training is revising the official general education curricula towards competency-based curricula, which is expected to increase life-skills education for children at different ages and stages.

## 2. Awareness raising and behaviour change communications on all forms of violence against children

**Indicator 2.** Number of AMS conducting systematic behavior change campaign/s on all forms of VAC (e.g. through mass media and community participation) disaggregated by setting if relevant.

**Baseline status:** Partly/ Under development

The ‘Action month for children’ in June has become an annual campaign to advocate for and raise awareness on children’s rights. In 2014, the campaign focused on ending violence against children nationally. As part of the development of the Child Law 2016 and the National Programme on Child Protection, the central Government organized a number of advocacy workshops and activities. At a sub-national level, local authorities were supported to conduct behavior change communications to children and families to promote non-violent education and care. Notwithstanding these and a number of other campaigns over the last two decades, most parents still reportedly have a “*limited or even wrong understanding*” of children’s rights and rights violations, especially on child labour and early marriage. The majority of parents still believe that violence against children and corporal punishment are appropriate ways to educate children.<sup>401</sup> The Committee on the Rights of the Child has noted its concern about the prevalence of corporal punishment in the home and that many parents still find it appropriate to use slapping as a means of discipline. The Committee has previously recommended that Viet Nam raise awareness among parents and the general public on the negative impact of corporal punishment on the well-being of children, and on positive alternative methods of discipline in accordance with the rights of the child.<sup>402</sup>

## 3. Deinstitutionalization of children and strengthening alternative family care services

**Indicator 3.** Number of AMS which have developed and are implementing legislative and/or policy framework for alternative family care services (i.e. adoption, kinship care, foster care, legal guardianship, other forms).

**Baseline status:** Partly/ Under development

The Committee on the Rights of the Child has welcomed the progress made by Viet Nam towards the deinstitutionalization of care for children deprived of a family environment, including the development of specific social assistance policies.<sup>403</sup> Previously, most orphans and abandoned children in Viet Nam were placed in institutional care but as a result of advocacy of child-focused organizations, including UNICEF, the Government has reportedly promoted and supported alternative solutions, such as family-based care. In 2015, the Ministry of Labour, Invalids and Social Affairs reported that 170,000 children were in foster and family care services. The legal framework for foster care has not yet been formalized but is in a pilot phase. While Viet Nam has for a long time ranked among the most popular countries of origin for adopted children, a 2016 report by Ministry of Justice shows a decrease in the number of inter-country adoptions for the period 2011 – 2015 as a result of the implementation of the 2010 Adoption Law and the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption that prioritises domestic adoption.

401 ASEAN Commission on Women and Children, ‘Assembling the future: Child protection system in ASEAN Member States, a baseline study’, 2016, p. 380.

402 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Viet Nam’, CRC/C/VNM/CO/3-4, 22 August 2012, [45].

403 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam’, CRC/C/VNM/CO/3-4, 22 August 2012, [49].

The new Child Law, approved in April 2016 and coming into force on 1 June 2017, specifies kinship, foster care, adoption and institutional care as forms of alternative care (article 61). Among other things, the Law provides that protection and care within a child's family or within family-based care should be prioritized and that institutional care should only be used as a temporary measure when it is in the best interests of the child and no other family-based or alternative care measures can be implemented (article 47(4)). The Ministry of Labour, Invalids and Social Affairs is in the process of drafting a Decree on the Implementation of Child Law, in which alternative care is a fundamental chapter. The Decree is expected to be issued in 2017.

**Table 32: Summary of legal/policy frameworks for alternative family care in Viet Nam**

<b>Adoption</b>	<ul style="list-style-type: none"> <li>- Law on Adoption No 52/2010/QH12 2010, in line with the key principles of the 1993 Hague Convention</li> <li>- Establishment of Inter-country Adoption Department under Decision No. 337/2003/QB-BTP in 2003</li> <li>- Viet Nam is a contracting State to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption</li> <li>- Sub-laws to guide the implementation of the Law on Adoption include: Decree 19/2011/ND-CP guiding the implementation of some articles of the Law; Circular 15/2014/TT-BTP on 'finding alternative families for children with special needs'; Inter-agency circular No.03/2016/TTLT-BTP-BNG-BCA-BLDTBXH on 'Guiding the supervision of development situation of Vietnamese children adopted overseas'; Document No.721/QC-BTP-BLDTBXH dated 14/03/2016 on 'collaboration for adoption for children in institutions'; Decree 114/2016/ND-CP regulating fees for adoption registration and licensing for international adoption agencies</li> </ul>
<b>Kinship care</b>	<ul style="list-style-type: none"> <li>- Child Law, approved in April 2016 and coming into force on 1 June 2017</li> </ul>
<b>Foster care</b>	<ul style="list-style-type: none"> <li>- Decree 136/2013 Regulating the Social Assistance Policy for Social Protection Beneficiaries provides guidance on community-based foster care which includes who can be foster carers and their entitlements</li> <li>- New Child Law, approved in April 2016 and coming into force on 1 June 2017, indicates that the Government will develop further guidance and procedures on foster care</li> </ul>
<b>Legal guardianship</b>	<ul style="list-style-type: none"> <li>- Civil Code provides for guardianship of a minor (person under 18 years old).<sup>404</sup> Guardians must meet the criteria set out in the Code.<sup>405</sup></li> </ul>

While welcoming Viet Nam's progress, the Committee on the Rights of the Child has also expressed concern at the high prevalence of institutionalization, particularly children with disabilities, children with HIV/AIDS, and children who have lost one or both parents to death, as well as abandoned and unwanted children.<sup>406</sup> In relation to children with disabilities, the Committee has recommended that Viet Nam raise public awareness, and include children with disabilities in these awareness-raising and social-change interventions, to address widespread stigma and discrimination, and additionally, reduce the trend to institutionalize children with disabilities and seek community-based child care solutions.<sup>407</sup> Likewise, the Committee has recommended awareness-raising programmes, including campaigns to combat the stigmatization of children with HIV/AIDS, and foster an environment that enables families with children affected by HIV/AIDS to keep them in their family environment rather than send them to institutions, inter alia, by establishing community-based child care and assistance services.<sup>408</sup> Noting unreliable data relating to the magnitude of child institutionalization in Viet Nam, reports of physical abuse and sexual exploitation of children in residential institutions, and the long periods during which children deprived of family environment

404 Article 61 Civil Code 2004, will be replaced by Article 52 of the Civil Code 2015 will come into force from 1 January 2017.

405 Article 60 of the Civil Code 2004, will be replaced by Article 45 and 50 of the Civil Code 2015 will come into force from 1 January 2017.

406 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam', CRC/C/VNM/CO/3-4, 22 August 2012, [49].

407 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam', CRC/C/VNM/CO/3-4, 22 August 2012, [55]-[56].

408 Ibid., [61]-[62].



are placed in institutions,<sup>409</sup> the Committee has made a number of recommendations including that Viet Nam develop a strategy for the deinstitutionalization of children with a clear time frame and budget, which includes the reintegration of children with their families, while taking into account the best interests and the views of the child as far as possible, and that Viet Nam develop community-based alternative care policies and programmes with a view to reducing the number of children placed in institutions.<sup>410</sup> In relation to adoption, the Committee recommended that Viet Nam strengthen the implementation of the Law on Adoption and allocate sufficient resources for its effective enforcement, and reinforce the mandate of the Intercountry Adoption Department so that it effectively monitors intercountry adoptions and provide it with sufficient human and technical resources. It has also recommended Viet Nam ensure effective and systematic monitoring of all private adoption agencies and continue to promote domestic adoption for children who would otherwise not have a family environment.”<sup>411</sup>

#### 4. Preventing violence against children in cyberspace

**Indicator 4.** *Number of AMS which have developed and are implementing preventive measures against VAC in cyberspace (i.e. national policy/strategy, education programmes, industry engagement).*

**Baseline status:** *Partly/ Under development*

The Child Law 2016, effective 1 June 2017, has one article specifically addressing online violence against children. A Decree guiding the implementation of this article is currently being developed by the Ministry of Labour, Invalids and Social Affairs. The draft National Programme on Child Online Protection (2017-2020) will be submitted to the Prime Minister for approval in late 2016. The National Programme aims to ensure every child is protected from all forms of violence online and can enjoy the benefits of the Internet free from danger. One of the core components is capacity building on child online protection for State functional agencies, CSOs, enterprises and communities. At present, there are no educational programmes or awareness raising initiatives in place for children, parents and carers, and professionals to prevent online violence.

Some frameworks and processes are in place for industry to contribute towards preventing online violence, though the Ministry of Labor, Invalids and Social Affairs has called for more industry engagement and acknowledged that more clarity is needed about the roles and responsibilities of industry stakeholders.<sup>412</sup> The latest in the series of decrees on Internet management is the Decree No. 72/2013/ND-CP on the Management, Provision, and Use of Internet Services and Internet Content Online (15 July 2013). This applies to both Vietnamese and foreign organizations and individuals (article 2), and prohibits the use of Internet services for numerous acts, including “*propagating and inciting violence, obscenity, pornography, crimes, social problems, superstition, and contradicting national traditions*” (article 5(b)). Public Internet station owners are mandated to prevent users from committing such acts (article 9(e)). In relation to storage and access, companies must maintain at least one domestic server “*servicing the inspection, storage and provision of information at the request of competent authorities*”, and must store information for at least 90 days (article 24 and 25). In the case of social networks, companies must not provide banned content to the public, must cooperate with competent authorities to eliminate or prevent banned information, and must provide personal information of users related to crimes and violations of the law at the request of competent authorities (article 25(5)-(7)). Similar obligations apply to mobile networks and game service providers. Decree No. 174/2013/ND-CP, regulating Administrative Sanctions for Violations Relating to Postal Services, Telecommunications, Information Technology and Radio Frequencies (13 November 2013), introduced penalties for breaching the law and noted that these would be applied to offenses not serious enough to merit criminal prosecution.

409 Ibid., [49].

410 Ibid., [49]-[50].

411 Ibid., [52].

412 Czarnecki, D, [Draft] ‘Child Online Protection Capacity Assessment: The Situation in Viet Nam’, MOLISA and UNICEF Viet Nam, 18 August 2016.

# ACTION 2: PROTECTION, RESPONSE AND SUPPORT SERVICES

## 5. Child and gender sensitive reporting and complaint mechanism

**Indicator 5.** *Number of AMS providing child- and gender- sensitive reporting and complaint mechanism for children and/or their representatives to file their VAC grievances (by type and by setting).*

**Baseline status:** *Partly/ Under development*

The Child Law 2016, effective 1 June 2017, mandates Child Helpline Viet Nam to receive reports, complaints and grievances on violence against children. Child Helpline Viet Nam is – the Government-operated toll-free nationwide phone service. Pursuant to Circular 23/2010/TT-BLDTBXH, commune Child Protection Committees are responsible to receive reports of violence against children and address the cases in accordance with the procedure of intake, assessment, case planning, monitoring and evaluation set out in the circular. No data is available about the extent to which these mechanisms are child- and gender-sensitive.

A number of organisations can offer advice or assist in bringing complaints forward to a competent authority. The Child Law 2016 provides that “agencies, organizations, educational establishments, families and individuals shall assume responsibility for providing information, reports of acts harming children to competent authorities” and “agencies of labour - invalids and social affairs, police agencies at all levels and communal people’s committees are responsible for receiving and responding to reports and grievances relating to VAC” (article 51). There are also a number of NGOs which provide support to children to bring complaints forward to the authorities.

The Committee on the Rights of the Child has recommended that Viet Nam establish “mechanisms for receiving complaints, for investigations and for prosecutions for child abuse in alternative care settings”<sup>413</sup> and introduce an easily accessible complaints mechanism for children in drug detention centres, with formal authority to decide complaints.<sup>414</sup> At present, there are no complaints mechanisms within alternative care<sup>415</sup> or justice systems. In drug detention centres however, there is provision for persons under the age of 18 years, through their lawful representatives, to complain to leaders of the centre about issues relating to management, labour, education and rehabilitation, including violations. The procedures are set out in the Law on Complaints, Law on Denunciation and Law on Administrative Procedures.

There is not yet any National Human Rights Institution in Viet Nam and the Committee on the Rights of the Child has reiterated its recommendation that Viet Nam “establish an independent monitoring body provided with sufficient human, technical and financial resources to guarantee its independence and efficacy.”<sup>416</sup>

413 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam’, CRC/C/VNM/CO/3-4, 22 August 2012, [50].

414 Ibid., [44].

415 ASEAN Commission on Women and Children, ‘Assembling the future: Child protection system in ASEAN Member States, a baseline study’, 2016, p. 377.

416 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam’, CRC/C/VNM/CO/3-4, 22 August 2012, [16].

Partly in response to this recommendation, the Child Law 2016 states that the Prime Minister shall establish an inter-agency institution to strengthen inter-sectoral cooperation between ministries, ministerial-level agencies and government-affiliated agencies and between the Government and agencies of the National Assembly, the Supreme People's Court, the Supreme People's Procuracy, Vietnamese Fatherland Front and its affiliated agencies, and CSOs to handle issues relating to children's rights.

It is possible for children, through their representatives, to bring cases to challenge violations of their rights in courts. Children under six years of age have no civil procedural capacity, their lawful representatives will perform the civil proceeding on their behalf. Children between six and 15 years of age can bring cases through a lawful representative. Children between the ages of 15 and 18 years old must also generally be represented, except the cases related to labor contracts or civil transactions that children worked or involved with their own properties respectively.<sup>417</sup>

Viet Nam is not yet a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## 6. Protective and supportive services for children affected by violence

**Indicator 6.** *Number of AMS providing protective and supportive services for children affected by violence (by type of VAC and setting if relevant).*

**Baseline status:** *Partly/ Under development*

At the national level, services for child protection are managed by the Ministry of Labor, Invalids and Social Affairs. The Ministry's Child Protection Bureau is responsible to provide services on protection and care for children, while the Social Protection Bureau is responsible for social assistance and professional social work for children.<sup>418</sup> The key authorities involved at the local level are the People's Committees and the Departments and Offices of Labour, Invalids and Social Affairs at respective levels as well as the Departments and Offices of Health, Justice, Public Security, Education and Training and the People's Procuracy.<sup>419</sup> Collaborators and officers of the commune level People's Committees are responsible for identifying children at risk or suffering violence, while police are responsible to identify crimes involving children. In 2015, the Ministry of Labor, Invalids and Social Affairs, with UNICEF's support, expanded community-based child protection systems to more than 5,500 communes in approximate 400 districts of 43 provinces. The Child Protection Committees, which consist of the head of People's Committees and members of line-department, are responsible for identifying the needs of children and family and coordinating inter-sectoral service delivery. As of December 2016, there were more than 30 Social Work Centres at the district and provincial level throughout the country, including seven specialising in children. These centres offer services, such as counselling, for child victims of violence. Mass organisations and others also provide counselling and other services to child victims.<sup>420</sup>

417 Article 69, Civil Procedure Code 2015.

418 ASEAN Commission on Women and Children, 'Assembling the future: Child protection system in ASEAN Member States, a baseline study', 2016, p. 372.

419 Children's Legal Centre UK, 'Analysis of the Child and Family Welfare and Protection Services System in Vietnam', UNICEF Vietnam, 2010, p. 35, [http://www.unicef.org/vietnam/Full\\_report\\_Child\\_and\\_Family\\_Welfare\\_and\\_Protection\\_Services\\_in\\_Vietnam\\_2010.pdf](http://www.unicef.org/vietnam/Full_report_Child_and_Family_Welfare_and_Protection_Services_in_Vietnam_2010.pdf), last accessed 12 October 2016.

420 Ibid., p. 46.

Especially at commune level, there is a limited number, and limited capacity, of staff working on child protection and care. Challenges remain in the implementation of tertiary level services, likely due to limitations in the identification and response to child protection issues.<sup>421</sup> The 2016 Child Law goes some way to address these limitations and challenges related to a lack of inter-agency cooperation in service delivery. The Child Law 2016, effective 1 June 2017, articulates a national framework for child protection, including authorizing State interventions to prevent and respond to violence (Chapter IV). Protective interventions for child victims of violence include: medical health care, psychological therapy, physical and mental recovery; arrangement of temporary safe accommodation, separation of children from the environment or persons who threaten or currently impose violence and exploit children; arrangement of temporary or long term alternative care for children; reunion with family and reintegration in the school and community; education and consultation for parents, caregivers and other family members of the children in special protection on the responsibility and skills for protection, care, and inclusive education; law education, legal counseling and legal aid for parents and caregivers of children and for children; and monitoring and the assessment safety of abused children or children at risk of abuse (article 50). The Government is developing Decrees to guide the implementation of the Child Law 2016, including procedures of inter-sectoral service delivery.

## ACTION 3: LEGAL FRAMEWORK, PROSECUTION AND JUSTICE SYSTEM

### 7. Laws in full conformity with applicable international human rights standards

**Indicator 7.** *Number of AMS that undertake a legislative review on VAC vis-à-vis applicable international human rights standards.*

**Baseline status:** *Partly/ Under development*

A number of important legislative developments have occurred over 2015 and 2016 related to violence against children, which impact on Viet Nam's compliance with international standards. In January 2015, Viet Nam's new Marriage and Family Law came into force, which prescribed the marriage and family issues, legal standards for conduct by family members; responsibilities of individuals, organizations, the State and society in the building and consolidation of the marriage and family regime, including marriages involving foreigners, and altruistic gestational surrogacy. In April 2016, Viet Nam's National Assembly passed the Child Law 2016, effective 1 June 2017. The Law ensures the rights of children under 16, including during judicial and administrative handling proceedings (for example, the right to a defence and legal aid, prohibition of illegal deprivation of liberty). It also clearly articulates a national framework for child protection for the first time, including authorizing State interventions to prevent and respond to violence against children. Significantly, the first Family and Juvenile Court at provincial level was established in April 2016 in Ho Chi Minh City, which is the first specialized court for children in the country. The Law on Court Organization 2014 provides that the Family and Juvenile Court shall be established at the levels of the district, province and High Court. The Supreme Court plans to expand the court to all provinces of the country. Viet Nam's 2015 amendments to the Penal Code were scheduled to come into force, but were delayed due to typographical errors. The amendments substantially shift the national criminal approach to children in conflict with the law (as described further below under Indicator 8). The National Assembly plans to approve the amendments in May 2017.

421 Ibid., p. 66.

These developments go some way towards addressing previous recommendations of the Committee on the Rights of the Child, however a number of these recommendations remain relevant including for Viet Nam to:

- Raise the child age by definition up to the age of 18, in line with the definition provided in the Convention.<sup>422</sup>
- Intensify its efforts to conclude the adoption of all draft laws that attach importance to the principle of the best interests of the child.<sup>423</sup>
- Reform its domestic legislation, including the envisaged amendment to the 2004 Law on Protection, Care and Education of Children, to ensure the explicit prohibition of all forms of corporal punishment in all settings.<sup>424</sup>
- Reform domestic legislation to include all forms of child abuse in line with article 19 of the Convention.<sup>425</sup>
- Harmonize national laws and regulations with ILO Convention No. 138 (1973) concerning Minimum Age for Admission to Employment by, inter alia, amending Circular No. 21/1999/TT-BLDTBXH and providing that children are allowed to be employed in 'light work' only from the age of 13 years, and strengthen the enforcement of labour laws to protect children and to ensure prosecution of those who make use of forced labour of children, and provide reparation and sanctions.<sup>426</sup>
- Legal revision of Decree No. 135 of 2004, to prevent and end the practice of forced child labour in drug detention centres, in line with ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.<sup>427</sup>
- Fully harmonize national legislation with the Optional Protocol on the sale of children, child prostitution and child pornography in order to explicitly criminalize all acts listed in article 3 of the Optional Protocol when committed against all persons below 18, in line with the Committee's previous recommendation (CRC/C/OPSC/VNM/CO/1, para 11 (a)).<sup>428</sup>
- Expedite the revision of the Penal Code, the Criminal Procedure Law and the Ordinance on administrative violations, with a view to ensuring their full compliance with the Convention's principles and provisions by, inter alia, including all children under the age of 18 in the juvenile justice system.<sup>429</sup>

## 8. Diversion and alternative measures

**Indicator 8.** *Number of AMS which have developed and are implementing legislative and/or policy framework for diversion programmes and/or other alternative measures to judicial proceedings and detention.*

**Baseline status:** *Partly/ Under development*

In Viet Nam, children in conflict with the law are dealt with through either the administrative system or criminal system that applies to adults in conflict with the law. The administrative system is used for petty offences and violations, whereas the criminal system deals with more serious offences. The Committee on

422 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam', CRC/C/VNM/CO/3-4, 22 August 2012, [28].

423 Ibid., [32].

424 Ibid., [46].

425 Ibid., [54].

426 Ibid., [70].

427 Ibid., [70].

428 Ibid., [72].

429 Ibid., [74].

the Rights of the Child has noted its concern about the rising number of young offenders and Viet Nam's "punitive system of dealing with young offenders" and recommended that Viet Nam "allocate adequate human, technical and financial resources to the juvenile justice system to ensure a focus on diversion and other alternative measures to deprivation of liberty."<sup>430</sup> Viet Nam's revised Penal Code, expected to be approved by the National Assembly in May 2017, substantially shifts Viet Nam's approach to children in conflict with the law by introducing new diversion measures, broadening alternatives to detention, limiting criminal records for juvenile offenders to facilitate better reintegration and introducing parole as a new mechanism for early release of juvenile offenders. The new Child Law also provides safeguards and protection for the rights of children during the judicial process, however the definition of a child includes only those under the age of 16 years.

The legislative framework for diversion, alternatives to detention and restorative justice approaches for children in conflict with the law are set out in general legislation, including the Law on Handling Administrative Violations, the revised Penal Code, the revised Penal Procedure Code and the Law on Mediation at Grass Root Level. The Law on Handling Administrative Violations and Penal Code recognizes unconditional diversion and diversion from formal judicial proceedings at police, prosecution and court stages. While unconditional diversion is thought to be used often, diversion from formal proceedings are rarely used in practice. According to the revised Penal Code and the Law on Mediation at Grassroot Level, diversion may be applied with a restorative justice approach, i.e. through mediation conducted by a grassroots mediator. Alternatives to pre-trial detention are set out in the Penal Procedure Code and include release to parents or a guardian or social welfare organization, close supervision and bail. These are reportedly rarely used. The same measures are available to minimize time in pre-trial detention. These are reportedly used often within the administrative system, but rarely in the criminal system. The Law on Handling Administrative Violations and the Penal Code provide alternatives to post-trial detention including warning, fine, community-based education and non-custodial reform and suspended sentence. Under the administrative system, community-based education is the most often used alternative to post-trial detention. The child is placed under the supervision and education of the local communes, wards, district administration or social organizations and must fulfil obligations for study, labour and rehabilitation. This allows sentenced children to remain with their families. Measures to minimize time in post-trial detention include release into the community under the Penal Code.<sup>431</sup>

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430 Ibid., [74].

431 The information in this paragraph is summarized from UNICEF EAPRO, 'Final regional report: Study on diversion and other alternative measures for children in conflict with the law in East Asian and Pacific Island countries', 15 September 2016, unpublished.

**Table 33: Summary of alternative measures for children in conflict with the law in Viet Nam**

Category of alternative measures based on international juvenile justice standards	Status in law	Status of practice
1. Unconditional diversion/police warning	- Included in general law	- Reportedly used often
2. Diversion from formal judicial proceedings	- General law provides for diversion at police, prosecution and court stages	- Reportedly rarely used
3. Alternatives to pre-trial detention	- Included in general law	- Reportedly rarely used
4. Measures to minimize time spend in pre-trial detention	- Included in general law	- No regular review of children's pre-trial detention. Scale of release from pre-trial detention is unknown
5. Alternatives to post-trial detention	- Included in general law	- Reportedly rarely used for criminal system but often used for administrative system
6. Measures to minimize time spend in post-trial detention	- General law provides for early (conditional) release	- Reportedly regular review of children's post-trial detention by the court - Early (conditional) release occurs often - Monitoring of children released from post-trial detention

## ACTION 4: CAPACITY BUILDING

### 9. Advocacy materials to generate awareness and support ending violence against children

**Indicator 9.** Number and type of advocacy materials developed by each AMS for various audiences to generate awareness and support EVAC.

**Baseline status:** Implementation underway

In 2016, the Ministry of Labor, Invalids and Social Affairs, with UNICEF's support, completed the Study on the Drivers of Violence Affecting Children, which examines how structural, institutional, community and individual factors interact to affect violence in children's lives, with a particular focus on the risks and experiences of violence by gender and age.<sup>432</sup> The report has been used to advocate for policy and programming. In 2016, the Ministry of Labor, Invalids and Social Affairs, with UNICEF's support, also completed a legal review and literature review on child online protection and a capacity assessment of stakeholders to prevent and respond to online sexual child abuse and exploitation. Following these studies, the Ministry of Labor, Invalids and Social Affairs drafted an advocacy note to end child sexual exploitation and abuse. The 2014 national campaign on ending violence produced a number of advocacy notes to raise awareness and advocate for the improvement of the child protection legislative framework.

<sup>432</sup> Vu, Thi Thanh Huong, 'Understanding Children's Experiences of Violence in Viet Nam: Evidence from Young Lives', 2016, Innocenti Working Paper 2016-26, UNICEF Office of Research, [https://www.unicef-irc.org/publications/pdf/IWP\\_2016\\_26.pdf](https://www.unicef-irc.org/publications/pdf/IWP_2016_26.pdf), last accessed 2 December 2016.

# ACTION 5: RESEARCH AND DATA COLLECTION

## 10. National systems for data collection, analysis and sharing

**Indicator 10.A.** Number of AMS using survey data in national policy documents on VAC.

**Baseline status:** Implementation underway

**Indicator 10.B.** Number of AMS with reliable and consistent national system for consolidation of data on VAC.

**Baseline status:** Partly/ Under development

**Indicator 10.C.** Number of AMS with data on VAC disaggregated such as by age, ethnicity, gender and disability status.

**Baseline status:** Partly/ Under development

Viet Nam has used data from the Multiple Indicator Cluster Surveys, Viet Nam National Child Labour Survey 2012, Young Lives research initiative, and Study on the Drivers of Violence Affecting Children, among others, to inform the development of Child Law 2016, the National Programme on Child Protection (2016-2020), National Programme on the Prevention of Child Labor (2016-2020) and draft National Programme on Child Online Protection (2017-2020). Viet Nam's data collection system is not yet developed enough to collect data about violence against children. The Committee on the Rights of the Child has expressed concern at the absence of a central system of data collection covering all areas of the Convention on the Rights of the Child, despite Viet Nam's intent to introduce new regulations on data collection on children as envisaged in the amendment of the 2004 Law on the Protection, Care and Education of Children.<sup>433</sup> The Child Protection Bureau has reportedly set up an electronic system to collect data at community to central level, however it is still faced with challenges in ensuring accuracy and quality of data.<sup>434</sup> Viet Nam has approved a list of 44 child protection indicators that includes indicators relevant to violence against children. While these indicators have been rolled out for data collection, Viet Nam currently lacks human resources to collect the data. Only a few provinces have child protection village collaborators whose role includes data collection. As such, data on violence against children is largely derived from police records and incomplete. Administrative data on violence against children is disaggregated by types of violence, ages, gender and provinces, but not by ethnicity and disability.

The Committee on the Rights of the Child encouraged Viet Nam “to pursue its plan to establish regulations on data collection on children with a view to monitoring the implementation of all the rights of children” and “to ensure that the data collected is disaggregated by age, gender, place of residence, ethnic origin and socioeconomic background to facilitate analysis on the situation of all children” and especially to collect statistics in sensitive areas, such as violence against children, situations of child abuse and exploitation,

433 Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam’, CRC/C/VNM/CO/3-4, 22 August 2012, [19].

434 ASEAN Commission on Women and Children, ‘Assembling the future: Child protection system in ASEAN Member States, a baseline study’, 2016, p. 380.



including sexual and economic exploitation, children in street situations, and children in remote and rural areas.<sup>435</sup> The Committee has also requested that Viet Nam provide information about its implementation of the recommendations from the UN Study on Violence against Children including the consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children.<sup>436</sup>

## ACTION 6: MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

### 11. National plans of action to eliminate all forms of violence against children

**Indicator 11.** *Number of AMS with a national coordinating framework or national plans of action with a coordinating mechanism for implementation on EVAC developed / strengthened with participation of all relevant stakeholders including children at all stages of the process.*

**Baseline status:** *Partly/ Under development*

Viet Nam has a National Action Plan for Children 2012-2020 and National Programme on Child protection (2011-2015; 2016-2020). These have been welcomed by the Committee on the Rights of the Child, although the Committee has noted its concern about the absence of coordination between national policies and programmes affecting children.<sup>437</sup> The National Plan of Action for Children Affected by HIV/AIDS is an additional relevant framework enabling children affected by HIV/AIDS to access necessary services including protection and care. Notably, the Child Law 2016, effective 1 June 2017, provides for the establishment of an inter-sectoral committee on children's issues in order to promote inter-sectoral cooperation to address children's rights and includes child participation.

### 12. Coordination mechanism for disasters and conflict situation

**Indicator 12.** *Number of AMS that include VAC in emergency-response programming.*

**Baseline status:** *Not yet started*

Child protection is not yet clearly reflected in Viet Nam's emergency preparedness and response plans. To date, very limited social services have been available to support children during and after emergencies, due to the lack of a rapid response team or deployable child protection specialists who are qualified and trained at the local level.

435 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam', CRC/C/VNM/CO/3-4, 22 August 2012, [20].

436 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam', CRC/C/VNM/CO/3-4, 22 August 2012, [54].

437 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam', CRC/C/VNM/CO/3-4, 22 August 2012, [19]-[20].



## **PHOTOS:**

*Cover: "Cambodia child jumping"*

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*P.18: Indonesian girls*

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*P.34: Lao PDR boy washing*

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