



**CROSS-BORDER SAFEGUARDS FOR CHILDREN
IN CONTACT WITH THE LAW IN THE ASEAN
REGION – BRUNEI**

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Content of Presentation

- Overview on Brunei
- Legislative framework for children in conflict with the law
- Institutional framework
- Cross border issues involving children
- Cross border cooperation in ASEAN
- Challenges and Recommendations

BRUNEI -Overview

The smallest ASEAN Country in term of population

Population including foreign national: 400,000

Size: 10 times bigger than Singapore

Legal framework : Common Law System-based on the British-similarity with Singapore and Malaysia

BRUNEI -Overview



Legislative framework for children in conflict with the law

Child Specific legislation

Other legislations with provisions for juvenile

Legislation applies to all- national or foreign.

No special provision for children of non-national

Legislation on children-CYPA

Guiding principle:

Best interest of the children-at the same time children who are in conflict of the law are not exempted from the responsibility of being accountable for their misdeed.

Maximising diversion from the court process

Legislations affecting children

Other legislations :

1. Penal Code
2. Criminal Procedure Code
3. Muslim Family Law Act
4. Syariah Penal Code Act
5. Marriage Act
6. Labour Act

Institutional framework

Welfare home - 2 wings

- Facility for juvenile offenders
- Children under protection – victims of violence, beyond parental control, etc.

Reasons for mixed facility : Economic- small numbers involved

Disadvantage : Different approach-physical, programmes, personnel, etc.

Institutional framework

- Policing and investigation:
Women and children investigation Unit
- Juvenile Courts-jurisdiction of offenders
between 7-18

Cross border issues – children in conflict and children affected

Not much experience – Potential is there

- big foreign workers community: Indonesian, Filipino , Bangladeshi and East Malaysian

Border – share with East Malaysia only

Illegal entry involving adults and children for work- Malaysian, Indonesian and Filipino

Are there non-national children under measures and sanctions in Brunei?

Protection :

- 2014 – 10 Filipinos & 2 Malaysian
- 2015- 2 Malaysian & 2 Filipino and 1 Cameeron
- 2016 – Malaysian 1

Are there non-national children under measures and sanctions in Brunei?

Rehabilitation :

- 2014 – 1 Malaysian and 1 Vietnamese (illegal entry)
- 2015- 2 Vietnamese (illegal entry) and 6 Filipino suspected trafficking
- 2016 – 1 Thai (suspected trafficking)



Cross border issues – children in conflict and children affected

Case 1

African Filipino child

Parents on trial and detained for trafficking

Child placed in Welfare facility

Working with embassy to trace family in the Philippine –taking a long time

Cross border issues – children in conflict and children affected

Case 2

Vietnamese 16 years old working as a cook in fishing boat

Arrested with the adults operators in the fishing boat

Boy not charged and placed with the Embassy
Embassy sought support of local Community for homestay until he was sent back

Cross border cooperation with ASEAN Countries

1. Mutual Legal Assistance Treaty 2004- ASEAN
Country
2. Bilateral arrangement with Malaysia and
Singapore – endorsement of each other
warrant and summon without mutual
recognition of judgment–possible because of
similar legal framework

Challenges

1. Small country with small population-economic consideration might affect decision making
2. Lack of resources- trained counselors and social workers
3. Trans border – like other ASEAN countries is political and security issue
4. Introduction of the Syariah Penal Code- harmonisation with the CYP and CRC

Recommendation

1. To enact provision for non-national children in conflict with the law
2. Possibility of having arrangement for mutual acceptance of warrant and summonses among ASEAN countries – recognising that harmonisation of ASEAN Law will be a huge challenge
3. Cross border issues affecting children brought into ASEAN agenda (promoting trans national cooperation on children) – AICHR, ACWC, SOMTC. SOMSWD, ASLQM, etc.
4. Cooperation of all justice system in ASEAN to address children protection issue where they conflict/affected by criminal justice process



***Thank you for
listening***