Enhancing Cooperation between ASEAN Member States on Cross-Border Cases of Children in Conflict with the Law

Assistant Secretary MA. MONICA P. PAGUNSAN
Philippine Department of Justice
The Philippines is …

• Signatory to the **Convention of the Rights of the Child**

• Adopted provisions in crafting the **Juvenile Justice Welfare Act and its Amendments** from the following:
  • **United Nations Standard Minimum Rules for the Administration of Justice**
  • **United Nations Guidelines for the Prevention of Juvenile Delinquency**
  • **United Nations Rules for the Protection of Juveniles Deprived of Liberty**
State Policy

- Protect the best interest of the child
- Child participation in proceedings before any authority
- Promotion of the child’s sense of dignity and worth
- Measures dealing with children without resorting to judicial proceedings
- Respect of human rights
- Legal safeguards in place
Prohibited Acts

Labelling and shaming

Employment of threats of whatever kind and nature
Prohibited Acts

Employment of abusive, coercive, and punitive measures

Employment of degrading, inhuman, and cruel forms of punishment

Forcing the child to perform involuntary servitude in any and all forms
Prohibited Acts

• Penalty

- Imprisonment of not less than eight (8) years but not more than ten (10) years

- For public officers - Administrative sanction and perpetual absolute disqualification from public office shall settle
Intervention

• Children exempted from criminal liability:
  • 15 years old and below
  • Above 15 years old but below 18 years (without discernment)
Intervention

Counselling

Peer counselling and life skills training and education
Intervention

Provision of support services to the family

Referral to appropriate agencies

Parent and child activities
Diversion

- Children who are above 15 years old but below 18
- Acted with discernment
- An alternative, child appropriate process of determining the responsibility and treatment of a child in conflict with the law without resorting to judicial proceedings
Diversion

Principles

• Use of positive measures
• Full mobilization of all possible resources
• Effective, fair, and humane dealing with the child
• Promotion of the well-being of the child
Children in Conflict with the Law

- 942 complaints filed before Prosecutor, 366 filed in court
- Ages above 15 but below 18 years of age
- Robbery, theft, illegal drugs, rape are most number of offenses committed
- 1,129 are committed in 15 Regional Rehabilitation Center for Youth Facilities (one non-national)
The Juvenile Justice and Welfare Act

- No specific provisions in JJ Law for treatment of non-national CICL
- Considers the cultural and religious perspective of a child
- Non national child with violation to grant of Visa or residency will be deported
Extradition Treaties

- Indonesia
- Kingdom of Thailand
- Canada
- Australia
- Federated States of Micronesia
- Republic of Korea
- United States of America
- Switzerland
- Hong Kong Special Administrative Region
- People’s Republic of China
- United Kingdom
- Spain
- India
Mutual Legal Assistance Treaties

- Australia
- United States of America
- Hong Kong Special Administrative Region
- Swiss Confederation
- Republic of Korea
- Spain
- People’s Republic of China
- United Kingdom
Transfer of Sentenced Persons Agreements

- Hong Kong
- Thailand
- Spain
- Canada
- Cuba
Conclusion and Recommendation

- Child-Sensitive ASEAN Cross-Border Cooperation on CICL
- Harmonization of laws
- Implementation of international standards
- Establishment of mechanisms for the best interest of children
- Repatriation of sentenced children to serve their sentence in their native land
- Entering into bilateral and/or multi-lateral agreements specific to child protection and children in conflict with the law
MABUHAY!