



The Effectiveness of The Convention on the Rights of the Child (CRC) Regime by UNICEF in Encouraging the Implementation of Child Protection in Southeast Asian Countries

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Abstract

The Convention on the Rights of the Child is a regime that exists as a humanitarian effort in the context of realizing protection and becoming a real guarantee of children's rights in the world. This regime was conceived as a convention since the end of World War I, in which the war has left sadness and trauma for the global community. The Convention on the Rights of the Child emerged at the instigation of women activists and wanted to draw world attention to the plight of children who were victims of war. In its development, the CRC regime was later ratified as an international regime by the United Nations on November 20, 1989 and has coercive power on September 2, 1990. To this day, CRC has been ratified by 196 countries in the world, including all ASEAN member countries. In its implementation, ASEAN has become an international organization with a regional orientation in Southeast Asia that focuses on upholding children's rights. ASEAN established various blueprints to encourage countries in Southeast Asia to work together to protect children. So far, all ASEAN countries have implemented CRC in positive law and various strategic programs in their countries. This study aims to compare the effectiveness of a regime in encouraging real efforts of a country in implementing a regime. In line with the issue of protecting children's rights in Southeast Asia, this research is encouraged to examine the effectiveness of the implementation of the Convention on the Rights of the Child in Southeast Asia using Stokke's theory of regime effectiveness.

Keywords: Southeast Asia, ASEAN, Convention on the Rights of the Child, protection, implementation

1. Introduction

Stated in the Universal Declaration of Human Rights (UDHR) or called UDHR stating that every human being born is an independent human being and has the same rights and has the right to receive freedoms regardless of differences (UDHR Articles 1 and 2) (National Committee on Human Rights). Human Rights [Komnas HAM]). If we refer to the declaration, it can be said that children belong to individuals on earth who are entitled to protection and are entitled to human rights like other groups get. The full statement is stated in Article 25 paragraph 2 "Mothers and children have the right to special care and assistance". The existence of this article means that the protection and enforcement of children's rights gets more attention from a legal perspective. The main reason for the existence of a special article that regulates children's rights is none other than the position of children who are prone to becoming victims of crime due to their inadequate skills and abilities to protect themselves from existing threats.

The background of the formation of a child protection regime cannot be separated from the trauma of the world war. One of the historical events, namely the Holocaust, became a dark record of how children as innocent creatures became victims of massive massacres by the Nazis during World War II. Reporting from the Holocaust Encyclopedia, approximately 1.5 million children of Jewish descent were killed and died at the hands of the Nazis. Where children become victims is not because they are part of the war just because they are born as part of one particular race. Another basis that encourages the formation of a child protection regime is also the world war.

Where children and women are victims of misery, their rights are neglected, and they face violence. So that in an effort to protect children in the world, so that they are free from the shackles of misery and exploitation, it is necessary to cooperate between various countries.

The emergence of the regime “The Convention on the Rights of the Child” is a new point in the development of child protection law. One of the objectives of the establishment of the convention is to ensure that every child born in the world must receive special protection, must be given opportunities and facilities by law and other instruments so that they are able to develop physically, mentally, morally, spiritually and socially in a healthy and normal way. (Directorate General of Human Rights, 2016). The existence of this regime with its goal oriented towards children’s rights certainly brings fresh air to guarantee the security and welfare of children throughout the world, not least in Southeast Asia.

Southeast Asia is a region in the world that is dominated by developing countries in it. In terms of children’s rights, all countries in the region have ratified the convention on children’s rights in their respective national laws. ASEAN is also a regional organization that is quite active in encouraging its member countries to be serious about protecting children’s rights. It is proven through various derivative regimes established by ASEAN, such as the Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN (2013), ASEAN Regional Plan of Action on Elimination of Violence Against Children (2016), ASEAN Convention Against Trafficking in Persons, Especially Women and Children (2017) (Association of Southeast Asian Nation [ASEAN], 2016). Not only that, ASEAN also established the ASEAN Commission on The Promotion and Protection of the Rights of Women and Children (ACWC) which is responsible for promoting and protecting the rights of women and children in the Southeast Asian region. ASEAN is also a region that is quite active in holding various meetings at the level of Heads of State, Ministers, and involving children in discussing child protection efforts in member countries.

In 2018, the best interest’s principle embodied in the Convention on the Rights of the Child intersects with the issue of child migration and trafficking in the Association of South East Asian Nations (ASEAN) region. Kathryn van Doore, *Child migration and trafficking in South-East Asia*, the narration asserts that South East Asia is in a unique position to adopt a child rights-based approach to child trafficking and migration policy regionally with the best interests of the child as the paramount consideration. In 2021, Spence and Thai Lan, *Family sustainability and child protection in Vietnam*, discussed the challenge of contextualizing child protection policy and services in Vietnam, and advocates for the careful consideration of context in the development of children’s service system to ensure appropriate and effective safeguarding of children’s best interest,

However, many papers show the problem is how to implement the Convention on the Rights of the Child in enforcing and protecting children's right, but still less the research that compared in each country. If, we look at many events today where there are still many crimes against children, of course this becomes a big question for the effectiveness of the child rights regime, especially in the Southeast Asia region. With these things in mind, it is important to examine more deeply the implementation of the convention on the rights of the child with case studies in the Southeast Asia region through Stokke's theory of regime effectiveness. This theory looks at the effectiveness of a regime from three main criteria, namely validity, determination and generality. For this reason, this study will reveal the effectiveness of the child rights regime through three main criteria and in terms of the administration of the regime in ASEAN member countries.

2. Method

This research uses qualitative methods. Christopher Lamont explains that the qualitative method refers to data collection and analysis strategies toward non-numeric datas (Christopher Lamont. 2015). To be specific, this research uses the literature studies method. In which writers collect the significant literature to find the data that will support the argument in this research. Thus, the data was collected from academic journals, books, online articles, news, and government statements. This research will best define by its descriptive and interpretative type of research.

3. Results

Countries in Southeast Asia have all ratified the Convention on the Rights of the Child. As a form of responsibility, every country has implemented CRC as a positive law in their country. This includes seeking the optimal implementation of the CRC in protecting and realizing the rights of children in their country. There are several aspects that are seen from the Theory of Regime Effectiveness by Stokke. First, Validity, the regime of the convention on children’s rights can be considered effective because it has high validity related to the problems of children’s rights that are being faced in Southeast Asian countries such as the Philippines and Indonesia. Second, Determination, CRC is said to be effective because it has succeeded in encouraging ASEAN to take children’s problems seriously until there are concrete steps to establish a regional forum that focuses on discussing children’s issues, namely the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). Third, Generality, the CRC has succeeded in encouraging real implementation in various ASEAN countries, such as the Family Justice Court (FJS) in Singapore, the Indonesian Child Protection Commission (KPAI) in Indonesia, and so on. So it can be said that the regime of the Convention on the Rights of the Child has been running effectively in Southeast Asia.

4. Discussion

The Convention on the Rights of the Child is an international convention which regulates the principles of protecting children’s rights throughout the world, namely the civil, political, economic, social and cultural rights of children. Countries that ratify international conventions are bound to act in accordance with international law. The implementation of this convention is supervised by a committee of children’s rights at the United Nations whose members consist of several countries in the world where annually this committee will provide a report to the third committee of the United Nations General Assembly and also adopt a resolution on the rights of the child (Child Rights Information Network) 2008). Countries that have ratified this convention are obliged to report and attend before the committee on the rights of the child to participate in evaluating the progress to be achieved in implementing this convention and the status of children's rights in countries that have ratified it.

In its implementation, CRC is present as an effort to create fulfillment of rights and protection for children around the world. The CRC is a very comprehensive international human rights law instrument and the first convention that specifically and completely guarantees the protection of children's rights in various fields, be it cultural, economic, social, political and civil. The CRC emphasizes every state to be able to uphold the principle of recognition of the dignity and primary human rights of children. Since the establishment of the CRC regime to date, 196 countries have ratified it, making CRC the most ratified human rights treaty in world history (United Nations [UN], 2015). This includes ASEAN countries which since 1995 have ratified the Convention on the Rights of the Child.

Not only influencing state policies, the Convention on the Rights of the Child also directly becomes the focus of discussion issues in ASEAN regional organizations. Various decisions and policies to the establishment of institutions and forums continue to optimize child protection efforts in the Southeast Asian region. As stated in table 4.1. ASEAN has realized the needs of the Convention on the Rights of the Child in various instruments, rules and organizational design documents.

Table 4.1. ASEAN Policy in Supporting the Implementation of CRC
Child-focused ASEAN Planning Instruments, Rules and Documents

a.	ASEAN Declaration Against Trafficking in Persons, Particularly Women and Children (2004)
b.	Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children (2010)
c.	Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN (2013)
d.	The ASEAN Guidelines for a Non-Violent Approach to Nurture, Care, and Development of Children in all Settings (2016)
e.	ASEAN Regional Plan of Action on Elimination of Violence Against Children (2016)
f.	ASEAN Declaration on Strengthening Education for Out-of-School Children and Youth (2016)
g.	ASEAN Convention Against Trafficking in Persons, Especially Women and Children (2017)
h.	ASEAN Early Childhood Care, Development and Education Quality Standards (2017)
ASEAN Planning Instruments, Rules and Documents in the integration of children’s rights	

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- a. The ASEAN Agreement on Transboundary Haze Pollution (2002)
 - b. ASEAN Agreement on Disaster Management and Emergency Response (2009)
 - c. ASEAN Declaration on Strengthening Social Protection (2013)
 - d. Bandar Seri Begawan Declaration on Non-communicable Diseases in ASEAN (2013)
 - e. ASEAN Post 2015 Health Development Agenda for 2016–2020
 - f. ASEAN Nutrition Surveillance System 2017–2019
 - g. ASEAN Declaration on Culture of Prevention for a Peaceful, Inclusive, Resilient, Healthy and Harmonious Society (2017)
 - h. ASEAN Leaders' Declaration on Ending All Forms of Malnutrition (2017)
 - i. Declaration on ASEAN Post 2015 Environmental Sustainability and Climate Change Agenda (2015)
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4.1 Implementation of CRC in Indonesia

Indonesia is a country that is quite active in voicing children's rights and has a mission to make its country friendly for children in 2030. Indonesia has ratified the convention on children's rights on August 25, 1990 through Presidential Decree no. 36 of 1990. The consequence after ratifying it, means that Indonesia must implement the CRC, one of which is made into a positive law. To that end, Indonesia Law no. 23 of 2002 concerning Child Protection to become the legal basis for implementing the Convention on the Rights of the Child. In fact, children's rights have been discussed beforehand through Law No. 39 of 1999 concerning children's rights, the implementation of obligations including the responsibilities of parents, society, government and the state in providing child protection, however, still needs a juridical basis for implementing the obligations and responsibilities of such protection.

Indonesia has focused on the implementation of the CRC in accordance with the five clusters contained in the regime. In Cluster 1 CRC regarding civil rights and freedoms, in its implementation the government focuses on ensuring all Indonesian children have an official identity from the moment they are born through a birth certificate. In Presidential Regulation No. 2 of 2015 concerning the National Medium Term Development Plan (RPJMN) 2015-2019, a birth certificate ownership target has been set. In the RPJMN, the target to be achieved is 85% in 2019. However, based on the Performance report of the Directorate of Civil Registration (Capil), as of August 2020, the progress of birth certificates for Indonesian children has reached 92.85% (RPJMN 2020-2024).

Cluster 2 concerns the family environment and alternative care that is closely related to the smallest element in society, namely the family. Through Presidential Regulation No. 36 of 1990, explains that child care is focused on parents, family and the environment. One of the challenges in its implementation is the various problems faced by families. So that in this sector the Ministry of Social Affairs (Kemensos) and the Ministry of Women's Empowerment and Child Protection (Kemen-PPPA) are responsible for it through various empowerment and family welfare programs.

Then Cluster 3, regarding basic health and welfare rights, means that the state needs to guarantee access to public services for all children without exception, including efforts to prosper Indonesian families. In the realization of this cluster, the government then organizes programs such as Family Hope, KIS (Healthy Indonesian Card) social security, Smart Indonesia Card, Rutilahu assistance, Beneficiary Families (KPM), and various other programs. Then for cluster 4, the government organizes the Child Social Welfare Program, Family Hope Program (PKH), and Smart Indonesia Card programs, as well as the Boss Fund. Kemen-PPPA also periodically implements the Child Friendly School (SRA) program to support the process of child-friendly educational practices. Then in terms of cluster 5 regarding special protection, the government focuses on protecting Indonesian children who are in certain conditions. Such as exploited children, emergency situations, deprived of their rights to freedom and torture, children facing the law, to minority groups and being isolated.

4.2 Implementation of CRC in Brunei Darussalam

Brunei Darussalam is an Islamic sultanate that specifically has a vision for the people and children. Countries with an explicit Islamic ethos, such as Brunei, have policies and principles that uphold Islamic values. Since the beginning when Brunei approved the CRC in December 1995, Brunei has set a condition that it will not adopt the provisions of the convention that are contrary to the constitution, sharia and norms in its country. Although it has long ratified the CRC, Brunei only had a formal child protection system in early 2000 called the Children's Order.

But apart from that, there was already the 1999 Child Guardianship Act, which regulates several child protection issues. However, the guardianship rules only regulate non-Muslim communities. (Young et al, 2017)

In implementing CRC through the Children's Order, Brunei formed a Child Protection team from the sub-section of the Social Services Unit. The task of the team is to coordinate local services for children in need of protection. Brunei has also established a 'protector', a public official who is appointed to be responsible for investigating various cases of child protection and a 'Registrar' to keep a secret list of children who need protection. Then in 2001, Brunei formed the National Children's Council whose task is to formulate and monitor the implementation of legislation relating to children (Yale University, 2016).

However, Brunei does not provide a free space for children to express their opinions, especially for children who have legal problems. There is no general provision in the constitution which states that children have the right to express their opinions in all matters concerning themselves. Children may consult protectors and judges during the protection process, but they do not have to be heard or taken into account when making a decision. If we look again at the implementation of the CRC, especially in child protection, it still focuses on the rules regarding adoption, divorce and child custody. (Yale University, 2016)

On the other hand, in order to fulfill the obligations of countries ratifying the CRC, Brunei organizes various programs to optimize their performance. Such as removing barriers to education by providing free education for citizens. The government also abolished the caning law for children in various contexts. Including the determination of the same age of children in the constitution, both civil and sharia law, which is under 18 years. So that age affects criminal responsibility, prevalence of corporal punishment, to the minimum age of marriage. Thus, it can be seen that Brunei's commitment to child protection continues to be optimized. Including through their participation in various ASEAN initiatives for the promotion and protection of children's rights. (United Nations High Commissioner for Human Rights [OHCHR], 2016)

4.3 Implementation of CRC in Singapore

The Singapore government adopts Human Rights (HAM) with a realism approach and is fully committed to its protection, including the protection of children. Singapore significantly improves children's rights by taking reference from the articles of the Convention on the Rights of the Child and Concluding Conservations CRC 2011. Since improving systems, laws and policies to protect children, Singapore has also amended The Children and Young Persons Act (CYPA) to improve the protection and rehabilitation of children (CRC/C/SGP/4-5). In 2014, Singapore established Family Justice Courts (FJC) to address the interests of children in order to get the best consideration in disputes that occur within their families. The FJC also provides mental health professionals to maintain the mental stability of children (CRC/C/SGP/CO2-3).

Singapore increased the number of full day pre-school places by 50% to around 50,000 since 2012. The government provides subsidies for child care and kindergartens, retaining good teachers to improve the quality of PAUD services. In 2016, The Child Development Co-Savings ACT (CDCA) provided a lot of financial support for children to improve the quality of services (CRC/C/SGP/4-5). In addition, in 2019 the Singapore Government also championed and made steps to build an inclusive society so that children with disabilities can realize their potential, thereby expanding Compulsory Education (CE) for children who need special education.

Singapore has an effective system in place to ensure that all agencies implementing national policies related to children are held accountable for meeting the measured targets (CRC/C/SGP/CO2-3). To combat violence against children, Singapore established the Family Violence Multi-Agency to coordinate services for families and children affected by violence. To protect children from the crime of sexual abuse, Singapore made laws to protect victims including human trafficking. The Protection from Harassment Act (POHA) came into effect in 2014 to improve protection for victims of harassment, including sexual harassment and bullying at school and online (Singapore Protection from Harrassment Act, 2014). This law criminalizes harassment and provides various assistance and mental remedies for victims. In 2015, the Prevention of Human Trafficking Act (PHTA) was created to criminalize human trafficking, including child trafficking (Singapore Prevention of Human Trafficking Act, 2014).

4.4 Implementation of CRC in The Philippines

In 2006, approximately 36 million children under 18 needed adult support (United Nations Children’s Fund [UNICEF], 2008) . In the 2003 national nutrition survey, 17% of children from 6,683 homes skipped meals because there was no food or no money to buy food. 15.1% reported that they were hungry but had no food or no money, while the remaining 5.2% did not eat a full day because they had no food or even money. Children from poor areas also suffer from lack of access to quality basic education, health and other public services (Food and Nutrition Research Institute, 2003). Philippine government spending to pay the country's debt at the expense of public spending on education, health and social services. Inadequate prioritization of education and health services is the reason why the Philippines may not achieve the Millennium Development Goals (MDGs) (Philippine National Statistics Coordinating Board).

In addition, the increasing militarization of the countryside has resulted in thousands of children and families fleeing the firefights that ensued. Many children were recruited to take up arms and tortured on suspicion of being rebel agents. At that time the government had not done anything to address the issue of executions of youths and children under 18 years of age who were suspected of being rebels (Committee on the Rights of the Child [OHCHR], 2005), even though the Philippines ratified the CRC in 1990. Under the law, the Philippines is not yet fully serious about dealing with child prostitutes.

NGOs in the Philippines recognize that the Philippines has a legal framework that has the potential to offer protection to children and promote children’s rights. In fact, the steps taken by the Philippines by ratifying the Junevile Justice and Welfare Act (JJWA) are good steps to protect children. The role of UNICEF in providing assistance to the Philippines to deal with various issues ranging from HIV and AIDS, child protection, and advocacy for children’s rights. UNICEF works with the Government of the Philippines, local organizations and communities to protect the rights of children affected by violence and fear of inappropriate torture.

4.5 Implementation of CRC in Thailand

The Thai government enacted the Child Protection Act and The Anti-trafficking in Person Act as evidence that Thailand implements CRC in its country. Exploitation of children in Thailand is considered illegal by the government, but for the people it is secretly accepted and has become commonplace. Cases of child exploitation in the form of prostitution are estimated to account for 3% of Thailand’s national economy (Taipei Times, 2003). Regardless of the efforts of the Thai Government, as well as International Organizations such as the United Nations, UNICEF, OHCHR, etc. Policies that do not reach all children and there are still gaps in every community group. Despite significant progress from the Thai Government in recent years to protect the right to education, funds allocated are still patchy and insufficient to reach remote rural areas (OHCHR, 2011).

Thailand ratified the Child Protection Act in 2003 as an effort to defend children's rights. The establishment of The Convention on the Rights of the Child Coalition for Thailand (CRCCT) which works with the Government of Thailand to follow up and provide advice to the government and civil society regarding children's rights in accordance with the CRC. The Ministry of Social Development and Human Security (MSDHS) is the flagship agency responsible for following up on the implementation of the CRC. However, in its implementation, MSDSH is currently starting the process of reforming its administrative structure so that the quality in serving reports related to children and child protection both in policy and practice is better.

Table 5.1. Implementation of the Convention on the Rights of the Child by Countries in Southeast Asia

No.	Country	Ratification Date	Implementation in National Law	(Real Action) National Strategy to address violence against children
1.	Brunei Darussalam	27 December 1995	Children and Young Persons Order 2006.	-
2.	Filipina	26 January 1990	Republic Act No. 7610 “ <i>Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act</i> ”.	Philippine Plan of Action to End Violence against Children 2017-2022
3.	Indonesia	5 September 1990	Law number 35 of 2014 concerning Child Protection.	National Strategy for the Elimination of Violence against Children (2016-2019);

				A Road Map for the Implementation of the National Strategy to Eliminate Violence against Children drafted
4.	Kamboja	15 October 1992	It does not have a direct positive law for CRC but is implemented through Articles 31 and 48 of the Cambodian Constitution requiring the State to recognize and respect human rights Conventions, including the Convention on the Rights of the Child, and to protect the rights in those Conventions.	Action Plan to Prevent and Respond to Violence Against Children (2017-2021)
5.	Laos	8 May 1991	Law on the Protection of the Rights and Interests of Children 2007.	National Plan of Action on the Prevention and Elimination of Violence against Women and Violence against Children 2014-2020
6.	Malaysia	17 February 1995	Child Act 2001.	-
7.	Myanmar	15 July 1991	Child Rights Law 2019	National child protection policy with a coordination framework underway
8.	Singapura	5 October 1995	Children and Young Persons Act 1993.	-
9.	Thailand	27 March 1992	Child Protection Act 2003.	Policies and Strategies for the Prevention and Responses to Violence against Children and Youth (2015-2021)
10.	Timor Leste	16 April 2003	National Action Plan for Children in Timor Leste.	-
11.	Vietnam	28 February 1990	Child Law 2016.	National Action Plan on Ending Violence against Children under development

In ASEAN Member States, national plans of action on violence against children, and child protection more broadly, are generally comprehensive and relevant for local and national contexts. However, to ensure that plans of action are effectively implemented at all levels, they must include a robust monitoring and evaluation framework with core indicators to measure progress and impact at all levels, and clear guidance for implementation and reporting.

5. Conclusion

The effectiveness of the Convention on the Rights of the Child in Southeast Asia in terms of the theory of regime effectiveness by Stokke in its implementation has been running optimally. From the aspect of validity, the regime of the Convention on the Rights of the Child relates to the validity of a child issue in the international system. Including the existence of CRC which is relevant to the issues of children developing in Southeast Asia. The aspect of determination, reviewing the dominance of a country in regulating children's rights issues, is only limited to regulating problems in their respective countries with problems and laws that are adapted to each country. Seeing the effectiveness of the CRC, it has been implemented as a positive law by all ASEAN countries and has been adapted to the norms and needs of the state. From the aspect of generality, the CRC, which was initially applied optimally, influenced various ASEAN regional organization policies so that they could optimize child protection efforts in Southeast Asia.

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